

**HB 1841 - S AMD 1244**  
By Senator Kuderer

**ADOPTED AS AMENDED 03/06/2020**

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that adequate  
4 personnel are critical to ensuring railroad operational safety,  
5 security, and in the event of a hazardous material incident, support  
6 of first responder activities, as well as in the interest of the  
7 safety of passengers and the general public. Therefore, the  
8 legislature declares that this act regulating minimum railroad  
9 employee staffing to reduce risk to localities constitutes an  
10 exercise of the state's police power to protect and promote the  
11 health, safety, security, and welfare of the residents of the state  
12 by reducing the risk exposure to local communities and protecting  
13 environmentally sensitive and/or pristine lands and waterways.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 81.40  
15 RCW to read as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

18 (1) "Class I" means a railroad carrier designated as a class I  
19 railroad by the United States surface transportation board and its  
20 subsidiaries or is owned and operated by entities whose combined  
21 total railroad operational ownership and controlling interest meets  
22 the United States surface transportation board designation as a class  
23 I railroad carrier.

24 (2) "Commission" means the utilities and transportation  
25 commission created in chapter 80.01 RCW.

26 (3) "Crewmember" means a railroad operating craft employee who  
27 has been trained and meets the requirements and qualifications as  
28 determined by the federal railroad administration for a railroad  
29 operating service employee.

30 (4) "Other railroad carrier" means a railroad carrier that is not  
31 a class I carrier.

1 (5) "Railroad carrier" means a carrier of persons or property  
2 upon vehicles, other than streetcars, operated upon stationary rails,  
3 the route of which is principally outside incorporated cities and  
4 towns. "Railroad carrier" includes any officers and agents of the  
5 railroad carrier.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.40  
7 RCW to read as follows:

8 Except as provided in section 4 of this act, any person,  
9 corporation, company, or officer of the court operating any railroad,  
10 railway, or any part of any railroad or railway, in the state of  
11 Washington, and engaged, as a common carrier, in the transportation  
12 of freight or passengers, shall operate and manage all trains and  
13 switching assignments over its road with crews consisting of no less  
14 than two crewmembers.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.40  
16 RCW to read as follows:

17 (1) The commission may grant waivers to the minimum crew size  
18 requirements specified in section 3 of this act to:

19 (a) Other railroad carriers exclusively transporting agricultural  
20 commodities;

21 (b) Other railroad carriers having not more than nine employees  
22 that do not transport loaded railcars containing dangerous  
23 commodities on their road; or

24 (c) Other railroad carriers meeting conditions consistent with  
25 the intent of this section as ordered by the commission.

26 (2) Waivers must be issued for a specific period of time and  
27 subject to regular review by the commission.

28 (3) The commission must act to ensure that railroad carriers  
29 supplement trains entering Washington state with the requisite number  
30 of train crewmembers pursuant to this act, at the closest regular  
31 station stop or crew change point located in proximity to and  
32 adjacent with either side of the state border, having been  
33 established and in use by the carrier on January 1, 2020.

34 (4) (a) The commission may order railroad carriers to increase the  
35 number of railroad employees in areas of increased risk to the  
36 public, passengers, railroad employees, or the environment, or on  
37 specific trains, routes, or to switch assignments on their road with  
38 additional numbers of crewmembers, and may direct the placement of

1 additional crewmembers, if it is determined that such an increase in  
2 staffing or the placement of additional crewmembers is necessary to  
3 protect the safety, health, and welfare of the public, passengers, or  
4 railroad employees, to prevent harm to the environment or to address  
5 site specific safety or security hazards.

6 (b) In issuing such an order, the commission may consider  
7 relevant factors including, but not limited to, the volatility of the  
8 commodities being transported, train volume, risk mitigation  
9 measures, environmental and operating factors that impact  
10 vulnerabilities, risk exposure to passengers, the general public,  
11 railroad employees, communities, or the environment along the train  
12 route, security risks including sabotage or terrorism threat levels,  
13 a railroad carrier's prior history of accidents, compliance  
14 violations, operating practices, infrastructure investments including  
15 track and equipment maintenance issues or lack thereof, employee  
16 training and support programs, first responder access, and any other  
17 relevant factors in the interest of safety.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 81.40  
19 RCW to read as follows:

20 (1) Pursuant to the enforcement of the provisions of this act,  
21 the highest priority and paramount obligation of the commission must  
22 be its duty to ensure the safety and protection of the public,  
23 passengers, railroad employees, communities, environment, and areas  
24 of cultural significance in the furtherance of the highest degree of  
25 safety in railroad transportation.

26 (2) Each train or engine run in violation of section 3 of this  
27 act constitutes a separate offense. However, section 3 of this act  
28 does not apply in the case of disability of one or more members of  
29 any train crew while out on the road between division terminals, or  
30 assigned to wrecking trains.

31 (3) Any person, corporation, company, or officer of the court  
32 operating any railroad, or part of any railroad or railway within the  
33 state of Washington, and engaged as a common carrier, in the  
34 transportation of freight or passengers, who violates any of the  
35 provisions of section 3 of this act may be subject to fines of not  
36 less than one thousand dollars and not more than one hundred thousand  
37 dollars for each offense, as determined by the commission through  
38 order.

1 (4) The commission may impose fines exceeding the provisions in  
2 subsection (3) of this section when a serious injury or fatality  
3 occurs involving a carrier's violation of this act. All relevant  
4 factors may be considered including, but not limited to, the class,  
5 assets, profitability, and operational safety record of the carrier,  
6 as well as deterrence in ascertaining an appropriate punitive  
7 penalty, as determined by the commission through order.

8 (5) It is the duty of the commission to enforce this section.

9 NEW SECTION. **Sec. 6.** The following acts or parts of acts are  
10 each repealed:

11 (1) RCW 81.40.010 (Full train crews—Passenger—Safety review—  
12 Penalty—Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14  
13 s 81.40.010; and

14 (2) RCW 81.40.035 (Freight train crews) and 1967 c 2 s 2.

15 NEW SECTION. **Sec. 7.** If any provision of this act or its  
16 application to any person, entity, or circumstance is held invalid,  
17 the remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of  
21 the state government and its existing public institutions, and takes  
22 effect immediately."

**HB 1841** - S AMD **1244**  
By Senator Kuderer

**ADOPTED AS AMENDED 03/06/2020**

23 On page 1, line 2 of the title, after "trains;" strike the  
24 remainder of the title and insert "adding new sections to chapter  
25 81.40 RCW; creating a new section; repealing RCW 81.40.010 and  
26 81.40.035; prescribing penalties; and declaring an emergency."

EFFECT: Modifies the legislative intent. Removes specific  
requirements for hazardous materials trains and removes definitions  
for hazardous materials and hazardous materials trains. Removes class  
II carriers from the exemption for transporting fewer than twenty  
cars of hazardous materials operating at a speed of twenty-five miles  
or less. Modifies the allowable waivers of crew requirements and

allows them for other railroad carriers: (1) Exclusively transporting agricultural commodities; (2) with nine or less employees that do not transport dangerous commodities; or (3) meeting certain conditions. Requires the UTC to act to ensure that railroad carriers supplement trains entering Washington state with the requisite number of train crewmembers pursuant to this act, at the closest regular station stop or crew change point located in proximity to and adjacent with either side of the state border, having been established and in use by the carrier on January 1, 2020. Provides that pursuant to the enforcement of the provisions of this act, the highest priority and paramount obligation of the UTC must be its duty to ensure the safety and protection of the public, passengers, railroad employees, communities, environment, and areas of cultural significance in the furtherance of the highest degree of safety in railroad transportation. Modifies the reasons the UTC may order an increase in the number of railroad employees. Allows the UTC to impose greater fines when a serious injury or fatality occurs and provides factors to be considered. Changes terminology from "qualified crewmember" to "crewmember." Defines Class I carriers and other railroad carriers.

--- END ---