S-0306.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5098**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Billig, Carlyle, Rolfes, Frockt, Wellman, McCoy, Kuderer, Liias, Saldaña, Palumbo, Hobbs, Keiser, Hunt, and Conway

AN ACT Relating to high hazard flammable train speed limits in certain urban areas; amending RCW 81.48.030; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that each day unit trains of one hundred or more tank cars carrying tens of thousands of barrels of highly flammable crude oil are moving through Washington urban areas that are densely populated with residents and workers immediately adjacent to the rail right-of-way. While the federal department of transportation has adopted regulations establishing speed limits for high hazard flammable trains, including trains carrying crude oil, in most circumstances these regulations establish a maximum speed of fifty miles per hour. In most cases, such federal regulations preempt any state or local limits, but federal law allows a lower speed limit adopted by a state or local government when it is demonstrated that the limit is compatible with the federal regulation, does not unreasonably burden interstate commerce, and is necessary to eliminate or reduce an essentially local safety hazard. The legislature finds that such safety hazards exist in some highly populated urban areas in the state, such as where the rail lines are elevated above ground level, are located on high bridges, or cross portions of a downtown core by tunnel. Therefore, it is the intent of this act to amend existing laws to clarify state and local authority to adopt speed limits specific to high hazard flammable trains within the constraints of federal law.

**Sec.**  RCW 81.48.030 and 2006 c 70 s 1 are each amended to read as follows:

(1) Except to the extent preempted by federal law, the right to fix and regulate the speed of railway trains within the limits of any city or town other than a first‑class city not opting into the commission program pursuant to subsection (3) of this section, and at grade crossings as defined in RCW 81.53.010 where such grade crossings are outside the limits of cities and towns, is vested exclusively in the commission: PROVIDED, That this section and RCW ((~~81.48.030 and~~)) 81.48.040 shall not apply to street railways which may be operating or hereafter operated within the limits of said cities and towns.

(2) The commission, and any first-class city, may adopt a limit upon the speed of a high hazard flammable train, where the commission or first-class city determines that a limit below that established by federal law is necessary to address an essentially local safety hazard, the limit is not incompatible with federal law, and the limit does not unreasonably burden interstate commerce. The commission or first-class city may also seek any appropriate waiver of preemption by the United States department of transportation available under federal law.

(3) A first-class city may request that the commission exercise its authority under this section within the limits of such a city.

(4) For the purposes of this section, "high hazard flammable train" has the same meaning as provided in 49 C.F.R. Sec. 171.8 in effect on the effective date of this section.

**--- END ---**