

HOUSE BILL REPORT

HB 1842

As Reported by House Committee On:
Labor & Workplace Standards

Title: An act relating to hours of service for certain railroad employees.

Brief Description: Concerning hours of service for certain railroad employees.

Sponsors: Representatives Gregerson, Walsh, Blake, Chandler, Macri, Boehnke, Santos, Young, Ryu, Eslick, Riccelli, Jenkin, Senn, Stokesbary, Morgan, Griffey, Sells, Harris, Fey, Lovick, Stonier, Volz, Wylie, Vick, Stanford, Hoff, Fitzgibbon, Chambers, Ramos, McCaslin, Peterson, Dent, Pollet, Van Werven, Valdez, MacEwen, Ormsby, Graham, Dolan, Ybarra, Hudgins, Ortiz-Self, Jenkins, Walen, Cody, Frame, Tarleton, Appleton, Bergquist, Callan, Chapman, Pellicciotti, Shewmake, Smith, Kilduff, Lekanoff, Davis, Pettigrew, Doglio and Entenman.

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/14/19, 2/18/19 [DP].

Brief Summary of Bill

- Requires railroad carriers to observe rules limiting the hours of service for individuals performing yardmaster duties.
- Prohibits railroad carriers from communicating with an individual who performs yardmaster duties in a way that disrupts the individual's off-duty rest.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 6 members: Representatives Sells, Chair; Chapman, Vice Chair; Chandler, Assistant Ranking Minority Member; Gregerson, Hoff and Ormsby.

Minority Report: Do not pass. Signed by 1 member: Representative Mosbrucker, Ranking Minority Member.

Staff: Joan Elgee (786-7106).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The federal Hours of Service Act (Act) prescribes the maximum hours and minimum rest periods for train employees, signal employees, and dispatching service employees employed by railroad carriers. A train employee is an individual engaged in or connected with the movement of a train. A signal employee is an individual who is engaged in installing, repairing, or maintaining signal systems. A dispatching service employee is an operator, train dispatcher, or other train employee who dispatches orders affecting train movement. The Act prescribes certain emergency situations where the Act does not apply. The United States Secretary of Transportation may exempt railroad carriers with 15 or fewer employees.

In general, yardmasters are railroad employees who perform duties such as routing and directing trains, supervising switching crews, and monitoring switching orders and schedules. Yardmasters are not covered by the Act.

Federal law requires that laws, regulations, and orders that relate to railroad safety and security shall be uniform to the extent possible. Therefore, federal law may preempt a state law relating to railroad safety. However, a state may adopt a law related to railroad safety until the United States Secretary of Transportation issues a rule or order covering the same subject matter of the state law. A state may also adopt or continue to enforce an additional or more stringent law under certain circumstances.

Under federal law, there are three classes of railroad carriers. The classes are determined by railroad carrier's annual operating revenue. Class I railroad carriers have an annual operating revenue of \$448 million or more. Class II railroad carriers have an annual operating revenue of less than \$250 million but more than \$36 million. Class III railroad carriers have an annual operating revenue of \$36 million or less.

Summary of Bill:

The Legislature declares that regulating the hours of service for yardmasters constitutes an exercise of the state's police power to protect health, safety, and welfare.

Railroad carriers must observe certain requirements regarding scheduling a yardmaster or an individual performing yardmaster duties (employee). An employee:

- may not be on duty for the railroad carrier in excess of 276 hours per month;
- may not remain on duty for an excess of 12 hours;
- may not remain on, or go on duty unless the employee has had 10 hours of off duty time in the previous 24 hours;
- may not go on duty after the employee has worked for six consecutive days unless the employee has had at least 48 consecutive off-duty hours. If an employee works seven consecutive days, then the employee must have 72 consecutive off-duty hours;
- may not go on-duty when prohibited by the Act; and
- must remain unavailable for any railroad carrier for at least 10 hours following an on-duty period.

An employee is on-duty when he or she is performing the duties of a yardmaster, signal employee, dispatching service employee, or train employee. While an employee is on his or her minimum required off-duty period, a railroad carrier may not communicate with the employee in any manner that could reasonably be expected to disrupt the employee's rest.

A railroad carrier is exempt from the requirements relating to hours of service and the prohibition on certain communications in emergency situations involving a casualty, an unavoidable accident, an act of God, or a delay caused by something unknown and unforeseeable to the railroad carrier. Additionally, the Utilities and Transportation Commission (Commission) may exempt Class II and Class III railroad carriers from the hours of service and communication requirements, so long as the exempted carriers are not allowed to work their employees more than 16 hours in a 24-hour period.

If the Commission determines that a railroad carrier has violated any of these requirements, the Commission may impose:

- a civil penalty between \$10,000 and \$50,000 for a Class I carrier. However, if the Commission finds that the Class I carrier was grossly negligent or a pattern of violations caused an imminent hazard of death or injury, the Commission may impose a penalty of up to \$1 million; and
- a civil penalty between \$500 and \$25,000 for a Class II or Class III carrier. However, if the Commission finds that the Class II or Class III carrier was grossly negligent or a pattern of violations caused an imminent hazard of death or injury, the Commission may impose a penalty of up to \$100,000.

The Commission may adopt rules to administer these requirements.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill has been considered for six years. Yardmasters are like ground traffic controllers. They are responsible for workers moving between trains and provide safety information to workers. It is also a public safety issue as yardmasters drive home tired. Yardmasters may be forced to work 16-hour shifts and return after an hour's nap. The result could be fatal. Layoff policies are draconian. There are protections in the bill so the necessary work can get done.

(Opposed) Railroads are very safe. Given that railroad issues are interstate and the lack of evidence of danger, the collective bargaining process should be used to address these issues. Regulating hours of service will negatively impact customer service.

Persons Testifying: (In support) Representative Gregerson, prime sponsor; Herb Krohn and Shane Sadler, United Transportation Union/Sheet Metal, Air, Rail, Transportation Union Division; Shahrain C. Allen, Brotherhood of Locomotive Engineers and Trainmen and Washington State Legislative Board; and Mike Elliot.

(Opposed) Johan Hellman, Burlington Northern Santa Fe Railway; Aaron Hunt, Union Pacific Railroad; and Jeff Van Schaick, Genesey & Wyoming, Incorporated.

Persons Signed In To Testify But Not Testifying: None.