

**SHB 1105 - H AMD 304**

By Representative Orcutt

ADOPTED 03/07/2017

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 81.61.010 and 1977 ex.s. c 2 s 1 are each amended  
4 to read as follows:

5 Unless the context clearly requires otherwise(~~(, the term)~~):

6 (1) "Contract crew hauling vehicle," as used in this chapter,  
7 means every motor vehicle, regardless of its seating capacity, that  
8 is owned, leased, operated, or maintained by a person contracting  
9 with a railroad company or its agents, contractors, subcontractors,  
10 vendors, subvendors, secondary vendors, or subcarriers, and used  
11 primarily to provide railroad crew transportation.

12 (2) "Passenger-carrying vehicle," as used in this chapter, means  
13 those buses ((and)), vans, trucks, and cars owned, operated, and  
14 maintained by a railroad company which transports railroad employees  
15 in other than the cab of such vehicle and designed primarily for  
16 operation on roads which may or may not be equipped with retractable  
17 flanged wheels for operation on railroad tracks.

18 NEW SECTION. Sec. 2. A new section is added to chapter 81.61  
19 RCW to read as follows:

20 (1) The commission must regulate persons providing contract  
21 railroad crew transportation and every contract crew hauling vehicle  
22 with respect to the safety of equipment, driver qualifications,  
23 permitting, insurance, and safety of operations.

24 (2) The commission must adopt rules, require reports, and  
25 establish mandatory reporting of compliance as necessary to carry out  
26 this chapter regarding contract crew hauling vehicles, considering  
27 federal and national motor vehicle motor carrier safety standards for  
28 contract crew hauling vehicles, regardless of seating capacity, as  
29 the minimum safety standards, including:

1 (a) Driver qualifications, including a driver's minimum age and  
2 skill, medical condition, and verification of department of licensing  
3 driving credentials as mandated under section 3 of this act;

4 (b) Equipment safety, including:

5 (i) Requirements for the specific safety equipment that must be  
6 carried in each contract crew hauling vehicle, which must include a  
7 fire extinguisher, first aid kit, seat belt cutter, window hammer,  
8 and other equipment the commission determines is necessary;

9 (ii) Requirements for a mandatory vehicle maintenance program;  
10 and

11 (iii) Requirements on the proper securement of railroad equipment  
12 being transported in the contract crew hauling vehicle;

13 (c) Safety of operations, including the regulation of driver  
14 hours of service that satisfies the following minimum requirements:  
15 The contract carrier may not allow or require a driver to drive for  
16 more than ten hours following eight consecutive hours off duty, allow  
17 or require a driver to drive or remain on duty for more than fifteen  
18 hours following eight consecutive hours off duty, or allow or require  
19 a driver to drive or remain on duty for more than a total of seventy  
20 hours in any period of eight consecutive days. For purposes of this  
21 subsection (2)(c), "on duty" means the term as defined in 49 C.F.R.  
22 Part 395 as it existed on the effective date of this section, or such  
23 subsequent date as may be provided by the commission by rule,  
24 consistent with the purposes of this section;

25 (d) Passenger safety;

26 (e) Insurance coverage for each contract crew hauling vehicle  
27 that satisfies the following minimum amounts, which may be increased  
28 by rule as adopted by the commission:

29 (i) Five million dollars combined single limit coverage for  
30 bodily injury and property damage liability coverage; and

31 (ii) Uninsured and underinsured motorist coverage of one million  
32 dollars; and

33 (f) The form and posting of adequate notices in a conspicuous  
34 location in all contract crew hauling vehicles to advise railroad  
35 employee passengers of their rights, the opportunity to submit safety  
36 complaints to the commission, the complaint process, and contact  
37 information for the commission.

38 (3) If a third party contracts with the person operating the  
39 vehicle on behalf of the railroad company or its agents, contractors,  
40 subcontractors, vendors, subvendors, secondary vendors, or

1 subcarriers to transport railroad employees, the insurance  
2 requirements may be satisfied by either the third party or the person  
3 operating the vehicle, so long as the person operating the vehicle  
4 names the third party as an additional insured or named insured. The  
5 railroad company may also satisfy the insurance requirements. Proof  
6 of coverage must be provided to the commission by the person  
7 contracting with the railroad company.

8 (4) An employer of persons providing contract railroad crew  
9 transportation under this chapter must:

10 (a) Adopt drug testing requirements for drivers of any contract  
11 crew hauling vehicle consistent with drug testing programs conducted  
12 under 49 C.F.R. Part 382 as it existed on the effective date of this  
13 section, or such subsequent date as may be provided by the commission  
14 by rule, consistent with the purposes of this section; and

15 (b) Ensure that all drivers of contract crew hauling vehicles  
16 have successfully completed a safety course that has been approved by  
17 the department of licensing pursuant to section 3 of this act.

18 (5)(a) The commission may, in enforcing rules and orders relating  
19 to persons owning, leasing, operating, and maintaining contract crew  
20 hauling vehicles under this chapter, inspect any contract crew  
21 hauling vehicles. Upon request, the chief of the state patrol or the  
22 chief's designee may assist the commission in these inspections. The  
23 commission must conduct a minimum of one unannounced inspection of  
24 contract crew hauling vehicles in use by a person contracting with  
25 the railroad company every two years by inspecting at least a  
26 sampling of vehicles as part of each inspection conducted.

27 (b) The commission must investigate safety complaints related to  
28 contract crew hauling transportation under this section and take  
29 appropriate enforcement action as authorized.

30 (c) The commission may enforce this section under the authority  
31 in RCW 81.04.380 through 81.04.405, including assessing penalties as  
32 warranted.

33 (d) The commission may suspend or revoke a permit upon complaint  
34 by any interested party, or upon the commission's own motion after  
35 notice and opportunity for hearing, when it finds that any person  
36 owning, leasing, operating, or maintaining contract crew hauling  
37 vehicles has violated this chapter or the rules of the commission, or  
38 that the company or its agent has been found by a court or  
39 governmental agency to have violated the laws of a state or the  
40 United States.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 81.61  
2    RCW to read as follows:

3        (1) In addition to maintaining a valid driver's license under  
4    chapter 46.20 RCW, a driver of a contract crew hauling vehicle must  
5    complete a sixteen-hour safety course that includes, but is not  
6    limited to, vehicle and passenger safety awareness, rail yard safety,  
7    grade crossing safety, load securement, and distracted and fatigued  
8    driving.

9        (2) The department of licensing or its designee must issue a  
10    course completion certificate upon successful completion of the  
11    safety course.

12       (3) Any person providing contract railroad crew transportation  
13    must verify that contract crew hauling vehicle drivers possess a  
14    valid safety course completion certificate and maintain a record of  
15    the certificate.

16       (4) The department of licensing may charge a reasonable fee not  
17    to exceed twenty-five dollars for the issuance of a safety course  
18    completion certificate.

19       (5) The department of licensing may adopt rules necessary to  
20    implement this section.

21       NEW SECTION.    **Sec. 4.**    A new section is added to chapter 81.61  
22    RCW to read as follows:

23       (1) Any person owning, leasing, operating, or maintaining  
24    contract crew hauling vehicles must retain for at least three years  
25    all operational records relating to the contract crew hauling  
26    vehicles, including vehicle records involving accidents, maintenance  
27    and service records, drivers' records, records of passenger  
28    complaints, all employment actions, driver logs, and records of  
29    passengers transported.

30       (2) Any records maintained by the person contracting with the  
31    railroad company must include driver hours of service and  
32    documentation of department of licensing driving credentials as  
33    mandated under section 3 of this act. The commission may specify the  
34    form of documentation required and may inspect these records.

35       NEW SECTION.    **Sec. 5.**    A new section is added to chapter 81.61  
36    RCW to read as follows:

37       A person is immediately and automatically disqualified to work as  
38    a driver of a contract crew hauling vehicle under this chapter if the

1 person's license is suspended or revoked for a reason other than the  
2 nonpayment of fines. The disqualification must last for three years  
3 from the most recent license suspension or revocation.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 81.61  
5 RCW to read as follows:

6 (1) The commission must compile data regarding any reported  
7 safety complaints, accidents, regulatory violations and fines, and  
8 corrective actions taken by the commission involving vehicles  
9 regulated under this chapter. A railroad company, and any person that  
10 owns or leases, operates, or maintains contract crew hauling vehicles  
11 in the state, must, at the request of the commission, provide data  
12 relevant to any complaints and accidents, including location, time of  
13 day, visibility, a description of the event, whether any property  
14 damage or personal injuries resulted, and any corrective action taken  
15 by the railroad company, person operating the contract crew hauling  
16 vehicle, or commission. The commission must make this data available  
17 upon request and on its web site.

18 (2) Information included in safety complaints that identifies the  
19 employee who submitted the complaint is exempt from public inspection  
20 and copying pursuant to RCW 42.56.330.

21 **Sec. 7.** RCW 81.61.040 and 1977 ex.s. c 2 s 4 are each amended to  
22 read as follows:

23 (1) The commission may, in enforcing rules and orders under this  
24 chapter, inspect any passenger-carrying vehicle provided by a  
25 railroad company or its agents, contractors, subcontractors, or  
26 vendors to transport ((employees)) railroad crews in the course of  
27 their employment. Upon request, the chief of the state patrol may  
28 assist the commission in these inspections.

29 (2) By December 31, 2017, the commission must develop an  
30 inspection program for contract crew hauling vehicles. This program  
31 must require a periodic inspection of each vehicle, including a  
32 review of operational practices.

33 **Sec. 8.** RCW 42.56.330 and 2015 c 224 s 4 are each amended to  
34 read as follows:

35 The following information relating to public utilities and  
36 transportation is exempt from disclosure under this chapter:

1 (1) Records filed with the utilities and transportation  
2 commission or attorney general under RCW 80.04.095 or 81.77.210 that  
3 a court has determined are confidential under RCW 80.04.095 or  
4 81.77.210;

5 (2) The addresses, telephone numbers, electronic contact  
6 information, and customer-specific utility usage and billing  
7 information in increments less than a billing cycle of the customers  
8 of a public utility contained in the records or lists held by the  
9 public utility of which they are customers, except that this  
10 information may be released to the division of child support or the  
11 agency or firm providing child support enforcement for another state  
12 under Title IV-D of the federal social security act, for the  
13 establishment, enforcement, or modification of a support order;

14 (3) The names, residential addresses, residential telephone  
15 numbers, and other individually identifiable records held by an  
16 agency in relation to a vanpool, carpool, or other ride-sharing  
17 program or service. (~~Participant's~~ [~~Participants~~]) Participants'  
18 names, general locations, and point of contact may be disclosed to  
19 other persons who apply for ride-matching services and who need that  
20 information in order to identify potential riders or drivers with  
21 whom to share rides;

22 (4) The personally identifying information of current or former  
23 participants or applicants in a paratransit or other transit service  
24 operated for the benefit of persons with disabilities or elderly  
25 persons;

26 (5) The personally identifying information of persons who acquire  
27 and use transit passes or other fare payment media including, but not  
28 limited to, stored value smart cards and magnetic strip cards, except  
29 that an agency may disclose personally identifying information to a  
30 person, employer, educational institution, or other entity that is  
31 responsible, in whole or in part, for payment of the cost of  
32 acquiring or using a transit pass or other fare payment media for the  
33 purpose of preventing fraud. As used in this subsection, "personally  
34 identifying information" includes acquisition or use information  
35 pertaining to a specific, individual transit pass or fare payment  
36 media.

37 (a) Information regarding the acquisition or use of transit  
38 passes or fare payment media may be disclosed in aggregate form if  
39 the data does not contain any personally identifying information.

1 (b) Personally identifying information may be released to law  
2 enforcement agencies if the request is accompanied by a court order;

3 (6) Any information obtained by governmental agencies that is  
4 collected by the use of a motor carrier intelligent transportation  
5 system or any comparable information equipment attached to a truck,  
6 tractor, or trailer; however, the information may be given to other  
7 governmental agencies or the owners of the truck, tractor, or trailer  
8 from which the information is obtained. As used in this subsection,  
9 "motor carrier" has the same definition as provided in RCW 81.80.010;

10 (7) The personally identifying information of persons who acquire  
11 and use transponders or other technology to facilitate payment of  
12 tolls. This information may be disclosed in aggregate form as long as  
13 the data does not contain any personally identifying information. For  
14 these purposes aggregate data may include the census tract of the  
15 account holder as long as any individual personally identifying  
16 information is not released. Personally identifying information may  
17 be released to law enforcement agencies only for toll enforcement  
18 purposes. Personally identifying information may be released to law  
19 enforcement agencies for other purposes only if the request is  
20 accompanied by a court order; ((and))

21 (8) The personally identifying information of persons who acquire  
22 and use a driver's license or identicard that includes a radio  
23 frequency identification chip or similar technology to facilitate  
24 border crossing. This information may be disclosed in aggregate form  
25 as long as the data does not contain any personally identifying  
26 information. Personally identifying information may be released to  
27 law enforcement agencies only for United States customs and border  
28 protection enforcement purposes. Personally identifying information  
29 may be released to law enforcement agencies for other purposes only  
30 if the request is accompanied by a court order; and

31 (9) Personally identifying information included in safety  
32 complaints submitted under chapter 81.61 RCW.

33 NEW SECTION. Sec. 9. Section 3 of this act takes effect January  
34 1, 2018."

35 Correct the title.

EFFECT: Makes the following changes to the regulation of contract  
crew hauling vehicles:

(1) Augments the utilities and transportation commission's regulatory role over entities providing contract railroad crew transportation to include permitting oversight;

(2) Requires drivers of contract crew hauling vehicles to complete a sixteen-hour safety course and obtain a certificate of course completion from the department of licensing;

(3) Narrows the utilities and transportation commission's regulatory authority over driver qualifications to exclude driver training and licensing requirements;

(4) Modifies the number of hours a contract crew hauling vehicle driver may be permitted or required to work to include a maximum of ten hours of driving time after eight hours off duty and a maximum of fifteen hours of total driving or on duty time after eight hours off duty;

(5) Modifies the definition of "on duty" to conform to the federal definition, which includes all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work;

(6) Changes minimum insurance and financial responsibility coverage amounts for contract crew hauling vehicles to 5 million dollars in liability coverage and 1 million dollars in uninsured and underinsured motorist coverage, with no additional insurance coverage requirements;

(7) Modifies drug testing requirements for contract crew hauling vehicle driver applicants and drivers to conform to federal drug testing requirements for commercial motor vehicle drivers; and

(8) Modifies the commission's authority to suspend or revoke a contract crew hauling permit to provide for notice and the opportunity for a hearing when the commission finds a violation of state laws and rules that apply to contract railroad crew transportation, or when the company or its agent has been found to have violated a state or federal law.

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