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HOUSE BILL 1643

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives Flannigan, Wood and Moeller; by request of  
Department of Transportation

Read first time 01/24/2007. Referred to Committee on Transportation.

1            AN ACT Relating to rail transit safety plans; and amending RCW  
2 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, 81.112.180,  
3 and 81.104.115.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 35.21.228 and 2005 c 274 s 264 are each amended to  
6 read as follows:

7            (1) Each city or town that owns or operates a rail fixed guideway  
8 system as defined in RCW 81.104.015 shall submit a system safety  
9 program plan and a system security (~~((program))~~) and emergency  
10 preparedness plan for that guideway to the state department of  
11 transportation by September 1, 1999, or at least (~~((three months))~~) one  
12 hundred eighty calendar days before beginning operations or instituting  
13 revisions to its plans. (~~((This))~~) These plans must describe the city's  
14 procedures for (a) reporting and investigating reportable accidents,  
15 unacceptable hazardous conditions, and security breaches, (b)  
16 submitting corrective action plans and annual safety and security audit  
17 reports, (c) facilitating on-site safety and security reviews by the  
18 state department of transportation, and (d) addressing passenger and  
19 employee security. The plans must, at a minimum, conform to the

1 standards adopted by the state department of transportation. If  
2 required by the department, the city or town shall revise its plans to  
3 incorporate the department's review comments within sixty days after  
4 their receipt, and resubmit its revised plans for review.

5 (2) Each city or town shall implement and comply with its system  
6 safety program plan and system security (~~((program))~~) and emergency  
7 preparedness plan. The city or town shall perform internal safety and  
8 security audits to evaluate its compliance with the plans, and submit  
9 its audit schedule to the department of transportation no later than  
10 December 15th each year. The city or town shall prepare an annual  
11 report for its internal safety and security audits undertaken in the  
12 prior year and submit it to the department no later than February 15th.  
13 This annual report must include the dates the audits were conducted,  
14 the scope of the audit activity, the audit findings and  
15 recommendations, the status of any corrective actions taken as a result  
16 of the audit activity, and the results of each audit in terms of the  
17 adequacy and effectiveness of the plans.

18 (3) Each city or town shall notify the department of transportation  
19 within (~~((twenty-four))~~) two hours of an occurrence of a reportable  
20 accident, unacceptable hazardous condition, or security breach. The  
21 department may adopt rules further defining a reportable accident,  
22 unacceptable hazardous condition, or security breach. The city or town  
23 shall investigate all reportable accidents, unacceptable hazardous  
24 conditions, or security breaches and provide a written investigation  
25 report to the department within forty-five calendar days after the  
26 reportable accident, unacceptable hazardous condition, or security  
27 breach.

28 (4) The system security (~~((section of the safety))~~) and (~~((security))~~)  
29 emergency preparedness plan required in subsection (1)(~~((d))~~) of this  
30 section is exempt from public disclosure under chapter 42.56 RCW.  
31 However, the (~~((activities and plans))~~) system safety program plan as  
32 described in (~~((subsections (1)(a), (b), and (c), (2), and (3) of))~~) this  
33 section (~~((are))~~) is not subject to this exemption.

34 **Sec. 2.** RCW 35A.21.300 and 2005 c 274 s 267 are each amended to  
35 read as follows:

36 (1) Each code city that owns or operates a rail fixed guideway  
37 system as defined in RCW 81.104.015 shall submit a system safety

1 program plan and a system security (~~((program))~~) and emergency  
2 preparedness plan for that guideway to the state department of  
3 transportation by September 1, 1999, or at least (~~((three months))~~) one  
4 hundred eighty calendar days before beginning operations or instituting  
5 revisions to its plans. (~~((This))~~) These plans must describe the code  
6 city's procedures for (a) reporting and investigating reportable  
7 accidents, unacceptable hazardous conditions, and security breaches,  
8 (b) submitting corrective action plans and annual safety and security  
9 audit reports, (c) facilitating on-site safety and security reviews by  
10 the state department of transportation, and (d) addressing passenger  
11 and employee security. The plans must, at a minimum, conform to the  
12 standards adopted by the state department of transportation. If  
13 required by the department, the code city shall revise its plans to  
14 incorporate the department's review comments within sixty days after  
15 their receipt, and resubmit its revised plans for review.

16 (2) Each code city shall implement and comply with its system  
17 safety program plan and system security (~~((program))~~) and emergency  
18 preparedness plan. The code city shall perform internal safety and  
19 security audits to evaluate its compliance with the plans, and submit  
20 its audit schedule to the department of transportation no later than  
21 December 15th each year. The code city shall prepare an annual report  
22 for its internal safety and security audits undertaken in the prior  
23 year and submit it to the department no later than February 15th. This  
24 annual report must include the dates the audits were conducted, the  
25 scope of the audit activity, the audit findings and recommendations,  
26 the status of any corrective actions taken as a result of the audit  
27 activity, and the results of each audit in terms of the adequacy and  
28 effectiveness of the plans.

29 (3) Each code city shall notify the department of transportation  
30 within (~~((twenty-four))~~) two hours of an occurrence of a reportable  
31 accident, unacceptable hazardous condition, or security breach. The  
32 department may adopt rules further defining a reportable accident,  
33 unacceptable hazardous condition, or security breach. The code city  
34 shall investigate all reportable accidents, unacceptable hazardous  
35 conditions, or security breaches and provide a written investigation  
36 report to the department within forty-five calendar days after the  
37 reportable accident, unacceptable hazardous condition, or security  
38 breach.

1           (4) The system security (~~((section of the safety and security))~~) and  
2 emergency preparedness plan required in subsection (1)~~((d))~~ of this  
3 section is exempt from public disclosure under chapter 42.56 RCW.  
4 However, the (~~(activities and plans))~~ system safety program plan as  
5 described in (~~(subsections (1)(a), (b), and (c), (2), and (3) of))~~) this  
6 section (~~(are))~~ is not subject to this exemption.

7           **Sec. 3.** RCW 36.01.210 and 2005 c 274 s 268 are each amended to  
8 read as follows:

9           (1) Each county functioning under chapter 36.56 RCW that owns or  
10 operates a rail fixed guideway system as defined in RCW 81.104.015  
11 shall submit a system safety program plan and a system security  
12 (~~(program))~~ and emergency preparedness plan for that guideway to the  
13 state department of transportation by September 1, 1999, or at least  
14 (~~(three months))~~ one hundred eighty calendar days before beginning  
15 operations or instituting revisions to its plans. (~~(This))~~ These plans  
16 must describe the county's procedures for (a) reporting and  
17 investigating reportable accidents, unacceptable hazardous conditions,  
18 and security breaches, (b) submitting corrective action plans and  
19 annual safety and security audit reports, (c) facilitating on-site  
20 safety and security reviews by the state department of transportation,  
21 and (d) addressing passenger and employee security. The plans must, at  
22 a minimum, conform to the standards adopted by the state department of  
23 transportation. If required by the department, the county shall revise  
24 its plans to incorporate the department's review comments within sixty  
25 days after their receipt, and resubmit its revised plans for review.

26           (2) Each county functioning under chapter 36.56 RCW shall implement  
27 and comply with its system safety program plan and system security  
28 (~~(program))~~ and emergency preparedness plan. The county shall perform  
29 internal safety and security audits to evaluate its compliance with the  
30 plans, and submit its audit schedule to the department of  
31 transportation no later than December 15th each year. The county shall  
32 prepare an annual report for its internal safety and security audits  
33 undertaken in the prior year and submit it to the department no later  
34 than February 15th. This annual report must include the dates the  
35 audits were conducted, the scope of the audit activity, the audit  
36 findings and recommendations, the status of any corrective actions

1 taken as a result of the audit activity, and the results of each audit  
2 in terms of the adequacy and effectiveness of the plans.

3 (3) Each county shall notify the department of transportation  
4 within (~~(twenty-four)~~) two hours of an occurrence of a reportable  
5 accident, unacceptable hazardous condition, or security breach. The  
6 department may adopt rules further defining a reportable accident,  
7 unacceptable hazardous condition, or security breach. The county shall  
8 investigate all reportable accidents, unacceptable hazardous  
9 conditions, or security breaches and provide a written investigation  
10 report to the department within forty-five calendar days after the  
11 reportable accident, unacceptable hazardous condition, or security  
12 breach.

13 (4) The system security (~~(section of the safety and security)~~) and  
14 emergency preparedness plan required in subsection (1)(~~(d)~~) of this  
15 section is exempt from public disclosure under chapter 42.56 RCW.  
16 However, the (~~(activities and plans)~~) system safety program plan as  
17 described in (~~(subsections (1)(a), (b), and (c), (2), and (3) of)~~) this  
18 section (~~(are)~~) is not subject to this exemption.

19 **Sec. 4.** RCW 36.57.120 and 2005 c 274 s 270 are each amended to  
20 read as follows:

21 (1) Each county transportation authority that owns or operates a  
22 rail fixed guideway system as defined in RCW 81.104.015 shall submit a  
23 system safety program plan and a system security (~~(program)~~) and  
24 emergency preparedness plan for that guideway to the state department  
25 of transportation by September 1, 1999, or at least (~~(three months)~~)  
26 one hundred eighty calendar days before beginning operations or  
27 instituting revisions to its plans. (~~(This)~~) These plans must describe  
28 the county transportation authority's procedures for (a) reporting and  
29 investigating reportable accidents, unacceptable hazardous conditions,  
30 and security breaches, (b) submitting corrective action plans and  
31 annual safety and security audit reports, (c) facilitating on-site  
32 safety and security reviews by the state department of transportation,  
33 and (d) addressing passenger and employee security. The plans must, at  
34 a minimum, conform to the standards adopted by the state department of  
35 transportation. If required by the department, the county  
36 transportation authority shall revise its plans to incorporate the

1 department's review comments within sixty days after their receipt, and  
2 resubmit its revised plans for review.

3 (2) Each county transportation authority shall implement and comply  
4 with its system safety program plan and system security (~~(program)~~) and  
5 emergency preparedness plan. The county transportation authority shall  
6 perform internal safety and security audits to evaluate its compliance  
7 with the plans, and submit its audit schedule to the department of  
8 transportation no later than December 15th each year. The county  
9 transportation authority shall prepare an annual report for its  
10 internal safety and security audits undertaken in the prior year and  
11 submit it to the department no later than February 15th. This annual  
12 report must include the dates the audits were conducted, the scope of  
13 the audit activity, the audit findings and recommendations, the status  
14 of any corrective actions taken as a result of the audit activity, and  
15 the results of each audit in terms of the adequacy and effectiveness of  
16 the plans.

17 (3) Each county transportation authority shall notify the  
18 department of transportation within (~~(twenty-four)~~) two hours of an  
19 occurrence of a reportable accident, unacceptable hazardous condition,  
20 or security breach. The department may adopt rules further defining a  
21 reportable accident, unacceptable hazardous condition, or security  
22 breach. The county transportation authority shall investigate all  
23 reportable accidents, unacceptable hazardous conditions, or security  
24 breaches and provide a written investigation report to the department  
25 within forty-five calendar days after the reportable accident,  
26 unacceptable hazardous condition, or security breach.

27 (4) The system security (~~(section of the safety and security)~~) and  
28 emergency preparedness plan required in subsection (1)(~~(d)~~) of this  
29 section is exempt from public disclosure under chapter 42.56 RCW.  
30 However, the (~~(activities and plans)~~) system safety program plan as  
31 described in (~~(subsections (1)(a), (b), and (c), (2), and (3) of)~~) this  
32 section (~~(are)~~) is not subject to this exemption.

33 **Sec. 5.** RCW 36.57A.170 and 2005 c 274 s 271 are each amended to  
34 read as follows:

35 (1) Each public transportation benefit area that owns or operates  
36 a rail fixed guideway system as defined in RCW 81.104.015 shall submit  
37 a system safety program plan and a system security (~~(program)~~) and

1 emergency preparedness plan for that guideway to the state department  
2 of transportation by September 1, 1999, or at least (~~three months~~)  
3 one hundred eighty calendar days before beginning operations or  
4 instituting revisions to its plans. (~~This~~) These plans must describe  
5 the public transportation benefit area's procedures for (a) reporting  
6 and investigating reportable accidents, unacceptable hazardous  
7 conditions, and security breaches, (b) submitting corrective action  
8 plans and annual safety and security audit reports, (c) facilitating  
9 on-site safety and security reviews by the state department of  
10 transportation, and (d) addressing passenger and employee security.  
11 The plans must, at a minimum, conform to the standards adopted by the  
12 state department of transportation. If required by the department, the  
13 public transportation benefit area shall revise its plans to  
14 incorporate the department's review comments within sixty days after  
15 their receipt, and resubmit its revised plans for review.

16 (2) Each public transportation benefit area shall implement and  
17 comply with its system safety program plan and system security  
18 (~~program~~) and emergency preparedness plan. The public transportation  
19 benefit area shall perform internal safety and security audits to  
20 evaluate its compliance with the plans, and submit its audit schedule  
21 to the department of transportation no later than December 15th each  
22 year. The public transportation benefit area shall prepare an annual  
23 report for its internal safety and security audits undertaken in the  
24 prior year and submit it to the department no later than February 15th.  
25 This annual report must include the dates the audits were conducted,  
26 the scope of the audit activity, the audit findings and  
27 recommendations, the status of any corrective actions taken as a result  
28 of the audit activity, and the results of each audit in terms of the  
29 adequacy and effectiveness of the plans.

30 (3) Each public transportation benefit area shall notify the  
31 department of transportation within (~~twenty-four~~) two hours of an  
32 occurrence of a reportable accident, unacceptable hazardous condition,  
33 or security breach. The department may adopt rules further defining a  
34 reportable accident, unacceptable hazardous condition, or security  
35 breach. The public transportation benefit area shall investigate all  
36 reportable accidents, unacceptable hazardous conditions, or security  
37 breaches and provide a written investigation report to the department

1 within forty-five calendar days after the reportable accident,  
2 unacceptable hazardous condition, or security breach.

3 (4) The system security (~~((section of the safety and security))~~) and  
4 emergency preparedness plan required in subsection (1)~~((d))~~ of this  
5 section is exempt from public disclosure under chapter 42.56 RCW.  
6 However, the ~~((activities and plans))~~ system safety program plan as  
7 described in ~~((subsections (1)(a), (b), and (c), (2), and (3) of))~~ this  
8 section ~~((are))~~ is not subject to this exemption.

9 **Sec. 6.** RCW 81.112.180 and 2005 c 274 s 360 are each amended to  
10 read as follows:

11 (1) Each regional transit authority that owns or operates a rail  
12 fixed guideway system as defined in RCW 81.104.015 shall submit a  
13 system safety program plan and a system security ~~((program))~~ and  
14 emergency preparedness plan for that guideway to the state department  
15 of transportation by September 1, 1999, or at least ~~((three months))~~  
16 one hundred eighty calendar days before beginning operations or  
17 instituting revisions to its plans. ~~((This))~~ These plans must describe  
18 the authority's procedures for (a) reporting and investigating  
19 reportable accidents, unacceptable hazardous conditions, and security  
20 breaches, (b) submitting corrective action plans and annual safety and  
21 security audit reports, (c) facilitating on-site safety and security  
22 reviews by the state department of transportation, and (d) addressing  
23 passenger and employee security. The plans must, at a minimum, conform  
24 to the standards adopted by the state department of transportation. If  
25 required by the department, the regional transit authority shall revise  
26 its plans to incorporate the department's review comments within sixty  
27 days after their receipt, and resubmit its revised plans for review.

28 (2) Each regional transit authority shall implement and comply with  
29 its system safety program plan and system security ~~((program))~~ and  
30 emergency preparedness plan. The regional transit authority shall  
31 perform internal safety and security audits to evaluate its compliance  
32 with the plans, and submit its audit schedule to the department of  
33 transportation no later than December 15th each year. The regional  
34 transit authority shall prepare an annual report for its internal  
35 safety and security audits undertaken in the prior year and submit it  
36 to the department no later than February 15th. This annual report must  
37 include the dates the audits were conducted, the scope of the audit



1 activity, the audit findings and recommendations, the status of any  
2 corrective actions taken as a result of the audit activity, and the  
3 results of each audit in terms of the adequacy and effectiveness of the  
4 plans.

5 (3) Each regional transit authority shall notify the department of  
6 transportation within (~~(twenty-four)~~) two hours of an occurrence of a  
7 reportable accident, unacceptable hazardous condition, or security  
8 breach. The department may adopt rules further defining a reportable  
9 accident, unacceptable hazardous condition, or security breach. The  
10 regional transit authority shall investigate all reportable accidents,  
11 unacceptable hazardous conditions, or security breaches and provide a  
12 written investigation report to the department within forty-five  
13 calendar days after the reportable accident, unacceptable hazardous  
14 condition, or security breach.

15 (4) The system security (~~(section of the safety and security)~~) and  
16 emergency preparedness plan required in subsection (1)(~~(d)~~) of this  
17 section is exempt from public disclosure under chapter 42.56 RCW.  
18 However, the (~~(activities and plans)~~) system safety program plan as  
19 described in (~~(subsections (1)(a), (b), and (c), (2), and (3) of)~~) this  
20 section (~~(are)~~) is not subject to this exemption.

21 **Sec. 7.** RCW 81.104.115 and 2005 c 274 s 359 are each amended to  
22 read as follows:

23 (1) The department may collect and review the system safety program  
24 plan and the system security (~~(program)~~) and emergency preparedness  
25 plan prepared by each owner or operator of a rail fixed guideway  
26 system. In carrying out this function, the department may adopt rules  
27 specifying the elements and standard to be contained in a system safety  
28 program plan and a system security (~~(program)~~) and emergency  
29 preparedness plan, and the content of any investigation report,  
30 corrective action plan, and accompanying implementation schedule  
31 resulting from a reportable accident, unacceptable hazardous condition,  
32 or security breach. These rules may include due dates for the  
33 department's timely receipt of and response to required documents.

34 (2) The (~~(security section of the)~~) system (~~(safety and)~~) security  
35 and emergency preparedness plan as described in (~~(subsection (1)(d)~~  
36 ~~of)~~) RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and  
37 81.112.180 (~~(are)~~) is exempt from public disclosure under chapter 42.56

1 RCW by the department when collected from the owners and operators of  
2 fixed railway systems. However, the ~~((activities and plans))~~ system  
3 safety program plan as described in ~~((subsection (1)(a), (b), and (c)~~  
4 ~~ef))~~ RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and  
5 81.112.180 ~~((are))~~ is not exempt from public disclosure.

6 (3) The department shall audit each system safety program plan and  
7 each system security ~~((program))~~ and emergency preparedness plan at  
8 least once every three years. The department may contract with other  
9 persons or entities for the performance of duties required by this  
10 subsection. The department shall provide at least thirty days' advance  
11 notice to the owner or operator of a rail fixed guideway system before  
12 commencing the audit. The owner or operator of each rail fixed  
13 guideway system shall reimburse the reasonable expenses of the  
14 department in carrying out its responsibilities of this subsection  
15 within ninety days after receipt of an invoice. The department shall  
16 notify the owner or operator of the estimated expenses at least six  
17 months in advance of when the department audits the system.

18 (4) In the event of a reportable accident, unacceptable hazardous  
19 condition, or security breach, the department shall review the  
20 investigation report, corrective action plan, and accompanying  
21 implementation schedule, submitted by the owner or operator of the rail  
22 fixed guideway system to ensure that it meets the goal of preventing  
23 and mitigating a recurrence of the reportable accident, unacceptable  
24 hazardous condition, or security breach.

25 (a) The department may, at its option, perform a separate,  
26 independent investigation of a reportable accident, unacceptable  
27 hazardous condition, or security breach. The department may contract  
28 with other persons or entities for the performance of duties required  
29 by this subsection.

30 (b) If the department does not concur with the investigation  
31 report, corrective action plan, and accompanying implementation  
32 schedule, submitted by the owner or operator, the department shall  
33 notify that owner or operator in writing within forty-five days of its  
34 receipt of the complete investigation report, corrective action plan,  
35 and accompanying implementation schedule.

36 (5) The secretary may adopt rules to implement this section and RCW  
37 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and  
38 81.112.180, including rules establishing procedures and timelines for

1 owners and operators of rail fixed guideway systems to comply with RCW  
2 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180  
3 and the rules adopted under this section. If noncompliance by an owner  
4 or operator of a rail fixed guideway system results in the loss of  
5 federal funds to the state of Washington or a political subdivision of  
6 the state, the owner or operator is liable to the affected entity or  
7 entities for the amount of the lost funds.

8 (6) The department may impose sanctions upon owners and operators  
9 of rail fixed guideway systems, but only for failure to meet reasonable  
10 deadlines for submission of required reports and audits. The  
11 department is expressly prohibited from imposing sanctions for any  
12 other purposes, including, but not limited to, differences in format or  
13 content of required reports and audits.

14 (7) The department and its employees have no liability arising from  
15 the adoption of rules; the review of or concurrence in a system safety  
16 program plan and a system security ((program)) and emergency  
17 preparedness plan; the separate, independent investigation of a  
18 reportable accident, unacceptable hazardous condition, or security  
19 breach; and the review of or concurrence in a corrective action plan  
20 for a reportable accident, unacceptable hazardous condition, or  
21 security breach.

22 (8) The department shall set by rule an annual fee for owners and  
23 operators of rail fixed guideway systems to defray the department's  
24 costs associated with the system safety program plans, system security  
25 and emergency preparedness plans, and incident investigations, as  
26 described in this section. The department shall establish by rule the  
27 manner and timing of the collection of the fee.

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