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ENGROSSED SUBSTITUTE HOUSE BILL 1105

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State of Washington

65th Legislature

2017 Regular Session

**By** House Transportation (originally sponsored by Representatives Stanford, Orcutt, Clibborn, Stambaugh, Hayes, Stonier, Koster, Holy, Ryu, Ormsby, Fey, Wylie, Dolan, Sells, Muri, Haler, Goodman, Doglio, Hudgins, Gregerson, Barkis, Kilduff, Santos, Tarleton, Pollet, Farrell, and Riccelli)

READ FIRST TIME 02/23/17.

1 AN ACT Relating to passenger-carrying vehicles for railroad  
2 employees; amending RCW 81.61.010, 81.61.040, and 42.56.330; adding  
3 new sections to chapter 81.61 RCW; and providing an effective date.

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

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

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

3        (1) The commission must regulate persons providing contract  
4 railroad crew transportation and every contract crew hauling vehicle  
5 with respect to the safety of equipment, driver qualifications,  
6 permitting, insurance, and safety of operations.

7        (2) The commission must adopt rules, require reports, and  
8 establish mandatory reporting of compliance as necessary to carry out  
9 this chapter regarding contract crew hauling vehicles, considering  
10 federal and national motor vehicle motor carrier safety standards for  
11 contract crew hauling vehicles, regardless of seating capacity, as  
12 the minimum safety standards, including:

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

16        (b) Equipment safety, including:

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

21        (ii) Requirements for a mandatory vehicle maintenance program;  
22 and

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

25        (c) Safety of operations, including the regulation of driver  
26 hours of service that satisfies the following minimum requirements:  
27 The contract carrier may not allow or require a driver to drive for  
28 more than ten hours following eight consecutive hours off duty, allow  
29 or require a driver to drive or remain on duty for more than fifteen  
30 hours following eight consecutive hours off duty, or allow or require  
31 a driver to drive or remain on duty for more than a total of seventy  
32 hours in any period of eight consecutive days. For purposes of this  
33 subsection (2)(c), "on duty" means the term as defined in 49 C.F.R.  
34 Part 395 as it existed on the effective date of this section, or such  
35 subsequent date as may be provided by the commission by rule,  
36 consistent with the purposes of this section;

37        (d) Passenger safety;

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

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

3 (ii) Uninsured and underinsured motorist coverage of one million  
4 dollars; and

5 (f) The form and posting of adequate notices in a conspicuous  
6 location in all contract crew hauling vehicles to advise railroad  
7 employee passengers of their rights, the opportunity to submit safety  
8 complaints to the commission, the complaint process, and contact  
9 information for the commission.

10 (3) If a third party contracts with the person operating the  
11 vehicle on behalf of the railroad company or its agents, contractors,  
12 subcontractors, vendors, subvendors, secondary vendors, or  
13 subcarriers to transport railroad employees, the insurance  
14 requirements may be satisfied by either the third party or the person  
15 operating the vehicle, so long as the person operating the vehicle  
16 names the third party as an additional insured or named insured. The  
17 railroad company may also satisfy the insurance requirements. Proof  
18 of coverage must be provided to the commission by the person  
19 contracting with the railroad company.

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

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

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

30 (5)(a) The commission may, in enforcing rules and orders relating  
31 to persons owning, leasing, operating, and maintaining contract crew  
32 hauling vehicles under this chapter, inspect any contract crew  
33 hauling vehicles. Upon request, the chief of the state patrol or the  
34 chief's designee may assist the commission in these inspections. The  
35 commission must conduct a minimum of one unannounced inspection of  
36 contract crew hauling vehicles in use by a person contracting with  
37 the railroad company every two years by inspecting at least a  
38 sampling of vehicles as part of each inspection conducted.

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

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

7 (d) The commission may suspend or revoke a permit upon complaint  
8 by any interested party, or upon the commission's own motion after  
9 notice and opportunity for hearing, when it finds that any person  
10 owning, leasing, operating, or maintaining contract crew hauling  
11 vehicles has violated this chapter or the rules of the commission, or  
12 that the company or its agent has been found by a court or  
13 governmental agency to have violated the laws of a state or the  
14 United States.

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

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

23 (2) The department of licensing or its designee must issue a  
24 course completion certificate upon successful completion of the  
25 safety course.

26 (3) Any person providing contract railroad crew transportation  
27 must verify that contract crew hauling vehicle drivers possess a  
28 valid safety course completion certificate and maintain a record of  
29 the certificate.

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

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

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

37 (1) Any person owning, leasing, operating, or maintaining  
38 contract crew hauling vehicles must retain for at least three years

1 all operational records relating to the contract crew hauling  
2 vehicles, including vehicle records involving accidents, maintenance  
3 and service records, drivers' records, records of passenger  
4 complaints, all employment actions, driver logs, and records of  
5 passengers transported.

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

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

13 A person is immediately and automatically disqualified to work as  
14 a driver of a contract crew hauling vehicle under this chapter if the  
15 person's license is suspended or revoked for a reason other than the  
16 nonpayment of fines. The disqualification must last for three years  
17 from the most recent license suspension or revocation.

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

20 (1) The commission must compile data regarding any reported  
21 safety complaints, accidents, regulatory violations and fines, and  
22 corrective actions taken by the commission involving vehicles  
23 regulated under this chapter. A railroad company, and any person that  
24 owns or leases, operates, or maintains contract crew hauling vehicles  
25 in the state, must, at the request of the commission, provide data  
26 relevant to any complaints and accidents, including location, time of  
27 day, visibility, a description of the event, whether any property  
28 damage or personal injuries resulted, and any corrective action taken  
29 by the railroad company, person operating the contract crew hauling  
30 vehicle, or commission. The commission must make this data available  
31 upon request and on its web site.

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

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

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

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

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

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

15       (1) Records filed with the utilities and transportation  
16 commission or attorney general under RCW 80.04.095 or 81.77.210 that  
17 a court has determined are confidential under RCW 80.04.095 or  
18 81.77.210;

19       (2) The addresses, telephone numbers, electronic contact  
20 information, and customer-specific utility usage and billing  
21 information in increments less than a billing cycle of the customers  
22 of a public utility contained in the records or lists held by the  
23 public utility of which they are customers, except that this  
24 information may be released to the division of child support or the  
25 agency or firm providing child support enforcement for another state  
26 under Title IV-D of the federal social security act, for the  
27 establishment, enforcement, or modification of a support order;

28       (3) The names, residential addresses, residential telephone  
29 numbers, and other individually identifiable records held by an  
30 agency in relation to a vanpool, carpool, or other ride-sharing  
31 program or service. ((Participant's [Participants'])) Participants'  
32 names, general locations, and point of contact may be disclosed to  
33 other persons who apply for ride-matching services and who need that  
34 information in order to identify potential riders or drivers with  
35 whom to share rides;

36       (4) The personally identifying information of current or former  
37 participants or applicants in a paratransit or other transit service  
38 operated for the benefit of persons with disabilities or elderly  
39 persons;

1 (5) The personally identifying information of persons who acquire  
2 and use transit passes or other fare payment media including, but not  
3 limited to, stored value smart cards and magnetic strip cards, except  
4 that an agency may disclose personally identifying information to a  
5 person, employer, educational institution, or other entity that is  
6 responsible, in whole or in part, for payment of the cost of  
7 acquiring or using a transit pass or other fare payment media for the  
8 purpose of preventing fraud. As used in this subsection, "personally  
9 identifying information" includes acquisition or use information  
10 pertaining to a specific, individual transit pass or fare payment  
11 media.

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

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

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

24 (7) The personally identifying information of persons who acquire  
25 and use transponders or other technology to facilitate payment of  
26 tolls. This information may be disclosed in aggregate form as long as  
27 the data does not contain any personally identifying information. For  
28 these purposes aggregate data may include the census tract of the  
29 account holder as long as any individual personally identifying  
30 information is not released. Personally identifying information may  
31 be released to law enforcement agencies only for toll enforcement  
32 purposes. Personally identifying information may be released to law  
33 enforcement agencies for other purposes only if the request is  
34 accompanied by a court order; ((and))

35 (8) The personally identifying information of persons who acquire  
36 and use a driver's license or identicard that includes a radio  
37 frequency identification chip or similar technology to facilitate  
38 border crossing. This information may be disclosed in aggregate form  
39 as long as the data does not contain any personally identifying  
40 information. Personally identifying information may be released to

1 law enforcement agencies only for United States customs and border  
2 protection enforcement purposes. Personally identifying information  
3 may be released to law enforcement agencies for other purposes only  
4 if the request is accompanied by a court order; and  
5 (9) Personally identifying information included in safety  
6 complaints submitted under chapter 81.61 RCW.

7 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect January  
8 1, 2018.

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