**1105-S AMH ORCU H2313.2 - NOT FOR FLOOR USE**

**SHB 1105** - H AMD **304**

By Representative Orcutt

**ADOPTED 03/07/2017**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 81.61.010 and 1977 ex.s. c 2 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise((~~, the term~~)):

(1) "Contract crew hauling vehicle," as used in this chapter, means every motor vehicle, regardless of its seating capacity, that is owned, leased, operated, or maintained by a person contracting with a railroad company or its agents, contractors, subcontractors, vendors, subvendors, secondary vendors, or subcarriers, and used primarily to provide railroad crew transportation.

(2) "Passenger-carrying vehicle," as used in this chapter, means those buses ((~~and~~)), vans, trucks, and cars owned, operated, and maintained by a railroad company which transports railroad employees in other than the cab of such vehicle and designed primarily for operation on roads which may or may not be equipped with retractable flanged wheels for operation on railroad tracks.

NEW SECTION. **Sec.**  A new section is added to chapter 81.61 RCW to read as follows:

(1) The commission must regulate persons providing contract railroad crew transportation and every contract crew hauling vehicle with respect to the safety of equipment, driver qualifications, permitting, insurance, and safety of operations.

(2) The commission must adopt rules, require reports, and establish mandatory reporting of compliance as necessary to carry out this chapter regarding contract crew hauling vehicles, considering federal and national motor vehicle motor carrier safety standards for contract crew hauling vehicles, regardless of seating capacity, as the minimum safety standards, including:

(a) Driver qualifications, including a driver's minimum age and skill, medical condition, and verification of department of licensing driving credentials as mandated under section 3 of this act;

(b) Equipment safety, including:

(i) Requirements for the specific safety equipment that must be carried in each contract crew hauling vehicle, which must include a fire extinguisher, first aid kit, seat belt cutter, window hammer, and other equipment the commission determines is necessary;

(ii) Requirements for a mandatory vehicle maintenance program; and

(iii) Requirements on the proper securement of railroad equipment being transported in the contract crew hauling vehicle;

(c) Safety of operations, including the regulation of driver hours of service that satisfies the following minimum requirements: The contract carrier may not allow or require a driver to drive for more than ten hours following eight consecutive hours off duty, allow or require a driver to drive or remain on duty for more than fifteen hours following eight consecutive hours off duty, or allow or require a driver to drive or remain on duty for more than a total of seventy hours in any period of eight consecutive days. For purposes of this subsection (2)(c), "on duty" means the term as defined in 49 C.F.R. Part 395 as it existed on the effective date of this section, or such subsequent date as may be provided by the commission by rule, consistent with the purposes of this section;

(d) Passenger safety;

(e) Insurance coverage for each contract crew hauling vehicle that satisfies the following minimum amounts, which may be increased by rule as adopted by the commission:

(i) Five million dollars combined single limit coverage for bodily injury and property damage liability coverage; and

(ii) Uninsured and underinsured motorist coverage of one million dollars; and

(f) The form and posting of adequate notices in a conspicuous location in all contract crew hauling vehicles to advise railroad employee passengers of their rights, the opportunity to submit safety complaints to the commission, the complaint process, and contact information for the commission.

(3) If a third party contracts with the person operating the vehicle on behalf of the railroad company or its agents, contractors, subcontractors, vendors, subvendors, secondary vendors, or subcarriers to transport railroad employees, the insurance requirements may be satisfied by either the third party or the person operating the vehicle, so long as the person operating the vehicle names the third party as an additional insured or named insured. The railroad company may also satisfy the insurance requirements. Proof of coverage must be provided to the commission by the person contracting with the railroad company.

(4) An employer of persons providing contract railroad crew transportation under this chapter must:

(a) Adopt drug testing requirements for drivers of any contract crew hauling vehicle consistent with drug testing programs conducted under 49 C.F.R. Part 382 as it existed on the effective date of this section, or such subsequent date as may be provided by the commission by rule, consistent with the purposes of this section; and

(b) Ensure that all drivers of contract crew hauling vehicles have successfully completed a safety course that has been approved by the department of licensing pursuant to section 3 of this act.

(5)(a) The commission may, in enforcing rules and orders relating to persons owning, leasing, operating, and maintaining contract crew hauling vehicles under this chapter, inspect any contract crew hauling vehicles. Upon request, the chief of the state patrol or the chief's designee may assist the commission in these inspections. The commission must conduct a minimum of one unannounced inspection of contract crew hauling vehicles in use by a person contracting with the railroad company every two years by inspecting at least a sampling of vehicles as part of each inspection conducted.

(b) The commission must investigate safety complaints related to contract crew hauling transportation under this section and take appropriate enforcement action as authorized.

(c) The commission may enforce this section under the authority in RCW 81.04.380 through 81.04.405, including assessing penalties as warranted.

(d) The commission may suspend or revoke a permit upon complaint by any interested party, or upon the commission's own motion after notice and opportunity for hearing, when it finds that any person owning, leasing, operating, or maintaining contract crew hauling vehicles has violated this chapter or the rules of the commission, or that the company or its agent has been found by a court or governmental agency to have violated the laws of a state or the United States.

NEW SECTION. **Sec.**  A new section is added to chapter 81.61 RCW to read as follows:

(1) In addition to maintaining a valid driver's license under chapter 46.20 RCW, a driver of a contract crew hauling vehicle must complete a sixteen-hour safety course that includes, but is not limited to, vehicle and passenger safety awareness, rail yard safety, grade crossing safety, load securement, and distracted and fatigued driving.

(2) The department of licensing or its designee must issue a course completion certificate upon successful completion of the safety course.

(3) Any person providing contract railroad crew transportation must verify that contract crew hauling vehicle drivers possess a valid safety course completion certificate and maintain a record of the certificate.

(4) The department of licensing may charge a reasonable fee not to exceed twenty-five dollars for the issuance of a safety course completion certificate.

(5) The department of licensing may adopt rules necessary to implement this section.

NEW SECTION. **Sec.**  A new section is added to chapter 81.61 RCW to read as follows:

(1) Any person owning, leasing, operating, or maintaining contract crew hauling vehicles must retain for at least three years all operational records relating to the contract crew hauling vehicles, including vehicle records involving accidents, maintenance and service records, drivers' records, records of passenger complaints, all employment actions, driver logs, and records of passengers transported.

(2) Any records maintained by the person contracting with the railroad company must include driver hours of service and documentation of department of licensing driving credentials as mandated under section 3 of this act. The commission may specify the form of documentation required and may inspect these records.

NEW SECTION. **Sec.**  A new section is added to chapter 81.61 RCW to read as follows:

A person is immediately and automatically disqualified to work as a driver of a contract crew hauling vehicle under this chapter if the person's license is suspended or revoked for a reason other than the nonpayment of fines. The disqualification must last for three years from the most recent license suspension or revocation.

NEW SECTION. **Sec.**  A new section is added to chapter 81.61 RCW to read as follows:

(1) The commission must compile data regarding any reported safety complaints, accidents, regulatory violations and fines, and corrective actions taken by the commission involving vehicles regulated under this chapter. A railroad company, and any person that owns or leases, operates, or maintains contract crew hauling vehicles in the state, must, at the request of the commission, provide data relevant to any complaints and accidents, including location, time of day, visibility, a description of the event, whether any property damage or personal injuries resulted, and any corrective action taken by the railroad company, person operating the contract crew hauling vehicle, or commission. The commission must make this data available upon request and on its web site.

(2) Information included in safety complaints that identifies the employee who submitted the complaint is exempt from public inspection and copying pursuant to RCW 42.56.330.

**Sec.**  RCW 81.61.040 and 1977 ex.s. c 2 s 4 are each amended to read as follows:

(1) The commission may, in enforcing rules and orders under this chapter, inspect any passenger-carrying vehicle provided by a railroad company or its agents, contractors, subcontractors, or vendors to transport ((~~employees~~)) railroad crews in the course of their employment. Upon request, the chief of the state patrol may assist the commission in these inspections.

(2) By December 31, 2017, the commission must develop an inspection program for contract crew hauling vehicles. This program must require a periodic inspection of each vehicle, including a review of operational practices.

**Sec.**  RCW 42.56.330 and 2015 c 224 s 4 are each amended to read as follows:

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 or 81.77.210 that a court has determined are confidential under RCW 80.04.095 or 81.77.210;

(2) The addresses, telephone numbers, electronic contact information, and customer-specific utility usage and billing information in increments less than a billing cycle of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

(3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. ((~~Participant's [Participants']~~)) Participants' names, general locations, and point of contact may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;

(4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;

(5) The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud. As used in this subsection, "personally identifying information" includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.

(a) Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.

(b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; ((~~and~~))

(8) The personally identifying information of persons who acquire and use a driver's license or identicard that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and

(9) Personally identifying information included in safety complaints submitted under chapter 81.61 RCW.

NEW SECTION. **Sec.**  Section 3 of this act takes effect January 1, 2018."

Correct the title.

EFFECT: Makes the following changes to the regulation of contract crew hauling vehicles:

(1) Augments the utilities and transportation commission's regulatory role over entities providing contract railroad crew transportation to include permitting oversight;

(2) Requires drivers of contract crew hauling vehicles to complete a sixteen-hour safety course and obtain a certificate of course completion from the department of licensing;

(3) Narrows the utilities and transportation commission's regulatory authority over driver qualifications to exclude driver training and licensing requirements;

(4) Modifies the number of hours a contract crew hauling vehicle driver may be permitted or required to work to include a maximum of ten hours of driving time after eight hours off duty and a maximum of fifteen hours of total driving or on duty time after eight hours off duty;

(5) Modifies the definition of "on duty" to conform to the federal definition, which includes all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work;

(6) Changes minimum insurance and financial responsibility coverage amounts for contract crew hauling vehicles to 5 million dollars in liability coverage and 1 million dollars in uninsured and underinsured motorist coverage, with no additional insurance coverage requirements;

(7) Modifies drug testing requirements for contract crew hauling vehicle driver applicants and drivers to conform to federal drug testing requirements for commercial motor vehicle drivers; and

(8) Modifies the commission's authority to suspend or revoke a contract crew hauling permit to provide for notice and the opportunity for a hearing when the commission finds a violation of state laws and rules that apply to contract railroad crew transportation, or when the company or its agent has been found to have violated a state or federal law.