

---

SENATE BILL 5721

---

State of Washington                      63rd Legislature                      2013 Regular Session

By Senators Fain, Rivers, Roach, Hasegawa, Dammeier, Hobbs, and Billig

Read first time 02/12/13. Referred to Committee on Commerce & Labor.

1            AN ACT Relating to hours of service for certain railroad employees;  
2 adding a new chapter to Title 49 RCW; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.**    The legislature finds that railroad  
5 yardmasters are required to work excessively long hours by railroad  
6 carriers. Yardmasters are responsible for, among other things,  
7 supervising the breaking up and putting together of train cars in rail  
8 yards and overseeing the work of switching crews. Requiring  
9 yardmasters to work sixteen-hour shifts without adequate rest between  
10 shifts poses significant health and safety risks to both workers and  
11 the public. The legislature declares that this act regulating the  
12 hours of service for yardmasters constitutes an exercise of the state's  
13 police power to protect and promote the health, safety, and welfare of  
14 the residents of the state.

15            NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
16 throughout this chapter unless the context clearly requires otherwise.

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

1 (2) "Day" means a period of twenty-four consecutive hours.

2 (3) "Duty assignment" is the employee's headquarters or the  
3 location where the employee is expected to begin performing service for  
4 the railroad.

5 (4) "Employee" means an individual employed by a railroad carrier  
6 or a contractor or subcontractor of a railroad carrier to perform the  
7 duties of a yardmaster. Such duties include: Routing and directing  
8 trains in a rail yard; operating switching equipment in a rail yard  
9 tower; monitoring switching orders and schedules to determine the time  
10 trains arrive and depart; supervising the breaking up and putting  
11 together of train cars according to a schedule; receiving and  
12 transmitting switching orders to and from yard crews; directing,  
13 overseeing, monitoring, and supervising switching crews and road  
14 switcher assignments; and arranging for defective cars to be removed  
15 from a train for repair.

16 (5) "Final release" is the time that an employee is released from  
17 all activities at the behest of the railroad and begins his or her  
18 statutory off-duty period.

19 (6) "Railroad carrier" means a carrier of persons or property upon  
20 vehicles, other than streetcars, operated upon stationary rails, the  
21 route of which is principally outside incorporated cities and towns.  
22 "Railroad carrier" includes the officers and agents of the railroad  
23 carrier.

24 NEW SECTION. **Sec. 3.** (1) When scheduling an employee for duty,  
25 the following rules apply:

26 (a) An employee may not remain on duty, go on duty, or be in any  
27 other mandatory service for a railroad carrier in excess of two hundred  
28 seventy-six hours per calendar month.

29 (b) An employee may not remain or go on duty for a period in excess  
30 of twelve consecutive hours.

31 (c) An employee may not remain or go on duty unless that employee  
32 has had at least ten consecutive hours off duty during the prior  
33 twenty-four hours.

34 (d) An employee may not remain or go on duty after the employee has  
35 initiated an on-duty period each day for six consecutive days, unless  
36 the employee has had at least forty-eight consecutive hours off duty at  
37 the employee's duty assignment during which time the employee is

1 unavailable for any service for any railroad carrier. Any employee who  
2 works a seventh consecutive day must have at least seventy-two  
3 consecutive hours off duty at the employee's duty assignment during  
4 which time the employee is unavailable for any service for any railroad  
5 carrier.

6 (e) An employee may not remain or go on duty during any time when  
7 the employee is prohibited by the federal hours of service law, 49  
8 U.S.C. Sec. 21101 et seq., from going or remaining on duty.

9 (f) At the conclusion of an employee's on-duty period, the employee  
10 must remain unavailable for any service for any railroad carrier for a  
11 period of at least ten hours.

12 (2) In determining the time an employee is on or off duty, the  
13 following rules apply:

14 (a) Time on duty begins when the employee reports for duty and ends  
15 when the employee is finally released from duty.

16 (b) Time the employee performs the duties listed in section 2(4) of  
17 this act is time on duty.

18 (c) Time the employee performs the duties of a dispatching service  
19 employee, signal employee, or train employee, as those terms are  
20 defined in 49 U.S.C. Sec. 21101, is time on duty.

21 NEW SECTION. **Sec. 4.** (1) A railroad carrier may not communicate  
22 with an employee by telephone, by pager, or in any other manner that  
23 could reasonably be expected to disrupt the employee's rest during the  
24 employee's minimum off-duty periods required by section 3 of this act.

25 (2) This section does not prohibit communication necessary to  
26 notify an employee of an emergency situation, as defined by the  
27 commission.

28 NEW SECTION. **Sec. 5.** (1) This chapter does not apply to a  
29 situation involving: (a) A casualty; (b) an unavoidable accident; (c)  
30 an act of God; or (d) a delay resulting from a cause unknown and  
31 unforeseeable to a railroad carrier or its officer or agent in charge  
32 of the employee when the employee left a terminal.

33 (2) The commission may exempt a class II or class III railroad  
34 carrier having not more than fifteen employees from the limitations  
35 imposed by this chapter. The commission may allow the exemption after  
36 a full hearing, for good cause shown, and on deciding that the

1 exemption is in the public interest and will not affect safety  
2 adversely. The exemption must be for a specific period of time and is  
3 subject to review at least annually. The exemption may not authorize  
4 a railroad carrier to require or allow its employees to be on duty more  
5 than a total of sixteen hours in a twenty-four hour period.

6 NEW SECTION. **Sec. 6.** The number of hours established by this  
7 chapter that an employee may be required or allowed to be on duty is  
8 the maximum number of hours consistent with safety. Shorter hours of  
9 service and time on duty of an employee are proper subjects for  
10 collective bargaining between a railroad carrier and its employees.

11 NEW SECTION. **Sec. 7.** (1) If the commission determines that a  
12 railroad carrier has violated a provision of this chapter, it may  
13 assess the railroad carrier a civil penalty.

14 (a) For class II and class III railroad carriers, the commission  
15 may assess a civil penalty of not less than five hundred dollars and  
16 not more than twenty-five thousand dollars. In cases where a grossly  
17 negligent violation or a pattern of repeated violations has caused an  
18 imminent hazard of death or injury to individuals, or has caused death  
19 or injury, the maximum penalty is one hundred thousand dollars.

20 (b) For class I railroad carriers, the commission may assess a  
21 civil penalty of not less than ten thousand dollars and not more than  
22 fifty thousand dollars. In cases where a grossly negligent violation  
23 or a pattern of repeated violations has caused an imminent hazard of  
24 death or injury to individuals, or has caused death or injury, the  
25 maximum penalty is one million dollars.

26 (2) A separate violation occurs each day a facility is not in  
27 compliance with the requirements of this chapter.

28 NEW SECTION. **Sec. 8.** The commission may adopt rules to administer  
29 this chapter.

30 NEW SECTION. **Sec. 9.** Sections 2 through 8 of this act constitute  
31 a new chapter in Title 49 RCW.

32 NEW SECTION. **Sec. 10.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the  
2 remainder of the act or the application of the provision to other  
3 persons or circumstances is not affected.

--- END ---