
SUBSTITUTE HOUSE BILL 2439

State of Washington

66th Legislature

2020 Regular Session

By House Transportation (originally sponsored by Representatives Kilduff, Leavitt, Gregerson, and Pollet)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to making rail investigation and inspection
2 information available to certain state and local governmental
3 entities; and amending RCW 81.04.540.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 81.04.540 and 2007 c 234 s 2 are each amended to
6 read as follows:

7 (1) The commission shall cooperate with the federal government
8 and the United States department of transportation, or its successor,
9 or any other commission or agency delegated or authorized to regulate
10 interstate or foreign commerce by common carriers, to the end that
11 the transportation of property and passengers by common carriers in
12 interstate or foreign commerce into and through the state of
13 Washington may be regulated and that the laws of the United States
14 and the state of Washington are enforced and administered
15 cooperatively in the public interest.

16 (2) In addition to its authority concerning interstate commerce
17 under this title, the commission may regulate common carriers in
18 interstate commerce within the state under the authority of and in
19 accordance with any act of congress that vests in or delegates to the
20 commission such authority as an agency of the United States
21 government or under an agreement with the United States department of

1 transportation, or its successor, or any other commission or agency
2 delegated or authorized to regulate interstate or foreign commerce by
3 common carriers.

4 (3)(a) For the purpose of participating with the United States
5 department of transportation in investigation and inspection
6 activities necessary to enforce federal railroad safety regulations,
7 the commission has regulatory jurisdiction over the safety practices
8 for railroad equipment, facilities, rolling stock, and operations in
9 the state.

10 (b)(i) The commission shall share information collected through
11 the rail investigation and inspection activities specified in (a) of
12 this subsection, as well as rail investigation and inspection
13 activities conducted by federal railroad administration inspectors in
14 the state to the extent that sharing this information is not
15 prohibited by federal law, federal regulation, or the federal
16 railroad administration, with the Washington state department of
17 transportation and first-class cities that request to participate in
18 the commission's crossing safety inspection program under chapter
19 81.53 RCW as necessary to assist the Washington state department of
20 transportation and first-class cities in the performance of the
21 functions for which they are responsible under Washington state law,
22 except as provided in (b)(ii) and (iii) of this subsection.

23 (ii)(A) Except for as specified in (b)(ii)(B) of this subsection,
24 information collected through rail investigation activities is not
25 subject to mandatory disclosure to the Washington state department of
26 transportation and first-class cities as specified in (b)(i) of this
27 subsection until the investigation is completed and all related court
28 and administrative proceedings that require the commission to treat
29 this information as confidential are complete.

30 (B) Over the course of conducting rail investigation activities,
31 if the commission determines that rail equipment is unsafe,
32 information relevant to this finding must be provided to the
33 Washington state department of transportation or any first-class city
34 that owns the equipment determined to be unsafe, unless an exception
35 in (b)(iii) or (iv) of this subsection is applicable.

36 (iii) When federal law or regulation requires the commission to
37 treat information collected through rail investigation or inspection
38 activities specified in (a) of this subsection as confidential, this
39 confidential information is not subject to the mandatory disclosure
40 requirements of this subsection (3)(b).

1 (iv) Information obtained that is collected through the rail
2 investigation and inspection activities specified in (a) of this
3 subsection that could create a substantial risk of a threat to public
4 safety if disclosed by the commission is not subject to the mandatory
5 disclosure requirements of this subsection (3)(b).

6 (v) The commission shall explore options for the development of
7 an information technology application to facilitate compliance with
8 the requirements of this subsection (3)(b) and provide a report to
9 the transportation committees of the legislature summarizing these
10 options and estimates of their associated costs by December 1, 2020.

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