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**SENATE BILL 5697**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senators Parlette, Rivers, Llias, Conway, Pearson, Angel, Hatfield, Billig, Roach, Hasegawa, Pedersen, Hobbs, Warnick, Miloscia, McCoy, Bailey, Cleveland, Chase, Rolfes, Benton, Keiser, O'Ban, Jayapal, and Frockt

Read first time 01/29/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to establishing minimum crew size on certain  
2 trains; adding new sections to chapter 81.40 RCW; creating a new  
3 section; repealing RCW 81.40.010 and 81.40.035; prescribing  
4 penalties; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the increasing  
7 transportation of hazardous and volatile materials on the railroads  
8 operating within our state, as well as significantly longer trains  
9 operating over the unique and widely varying geographical terrain  
10 existing in our state coupled with decreasing train crew size,  
11 creates a significant localized safety hazard to the public and the  
12 environment. Adequate personnel is critical to insuring railroad  
13 operational safety, security, and in the event of a hazardous  
14 material incident, support of first responder activities. Therefore,  
15 the legislature declares that this act regulating minimum railroad  
16 crew staffing to reduce risk to localities constitutes an exercise of  
17 the state's police power to protect and promote the health, safety,  
18 security, and welfare of the residents of the state by reducing the  
19 risk exposure to local communities and protecting environmentally  
20 sensitive and/or pristine lands and waterways.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 81.40  
2    RCW to read as follows:

3        The definitions in this section apply throughout this chapter  
4    unless the context clearly requires otherwise.

5        (1)    "Commission"    means    the    utilities    and    transportation  
6    commission created in chapter 80.01 RCW.

7        (2)    "Hazardous material" is defined by the United States  
8    department of transportation hazardous materials instructions for  
9    rail as a substance or material the federal secretary of  
10   transportation has determined to be capable of posing a significant  
11   risk to health, safety, and property when transported in commerce.  
12   "Hazardous material" includes hazardous substances, hazardous wastes,  
13   elevated temperature materials, such as hot or molten materials, and  
14   marine pollutants.

15        (3)    "Hazardous material train" means any train containing any of  
16   following:

17        (a)    One or more tank car loads of poison inhalation hazard or  
18   toxic inhalation hazard, hazard zone "A," "B," "C," or "D"; anhydrous  
19   ammonia, UN1005;

20        (b)    Twenty car loads or intermodal portable tank loads of any  
21   combination of hazardous material; or

22        (c)    One or more car loads of spent nuclear fuel or high level  
23   nuclear waste.

24        (4)    "Qualified crew member" means a railroad operating craft  
25   employee who has been trained and meets the requirements and  
26   qualifications as determined by the federal railroad administration  
27   for a railroad operating service employee.

28        (5)    "Railroad carrier" means a carrier of persons or property  
29   upon vehicles, other than streetcars, operated upon stationary rails,  
30   the route of which is principally outside incorporated cities and  
31   towns. "Railroad carrier" includes the officers and agents of the  
32   railroad carrier.

33        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 81.40  
34    RCW to read as follows:

35        Except as provided in section 4 of this act, the following  
36   minimum crew requirements apply:

37        (1)    Any person, corporation, company, or officer of the court  
38   operating any railroad, railway, or any part of any railroad or  
39   railway, in the state of Washington, and engaged, as a common

1 carrier, in the transportation of freight or passengers, shall  
2 operate all trains and switching assignments over its road with crews  
3 consisting of no less than two qualified crew members.

4 (2)(a) Railroad carriers shall operate all hazardous material  
5 trains over its road with crews consisting of no less than three  
6 qualified crew members. One qualified train crew member shall be  
7 assigned to a position located on the rear of the train and within  
8 rolling equipment, situated to safely observe and monitor the train's  
9 contents and movement.

10 (b) Railroad carriers shall operate any hazardous material trains  
11 consisting of fifty-one or more car loads of any combination of  
12 hazardous materials over its road with crews consisting of no less  
13 than four qualified crew members. Two qualified crew members shall be  
14 assigned to a position on the rear of the train and within rolling  
15 equipment, situated to safely observe and monitor the train's  
16 contents and movement.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.40  
18 RCW to read as follows:

19 (1) Trains transporting hazardous material shipments a distance  
20 of five miles or less may operate the train with the required crew  
21 members positioned on the lead locomotive.

22 (2) The commission may grant exemptions to the minimum crew size  
23 requirements to class III railroad carriers that are not transporting  
24 hazardous materials on their road.

25 (3)(a) The commission may order class I or II railroad carriers  
26 to exceed the minimum crew size and operate specific trains, routes,  
27 or switching assignments on their road with additional numbers of  
28 qualified crew members if it is determined that such an increase in  
29 crew size is necessary to protect the safety, health, and welfare of  
30 the public and railroad employees, to prevent harm to the  
31 environment, and to address local safety and security hazards.

32 (b) In issuing such an order the commission may consider relevant  
33 factors including but not limited to the volatility of the  
34 commodities being transported, vulnerabilities, risk exposure to  
35 localities along the train route, security risks including sabotage  
36 or terrorism threat levels, a railroad carriers prior history of  
37 accidents, compliance violations, and track and equipment maintenance  
38 issues.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 81.40  
2    RCW to read as follows:

3        (1) Each train or engine run in violation of section 3 of this  
4    act constitutes a separate offense. However, section 3 of this act  
5    does not apply in the case of disability of one or more members of  
6    any train crew while out on the road between division terminals, or  
7    assigned to wrecking trains.

8        (2) Any person, corporation, company, or officer of the court  
9    operating any railroad, or part of any railroad or railway within the  
10   state of Washington, and engaged as a common carrier, in the  
11   transportation of freight or passengers, who violates any of the  
12   provisions of section 3 of this act are guilty of a misdemeanor, and  
13   upon conviction shall be fined not less than one thousand dollars and  
14   not more than one hundred thousand dollars for each offense.

15        (3) It is the duty of the commission to enforce this section.

16        NEW SECTION.    **Sec. 6.**    The following acts or parts of acts are  
17    each repealed:

18        (1) RCW 81.40.010 (Full train crews—Passenger—Safety review—  
19    Penalty—Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14  
20    s 81.40.010; and

21        (2) RCW 81.40.035 (Freight train crews) and 1967 c 2 s 2.

22        NEW SECTION.    **Sec. 7.**    If any provision of this act or its  
23    application to any person or circumstance is held invalid, the  
24    remainder of the act or the application of the provision to other  
25    persons or circumstances is not affected.

26        NEW SECTION.    **Sec. 8.**    This act is necessary for the immediate  
27    preservation of the public peace, health, or safety, or support of  
28    the state government and its existing public institutions, and takes  
29    effect July 1, 2015.

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