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**SUBSTITUTE HOUSE BILL 2439**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Transportation (originally sponsored by Representatives Kilduff, Leavitt, Gregerson, and Pollet)

AN ACT Relating to making rail investigation and inspection information available to certain state and local governmental entities; and amending RCW 81.04.540.

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

**Sec.**  RCW 81.04.540 and 2007 c 234 s 2 are each amended to read as follows:

(1) The commission shall cooperate with the federal government and the United States department of transportation, or its successor, or any other commission or agency delegated or authorized to regulate interstate or foreign commerce by common carriers, to the end that the transportation of property and passengers by common carriers in interstate or foreign commerce into and through the state of Washington may be regulated and that the laws of the United States and the state of Washington are enforced and administered cooperatively in the public interest.

(2) In addition to its authority concerning interstate commerce under this title, the commission may regulate common carriers in interstate commerce within the state under the authority of and in accordance with any act of congress that vests in or delegates to the commission such authority as an agency of the United States government or under an agreement with the United States department of transportation, or its successor, or any other commission or agency delegated or authorized to regulate interstate or foreign commerce by common carriers.

(3)(a) For the purpose of participating with the United States department of transportation in investigation and inspection activities necessary to enforce federal railroad safety regulations, the commission has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the state.

(b)(i) The commission shall share information collected through the rail investigation and inspection activities specified in (a) of this subsection, as well as rail investigation and inspection activities conducted by federal railroad administration inspectors in the state to the extent that sharing this information is not prohibited by federal law, federal regulation, or the federal railroad administration, with the Washington state department of transportation and first-class cities that request to participate in the commission's crossing safety inspection program under chapter 81.53 RCW as necessary to assist the Washington state department of transportation and first-class cities in the performance of the functions for which they are responsible under Washington state law, except as provided in (b)(ii) and (iii) of this subsection.

(ii)(A) Except for as specified in (b)(ii)(B) of this subsection, information collected through rail investigation activities is not subject to mandatory disclosure to the Washington state department of transportation and first-class cities as specified in (b)(i) of this subsection until the investigation is completed and all related court and administrative proceedings that require the commission to treat this information as confidential are complete.

(B) Over the course of conducting rail investigation activities, if the commission determines that rail equipment is unsafe, information relevant to this finding must be provided to the Washington state department of transportation or any first-class city that owns the equipment determined to be unsafe, unless an exception in (b)(iii) or (iv) of this subsection is applicable.

(iii) When federal law or regulation requires the commission to treat information collected through rail investigation or inspection activities specified in (a) of this subsection as confidential, this confidential information is not subject to the mandatory disclosure requirements of this subsection (3)(b).

(iv) Information obtained that is collected through the rail investigation and inspection activities specified in (a) of this subsection that could create a substantial risk of a threat to public safety if disclosed by the commission is not subject to the mandatory disclosure requirements of this subsection (3)(b).

(v) The commission shall explore options for the development of an information technology application to facilitate compliance with the requirements of this subsection (3)(b) and provide a report to the transportation committees of the legislature summarizing these options and estimates of their associated costs by December 1, 2020.

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