

HOUSE BILL REPORT

HB 1839

As Reported by House Committee On:
Transportation

Title: An act relating to the length of trains on railroads.

Brief Description: Concerning train length on railroads.

Sponsors: Representatives Santos, Chandler, Peterson, Low, Stonier, Pollet, Walsh, Paul and Wylie.

Brief History:

Committee Activity:

Transportation: 2/21/23, 2/23/23 [DP].

Brief Summary of Bill

- Prohibits railroads from operating a train that exceeds 7,500 feet in length in the state, unless the operation of a train that exceeds this length maximum is approved by an order issued by the Utilities and Transportation Commission (UTC).
- Authorizes the UTC to evaluate whether to authorize railroad carrier requests to operate trains that exceed 7,500 feet in length on specified routes up to a maximum of 10,000 feet in length, provided additional crew members are assigned to the train.
- Sets fines for railroads that violate restrictions on the operation of trains longer than 7,500 feet to fines of at least \$25,000 for a first offense; \$250,000 for a second offense; and for each offense thereafter, a fine double that of the fine for the preceding offense.
- Permits the UTC to reduce fines for violating restrictions on the operation of trains longer than 7,500 feet for Class III railroad carriers (typically shortline railroads) that are not owned by Class I railroads.

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

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 15 members: Representatives Fey, Chair; Donaghy, Vice Chair; Timmons, Vice Chair; Berry, Bronoske, Cortes, Doglio, Duerr, Entenman, Hackney, Mena, Ramel, Ramos, Taylor and Wylie.

Minority Report: Do not pass. Signed by 9 members: Representatives Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Chapman, Dent, Goehner, Klicker, Schmidt and Volz.

Minority Report: Without recommendation. Signed by 4 members: Representatives Low, Assistant Ranking Minority Member; Griffey, Orcutt and Walsh.

Staff: Jennifer Harris (786-7143).

Background:

Federal and State Roles in Rail Safety.

Federal law mandates a National Rail Safety Program that is carried out, in part, through the issuance of federal safety requirements and through inspection efforts to monitor compliance with these requirements. The Federal Railroad Administration (FRA) and participating states conduct inspections and investigations as part of the National Rail Safety Program. Under state law, for the purposes of participating in the enforcement of federal rail safety regulations in cooperation with the FRA, the Utilities and Transportation Commission (UTC) is granted regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations. In this role, the UTC collects rail inspection information.

The UTC also inspects rail crossings to confirm they are designed and maintained for safe crossings, enforces railroad employee safety regulations, and funds rail crossing safety projects.

Rail Safety and Federal Preemption.

Federal law requires that laws, regulations, and orders related to railroad safety, as well as laws, regulations, and orders related to railroad security, be nationally uniform to the extent practicable. When the United States Department of Transportation (USDOT) prescribes regulations or issues orders that cover the subject matter of a state requirement that concerns rail safety, a state may adopt or continue to enforce an additional or more stringent law, regulation, or order when it:

- is necessary to eliminate or reduce an essentially local safety or security hazard;
- is not incompatible with a law, regulation, or order of the United States government;
- and
- does not unreasonably burden interstate commerce.

Federal regulation prescribes minimum federal safety standards for certain rail equipment, including locomotive and safety appliance standards.

Summary of Bill:

Train Length Restrictions.

No railroads engaged as common carriers in the transportation of freight or passengers may operate a train that exceeds 7,500 feet in length in the state, unless the operation of a train that exceeds this length maximum is approved by an order issued by the UTC. Trains originating from rail yards and terminals within the state must comply with this requirement. Trains entering the state operated by railroad companies that have rail yards, terminals, or facilities, located outside the state within 30 miles of a state border must not enter the state unless they are in compliance with this restriction.

Trains that exceed 7,500 feet in length entering the state operated by railroad companies that do not have yards, terminals, or facilities located within 30 miles of a state border may continue to operate a non-complying train within the state to the closest location where excess rail cars and motors can be set out to reduce the length of the train.

The UTC may evaluate whether to authorize by order railroad carrier requests to operate trains that exceed 7,500 feet in length on specified routes up to a maximum of 10,000 feet in length, provided additional crew members are assigned to the train, with at least one additional crew member positioned on the rear of excess-length trains on board rolling equipment to observe the forward movement and monitor the safe operation of the train and to respond to any issues that may arise. The board rolling equipment on which the additional crew member is positioned must be equipped with an accessible air brake release valve and installed mobile radio for communication with other members of the crew and train dispatchers, and must be capable of establishing direct voice communication with government emergency response agencies and responders.

Utilities and Transportation Commission authorizations expire after three years and may be renewed. The UTC is authorized to establish, impose, and collect fees from railroad companies to recover expenditures for costs related to the consideration and review of initial and renewal requests to operate excess train lengths.

Penalties for Violating Train Length Restriction.

Railroads that are engaged as common carriers in the transportation of freight or passengers who violate restrictions on the operation of trains longer than 7,500 feet are subject to fines of at least \$25,000 for a first offense; \$250,000 for a second offense; and for each offense thereafter, to a fine double the fine for the preceding offense. The UTC may reduce these fines for Class III railroad carriers (typically shortline railroads) that are not owned by Class I railroads.

If violation of a UTC order relating to train length results in a serious injury or fatality, the UTC may impose additional fines.

Severability Provision.

If any provision of the bill or its application is held invalid, the remainder of the bill and remaining applications of the provision are not affected.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The derailment in East Palestine, Ohio was of a train that was 1.75 miles (9,240 feet) in length. It caused the spill of hazardous and toxic chemicals. Today, the average train is around 1.5 miles (7,920 feet) in length. This bill addresses a public safety issue.

The FRA has no regulatory requirements that limit train length or define what constitutes a long train. Railways in the region were designed for trains up to 7,500 feet in length. After 7,500 feet of distance, communication systems used by rail crew members tend to fail. Trains can be as long as 10,000 to 15,000 feet, or longer. Evidence is building that trains of this length are coming apart and resulting in derailments. These very long trains are harder for a crew to control. The forces at work when a train is this long are astronomical. Knuckles break, and when something breaks, crossings can be blocked for hours.

The safety of people in Washington is the most important concern that needs to be considered. Long trains block traffic. A train in Washington with a mechanical issue caused several railroad crossings in Spokane to be blocked for eight hours. These trains can block emergency response vehicles. This bill brings back a measure of reasonableness to the length of trains. Rail carriers have taken full advantage of no oversight over the length of trains.

A United States Government Accountability Office report from 2019 found that trains are getting longer and recommended the collection of additional information, including information related to the deterioration of rail lines, staffing, and train length. The train that derailed in Ohio had a crew of three: a conductor, an engineer, and a trainee. Staffing and the length of a train go hand in hand. Longer trains should have a larger crew.

Federal preemption does not apply to this bill, since the goal of uniformity only applies when the state attempts to regulate an essentially local safety hazard.

(Opposed) Train lengths vary depending on a number of factors, but the focus is always on safety. The ability to use longer trains is the result of significant work and technological advancements. There is no direct correlation between safety and the average length of a train. Shorter trains would decrease the efficiency of this mode of transportation. If trains have to be cut in half, this will result in rail service needing to be cut. Ports will be affected and shipping costs will be driven up. More trains would also lead to increased delays at rail crossings.

Cargo is discretionary and does not have to come through Washington. Where cargo flows depends on the price of transportation and the ability of the system to move it. If this bill were to pass, more trains would be needed to move the same amount of cargo and traffic management would be adversely impacted across state lines. This would drive cargo away, hurt Washington's trade-dependent sectors, and lead to an increase in carbon emissions.

Federal precedent generally prohibits states from regulating train length.

Persons Testifying: (In support) Representative Sharon Tomiko Santos, prime sponsor; Luke Edington, Jared Cassity, and Herb Krohn, Sheet Metal Air Rail Transportation, Transportation Division and United Transportation Union; and Larry Mann.

(Opposed) Scott Hazlegrove, Pacific Merchant Shipping Association; Johan Hellman, Burlington Northern Santa Fe Railway; Sean Eagan, The Northwest Seaport Alliance; Aaron Hunt, Union Pacific Railroad; and Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.