
SENATE BILL 5227

State of Washington 65th Legislature 2017 Regular Session

By Senators King, Hobbs, Hasegawa, Saldaña, and Kuderer

Read first time 01/18/17. Referred to Committee on Transportation.

1 AN ACT Relating to requiring drivers to stop for approaching
2 other on-track equipment at railroad grade crossings; and amending
3 RCW 46.61.340, 46.61.350, 46.61.355, 36.86.100, 46.25.090, and
4 47.32.140.

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

6 **Sec. 1.** RCW 46.61.340 and 2000 c 239 s 6 are each amended to
7 read as follows:

8 (1) Whenever any person driving a vehicle approaches a railroad
9 grade crossing under any of the circumstances stated in this section,
10 the driver of such vehicle shall stop within fifty feet but not less
11 than fifteen feet from the nearest rail of such railroad, and shall
12 not proceed until the crossing can be made safely. The foregoing
13 requirements shall apply when:

14 (a) A clearly visible electric or mechanical signal device gives
15 warning of the immediate approach of a railroad train or other on-
16 track equipment;

17 (b) A crossing gate is lowered or when a human flagger gives or
18 continues to give a signal of the approach or passage of a railroad
19 train or other on-track equipment;

20 (c) An approaching railroad train or other on-track equipment is
21 plainly visible and is in hazardous proximity to such crossing.

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

4 **Sec. 2.** RCW 46.61.350 and 2014 c 154 s 3 are each amended to
5 read as follows:

6 (1)(a) The driver of any of the following vehicles must stop
7 before the stop line, if present, and otherwise within fifty feet but
8 not less than fifteen feet from the nearest rail at a railroad grade
9 crossing unless exempt under subsection (3) of this section:

10 (i) A school bus or private carrier bus carrying any school child
11 or other passenger;

12 (ii) A commercial motor vehicle transporting passengers;

13 (iii) A cargo tank, whether loaded or empty, used for
14 transporting any hazardous material as defined in the hazardous
15 materials regulations of the United States department of
16 transportation in 49 C.F.R. Parts 107 through 180 as it existed on
17 June 10, 2010, or such subsequent date as may be provided by the
18 state patrol by rule, consistent with the purposes of this section.
19 For the purposes of this section, a cargo tank is any commercial
20 motor vehicle designed to transport any liquid or gaseous materials
21 within a tank that is either permanently or temporarily attached to
22 the vehicle or the chassis;

23 (iv) A cargo tank, whether loaded or empty, transporting a
24 commodity under exemption in accordance with 49 C.F.R. Part 107,
25 Subpart B as it existed on June 10, 2010, or such subsequent date as
26 may be provided by the state patrol by rule, consistent with the
27 purposes of this section;

28 (v) A cargo tank transporting a commodity that at the time of
29 loading has a temperature above its flashpoint as determined by the
30 United States department of transportation in 49 C.F.R. Sec. 173.120
31 as it existed on June 10, 2010, or such subsequent date as may be
32 provided by the state patrol by rule, consistent with the purposes of
33 this section; or

34 (vi) A commercial motor vehicle that is required to be marked or
35 placarded with any one of the following classifications by the United
36 States department of transportation in 49 C.F.R. Part 172 as it
37 existed on June 10, 2010, or such subsequent date as may be provided
38 by the state patrol by rule, consistent with the purposes of this
39 section:

1 (A) Division 1.1, Division 1.2, Division 1.3, or Division 1.4;
2 (B) Division 2.1, Division 2.2, Division 2.2 oxygen, Division 2.3
3 poison gas, or Division 2.3 chlorine;
4 (C) Division 4.1 or Division 4.3;
5 (D) Division 5.1 or Division 5.2;
6 (E) Division 6.1 poison;
7 (F) Class 3 combustible liquid or Class 3 flammable;
8 (G) Class 7;
9 (H) Class 8.

10 (b) While stopped, the driver must listen and look in both
11 directions along the track for any approaching train or other on-
12 track equipment and for signals indicating the approach of a train or
13 other on-track equipment. The driver may not proceed until he or she
14 can do so safely.

15 (2) After stopping at a railroad grade crossing and upon
16 proceeding when it is safe to do so, the driver must cross only in a
17 gear that permits the vehicle to traverse the crossing without
18 changing gears. The driver may not shift gears while crossing the
19 track or tracks.

20 (3) This section does not apply at any railroad grade crossing
21 where:

22 (a) Traffic is controlled by a police officer or flagger.
23 (b) A functioning traffic control signal is transmitting a green
24 light.
25 (c) The tracks are used exclusively for a streetcar or industrial
26 switching purposes.
27 (d) The utilities and transportation commission has approved the
28 installation of an "exempt" sign in accordance with the procedures
29 and standards under RCW 81.53.060.
30 (e) The crossing is abandoned and is marked with a sign
31 indicating it is out-of-service.
32 (f) The utilities and transportation commission has identified a
33 crossing where stopping is not required under RCW 81.53.060.

34 (4) For the purpose of this section, "commercial motor vehicle"
35 means: Any vehicle with a manufacturer's seating capacity for eight
36 or more passengers, including the driver, that transports passengers
37 for hire; any private carrier bus; any vehicle used to transport
38 property that has a gross vehicle weight rating, gross combination
39 weight rating, gross vehicle weight, or gross combination weight of

1 4,536 kg (10,001 pounds) or more; and any vehicle used in the
2 transportation of hazardous materials as defined in RCW 46.25.010.

3 **Sec. 3.** RCW 46.61.355 and 2000 c 239 s 7 are each amended to
4 read as follows:

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

13 (2) Notice of any such intended crossing shall be given to the
14 station agent of such railroad located nearest the intended crossing
15 sufficiently in advance to allow such railroad a reasonable time to
16 prescribe proper protection for such crossing.

17 (3) Before making any such crossing, the person operating or
18 moving any such vehicle or equipment shall first stop the same not
19 less than fifteen feet nor more than fifty feet from the nearest rail
20 of such railroad and while so stopped shall listen and look in both
21 directions along such track for any approaching train or other on-
22 track equipment and for signals indicating the approach of a train or
23 other on-track equipment, and shall not proceed until the crossing
24 can be made safely.

25 (4) No such crossing shall be made when warning is given by
26 automatic signal or crossing gates or a flagger or otherwise of the
27 immediate approach of a railroad train or car or other on-track
28 equipment. If a flagger is provided by the railroad, movement over
29 the crossing shall be under the flagger's direction.

30 **Sec. 4.** RCW 36.86.100 and 1983 c 19 s 1 are each amended to read
31 as follows:

32 Each railroad company shall keep its right-of-way clear of all
33 brush and timber in the vicinity of a railroad grade crossing with a
34 county road for a distance of one hundred feet from the crossing in
35 such a manner as to permit a person upon the road to obtain an
36 unobstructed view in both directions of an approaching train or other
37 on-track equipment. The county legislative authority shall cause
38 brush and timber to be cleared from the right-of-way of county roads

1 in the proximity of a railroad grade crossing for a distance of one
2 hundred feet from the crossing in such a manner as to permit a person
3 traveling upon the road to obtain an unobstructed view in both
4 directions of an approaching train or other on-track equipment. It is
5 unlawful to erect or maintain a sign, signboard, or billboard within
6 a distance of one hundred feet from the point of intersection of the
7 road and railroad grade crossing located outside the corporate limits
8 of any city or town unless, after thirty days notice to the
9 Washington utilities and transportation commission and the railroad
10 operating the crossing, the county legislative authority determines
11 that it does not obscure the sight distance of a person operating a
12 vehicle or train approaching the grade crossing.

13 When a person who has erected or who maintains such a sign,
14 signboard, or billboard or when a railroad company permits such brush
15 or timber in the vicinity of a railroad grade crossing with a county
16 road or permits the surface of a grade crossing to become
17 inconvenient or dangerous for passage and who has the duty to
18 maintain it, fails, neglects, or refuses to remove or cause to be
19 removed such brush, timber, sign, signboard, or billboard, or
20 maintain the surface of the crossing, the utilities and
21 transportation commission upon complaint of the county legislative
22 authority or upon complaint of any party interested, or upon its own
23 motion, shall enter upon a hearing in the manner now provided for
24 hearings with respect to railroad-highway grade crossings, and make
25 and enforce proper orders for the removal of the brush, timber, sign,
26 signboard or billboard, or maintenance of the crossing. Nothing in
27 this section prevents the posting or maintaining thereon of highway
28 or road signs or traffic devices giving directions or distances for
29 the information of the public when the signs conform to the "Manual
30 for Uniform Traffic Control Devices" issued by the state department
31 of transportation. The county legislative authority shall inspect
32 highway grade crossings and make complaint of the violation of any
33 provisions of this section.

34 **Sec. 5.** RCW 46.25.090 and 2013 2nd sp.s. c 35 s 10 are each
35 amended to read as follows:

36 (1) A person is disqualified from driving a commercial motor
37 vehicle for a period of not less than one year if a report has been
38 received by the department pursuant to RCW 46.20.308 or 46.25.120, or

1 if the person has been convicted of a first violation, within this or
2 any other jurisdiction, of:

3 (a) Driving a motor vehicle under the influence of alcohol or any
4 drug;

5 (b) Driving a commercial motor vehicle while the alcohol
6 concentration in the person's system is 0.04 or more or any
7 measurable amount of THC concentration, or driving a noncommercial
8 motor vehicle while the alcohol concentration in the person's system
9 is 0.08 or more, or is 0.02 or more if the person is under age
10 twenty-one, or with a THC concentration of 5.00 nanograms per
11 milliliter of whole blood or more, or a THC concentration above 0.00
12 if the person is under the age of twenty-one, as determined by any
13 testing methods approved by law in this state or any other state or
14 jurisdiction;

15 (c) Leaving the scene of an accident involving a motor vehicle
16 driven by the person;

17 (d) Using a motor vehicle in the commission of a felony;

18 (e) Refusing to submit to a test or tests to determine the
19 driver's alcohol concentration or the presence of any drug while
20 driving a motor vehicle;

21 (f) Driving a commercial motor vehicle when, as a result of prior
22 violations committed while operating a commercial motor vehicle, the
23 driver's commercial driver's license is revoked, suspended, or
24 canceled, or the driver is disqualified from operating a commercial
25 motor vehicle;

26 (g) Causing a fatality through the negligent operation of a
27 commercial motor vehicle, including but not limited to the crimes of
28 vehicular homicide and negligent homicide.

29 If any of the violations set forth in this subsection occurred
30 while transporting hazardous material, the person is disqualified for
31 a period of not less than three years.

32 (2) A person is disqualified for life if it has been determined
33 that the person has committed or has been convicted of two or more
34 violations of any of the offenses specified in subsection (1) of this
35 section, or any combination of those offenses, arising from two or
36 more separate incidents.

37 (3) The department may adopt rules, in accordance with federal
38 regulations, establishing guidelines, including conditions, under
39 which a disqualification for life under subsection (2) of this
40 section may be reduced to a period of not less than ten years.

1 (4) A person is disqualified from driving a commercial motor
2 vehicle for life who uses a motor vehicle in the commission of a
3 felony involving the manufacture, distribution, or dispensing of a
4 controlled substance, as defined by chapter 69.50 RCW, or possession
5 with intent to manufacture, distribute, or dispense a controlled
6 substance, as defined by chapter 69.50 RCW.

7 (5)(a) A person is disqualified from driving a commercial motor
8 vehicle for a period of:

9 (i) Not less than sixty days if:

10 (A) Convicted of or found to have committed a second serious
11 traffic violation while driving a commercial motor vehicle; or

12 (B) Convicted of reckless driving, where there has been a prior
13 serious traffic violation; or

14 (ii) Not less than one hundred twenty days if:

15 (A) Convicted of or found to have committed a third or subsequent
16 serious traffic violation while driving a commercial motor vehicle;
17 or

18 (B) Convicted of reckless driving, where there has been two or
19 more prior serious traffic violations.

20 (b) The disqualification period under (a)(ii) of this subsection
21 must be in addition to any other previous period of disqualification.

22 (c) For purposes of determining prior serious traffic violations
23 under this subsection, each conviction of or finding that a driver
24 has committed a serious traffic violation while driving a commercial
25 motor vehicle or noncommercial motor vehicle, arising from a separate
26 incident occurring within a three-year period, must be counted.

27 (6) A person is disqualified from driving a commercial motor
28 vehicle for a period of:

29 (a) Not less than one hundred eighty days nor more than one year
30 if convicted of or found to have committed a first violation of an
31 out-of-service order while driving a commercial vehicle;

32 (b) Not less than two years nor more than five years if, during a
33 ten-year period, the person is convicted of or is found to have
34 committed two violations of out-of-service orders while driving a
35 commercial motor vehicle in separate incidents;

36 (c) Not less than three years nor more than five years if, during
37 a ten-year period, the person is convicted of or is found to have
38 committed three or more violations of out-of-service orders while
39 driving commercial motor vehicles in separate incidents;

1 (d) Not less than one hundred eighty days nor more than two years
2 if the person is convicted of or is found to have committed a first
3 violation of an out-of-service order while transporting hazardous
4 materials, or while operating motor vehicles designed to transport
5 sixteen or more passengers, including the driver. A person is
6 disqualified for a period of not less than three years nor more than
7 five years if, during a ten-year period, the person is convicted of
8 or is found to have committed subsequent violations of out-of-service
9 orders, in separate incidents, while transporting hazardous
10 materials, or while operating motor vehicles designed to transport
11 sixteen or more passengers, including the driver.

12 (7) A person is disqualified from driving a commercial motor
13 vehicle if a report has been received by the department under RCW
14 46.25.125 that the person has received a verified positive drug test
15 or positive alcohol confirmation test as part of the testing program
16 conducted under 49 C.F.R. 40. A disqualification under this
17 subsection remains in effect until the person undergoes a drug and
18 alcohol assessment by a substance abuse professional meeting the
19 requirements of 49 C.F.R. 40, and the person presents evidence of
20 satisfactory participation in or successful completion of a drug or
21 alcohol treatment and/or education program as recommended by the
22 substance abuse professional, and until the person has met the
23 requirements of RCW 46.25.100. The substance abuse professional shall
24 forward a diagnostic evaluation and treatment recommendation to the
25 department of licensing for use in determining the person's
26 eligibility for driving a commercial motor vehicle. Persons who are
27 disqualified under this subsection more than twice in a five-year
28 period are disqualified for life.

29 (8)(a) A person is disqualified from driving a commercial motor
30 vehicle for the period of time specified in (b) of this subsection if
31 he or she is convicted of or is found to have committed one of the
32 following six offenses at a railroad-highway grade crossing while
33 operating a commercial motor vehicle in violation of a federal,
34 state, or local law or regulation:

35 (i) For drivers who are not required to always stop, failing to
36 slow down and check that the tracks are clear of an approaching train
37 or other on-track equipment;

38 (ii) For drivers who are not required to always stop, failing to
39 stop before reaching the crossing, if the tracks are not clear;

1 (iii) For drivers who are always required to stop, failing to
2 stop before driving onto the crossing;

3 (iv) For all drivers, failing to have sufficient space to drive
4 completely through the crossing without stopping;

5 (v) For all drivers, failing to obey a traffic control device or
6 the directions of an enforcement officer at the crossing;

7 (vi) For all drivers, failing to negotiate a crossing because of
8 insufficient undercarriage clearance.

9 (b) A person is disqualified from driving a commercial motor
10 vehicle for a period of:

11 (i) Not less than sixty days if the driver is convicted of or is
12 found to have committed a first violation of a railroad-highway grade
13 crossing violation;

14 (ii) Not less than one hundred twenty days if the driver is
15 convicted of or is found to have committed a second railroad-highway
16 grade crossing violation in separate incidents within a three-year
17 period;

18 (iii) Not less than one year if the driver is convicted of or is
19 found to have committed a third or subsequent railroad-highway grade
20 crossing violation in separate incidents within a three-year period.

21 (9) A person is disqualified from driving a commercial motor
22 vehicle for not more than one year if a report has been received by
23 the department from the federal motor carrier safety administration
24 that the person's driving has been determined to constitute an
25 imminent hazard as defined by 49 C.F.R. 383.5. A person who is
26 simultaneously disqualified from driving a commercial motor vehicle
27 under this subsection and under other provisions of this chapter, or
28 under 49 C.F.R. 383.52, shall serve those disqualification periods
29 concurrently.

30 (10) Within ten days after suspending, revoking, or canceling a
31 commercial driver's license or disqualifying a driver from operating
32 a commercial motor vehicle, the department shall update its records
33 to reflect that action.

34 **Sec. 6.** RCW 47.32.140 and 1983 c 19 s 2 are each amended to read
35 as follows:

36 Each railroad company shall keep its right-of-way clear of all
37 brush and timber in the vicinity of a railroad grade crossing with a
38 state highway for a distance of one hundred feet from the crossing in
39 such manner as to permit a person upon the highway to obtain an

1 unobstructed view in both directions of an approaching train or other
2 on-track equipment. The department shall cause brush and timber to be
3 cleared from the right-of-way of a state highway in the proximity of
4 a railroad grade crossing for a distance of one hundred feet from the
5 crossing in such manner as to permit a person upon the highway to
6 obtain an unobstructed view in both directions of an approaching
7 train or other on-track equipment. It is unlawful to erect or
8 maintain a sign, signboard, or billboard, except official highway
9 signs and traffic devices and railroad warning or operating signs,
10 outside the corporate limits of any city or town within a distance of
11 one hundred feet from the point of intersection of the highway and
12 railroad grade crossing unless, after thirty days notice to the
13 Washington utilities and transportation commission and the railroad
14 operating the crossing, the department determines that it does not
15 obscure the sight distance of a person operating a vehicle or train
16 approaching the grade crossing.

17 When a person who has erected or who maintains such a sign,
18 signboard, or billboard or when a railroad company permits such brush
19 or timber in the vicinity of a railroad grade crossing with a state
20 highway or permits the surface of a grade crossing to become
21 inconvenient or dangerous for passage and who has the duty to
22 maintain it, fails, neglects, or refuses to remove or cause to be
23 removed such brush, timber, sign, signboard, or billboard, or
24 maintain the surface of the crossing, the utilities and
25 transportation commission upon complaint of the department or upon
26 complaint of any party interested, or upon its own motion, shall
27 enter upon a hearing in the manner now provided for hearings with
28 respect to railroad-highway grade crossings, and make and enforce
29 proper orders for the removal of the brush, timber, sign, signboard
30 or billboard, or maintenance of the crossing. However, nothing in
31 this section prevents the posting or maintaining of any legal notice
32 or sign, signal, or traffic device required or permitted to be posted
33 or maintained, or the placing and maintaining thereon of highway or
34 road signs or traffic devices giving directions or distances for the
35 information of the public when the signs are approved by the
36 department. The department shall inspect highway grade crossings and
37 make complaint of the violation of any provisions of this section.

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