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3 **ESHB 2647** - S COMM AMD

4 By Committee on Labor & Workforce Development

5 ADOPTED 2/28/00

6 Strike everything after the enacting clause and insert the
7 following:

8 NEW SECTION. **Sec. 1.** EMERGENCY RULES. (1) The director of the
9 department of labor and industries shall adopt emergency rules that
10 take effect no later than June 1, 2000, revising any safety standards
11 governing flaggers.

12 (2) The transportation commission shall adopt emergency rules that
13 take effect no later than June 1, 2000, revising any safety standards
14 governing flaggers.

15 (3) The utilities and transportation commission shall adopt
16 emergency rules that take effect no later than June 1, 2000, revising
17 any safety standards governing flaggers.

18 (4) Notwithstanding RCW 34.05.350, the emergency rules adopted
19 pursuant to this section shall remain in effect or be adopted in
20 sequence until March 1, 2001, or the effective date of the permanent
21 rules adopted pursuant to section 2 of this act, whichever is earlier.

22 (5) The emergency rules adopted pursuant to this section shall be
23 designed to improve options available to ensure the safety of flaggers,
24 and ensure that flaggers have adequate visual warning of objects
25 approaching from behind them.

26 (6) In developing emergency rules adopted pursuant to this section,
27 state agencies and commissions shall consult with other persons with an
28 interest in improving safety standards for flaggers. State agencies
29 and commissions shall report, by September 15, 2000, to the senate
30 labor and workforce development committee and the house of
31 representatives commerce and labor committee on the emergency rules
32 adopted pursuant to this section.

33 NEW SECTION. **Sec. 2.** PERMANENT RULES. (1) The director of the
34 department of labor and industries shall adopt permanent rules that
35 take effect no later than March 1, 2001, revising any safety standards
36 governing flaggers.

1 (2) The transportation commission shall adopt permanent rules that
2 take effect no later than March 1, 2001, revising any safety standards
3 and employment qualifications governing flaggers.

4 (3) The utilities and transportation commission shall adopt
5 permanent rules that take effect no later than March 1, 2001, revising
6 any safety standards and employment qualifications governing flaggers.

7 (4) The permanent rules adopted pursuant to this section shall be
8 designed to improve options available to ensure the safety of flaggers,
9 ensure that flaggers have adequate visual warning of objects
10 approaching from behind them, and update employment qualifications for
11 flaggers.

12 (5) In developing permanent rules adopted pursuant to this section,
13 state agencies and commissions shall consult with other persons with an
14 interest in improving safety standards and updating employment
15 qualifications for flaggers. State agencies and commissions shall
16 coordinate and make consistent, to the extent possible, permanent
17 rules. State agencies and commissions shall report, by April 22, 2001,
18 to the senate labor and workforce development committee and the house
19 of representatives commerce and labor committee on the permanent rules
20 adopted pursuant to this section.

21 **Sec. 3.** RCW 9.91.020 and 1915 c 165 s 2 are each amended to read
22 as follows:

23 Every person who, being employed upon any railway, as engineer,
24 motorman, gripman, conductor, switch tender, fireman, bridge tender,
25 (~~flagman~~) flagger, or signalman, or having charge of stations,
26 starting, regulating or running trains upon a railway, or being
27 employed as captain, engineer or other officer of a vessel propelled by
28 steam, or being the driver of any animal or vehicle upon any public
29 highway, street, or other public place, (~~shall be~~) is intoxicated
30 while engaged in the discharge of any such duties, shall be guilty of
31 a gross misdemeanor.

32 **Sec. 4.** RCW 46.61.015 and 1995 c 50 s 1 are each amended to read
33 as follows:

34 No person shall willfully fail or refuse to comply with any lawful
35 order or direction of any duly authorized (~~flagman~~) flagger or any
36 police officer or fire fighter invested by law with authority to
37 direct, control, or regulate traffic.

1 A violation of this section is a misdemeanor.

2 **Sec. 5.** RCW 46.61.190 and 1975 c 62 s 27 are each amended to read
3 as follows:

4 (1) Preferential right of way may be indicated by stop signs or
5 yield signs as authorized in RCW 47.36.110.

6 (2) Except when directed to proceed by a duly authorized
7 (~~flagman~~) flagger, or a police officer, or a fire fighter vested by
8 law with authority to direct, control, or regulate traffic, every
9 driver of a vehicle approaching a stop sign shall stop at a clearly
10 marked stop line, but if none, before entering a marked crosswalk on
11 the near side of the intersection or, if none, then at the point
12 nearest the intersecting roadway where the driver has a view of
13 approaching traffic on the intersecting roadway before entering the
14 roadway, and after having stopped shall yield the right of way to any
15 vehicle in the intersection or approaching on another roadway so
16 closely as to constitute an immediate hazard during the time when such
17 driver is moving across or within the intersection or junction of
18 roadways.

19 (3) The driver of a vehicle approaching a yield sign shall in
20 obedience to such sign slow down to a speed reasonable for the existing
21 conditions and if required for safety to stop, shall stop at a clearly
22 marked stop line, but if none, before entering a marked crosswalk on
23 the near side of the intersection or if none, then at the point nearest
24 the intersecting roadway where the driver has a view of approaching
25 traffic on the intersecting roadway before entering the roadway, and
26 then after slowing or stopping, the driver shall yield the right of way
27 to any vehicle in the intersection or approaching on another roadway so
28 closely as to constitute an immediate hazard during the time such
29 driver is moving across or within the intersection or junction of
30 roadways: PROVIDED, That if such a driver is involved in a collision
31 with a vehicle in the intersection or junction of roadways, after
32 driving past a yield sign without stopping, such collision shall be
33 deemed prima facie evidence of (~~his~~) the driver's failure to yield
34 right of way.

35 **Sec. 6.** RCW 46.61.340 and 1965 ex.s. c 155 s 46 are each amended
36 to read as follows:

1 (1) Whenever any person driving a vehicle approaches a railroad
2 grade crossing under any of the circumstances stated in this section,
3 the driver of such vehicle shall stop within fifty feet but not less
4 than fifteen feet from the nearest rail of such railroad, and shall not
5 proceed until ~~((he can do so))~~ the crossing can be made safely. The
6 foregoing requirements shall apply when:

7 (a) A clearly visible electric or mechanical signal device gives
8 warning of the immediate approach of a railroad train;

9 (b) A crossing gate is lowered or when a human ~~((flagman))~~ flagger
10 gives or continues to give a signal of the approach or passage of a
11 railroad train;

12 (c) An approaching railroad train is plainly visible and is in
13 hazardous proximity to such crossing.

14 (2) No person shall drive any vehicle through, around or under any
15 crossing gate or barrier at a railroad crossing while such gate or
16 barrier is closed or is being opened or closed.

17 **Sec. 7.** RCW 46.61.355 and 1975 c 62 s 32 are each amended to read
18 as follows:

19 (1) No person shall operate or move any crawler-type tractor, steam
20 shovel, derrick, roller, or any equipment or structure having a normal
21 operating speed of ten or less miles per hour or a vertical body or
22 load clearance of less than one-half inch per foot of the distance
23 between any two adjacent axles or in any event of less than nine
24 inches, measured above the level surface of a roadway, upon or across
25 any tracks at a railroad grade crossing without first complying with
26 this section.

27 (2) Notice of any such intended crossing shall be given to the
28 station agent of such railroad located nearest the intended crossing
29 sufficiently in advance to allow such railroad a reasonable time to
30 prescribe proper protection for such crossing.

31 (3) Before making any such crossing the person operating or moving
32 any such vehicle or equipment shall first stop the same not less than
33 fifteen feet nor more than fifty feet from the nearest rail of such
34 railroad and while so stopped shall listen and look in both directions
35 along such track for any approaching train and for signals indicating
36 the approach of a train, and shall not proceed until the crossing can
37 be made safely.

1 (4) No such crossing shall be made when warning is given by
2 automatic signal or crossing gates or a ((flagman)) flagger or
3 otherwise of the immediate approach of a railroad train or car. If a
4 ((flagman)) flagger is provided by the railroad, movement over the
5 crossing shall be under ((his)) the flagger's direction.

6 **Sec. 8.** RCW 47.36.220 and 1961 c 13 s 47.36.220 are each amended
7 to read as follows:

8 Each driver of a motor vehicle used in connection with such
9 construction, repair, or maintenance work shall obey traffic signs
10 posted for, and ((flagman)) flaggers stationed at such location in the
11 same manner and under the same restrictions as is required for the
12 driver of any other vehicle.

13 NEW SECTION. **Sec. 9.** Sections 1 and 2 of this act are necessary
14 for the immediate preservation of the public peace, health, or safety,
15 or support of the state government and its existing public
16 institutions, and take effect immediately.

17 NEW SECTION. **Sec. 10.** Sections 1 and 2 of this act may be known
18 and cited as the "Kim Vendl Worker Safety Act."

19 NEW SECTION. **Sec. 11.** Captions used in this act are not any part
20 of the law."
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25 On page 1, line 1 of the title, after "flaggers;" strike the
26 remainder of the title and insert "amending RCW 9.91.020, 46.61.015,
27 46.61.190, 46.61.340, 46.61.355, and 47.36.220; adding a new section to
28 chapter 49.17 RCW; creating new sections; and declaring an emergency."

EFFECT: Directs state agencies and commissions to revise rules
relating to safety standards and employment qualifications for
flaggers; eliminates gender-specific references to flaggers; and
corrects the title.

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