
Labor & Workforce Development Committee

HB 2718

Brief Description: Concerning railroad crews.

Sponsors: Representatives Haler, Blake, Zeiger, Ormsby, Wilcox, Orcutt, Stanford, Chandler, Ryu, Moscoso, Magendanz, Fey, Hayes, Sells, Reykdal, Pollet, Appleton, Farrell, Tarleton, Morris, Riccelli, Takko, Jinkins, Moeller, Morrell and Bergquist.

Brief Summary of Bill

- Requires a railroad acting as a common carrier transporting freight or passengers to operate all trains over its roads with crews consisting of no less than two qualified crew members.

Hearing Date: 2/5/14

Staff: Trudes Tango (786-7384).

Background:

State statutes addressing crew size on freight and passenger trains explicitly state that no law or agency rule may prevent a railroad from staffing its freight or passenger train in accordance with collective bargaining agreements or any national or other settlement regarding train crew size. For passenger trains, if there is no collective bargaining agreement or national settlement on train crew size, a railroad operating a passenger train with less than two crew members is subject to a safety review by the Utilities and Transportation Commission (UTC). The UTC may issue an order requiring as many as two crew members.

Any person, corporation, company, or officer of court operating any railroad that violates the crew size provision is guilty of a misdemeanor and subject to a fine of not less than \$100 but not more than \$500, for each offense. Each train or engine run in violation of the crew size provision is a separate offense. However, the provision does not apply in the case of disability of

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any of the train crew while out on the road between division terminals, wrecking trains, or to any line, or part of line, where not more than two trains are run in each 24 hours.

The Federal Railroad Safety Act (FRSA) establishes uniform national safety standards for railroads to follow. The FRSA contains an express preemption provision. It allows states to adopt a law related to railroad safety only until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the state law. In addition, the FRSA provides that a state may adopt a more stringent law when it: (1) is necessary to eliminate or reduce an essentially local safety or security hazard; (2) is not incompatible with a federal law; and (3) does not unreasonably burden interstate commerce. The Secretary, through the Federal Railroad Administration (FRA), will be deemed to have regulated in an area whenever the federal regulation covers or substantially subsumes the underlying safety concerns that the state law is addressing.

In 1999, a 7th Circuit Court of Appeals case addressed whether a Wisconsin statute requiring a minimum of two crew members on freight trains was preempted. The court held that the state law was preempted with regard to crew size on two types of train operations -- "holstering" and "helping" -- because the FRA had essentially approved, in an order, one-person crew size for those types of operations. However, the court held that the state statute was not preempted with regard to crew size when it came to "over-the-road" operations, which involve hauling train cars between terminals.

Last year, a bill was introduced in Congress that would require at least two crew members on any freight train. The bill has not passed out of committee.

Summary of Bill:

The statutes prohibiting a law from setting crew size on passenger or freight trains are repealed. Instead, any person, corporation, company, or officer of court operating any railroad in the state as a common carrier transporting freight or passengers must operate all trains over its road with crews consisting of not less than two qualified crew members.

The exception from the crew size provision for any line where not more than two trains are run in 24 hours is removed. The minimum and maximum amounts of the fine for a violation are increased: not less than \$5,000 but not more than \$100,000 per offense.

Appropriation: None.

Fiscal Note: Requested on February 3, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.