

RCW 81.48.040 Procedure to fix or change speed limits. (1)

After due investigation, the commission shall make and issue an order fixing and regulating the speed of railway trains within the limits of cities and towns other than first-class cities. Except to the extent preempted by federal law, the speed limit to be fixed by the commission shall be discretionary, and it may fix different rates of speed for different cities and towns, which rates of speed shall be commensurate with the hazard presented and the practical operation of the trains. Except to the extent preempted by federal law, the commission shall also fix and regulate the speed of railway trains at grade crossings as defined in RCW 81.53.010 where such grade crossings are outside the limits of cities and towns when in the judgment of the commission the public safety so requires; such speed limit to be fixed shall be discretionary with the commission and may be different for different grade crossings and shall be commensurate with the hazard presented and the practical operation of trains. The commission shall have the right from time to time, as conditions change, to either increase or decrease speed limits established under RCW 81.48.030 and 81.48.040.

(2) Any speed limit that the commission fixed by order prior to June 7, 2006, but without making a finding permitted under P.L. 91-458, Sec. 205 (49 U.S.C. Sec. 20106), has no force or effect.

(3) Before increasing operating speeds, the railroad company, government agency, or jurisdiction that owns or operates the railroad must provide a sixty-day written notice to the commission and to either the governing body of the city or town within which the limit applies or the road authority that has control over the grade crossing at which the limit applies. In the notice, the railroad company, government agency, or jurisdiction must provide the existing timetable speed limits and new passenger and freight speed limits, the milepost limits where the speed increase is to occur, and the federal track class standard to which the track will be maintained. At the end of sixty days, the railroad company, government agency, or jurisdiction may raise the speed limit unless the commission staff, after investigation, finds that a lower limit is necessary to address local conditions consistent with P.L. 91-458, Sec. 205 (49 U.S.C. Sec. 20106). In the event of such a finding by the staff that is not agreed to by the railroad company, government agency, or jurisdiction, the matter shall be scheduled for a hearing before the commission. A railroad company, government agency, or jurisdiction may provide no more than five notices in any sixty-day period without the consent of the commission. The railroad company, government agency, or jurisdiction and the commission may extend the sixty-day period by mutual consent. [2006 c 70 § 2; 1994 c 81 § 84; 1971 ex.s. c 143 § 2; 1961 c 14 § 81.48.040. Prior: 1943 c 228 § 2; Rem. Supp. 1943 § 10547-2.]