

2 **ESHB 2647** - S AMD - 275  
3 By Senator Fairley

4 ADOPTED 3/7/00

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

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

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

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

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

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

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

32 NEW SECTION. **Sec. 2.** PERMANENT RULES. (1) The director of the  
33 department of labor and industries shall adopt permanent rules that  
34 take effect no later than March 1, 2001, revising any safety standards  
35 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 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, with respect to the utilities and  
11 transportation commission rules, update employment qualifications for  
12 flaggers.

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

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

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

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

35 No person shall willfully fail or refuse to comply with any lawful  
36 order or direction of any duly authorized (~~flagman~~) flagger or any

1 police officer or fire fighter invested by law with authority to  
2 direct, control, or regulate traffic.

3 A violation of this section is a misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the approach of a train, and shall not proceed until the crossing can  
2 be made safely.

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

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

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

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

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

21 NEW SECTION. **Sec. 11.** Captions used in this act are not any part  
22 of the law."

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27 On page 1, line 1 of the title, after "flaggers;" strike the  
28 remainder of the title and insert "amending RCW 9.91.020, 46.61.015,  
29 46.61.190, 46.61.340, 46.61.355, and 47.36.220; adding a new section to  
30 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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