S-0122.1

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

**SENATE BILL 5065**

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

**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Kuderer, Stanford, Conway, Hasegawa, Hunt, Keiser, Lovelett, Saldaña, Salomon, and Wilson, C.

AN ACT Relating to safeguarding the public safety by protecting railroad workers; adding new sections to chapter 81.40 RCW; adding a new title to the Revised Code of Washington to be codified as Title 50C RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that railroad employees are susceptible to illness from working in confined spaces as well as the illnesses and injuries that affect the general population, yet have no paid sick leave and may be subject to discipline for absence due to illness and injury. Further, the legislature recognizes that chronic fatigue is endemic to railroad operating craft employees due to erratic work schedules, inaccurate train line up information, and on duty periods of twelve hours or longer. Academic studies have found that fatigue has the equivalent negative impact on alertness, awareness, and job performance as alcohol intoxication. Research indicates that fatigue is related to higher rates of depression, anxiety, sleep apnea, and suicide, and that these work-related conditions are more prevalent among railroad workers. The federal railway safety improvement act of 2008 directed the appropriate federal agencies to address fatigue, but those agencies have not adequately done so.

The legislature further finds that railroad operating craft employees may report to work while ill or fatigued to avoid disciplinary action by railroad carrier companies, which creates a dangerous and unnecessary public safety issue. In addition, the legislature finds that the unique operational practices utilized to summon railroad crew employees to duty necessitate modifications to existing family and medical leave laws to provide railroad carrier employees with comparable sick leave and family leave rights to those previously granted to all other workers in this state.

Therefore, in the interest of public safety and railroad worker safety, the legislature intends to take steps to assure that railroad crew employees are healthy and rested and to assure that railroad crew employees receive fair family and medical leave.

NEW SECTION. **Sec.**  The definitions in this section apply throughout sections 1 through 6 of this act unless the context clearly requires otherwise.

(1) "Operating craft employee" means any employee of a railroad carrier who performs service in an operating craft on a railroad or directs the work of an operating craft employee as a scheduled employee, and includes any other employee of a railroad carrier who performs safety sensitive tasks associated with railroad operations.

(2) "Railroad carrier" means any employer subject to the jurisdiction of the surface transportation board under 49 U.S.C. Sec. 7, as it exists on the effective date of this section. "Railroad carrier" includes the officers and agents of the railroad operations regardless of physical location.

NEW SECTION. **Sec.**  (1) No railroad carrier may dismiss, suspend, layoff, demote, or otherwise discipline an employee because of absence due to illness or injury of the employee or the employee's spouse or child if:

(a) The employee has completed three consecutive months of continuous employment by the railroad carrier prior to the absence;

(b) The period of absence does not exceed twelve weeks; and

(c) The employee, if requested in writing by the railroad carrier within ten days after the employee's return to work, provides the railroad carrier with documentation from a health care provider that the employee was incapable of working due to illness or injury of the employee or the employee's spouse or child during the employee's absence from work. The railroad carrier must grant the employee no fewer than thirty days to obtain and provide any requested documentation.

(2) Any employee absences used pursuant to this section are not subject to any type of carrier availability or attendance policy and are separate from any protected leave under Title 50A RCW.

NEW SECTION. **Sec.**  (1) No railroad carrier may dismiss, suspend, layoff, demote, or otherwise discipline an operating craft employee because of layoff due to fatigue.

(2) A railroad carrier must establish a fatigue layoff program under which an operating craft employee may layoff due to fatigue without being subjected to discipline or any type of availability or attendance policy. A railroad carrier must submit the fatigue layoff program to the commission for review and approval within ninety days from the effective date of this section. Prior to approving a fatigue layoff program, the commission must submit the program to the leadership of the operating craft rail labor organizations state legislative boards for review and input.

(3) A railroad carrier must report all data as requested by the commission to implement and enforce this section. If the commission identifies additional actions to address fatigue that require legislative action, the commission shall report its findings to the appropriate legislative committees.

(4) The commission shall adopt rules to implement this section. In adopting rules, the commission shall consider the following:

(a) Alertness, depression, suicide, and any other consequences of irregular, nonscheduled on-call working conditions;

(b) Reputable scientific and academic research pertaining to sleep, rest, circadian rhythms, alertness, as well as associated topics relating to human biological systems;

(c) Other systemic factors including:

(i) Impacts of lengthy anticipatory time periods rail workers are regularly subjected to while awaiting carrier calls to report for duty;

(ii) Operational factors relating to unpredictability of reporting times, including crew notification systems and rail carrier train line-up reporting and monitoring systems; and

(iii) Any other factors that may affect rail worker fatigue and alertness or have a related adverse impact on worker health; and

(d) The importance of ensuring fatigue layoffs are reasonable, necessary, and legitimate.

(5) This section applies to class I railroad carriers and any class II or III railroad carriers with operating craft working hours extending beyond sixteen consecutive hours a day more frequently than once per week, exclusive of unusual unforeseen events such as natural disasters or similar emergencies.

NEW SECTION. **Sec.**  A railroad carrier must provide data to the commission regarding the number of employee layoffs for injury, illness, and fatigue and the length of each layoff no later than January 31st of each year for the preceding year. No personally identifying information of employees may be submitted.

NEW SECTION. **Sec.**  (1) Upon receipt of a complaint by an employee of a railroad carrier, the commission shall investigate to determine if there has been a violation of sections 3 and 4 of this act. If the investigation indicates that a violation has occurred, the commission shall issue a notice of infraction. Appeal from the commission's decision is governed by chapter 34.05 RCW.

(2) If a railroad carrier is found to have committed an infraction under this section, the commission may impose upon the carrier a fine as follows:

(a) For a class I carrier, up to five hundred dollars for the first infraction, up to twenty-five thousand dollars for the second infraction within the preceding three-year time period, and up to one hundred thousand dollars for the third or subsequent infraction within the preceding three-year time period.

(b) For a class II or III carrier, up to one thousand dollars for the first infraction, up to five thousand dollars for the second infraction within the preceding three-year time period, and up to ten thousand dollars for the third or subsequent infraction within the preceding three-year time period.

(3) The commission may also order other remedies such as back pay and reinstatement, and may increase the fines by rule based on changing economic conditions.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is: (a) Under eighteen years of age; or (b) eighteen years of age or older and incapable of self-care because of a mental or physical disability.

(2) "Commissioner" means the commissioner of the employment security department.

(3) "Department" means the employment security department.

(4) "Employee" means a person who has been employed by a railroad carrier.

(5) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity, including any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision, which employs fifty or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding calendar year, and engages in business as a railroad carrier.

(6) "Employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions except benefits that are provided by a practice or written policy of an employer or through an employee benefit plan as defined in 29 U.S.C. Sec. 1002(3).

(7) "Family member" means a child, parent, spouse, or state registered domestic partner of an employee.

(8) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced registered nurse practitioner under chapter 18.79 RCW; or (c) any other person determined by the commissioner to be capable of providing health care services.

(9) "Intermittent leave" is leave taken in separate blocks of time due to a single qualifying reason.

(10) "Leave for a family member's serious health condition" means leave as described in section 9(1)(c) of this act.

(11) "Leave for the birth or placement of a child" means leave as described in section 9(1) (a) or (b) of this act.

(12) "Leave for the employee's serious health condition" means leave as described in section 9(1)(d) of this act.

(13) "Parent" means the biological or adoptive parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child.

(14) "Period of incapacity" means an inability to work, attend school, or perform other regular daily activities because of the serious health condition, treatment of that condition or recovery from it, or subsequent treatment in connection with such inpatient care.

(15) "Railroad carrier" means any employer subject to the jurisdiction of the surface transportation board under 49 U.S.C. Sec. 701, as it exists on the effective date of this section.

(16) "Reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(17) "Serious health condition" has the same meaning as in RCW 50A.05.010.

(18) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

NEW SECTION. **Sec.**  The department shall administer the provisions of this chapter.

NEW SECTION. **Sec.**  (1) Subject to section 13 of this act, an employee is entitled to a total of twelve workweeks of leave during any twelve-month period for one or more of the following:

(a) Because of the birth of a child of the employee and in order to care for the child;

(b) Because of the placement of a child with the employee for adoption or foster care;

(c) In order to care for a family member of the employee, if the family member has a serious health condition; or

(d) Because of a serious health condition that makes the employee unable to perform the functions of the position of the employee.

(2) The entitlement to leave for the birth or placement of a child expires at the end of the twelve-month period beginning on the date of such birth or placement.

(3) In determining the duration of leave time remaining in fifty-two consecutive calendar weeks, a railroad carrier may deduct only the actual amount of leave taken by an employee in increments no greater than twenty-four hours, and may not deduct more than one calendar day for each twenty-four hour period the employee specifically applied for leave.

(4) An employee is not entitled to leave under this section unless:

(a)(i) The employee worked for at least twelve months for the employer with respect to whom leave is requested under this section; and

(ii) The employee worked for at least five hundred four hours of service with the employer during the previous twelve-month period; or

(b)(i) The employee has been assigned to and worked on a guaranteed extra call board for at least the twelve months immediately preceding the date on which leave will commence and has worked or been paid for:

(A) Not less than sixty percent of the applicable total monthly guarantee, or the equivalent, during the twelve-month period; and

(B) Not less than five hundred four hours, not counting personal commute time or time spent on vacation leave, sick leave, personal leave, leave of absence, or medical leave, during the twelve-month period, for or by that employer; or

(ii) The employee has not been assigned to and worked on a guaranteed extra call board for at least twelve consecutive months preceding, but the employee has worked not less than five hundred four hours, not counting personal commute time or time spent on vacation leave, sick leave, personal leave, or medical leave, during the preceding twelve months of time that the employee was actively working for or by that employer.

(5) An employee is not entitled to leave under this section if the employee is employed by an employer with less than fifty employees.

NEW SECTION. **Sec.**  (1)(a) When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule with the employer's agreement. The employer's agreement is not required; however, for leave during which the employee has a serious health condition in connection with the birth of a child or if the newborn child has a serious health condition.

(b) Leave may be taken intermittently or on a reduced leave schedule when medically necessary for treatment of a serious health condition by or under the supervision of a health care provider, or for recovery from treatment or recovery from a serious health condition. It may also be taken to provide care or psychological comfort for an immediate family member with a serious health condition.

(i) Intermittent leave may be taken for a serious health condition that requires treatment by a health care provider periodically, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks.

(ii) Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she is not receiving current or ongoing treatment by a health care provider.

(c) There is no limit on the size of an increment of leave when an employee takes intermittent leave or leave on a reduced leave schedule. However, an employer may limit leave increments to the shortest period of time that the employer's payroll system uses to account for absences or use of leave, provided it is one hour or less.

(d) The taking of leave intermittently or on a reduced leave schedule under this section may not result in a reduction in the total amount of leave to which the employee is entitled under section 9 of this act beyond the amount of leave actually taken.

(2) If an employee requests intermittent leave, or leave on a reduced leave schedule, for a family member's serious health condition or the employee's serious health condition when the condition is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position at the same geographical location for which the employee is qualified and that:

(a) Has equivalent pay and benefits; and

(b) Better accommodates recurring periods of leave than the regular employment position of the employee.

NEW SECTION. **Sec.**  (1) Leave granted under section 9 of this act may consist of unpaid leave.

(2) Except as provided in subsection (3) of this section, this chapter does not affect an employee's entitlement to paid leave under Title 50A RCW.

(3) Unless otherwise expressly permitted by the employer, leave taken under this chapter must be taken concurrently with any paid leave taken under Title 50A RCW or any leave taken under the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on October 19, 2017).

NEW SECTION. **Sec.**  (1) If the necessity for leave for the birth or placement of a child is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than thirty days' notice, before the date the leave is to begin, of the employee's intention to take leave for the birth or placement of a child, except that if the date of the birth or placement requires leave to begin in less than thirty days, the employee shall provide such notice as is practicable.

(2) If the necessity for leave for a family member's serious health condition or the employee's serious health condition is foreseeable based on planned medical treatment, the employee:

(a) Must make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the family member, as appropriate; and

(b) Must provide the employer with not less than thirty days' notice, before the date the leave is to begin, of the employee's intention to take leave for a family member's serious health condition or the employee's serious health condition, except that if the date of the treatment requires leave to begin in less than thirty days, the employee must provide such notice as is practicable.

NEW SECTION. **Sec.**  If spouses entitled to leave under this chapter are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve workweeks during any twelve-month period, if such leave is taken: (1) For the birth or placement of a child; or (2) for a family member's serious health condition.

NEW SECTION. **Sec.**  (1) An employer may require that a request for leave for a family member's serious health condition or the employee's serious health condition be supported by a certification issued by the health care provider of the employee or of the family member, as appropriate. The employee must provide, in a timely manner, a copy of the certification to the employer.

(2) Certification provided under subsection (1) of this section is sufficient if it states:

(a) The date on which the serious health condition commenced;

(b) The probable duration of the condition;

(c) The appropriate medical facts within the knowledge of the health care provider regarding the condition;

(d)(i) For purposes of leave for a family member's serious health condition, a statement that the employee is needed to care for the family member and an estimate of the amount of time that such employee is needed to care for the family member; and

(ii) For purposes of leave for the employee's serious health condition, a statement that the employee is unable to perform the functions of the position of the employee;

(e) In the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment;

(f) In the case of certification for intermittent leave, or leave on a reduced leave schedule, for the employee's serious health condition, a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and

(g) In the case of certification for intermittent leave, or leave on a reduced leave schedule, for a family member's serious health condition, a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the family member who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

(3) If the employer has reason to doubt the validity of the certification provided under subsection (1) of this section for leave for a family member's serious health condition or the employee's serious health condition, the employer may require, at the expense of the employer, that the employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (2) of this section for the leave. The second health care provider may not be contracted by a vendor or service provider of, or employed on any prior basis by, the employer.

(4) If the second opinion described in subsection (3) of this section differs from the opinion in the original certification provided under subsection (1) of this section, the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (2) of this section. The opinion of the third health care provider concerning the information certified under subsection (2) of this section is considered to be final and is binding on the employer and the employee.

(5) The employer may require that the employee obtain subsequent recertifications on a reasonable basis.

(6) In adopting rules to implement this section, the department shall adopt rules applicable to railroad carriers that at least address the following matters:

(a) What constitutes complete and sufficient certification from a medical provider, such that no additional details may be requested;

(b) Limitations on employer requests for recertification, including defining what constitutes a reasonable basis after approval has previously been granted for that year.

NEW SECTION. **Sec.**  (1)(a) Except as provided in (b) of this subsection, any employee who takes leave under section 9 of this act the intended purpose of the leave is entitled, on return from the leave:

(i) To be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) To be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment at a workplace within twenty miles of the employee's workplace when leave commenced.

(b) The taking of leave under section 9 of this act may not result in the loss of any employment benefits accrued before the date on which the leave commenced.

(c) Nothing in this subsection (1) entitles any restored employee to:

(i) The accrual of any seniority or employment benefits during any period of leave; or

(ii) Any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(d) As a condition of restoration under (a) of this subsection for an employee who has taken leave for the employee's serious health condition, the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this subsection (1)(d) supersedes a valid local law or a collective bargaining agreement that governs the return to work of such employees.

(e) Nothing in this subsection (1) prohibits an employer from requiring an employee on leave to report periodically to the employer on the status and intention of the employee to return to work.

(2) An employer may deny restoration under subsection (1) of this section to any salaried employee who is among the highest paid ten percent of the employees employed by the employer within seventy-five miles of the facility at which the employee is employed if:

(a) Denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(b) The employer notifies the employee of its intent to deny restoration on such basis at the time the employer determines that the injury would occur; and

(c) The leave has commenced and the employee elects not to return to employment after receiving the notice.

NEW SECTION. **Sec.**  During any period of leave taken under section 9 of this act, if the employee is not eligible for any employer contribution to medical or dental benefits under an applicable collective bargaining agreement or employer policy during any period of leave, an employer shall allow the employee to continue, at the employee's expense, medical or dental insurance coverage, including any spouse and dependent coverage, in accordance with state or federal law. The premium to be paid by the employee shall not exceed one hundred two percent of the applicable premium for the leave period.

NEW SECTION. **Sec.**  (1) It is unlawful for any employer to:

(a) Interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this chapter; or

(b) Discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this chapter.

(2) It is unlawful for any person to discharge or in any other manner discriminate against any individual because the individual has:

(a) Filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this chapter;

(b) Given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this chapter; or

(c) Testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this chapter.

NEW SECTION. **Sec.**  Upon complaint by an employee, the commissioner shall investigate to determine if there has been noncompliance with this chapter and the rules adopted under this chapter. If the investigation indicates that a violation may have occurred, a hearing must be held in accordance with chapter 34.05 RCW. The commissioner must issue a written determination including his or her findings within thirty business days after the hearing. A judicial appeal from the commissioner's determination may be taken in accordance with chapter 34.05 RCW, with the prevailing party entitled to recover reasonable costs and attorneys' fees.

NEW SECTION. **Sec.**  (1) An employer who is found, in accordance with section 18 of this act, to have violated a requirement of this chapter and the rules adopted under this chapter, is subject to a civil penalty as follows:

(a) For a class I carrier, up to five thousand dollars for the first violation, up to twenty-five thousand dollars for the second violation within a three-year period following any previous violation, and up to one hundred thousand dollars for the third or subsequent violation within a three-year period following any previous violation.

(b) For a class II or III carrier, up to one thousand dollars for the first violation, up to five thousand dollars for the second violation within a three-year period following any previous violation, and up to ten thousand dollars for the third or subsequent violation within a three-year period following any previous violation.

(c) For a violation of section 17(1)(a) of this act by any carrier because the employee complained, opposed, gave information or was about to give information, or testified or was about to testify, regarding a railroad safety matter, up to five million dollars.

(2) Civil penalties must be collected by the commission and deposited into the safe leave for railroad workers enforcement account.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (2) of this section, any employer who violates section 17 of this act is liable:

(a) For damages equal to:

(i) The amount of:

(A) Any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation;

(B) In a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to twelve weeks of wages or salary for the employee;

(ii) The interest on the amount described in (a)(i) of this subsection calculated at the prevailing rate of inflation plus ten percent; and

(iii) An additional amount as liquidated damages equal to the sum of the amount described in (a)(i) of this subsection and the interest described in (a)(ii) of this subsection, except that if an employer who has violated section 17 of this act proves to the satisfaction of the court that the act or omission that violated section 17 of this act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 17 of this act, the court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under (a)(i) and (ii) of this subsection, respectively; and

(b) For such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) For a violation of section 17(1)(a) of this act by any carrier because the employee complained, opposed, gave information or was about to give information, or testified or was about to testify, regarding a railroad safety matter, the additional amount as liquidated damages shall be up to five million dollars.

(3) An action to recover the damages or equitable relief prescribed in subsection (1) of this section may be maintained against any employer in any court of competent jurisdiction by any one or more employees for and on behalf of:

(a) The employees; or

(b) The employees and other employees similarly situated.

(4) The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow reasonable attorneys' fees, reasonable expert witness fees, and an additional amount to compensate for any taxes owed on a lump sum damage award payment, and any other costs of the action to be paid by the defendant.

NEW SECTION. **Sec.**  Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the commissioner, setting forth excerpts from, or summaries of, the pertinent provisions of this chapter and information pertaining to the filing of a charge. Any employer that willfully violates this section may be subject to a civil penalty of not more than one thousand dollars for each separate offense. Any penalties collected by the commission under this section shall be deposited into the safe leave for railroad workers enforcement account.

NEW SECTION. **Sec.**  The safe leave for railroad workers enforcement account is created in the custody of the state treasurer. Any penalties collected under section 19 or 21 of this act shall be deposited into the account and shall be used only for the purposes of administering and enforcing this chapter. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The account is subject to allotment procedures under this chapter, but an appropriation is not required for expenditures.

NEW SECTION. **Sec.**  Nothing in this chapter shall be construed:

(1) To modify or affect any state or local law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability; or

(2) To supersede any provision of any local law that provides greater family or medical leave rights than the rights established under this chapter.

NEW SECTION. **Sec.**  Nothing in this chapter diminishes the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family or medical leave rights to employees than the rights established under this chapter. The rights established for employees under this chapter may not be diminished by any collective bargaining agreement or any employment benefit program or plan.

NEW SECTION. **Sec.**  Nothing in this chapter shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this chapter.

NEW SECTION. **Sec.**  The commissioner shall adopt rules as necessary to implement this chapter.

NEW SECTION. **Sec.**  This chapter must be construed to the extent possible in a manner that is consistent with similar provisions, if any, of Title 50A RCW and the federal family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6), and that gives consideration to the rules, precedents, and practices of the federal department of labor relevant to the federal act.

NEW SECTION. **Sec.**  This act may be known and cited as the safe leave act for Washington railroad workers.

NEW SECTION. **Sec.**  If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

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

NEW SECTION. **Sec.**  Sections 1 through 6 of this act are each added to chapter 81.40 RCW.

NEW SECTION. **Sec.**  Sections 7 through 29 and 33 of this act constitute a new chapter in a new title to be codified as Title 50C RCW.

NEW SECTION. **Sec.**  This act takes effect January 1, 2022.

**--- END ---**