
ENGROSSED SUBSTITUTE HOUSE BILL 1418

State of Washington

67th Legislature

2021 Regular Session

By House Transportation (originally sponsored by Representatives Leavitt, Bronoske, Lovick, Ryu, Ortiz-Self, Gregerson, Shewmake, Ramel, and Pollet)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to enhancing rail safety governance by expanding
2 the role of the utilities and transportation commission; amending RCW
3 81.04.540 and 81.04.550; creating new sections; and providing an
4 effective date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that rail
7 safety is critical to the impacts of the state's transportation
8 network on public safety and the environment. On December 18, 2017, a
9 passenger train derailed from a bridge near DuPont, Washington. Three
10 passengers were killed and 57 passengers and crewmembers were
11 injured. While the 2017 derailment had particularly tragic
12 consequences, the risks to public safety and the environment are
13 underscored by other rail incidents that have occurred in the past
14 several years, including the freight train transporting oil
15 derailment and resulting fire on June 3, 2016, in the Columbia river
16 gorge, near Mosier, Oregon, while in route to Tacoma, Washington, and
17 the derailment of a freight train transporting oil through Custer,
18 Washington, in late 2020 that also resulted in a fire.

19 (2) The national transportation safety board issued an accident
20 report on the 2017 derailment in early 2019. The report included
21 recommendations for government agencies that participated in

1 developing the new route related to improvements in safety oversight,
2 coordination, and communication. In 2020, the joint transportation
3 committee oversaw a rail safety governance study that provided an
4 assessment and recommendations for how rail safety oversight,
5 organizational structures and processes, and coordination activities
6 could be modified to improve rail safety governance across the state.

7 (3) The legislature intends to build on the recommendations of
8 the national transportation safety board and joint transportation
9 committee reports to strengthen rail safety governance by expanding
10 the utility and transportation commission's role in rail safety to
11 include oversight of all rail transportation in the state to the
12 extent permitted under federal law, including over implementation of
13 new and materially changed railroad operations and over the safety
14 management practices of railroad operations. The legislature intends
15 for this role to include promotion of safety and security of the
16 public and rail employees, as well as protection of the environment,
17 to the extent these goals can be furthered by the commission's
18 expanded role.

19 (4) The legislature does not intend for the expanded role of the
20 utility and transportation commission in rail safety to be funded
21 through the assessment of fees on rail entities.

22 **Sec. 2.** RCW 81.04.540 and 2007 c 234 s 2 are each amended to
23 read as follows:

24 (1)(a) The commission is authorized to oversee rail safety in the
25 state to the extent permitted by federal law and is responsible for
26 inspection, surveillance, and investigation of the rights-of-way,
27 facilities, equipment, and operations of railroads, and for enforcing
28 state and federal laws and regulations relating to transportation of
29 persons or commodities, or both, of any nature or description by
30 rail. The oversight of rail fixed guideway systems is governed by RCW
31 81.104.115 and as specified in (b) of this subsection. Rail safety
32 oversight shall include, but is not limited to, the following:

33 (i) Oversight of the implementation of new and materially changed
34 railroad operations and infrastructure for rail service through
35 inspection, surveillance, and investigation, as permitted by federal
36 law.

37 (ii) Oversight of the safety management practices for passenger
38 railroad operations, as permitted by federal law. The department of
39 transportation shall coordinate with the commission and Amtrak to

1 facilitate the oversight of state passenger rail service to the
2 extent permitted under federal law. The commission shall facilitate
3 communication and collaboration between freight rail service
4 providers to promote industry safety management practices.

5 (b) (i) In coordination with the department of transportation, the
6 commission shall provide support and technical assistance in the
7 oversight of the safety of rail fixed guideway systems carried out by
8 the department under RCW 81.104.115, as permitted by federal law. The
9 commission and its employees shall have no liability for any actions
10 taken pursuant to this subsection performed to support and provide
11 technical assistance for any of the actions for which the department
12 has no liability under RCW 81.104.115.

13 (ii) As the state agencies that oversee rail safety in the state,
14 the commission and the department of transportation shall report
15 annually to the transportation committees of the legislature, and to
16 the governor's office, by December 1st of each year on the status of
17 the department of transportation's safety oversight of rail fixed
18 guideway systems. As part of this report, the agencies shall provide
19 a joint assessment of the activities carried out in each of the areas
20 specified in RCW 81.104.115 and as otherwise required by the federal
21 transit administration in these and related areas, including:
22 Investigations and enforcement; system safety program plan and system
23 security and emergency preparedness plan oversight; compliance
24 mechanisms in place for enforcement; auditing of system safety
25 program plans and system security and emergency preparedness plans;
26 investigations of reportable incidents, accidents, security breaches,
27 hazards, and security vulnerability; and any associated rule
28 adoption. The report shall include plans and recommendations for
29 enhancing current activities in these areas.

30 (2) The commission shall cooperate with the federal government
31 and the United States department of transportation, or its successor,
32 or any other commission or agency delegated or authorized to regulate
33 interstate or foreign commerce by common carriers, to the end that
34 the transportation of property and passengers by common carriers in
35 interstate or foreign commerce into and through the state of
36 Washington may be regulated and that the laws of the United States
37 and the state of Washington are enforced and administered
38 cooperatively in the public interest.

39 ((+2)) (3) In addition to its authority concerning interstate
40 commerce under this title, the commission may regulate common

1 carriers in interstate commerce within the state under the authority
2 of and in accordance with any act of congress that vests in or
3 delegates to the commission such authority as an agency of the United
4 States government or under an agreement with the United States
5 department of transportation, or its successor, or any other
6 commission or agency delegated or authorized to regulate interstate
7 or foreign commerce by common carriers.

8 ~~((3) For the purpose of participating with the United States~~
9 ~~department of transportation in investigation and inspection~~
10 ~~activities necessary to enforce federal railroad safety regulations,~~
11 ~~the)) (4) The commission has regulatory jurisdiction over the safety~~
12 ~~practices for railroad equipment, facilities, rolling stock, and~~
13 ~~operations in the state, including authority to investigate and~~
14 ~~conduct inspections necessary to the enforcement of state railroad~~
15 ~~safety regulations, as permitted by federal law. This jurisdiction~~
16 ~~includes the authority to participate with the United States~~
17 ~~department of transportation in investigation and inspection~~
18 ~~activities necessary to enforce federal railroad safety regulations.~~

19 (5) The commission shall produce an annual report on rail safety
20 in the state and provide it to the transportation committees of the
21 legislature, including the joint transportation committee, and shall
22 make this report available to the public. This report shall include
23 information related to rail safety of rail fixed guideway systems.

24 (6) The commission shall promote rail safety through the
25 facilitation of communication and collaboration among stakeholders
26 with an interest in rail, including local jurisdictions, host and
27 tenant railroads, and rail labor organizations. This communication
28 and collaboration shall include communication and collaboration
29 related to rail safety of rail fixed guideway systems.

30 (7) "Rail fixed guideway system," as used in this section, has
31 the same meaning as defined in RCW 81.104.015.

32 **Sec. 3.** RCW 81.04.550 and 2007 c 234 s 3 are each amended to
33 read as follows:

34 The commission shall administer the railroad safety provisions of
35 this title to the fullest extent allowed under federal law, including
36 49 U.S.C. Sec. 20106, and state law.

37 NEW SECTION. **Sec. 4.** (1) To ensure this act is implemented upon
38 its effective date and all systems, processes, and collaboration

1 necessary to implement this act are in place, the utilities and
2 transportation commission may, prior to July 1, 2022:

3 (a) Adopt rules, policies, and procedures on railroad safety;

4 (b) Initiate the recruitment, training, and certification of
5 personnel dedicated to railroad safety; and

6 (c) Facilitate stakeholder communications and outreach on key
7 railroad safety initiatives, developments, and strategies.

8 (2) All rules adopted prior to July 1, 2022, shall have an
9 effective date that is consistent with those in this act.

10 NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act take
11 effect July 1, 2022.

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