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**SUBSTITUTE HOUSE BILL 1620**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Transportation (originally sponsored by Representatives Stanford, Zeiger, Takko, Haler, Blake, Lias, Clibborn, Jinkins, Wilcox, Ryu, Ormsby, Sells, Appleton, Pedersen, Upthegrove, Magendanz, Pollet, Orcutt, Johnson, Angel, Condotta, Carlyle, Kristiansen, Moeller, Fitzgibbon, Moscoso, Morrell, and Santos)

READ FIRST TIME 03/01/13.

1       AN ACT Relating to passenger-carrying vehicles for railroad  
2 employees; amending RCW 81.61.010, 81.61.020, 81.61.030, and 81.61.040;  
3 and adding a new section to chapter 81.61 RCW.

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

5       **Sec. 1.** RCW 81.61.010 and 1977 ex.s. c 2 s 1 are each amended to  
6 read as follows:

7       Unless the context clearly requires otherwise, ~~((the term))~~  
8 "passenger-carrying vehicle," as used in this chapter, means ~~((those~~  
9 ~~buses and trucks))~~ every self-propelled vehicle owned or leased,  
10 operated, and maintained by a railroad company ~~((which transports))~~ or  
11 by any of the company's agents, contractors, subcontractors, or  
12 vendors, for the purpose of transporting railroad employees ~~((in other~~  
13 ~~than the cab of such vehicle))~~ as passengers in the course of their  
14 work assignments and designed primarily for operation on roads which  
15 may or may not be equipped with retractable flanged wheels for  
16 operation on railroad tracks.

17       **Sec. 2.** RCW 81.61.020 and 2007 c 234 s 41 are each amended to read  
18 as follows:

1       (1) The utilities and transportation commission shall adopt rules  
2 and orders necessary to ensure that every passenger-carrying vehicle  
3 provided or engaged by a railroad company to transport employees in the  
4 course of their employment is maintained, adequately insured, and  
5 operated in a safe manner when it is used on a public or private road.  
6 The rules and orders must establish minimum standards for:

7       ~~((+1))~~ (a) The construction and mechanical equipment of the  
8 passenger-carrying vehicles, including the appropriate types of  
9 vehicles depending upon class of service and use, maximum life span of  
10 vehicles, maintenance, periodic inspections, lighting devices and  
11 reflectors, exhaust system, rear vision mirrors, service and parking  
12 brakes, steering mechanisms, tires, warning and signaling devices,  
13 windshield wipers, and heating equipment capable of maintaining a  
14 reasonable temperature in passenger areas;

15       ~~((+2))~~ (b) The operation of passenger-carrying vehicles, including  
16 driving rules, the loading and carrying of passengers, maximum daily  
17 hours of service by drivers, ~~((minimum age and skill of drivers,~~  
18 ~~physical condition of drivers,))~~ refueling, road warning devices,  
19 ~~((and))~~ the transportation of gasoline and explosives, and the stowage  
20 of personal belongings, luggage, materials, and equipment;

21       ~~((+3))~~ (c) The qualifications of drivers, including a driver's  
22 minimum age and skill, physical condition, alcohol and drug testing  
23 standards, minimum qualifications, appropriate class of commercial  
24 driver's license, initial and ongoing training programs that include  
25 regular testing, and driving history. A person is immediately and  
26 automatically disqualified to work as a driver under this chapter if  
27 the person's license is suspended or revoked two or more times within  
28 a three-year period. The disqualification must last for two years from  
29 the recent license suspension or revocation;

30       (d) The safety of passengers in a passenger-carrying vehicle,  
31 including emergency exits, fire extinguishers, first aid kits,  
32 facilities for communication between cab and rear compartments, means  
33 of ingress and egress, side walls, canopy, tail gates, safety  
34 headrests, seating, safety belts, air bags, or other means of retaining  
35 passengers within the passenger-carrying vehicle;

36       (e) Adequate insurance coverage. If a party contracts with the  
37 motor carrier on behalf of the railroad company to transport railroad  
38 employees, the insurance requirements may be satisfied by either that

1 party or the motor carrier, so long as the motor carrier names that  
2 party as an additional insured or named insured. The insurance policy  
3 must satisfy the following minimum amounts, which may be increased by  
4 rule adopted by the commission:

5 (i) Liability insurance of five million dollars;

6 (ii) Uninsured and underinsured motorist coverage of five million  
7 dollars; and

8 (iii) Property damage coverage of five hundred thousand dollars;  
9 and

10 (f) The suspension, revocation, or cancellation of the certificate  
11 issued by the commission held by any agent, contractor, subcontractor,  
12 or vendor of a railroad company as a result of serious or repeated  
13 violations of this chapter or rules adopted under this chapter.

14 (2)(a) Agents, contractors, subcontractors, or vendors of a  
15 railroad company must retain for a time period of at least three years  
16 all operational records, including vehicle records involving accidents,  
17 maintenance and service records, drivers' records, records of passenger  
18 complaints, all employment actions, driver logs, and records of  
19 passengers transported.

20 (b) Records required under (a) of this subsection must be sent to  
21 the commission annually. The commission must retain the records for at  
22 least three years.

23 (3)(a) For class II and class III railroads, the commission may  
24 waive any regulatory requirement concerning passenger-carrying vehicles  
25 in this chapter, except those listed in (c) and (d) of this subsection,  
26 if doing so is consistent with the public interest and safety.

27 (b) At a minimum, class II and class III railroads must:

28 (i) Provide an adequate level of insurance that is consistent with  
29 federal insurance standards and that must include uninsured motorist  
30 coverage;

31 (ii) Require drivers of passenger-carrying vehicles to have a valid  
32 Washington state driver's license; and

33 (iii) Require that any vehicles used to transport railroad crews  
34 are maintained, safe, and in good operating condition.

35 (c) The commission may not waive any authority to investigate,  
36 address, and resolve complaints regarding railroad passenger-carrying  
37 vehicles used by class II and class III railroads, or any of these  
38 railroads' agents, contractors, subcontractors, or vendors.

1 (d) If a class II or class III railroad has an ongoing contractual  
2 relationship with another company in order to provide passenger-  
3 carrying services, that company must meet the minimum insurance  
4 requirements listed in subsection (1)(e) of this section.

5 (e) The commission must review any waivers granted under this  
6 section no less than every four years and may cancel waivers at any  
7 time if the commission finds that the railroad has committed serious or  
8 repeated safety violations related to passenger-carrying vehicles.

9 (4) The provisions of this chapter shall not apply to a railroad  
10 that has a total of fifteen or fewer employees who are covered by the  
11 hours of service laws under 49 U.S.C. Sec. 21103, 21104, or 21105.

12 **Sec. 3.** RCW 81.61.030 and 1977 ex.s. c 2 s 3 are each amended to  
13 read as follows:

14 (1) Any rules or orders adopted under this chapter shall be subject  
15 to the requirements of, and enforceable by the penalties imposed by,  
16 chapter 81.04 RCW.

17 (2) When a railroad company or its agents, contractors,  
18 subcontractors, or vendors violate this chapter or rules adopted under  
19 this chapter, the commission may order such penalties as are warranted.  
20 The commission may impose penalties on railroad companies for repeated  
21 safety violations by their agents, contractors, subcontractors, or  
22 vendors.

23 (3) Any interested person or group may request notice of, and  
24 participate in, any hearings or proceedings held pursuant to this  
25 chapter. The commission shall conduct a hearing prior to the adoption  
26 of any rule ((~~or order~~)) under this chapter.

27 **Sec. 4.** RCW 81.61.040 and 1977 ex.s. c 2 s 4 are each amended to  
28 read as follows:

29 (1) The commission may, in enforcing rules and orders under this  
30 chapter, inspect any passenger-carrying vehicle provided by a railroad  
31 company or its agents, contractors, subcontractors, or vendors to  
32 transport employees in the course of their employment. Upon request,  
33 the chief of the state patrol or the chief's designee may assist the  
34 commission in these inspections.

35 (2) The commission must investigate a safety complaint related to

1 employee transportation under this chapter and take appropriate  
2 enforcement action as warranted.

3 (3) Railroad companies must provide a means for their employees to  
4 document and track to resolution issues regarding the safe operation or  
5 maintenance of any passenger-carrying vehicle operated by the railroad  
6 company or its agents, contractors, subcontractors, or vendors.  
7 Railroad companies must investigate a safety complaint related to  
8 employee transportation under this chapter and take appropriate action  
9 to resolve the complaint.

10 (4) In hiring new employees, railroad companies must provide these  
11 new employees information regarding filing complaints with the  
12 commission as to the safety, maintenance, and operations of passenger-  
13 carrying vehicles.

14 NEW SECTION. Sec. 5. A new section is added to chapter 81.61 RCW  
15 to read as follows:

16 The commission must study any incidents and accidents involving  
17 passenger-carrying vehicles regulated under this chapter. The  
18 commission must collect data on such incidents and accidents, including  
19 the location, time of day, visibility, any fault of the parties  
20 involved, whether the incident or accident caused any property damage  
21 or personal injuries, and how such an incident or accident could have  
22 been avoided. The commission must make this data available upon  
23 request and must provide a report to the legislature by December 31,  
24 2013, and annually thereafter, summarizing the last year's findings and  
25 including recommendations for avoiding incidents and accidents in the  
26 future.

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