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**HOUSE BILL 1841**

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AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

**State of Washington**

**66th Legislature**

**2019 Regular Session**

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

Read first time 02/01/19. Referred to Committee on Labor & Workplace Standards.

1       AN ACT Relating to establishing minimum crew size on certain  
2 trains; adding new sections to chapter 81.40 RCW; creating a new  
3 section; repealing RCW 81.40.010 and 81.40.035; prescribing  
4 penalties; and declaring an emergency.

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

6       NEW SECTION.     **Sec. 1.**     The legislature finds that adequate  
7 personnel are critical to ensuring railroad operational safety,  
8 security, and in the event of a hazardous material incident, support  
9 of first responder activities, as well as in the interest of the  
10 safety of passengers and the general public. Therefore, the  
11 legislature declares that this act regulating minimum railroad  
12 employee staffing to reduce risk to localities constitutes an  
13 exercise of the state's police power to protect and promote the  
14 health, safety, security, and welfare of the residents of the state  
15 by reducing the risk exposure to local communities and protecting  
16 environmentally sensitive and/or pristine lands and waterways.

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

19       The definitions in this section apply throughout this chapter  
20 unless the context clearly requires otherwise.

1 (1) "Class I" means a railroad carrier designated as a class I  
2 railroad by the United States surface transportation board and its  
3 subsidiaries or is owned and operated by entities whose combined  
4 total railroad operational ownership and controlling interest meets  
5 the United States surface transportation board designation as a class  
6 I railroad carrier.

7 (2) "Class III" means a railroad carrier designated as a class  
8 III railroad by the United States surface transportation board.

9 (3) "Commission" means the utilities and transportation  
10 commission created in chapter 80.01 RCW.

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

15 (5) "Other railroad carrier" means a railroad carrier that is not  
16 a class I carrier.

17 (6) "Railroad carrier" means a carrier of persons or property  
18 upon vehicles, other than streetcars, operated upon stationary rails,  
19 the route of which is principally outside incorporated cities and  
20 towns. "Railroad carrier" includes any officers and agents of the  
21 railroad carrier.

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

24 (1) Except as provided in section 4 of this act, any person,  
25 corporation, company, or officer of the court operating any railroad,  
26 railway, or any part of any railroad or railway, in the state of  
27 Washington, and engaged, as a common carrier, in the transportation  
28 of freight or passengers, shall operate and manage all trains and  
29 switching assignments over its road with crews consisting of no less  
30 than two crewmembers.

31 (2) Class III railroad carriers operating on their roads while at  
32 a speed of twenty-five miles per hour or less are exempt from  
33 subsection (1) of this section.

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

36 (1) On the effective date of this section, automatic waivers to  
37 the train crew size requirement in section 3 of this act shall be  
38 granted to other railroad carriers.

1 (2) Such automatic waivers will remain in effect until ordered by  
2 the commission.

3 (3) The commission must act to ensure that railroad carriers  
4 supplement trains entering Washington state with the requisite number  
5 of train crewmembers pursuant to this act, at the closest regular  
6 station stop or crew change point located in proximity to and  
7 adjacent with either side of the state border, having been  
8 established and in use by the carrier on January 1, 2020.

9 (4) (a) The commission may order railroad carriers to increase the  
10 number of railroad employees in areas of increased risk to the  
11 public, passengers, railroad employees, or the environment, or on  
12 specific trains, routes, or to switch assignments on their road with  
13 additional numbers of crewmembers, and may direct the placement of  
14 additional crewmembers, if it is determined that such an increase in  
15 staffing or the placement of additional crewmembers is necessary to  
16 protect the safety, health, and welfare of the public, passengers, or  
17 railroad employees, to prevent harm to the environment or to address  
18 site specific safety or security hazards.

19 (b) In issuing such an order, the commission may consider  
20 relevant factors including, but not limited to, the volatility of the  
21 commodities being transported, train volume, risk mitigation  
22 measures, environmental and operating factors that impact  
23 vulnerabilities, risk exposure to passengers, the general public,  
24 railroad employees, communities, or the environment along the train  
25 route, security risks including sabotage or terrorism threat levels,  
26 a railroad carrier's prior history of accidents, compliance  
27 violations, operating practices, infrastructure investments including  
28 track and equipment maintenance issues or lack thereof, employee  
29 training and support programs, first responder access, and any other  
30 relevant factors in the interest of safety.

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

33 (1) Pursuant to the enforcement of the provisions of this act,  
34 the highest priority and paramount obligation of the commission must  
35 be its duty to ensure the safety and protection of the public,  
36 passengers, railroad employees, communities, environment, and areas  
37 of cultural significance in the furtherance of the highest degree of  
38 safety in railroad transportation.

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

6 (3) Any person, corporation, company, or officer of the court  
7 operating any railroad, or part of any railroad or railway within the  
8 state of Washington, and engaged as a common carrier, in the  
9 transportation of freight or passengers, who violates any of the  
10 provisions of section 3 of this act may be subject to fines of not  
11 less than one thousand dollars and not more than one hundred thousand  
12 dollars for each offense, as determined by the commission through  
13 order.

14 (4) The commission may impose fines exceeding the provisions in  
15 subsection (3) of this section when a serious injury or fatality  
16 occurs involving a carrier's violation of this act. All relevant  
17 factors may be considered including, but not limited to, the class,  
18 assets, profitability, and operational safety record of the carrier,  
19 as well as deterrence in ascertaining an appropriate punitive  
20 penalty, as determined by the commission through order.

21 (5) It is the duty of the commission to enforce this section.

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

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

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

28 NEW SECTION. **Sec. 7.** If any provision of this act or its  
29 application to any person, entity, or circumstance is held invalid,  
30 the remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of  
34 the state government and its existing public institutions, and takes  
35 effect immediately.

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