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HOUSE BILL 1324

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State of Washington

56th Legislature

1999 Regular Session

By Representatives Fisher, K. Schmidt, Mitchell and Hankins; by request of Department of Transportation

Read first time 01/21/1999. Referred to Committee on Transportation.

1 AN ACT Relating to transportation safety and planning; amending RCW  
2 81.104.015; adding a new section to chapter 35.21 RCW; adding a new  
3 section to chapter 35A.21 RCW; adding a new section to chapter 36.01  
4 RCW; adding a new section to chapter 81.112 RCW; adding a new section  
5 to chapter 36.57A RCW; adding a new section to chapter 81.104 RCW;  
6 adding a new section to chapter 42.17 RCW; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW  
9 to read as follows:

10 (1) Each city or town that owns or operates any rail fixed guideway  
11 system as defined in RCW 81.104.015 shall submit a system safety and  
12 security program plan for that guideway to the state department of  
13 transportation by September 1, 1999, or at least three months prior to  
14 beginning operations or instituting revisions to its plan. This plan  
15 shall describe the city's procedures for (a) reporting and  
16 investigating reportable accidents, unacceptable hazardous conditions,  
17 and security breaches, (b) submitting corrective action plans and  
18 annual safety and security audit reports, (c) facilitating on-site  
19 safety and security reviews by the state department of transportation,

1 and (d) addressing passenger and employee security. The plan shall, at  
2 a minimum, conform to the standards adopted by the state department of  
3 transportation. If required by the department, such city or town shall  
4 revise its plan to incorporate the department's review comments within  
5 sixty days after receipt thereof, and resubmit its revised plan for  
6 review.

7 (2) Each city or town shall implement and comply with the  
8 provisions of its system safety and security program plan. Such city  
9 or town shall perform internal safety and security audits to evaluate  
10 its compliance with the plan, and submit its audit schedule to the  
11 department of transportation no later than December 15th. Such city or  
12 town shall prepare an annual report for its internal safety and  
13 security audits undertaken in the prior year and submit it to the  
14 department no later than February 15th. This annual report shall  
15 include: The dates the audits were conducted, the scope of the audit  
16 activity, the audit findings and recommendations, the status of any  
17 corrective actions taken as a result of the audit activity, and the  
18 results of each audit in terms of the adequacy and effectiveness of the  
19 plan.

20 (3) Each city or town shall notify the department of transportation  
21 within twenty-four hours of an occurrence of a reportable accident,  
22 unacceptable hazardous condition, or security breach. The department  
23 may adopt rules further defining a reportable accident, unacceptable  
24 hazardous condition, or security breach. Such city or town shall  
25 investigate all reportable accidents, unacceptable hazardous  
26 conditions, or security breaches and provide a written investigation  
27 report to the department within forty-five calendar days after the  
28 reportable accident, unacceptable hazardous condition, or security  
29 breach.

30 (4) Each city or town is prohibited from publicly disclosing or  
31 communicating, in any way, to unauthorized persons, the security  
32 portions of its system safety and security program plan.

33 NEW SECTION. **Sec. 2.** A new section is added to chapter 35A.21 RCW  
34 to read as follows:

35 (1) Each code city that owns or operates any rail fixed guideway  
36 system as defined in RCW 81.104.015 shall submit a system safety and  
37 security program plan for that guideway to the state department of  
38 transportation by September 1, 1999, or at least three months prior to

1 beginning operations or instituting revisions to its plan. This plan  
2 shall describe the code city's procedures for (a) reporting and  
3 investigating reportable accidents, unacceptable hazardous conditions,  
4 and security breaches, (b) submitting corrective action plans and  
5 annual safety and security audit reports, (c) facilitating on-site  
6 safety and security reviews by the state department of transportation,  
7 and (d) addressing passenger and employee security. The plan shall, at  
8 a minimum, conform to the standards adopted by the state department of  
9 transportation. If required by the department, such code city shall  
10 revise its plan to incorporate the department's review comments within  
11 sixty days after receipt thereof, and resubmit its revised plan for  
12 review.

13 (2) Each code city shall implement and comply with the provisions  
14 of its system safety and security program plan. Such code city shall  
15 perform internal safety and security audits to evaluate its compliance  
16 with the plan, and submit its audit schedule to the department of  
17 transportation no later than December 15th. Such code city shall  
18 prepare an annual report for its internal safety and security audits  
19 undertaken in the prior year and submit it to the department no later  
20 than February 15th. This annual report shall include: The dates the  
21 audits were conducted, the scope of the audit activity, the audit  
22 findings and recommendations, the status of any corrective actions  
23 taken as a result of the audit activity, and the results of each audit  
24 in terms of the adequacy and effectiveness of the plan.

25 (3) Each code city shall notify the department of transportation  
26 within twenty-four hours of an occurrence of a reportable accident,  
27 unacceptable hazardous condition, or security breach. The department  
28 may adopt rules further defining a reportable accident, unacceptable  
29 hazardous condition, or security breach. Such code city shall  
30 investigate all reportable accidents, unacceptable hazardous  
31 conditions, or security breaches and provide a written investigation  
32 report to the department within forty-five calendar days after the  
33 reportable accident, unacceptable hazardous condition, or security  
34 breach.

35 (4) Each code city is prohibited from publicly disclosing or  
36 communicating, in any way, to unauthorized persons, the security  
37 portions of its system safety and security program plan.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 36.01 RCW  
2 to read as follows:

3        (1) Each county functioning under chapter 36.56 RCW that owns or  
4 operates any rail fixed guideway system as defined in RCW 81.104.015  
5 shall submit a system safety and security program plan for that  
6 guideway to the state department of transportation by September 1,  
7 1999, or at least three months prior to beginning operations or  
8 instituting revisions to its plan. This plan shall describe the  
9 county's procedures for (a) reporting and investigating reportable  
10 accidents, unacceptable hazardous conditions, and security breaches,  
11 (b) submitting corrective action plans and annual safety and security  
12 audit reports, (c) facilitating on-site safety and security reviews by  
13 the state department of transportation, and (d) addressing passenger  
14 and employee security. The plan shall, at a minimum, conform to the  
15 standards adopted by the state department of transportation. If  
16 required by the department, such county shall revise its plan to  
17 incorporate the department's review comments within sixty days after  
18 receipt thereof, and resubmit its revised plan for review.

19        (2) Each county functioning under chapter 36.56 RCW shall implement  
20 and comply with the provisions of its system safety and security  
21 program plan. Such county shall perform internal safety and security  
22 audits to evaluate its compliance with the plan, and submit its audit  
23 schedule to the department of transportation no later than December  
24 15th. Such county shall prepare an annual report for its internal  
25 safety and security audits undertaken in the prior year and submit it  
26 to the department no later than February 15th. This annual report  
27 shall include: The dates the audits were conducted, the scope of the  
28 audit activity, the audit findings and recommendations, the status of  
29 any corrective actions taken as a result of the audit activity, and the  
30 results of each audit in terms of the adequacy and effectiveness of the  
31 plan.

32        (3) Each county shall notify the department of transportation  
33 within twenty-four hours of an occurrence of a reportable accident,  
34 unacceptable hazardous condition, or security breach. The department  
35 may adopt rules further defining a reportable accident, unacceptable  
36 hazardous condition, or security breach. Such county shall investigate  
37 all reportable accidents, unacceptable hazardous conditions, or  
38 security breaches and provide a written investigation report to the

1 department within forty-five calendar days after the reportable  
2 accident, unacceptable hazardous condition, or security breach.

3 (4) Each county functioning under chapter 36.56 RCW is prohibited  
4 from publicly disclosing or communicating, in any way, to unauthorized  
5 persons, the security portions of its system safety and security  
6 program plan.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.112 RCW  
8 to read as follows:

9 (1) Each regional transit authority that owns or operates any rail  
10 fixed guideway system as defined in RCW 81.104.015 shall submit a  
11 system safety and security program plan for that guideway to the state  
12 department of transportation by September 1, 1999, or at least three  
13 months prior to beginning operations or instituting revisions to its  
14 plan. This plan shall describe the authority's procedures for (a)  
15 reporting and investigating reportable accidents, unacceptable  
16 hazardous conditions, and security breaches, (b) submitting corrective  
17 action plans and annual safety and security audit reports, (c)  
18 facilitating on-site safety and security reviews by the state  
19 department of transportation, and (d) addressing passenger and employee  
20 security. The plan shall, at a minimum, conform to the standards  
21 adopted by the state department of transportation. If required by the  
22 department, such regional transit authority shall revise its plan to  
23 incorporate the department's review comments within sixty days after  
24 receipt thereof, and resubmit its revised plan for review.

25 (2) Each regional transit authority shall implement and comply with  
26 the provisions of its system safety and security program plan. Such  
27 regional transit authority shall perform internal safety and security  
28 audits to evaluate its compliance with the plan, and submit its audit  
29 schedule to the department of transportation no later than December  
30 15th. Such regional transit authority shall prepare an annual report  
31 for its internal safety and security audits undertaken in the prior  
32 year and submit it to the department no later than February 15th. This  
33 annual report shall include: The dates the audits were conducted, the  
34 scope of the audit activity, the audit findings and recommendations,  
35 the status of any corrective actions taken as a result of the audit  
36 activity, and the results of each audit in terms of the adequacy and  
37 effectiveness of the plan.

1 (3) Each regional transit authority shall notify the department of  
2 transportation within twenty-four hours of an occurrence of a  
3 reportable accident, unacceptable hazardous condition, or security  
4 breach. The department may adopt rules further defining a reportable  
5 accident, unacceptable hazardous condition, or security breach. Such  
6 regional transit authority shall investigate all reportable accidents,  
7 unacceptable hazardous conditions, or security breaches and provide a  
8 written investigation report to the department within forty-five  
9 calendar days after the reportable accident, unacceptable hazardous  
10 condition, or security breach.

11 (4) Each regional transit authority is prohibited from publicly  
12 disclosing or communicating, in any way, to unauthorized persons, the  
13 security portions of its system safety and security program plan.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.57A RCW  
15 to read as follows:

16 (1) Each public transportation benefit area that owns or operates  
17 any rail fixed guideway system as defined in RCW 81.104.015 shall  
18 submit a system safety and security program plan for that guideway to  
19 the state department of transportation by September 1, 1999, or at  
20 least three months prior to beginning operations or instituting  
21 revisions to its plan. This plan shall describe the public  
22 transportation benefit area's procedures for (a) reporting and  
23 investigating reportable accidents, unacceptable hazardous conditions,  
24 and security breaches, (b) submitting corrective action plans and  
25 annual safety and security audit reports, (c) facilitating on-site  
26 safety and security reviews by the state department of transportation,  
27 and (d) addressing passenger and employee security. The plan shall, at  
28 a minimum, conform to the standards adopted by the state department of  
29 transportation. If required by the department, such public  
30 transportation benefit area shall revise its plan to incorporate the  
31 department's review comments within sixty days after receipt thereof,  
32 and resubmit its revised plan for review.

33 (2) Each public transportation benefit area shall implement and  
34 comply with the provisions of its system safety and security program  
35 plan. Such public transportation benefit area shall perform internal  
36 safety and security audits to evaluate its compliance with the plan,  
37 and submit its audit schedule to the department of transportation no  
38 later than December 15th. Such public transportation benefit area

1 shall prepare an annual report for its internal safety and security  
2 audits undertaken in the prior year and submit it to the department no  
3 later than February 15th. This annual report shall include: The dates  
4 the audits were conducted, the scope of the audit activity, the audit  
5 findings and recommendations, the status of any corrective actions  
6 taken as a result of the audit activity, and the results of each audit  
7 in terms of the adequacy and effectiveness of the plan.

8 (3) Each public transportation benefit area shall notify the  
9 department of transportation within twenty-four hours of an occurrence  
10 of a reportable accident, unacceptable hazardous condition, or security  
11 breach. The department may adopt rules further defining a reportable  
12 accident, unacceptable hazardous condition, or security breach. Such  
13 public transportation benefit area shall investigate all reportable  
14 accidents, unacceptable hazardous conditions, or security breaches and  
15 provide a written investigation report to the department within forty-  
16 five calendar days after the reportable accident, unacceptable  
17 hazardous condition, or security breach.

18 (4) Each public transportation benefit area is prohibited from  
19 publicly disclosing or communicating, in any way, to unauthorized  
20 persons, the security portions of its system safety and security  
21 program plan.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 81.104 RCW  
23 to read as follows:

24 (1) The department is authorized to collect and review the system  
25 safety and security program plan prepared by each owner or operator of  
26 any rail fixed guideway system as defined in RCW 81.104.015. In  
27 carrying out this function, the department may adopt rules specifying  
28 the elements and standard to be contained in a system safety and  
29 security program plan, and the content of any investigation report,  
30 corrective action plan, and accompanying implementation schedule  
31 resulting from a reportable accident, unacceptable hazardous condition,  
32 or security breach. These rules may include due dates for the  
33 department's timely receipt of and response to required documents.

34 (2) The department is prohibited from publicly disclosing or  
35 communicating, in any way, to unauthorized persons, the security  
36 portions of system safety and security program plans collected from  
37 owners and operators of rail fixed guideway systems.

1 (3) The department shall audit each system safety and security  
2 program plan at least once every three years. The department is  
3 authorized to contract with other persons or entities for the  
4 performance of any and all duties required by this subsection. The  
5 department shall provide at least thirty days' advanced notice to the  
6 owner or operator of any rail fixed guideway system as defined in RCW  
7 81.104.015 before commencing the audit.

8 (4) In the event of a reportable accident, unacceptable hazardous  
9 condition, or security breach, the department shall review the  
10 investigation report, corrective action plan, and accompanying  
11 implementation schedule, submitted by the owner or operator of any rail  
12 fixed guideway system as defined in RCW 81.104.015, to ensure that it  
13 meets the goal of preventing and mitigating a recurrence of the  
14 reportable accident, unacceptable hazardous condition, or security  
15 breach.

16 (a) The department may, at its option, perform a separate,  
17 independent investigation of any reportable accident, unacceptable  
18 hazardous condition, or security breach. The department is authorized  
19 to contract with other persons or entities for the performance of any  
20 and all duties required by this subsection.

21 (b) If the department does not concur with the investigation  
22 report, corrective action plan, and accompanying implementation  
23 schedule, submitted by the owner or operator, the department shall  
24 notify that owner or operator in writing within forty-five days of its  
25 receipt of the complete investigation report, corrective action plan,  
26 and accompanying implementation schedule.

27 (5) To carry out the responsibilities under subsection (1) of this  
28 section, the department may use amounts appropriated from the high  
29 capacity transportation account. The owners or operators of any rail  
30 fixed guideway system as defined in RCW 81.104.015 shall reimburse the  
31 expenses of the department in carrying out the responsibilities under  
32 subsections (3) and (4) of this section.

33 (6) The secretary may adopt rules to implement this section and  
34 sections 1 through 5 of this act, including rules establishing  
35 procedures and timelines for owners and operators of rail fixed  
36 guideway systems to comply with sections 1 through 5 of this act and  
37 the rules adopted under this section, and sanctions that may be imposed  
38 and collected by the department for failure to comply. In the event  
39 noncompliance by an owner or operator of a rail fixed guideway system

1 results in the loss of federal funds to the state of Washington or any  
2 political subdivision thereof, the owner or operator is liable to the  
3 affected entity or entities for the amount of the lost funds, in  
4 addition to any sanction imposed by the department because of the  
5 noncompliance.

6 (7) The department and its employees have no liability arising from  
7 the adoption of rules; the review of or concurrence in any system  
8 safety and security program plan; the separate, independent  
9 investigation of any reportable accident, unacceptable hazardous  
10 condition, or security breach; and the review of or concurrence in a  
11 corrective action plan for any reportable accident, unacceptable  
12 hazardous condition, or security breach.

13 NEW SECTION. **Sec. 7.** A new section is added to chapter 42.17 RCW  
14 to read as follows:

15 A transportation system safety and security program plan required  
16 under sections 1 through 5 of this act is exempt from disclosure under  
17 this chapter.

18 **Sec. 8.** RCW 81.104.015 and 1992 c 101 s 19 are each amended to  
19 read as follows:

20 Unless the context clearly requires otherwise, the definitions in  
21 this section apply throughout this chapter.

22 (1) "High capacity transportation system" means a system of public  
23 transportation services within an urbanized region operating  
24 principally on exclusive rights of way, and the supporting services and  
25 facilities necessary to implement such a system, including interim  
26 express services and high occupancy vehicle lanes, which taken as a  
27 whole, provides a substantially higher level of passenger capacity,  
28 speed, and service frequency than traditional public transportation  
29 systems operating principally in general purpose roadways.

30 (2) "Rail fixed guideway system" means a light, heavy, or rapid  
31 rail system, monorail, inclined plane, funicular, trolley, or other  
32 fixed rail guideway component of a high capacity transportation system  
33 that is not regulated by the federal railroad administration, or its  
34 successor. "Rail fixed guideway system" does not mean elevators,  
35 moving sidewalks or stairs, and vehicles suspended from aerial cables,  
36 unless they are an integral component of a station served by a rail  
37 fixed guideway system.

1        (3) "Regional transit system" means a high capacity transportation  
2 system under the jurisdiction of one or more transit agencies except  
3 where a regional transit authority created under chapter 81.112 RCW  
4 exists, in which case "regional transit system" means the high capacity  
5 transportation system under the jurisdiction of a regional transit  
6 authority.

7        (~~(3)~~) (4) "Transit agency" means city-owned transit systems,  
8 county transportation authorities, metropolitan municipal corporations,  
9 and public transportation benefit areas.

10        NEW SECTION.    **Sec. 9.**    This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of the  
12 state government and its existing public institutions, and takes effect  
13 immediately.

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