

HB 1841 - S COMM AMD

By Committee on Labor & Commerce

NOT ADOPTED 03/06/2020

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that the increasing
4 transportation of hazardous and volatile materials on the railroads
5 operating within our state, as well as significantly longer trains
6 operating over the unique and widely varying geographical terrain
7 existing in our state coupled with decreasing train crew size,
8 creates a significant safety hazard to the public, railroad
9 employees, and the environment. Adequate personnel are critical to
10 ensuring railroad operational safety, security, and in the event of a
11 hazardous material incident, support of first responder activities,
12 as well as in the interest of the safety of passengers and the
13 general public. Therefore, the legislature declares that this act
14 regulating minimum railroad employee staffing to reduce risk to
15 localities constitutes an exercise of the state's police power to
16 protect and promote the health, safety, security, and welfare of the
17 residents of the state by reducing the risk exposure to local
18 communities and protecting environmentally sensitive and/or pristine
19 lands and waterways.

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

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

24 (1) "Class III" means a railroad carrier designated as a class
25 III railroad by the United States surface transportation board and is
26 owned and operated by entities whose combined total railroad
27 operational ownership and controlling interest meets the United
28 States surface transportation board designation as a class III
29 railroad carrier.

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

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

7 (4) "Hazardous material" means spent nuclear fuel, high-level
8 nuclear waste, class 1 substances or materials with a mass explosion
9 hazard, class 2 flammable gases, or class 3 flammable liquids, as
10 defined in the hazardous materials regulations of the United States
11 department of transportation in 49 C.F.R. Sec. 174.310 as of the
12 effective date of this section.

13 (5) "Hazardous material train" means:

14 (a) Any train carrying any combination of twenty or more carloads
15 of class 2 flammable gases and class 3 flammable liquids, as defined
16 by the United States department of transportation in 49 C.F.R. Part
17 173 as of the effective date of this section;

18 (b) Any train with one or more carloads of class 1 explosive
19 materials with a mass explosion hazard, class 7 spent nuclear fuel,
20 or high-level nuclear waste, as defined by the United States
21 department of transportation in 49 C.F.R. Sec. 174.310 as of the
22 effective date of this section; or

23 (c) Any high-hazard flammable train as defined by the United
24 States department of transportation in 49 C.F.R. Sec. 174.310 as of
25 the effective date of this section.

26 (6) "Railroad carrier" means a carrier of persons or property
27 upon vehicles, other than streetcars, operated upon stationary rails,
28 the route of which is principally outside incorporated cities and
29 towns. "Railroad carrier" includes any officers and agents of the
30 railroad carrier.

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

33 Except as provided in section 4 of this act, the following
34 minimum employee requirements apply:

35 (1) Any person, corporation, company, or officer of the court
36 operating any railroad, railway, or any part of any railroad or
37 railway, in the state of Washington, and engaged, as a common
38 carrier, in the transportation of freight or passengers, shall

1 operate and manage all trains and switching assignments over its road
2 with crews consisting of no less than two crewmembers.

3 (2) Railroad carriers shall operate all hazardous material trains
4 over its road with crews consisting of no less than two crewmembers
5 as ordered by the commission.

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

8 (1) Trains transporting hazardous material shipments a distance
9 of five miles or less may operate the train with the required crew
10 members positioned on the lead locomotive.

11 (2) Class III carriers transporting fewer than twenty loaded
12 hazardous material cars on trains operating on their road while at a
13 speed of twenty-five miles per hour or less are not required to
14 maintain additional train crewmembers specified in section 3(2) of
15 this act. The commission may grant waivers to the minimum crew size
16 requirements specified in section 3(1) of this act to:

17 (a) Class III railroad carriers exclusively transporting
18 agricultural commodities;

19 (b) Class III railroad carriers having not more than nine
20 employees that do not transport loaded railcars containing dangerous
21 commodities on their road; or

22 (c) Class III railroad carriers meeting conditions consistent
23 with the intent of this section as ordered by the commission. Waivers
24 must be issued for a specific period of time and subject to regular
25 review by the commission.

26 (3)(a) The commission may order railroad carriers to increase the
27 number of railroad employees in areas of increased risk to the
28 public, passengers, railroad employees, or the environment, or on
29 specific trains, routes, or to switch assignments on their road with
30 additional numbers of crewmembers, and may direct the placement of
31 additional crewmembers, if it is determined that such an increase in
32 staffing or the placement of additional crewmembers is necessary to
33 protect the safety, health, and welfare of the public, passengers, or
34 railroad employees, to prevent harm to the environment or to address
35 site specific safety or security hazards.

36 (b) In issuing such an order, the commission may consider
37 relevant factors including, but not limited to, the volatility of the
38 commodities being transported, train volume, risk mitigation
39 measures, environmental and operating factors that impact

1 vulnerabilities, risk exposure to passengers, the general public,
2 railroad employees, communities, or the environment along the train
3 route, security risks including sabotage or terrorism threat levels,
4 a railroad carrier's prior history of accidents, compliance
5 violations, operating practices, infrastructure investments including
6 track and equipment maintenance issues or lack thereof, employee
7 training and support programs, first responder access, and any other
8 relevant factors in the interest of safety.

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

11 (1) Each train or engine run in violation of section 3 of this
12 act constitutes a separate offense. However, section 3 of this act
13 does not apply in the case of disability of one or more members of
14 any train crew while out on the road between division terminals, or
15 assigned to wrecking trains.

16 (2) Any person, corporation, company, or officer of the court
17 operating any railroad, or part of any railroad or railway within the
18 state of Washington, and engaged as a common carrier, in the
19 transportation of freight or passengers, who violates any of the
20 provisions of section 3 of this act may be subject to fines of not
21 less than one thousand dollars and not more than one hundred thousand
22 dollars for each offense, as determined by the commission through
23 order.

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

31 (4) It is the duty of the commission to enforce this section.

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

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

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

1 NEW SECTION. **Sec. 7.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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

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9 On page 1, line 2 of the title, after "trains;" strike the
10 remainder of the title and insert "adding new sections to chapter
11 81.40 RCW; creating a new section; repealing RCW 81.40.010 and
12 81.40.035; prescribing penalties; and declaring an emergency."

EFFECT: Changes the crew requirement for hazardous material trains to two crewmembers or as ordered by the Commission, from three qualified crewmembers with one at the rear of the train. Removes requirements for four qualified crewmembers on hazardous material trains with fifty or more carloads. 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 class III carriers: (1) Exclusively transporting agricultural commodities; (2) with nine or less employees that do not transport dangerous commodities; or (3) meeting certain conditions. Modifies the reasons the Commission may order an increase in the number of railroad employees. Allows the Commission 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 III. Modifies the legislative findings.

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