S-1020.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5697**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Any person, corporation, company, or officer of the court operating any railroad, railway, or any part of any railroad or railway, in the state of Washington, and engaged, as a common carrier, in the transportation of freight or passengers, shall operate all trains and switching assignments over its road with crews consisting of no less than two qualified crew members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**--- END ---**