

HB 1841 - S AMD

By Senator Kuderer

ADOPTED AND ENGROSSED 3/6/20

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that adequate
4 personnel are critical to ensuring railroad operational safety,
5 security, and in the event of a hazardous material incident, support
6 of first responder activities, as well as in the interest of the
7 safety of passengers and the general public. Therefore, the
8 legislature declares that this act regulating minimum railroad
9 employee staffing to reduce risk to localities constitutes an
10 exercise of the state's police power to protect and promote the
11 health, safety, security, and welfare of the residents of the state
12 by reducing the risk exposure to local communities and protecting
13 environmentally sensitive and/or pristine lands and waterways.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 81.40
15 RCW to read as follows:

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

18 (1) "Class I" means a railroad carrier designated as a class I
19 railroad by the United States surface transportation board and its
20 subsidiaries or is owned and operated by entities whose combined
21 total railroad operational ownership and controlling interest meets
22 the United States surface transportation board designation as a class
23 I railroad carrier.

24 (2) "Class III" means a railroad carrier designated as a class
25 III railroad by the United States surface transportation board.

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

28 (4) "Crewmember" means a railroad operating craft employee who
29 has been trained and meets the requirements and qualifications as
30 determined by the federal railroad administration for a railroad
31 operating service employee.

1 (5) "Other railroad carrier" means a railroad carrier that is not
2 a class I carrier.

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

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.40
9 RCW to read as follows:

10 (1) Except as provided in section 4 of this act, any person,
11 corporation, company, or officer of the court operating any railroad,
12 railway, or any part of any railroad or railway, in the state of
13 Washington, and engaged, as a common carrier, in the transportation
14 of freight or passengers, shall operate and manage all trains and
15 switching assignments over its road with crews consisting of no less
16 than two crewmembers.

17 (2) Class III railroad carriers operating on their roads while at
18 a speed of twenty-five miles per hour or less are exempt from
19 subsection (1) of this section.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.40
21 RCW to read as follows:

22 (1) On the effective date of this section, automatic waivers to
23 the train crew size requirement in section 3 of this act shall be
24 granted to other railroad carriers.

25 (2) Such automatic waivers will remain in effect until ordered by
26 the commission.

27 (3) The commission must act to ensure that railroad carriers
28 supplement trains entering Washington state with the requisite number
29 of train crewmembers pursuant to this act, at the closest regular
30 station stop or crew change point located in proximity to and
31 adjacent with either side of the state border, having been
32 established and in use by the carrier on January 1, 2020.

33 (4) (a) The commission may order railroad carriers to increase the
34 number of railroad employees in areas of increased risk to the
35 public, passengers, railroad employees, or the environment, or on
36 specific trains, routes, or to switch assignments on their road with
37 additional numbers of crewmembers, and may direct the placement of
38 additional crewmembers, if it is determined that such an increase in

1 staffing or the placement of additional crewmembers is necessary to
2 protect the safety, health, and welfare of the public, passengers, or
3 railroad employees, to prevent harm to the environment or to address
4 site specific safety or security hazards.

5 (b) In issuing such an order, the commission may consider
6 relevant factors including, but not limited to, the volatility of the
7 commodities being transported, train volume, risk mitigation
8 measures, environmental and operating factors that impact
9 vulnerabilities, risk exposure to passengers, the general public,
10 railroad employees, communities, or the environment along the train
11 route, security risks including sabotage or terrorism threat levels,
12 a railroad carrier's prior history of accidents, compliance
13 violations, operating practices, infrastructure investments including
14 track and equipment maintenance issues or lack thereof, employee
15 training and support programs, first responder access, and any other
16 relevant factors in the interest of safety.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 81.40
18 RCW to read as follows:

19 (1) Pursuant to the enforcement of the provisions of this act,
20 the highest priority and paramount obligation of the commission must
21 be its duty to ensure the safety and protection of the public,
22 passengers, railroad employees, communities, environment, and areas
23 of cultural significance in the furtherance of the highest degree of
24 safety in railroad transportation.

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

30 (3) Any person, corporation, company, or officer of the court
31 operating any railroad, or part of any railroad or railway within the
32 state of Washington, and engaged as a common carrier, in the
33 transportation of freight or passengers, who violates any of the
34 provisions of section 3 of this act may be subject to fines of not
35 less than one thousand dollars and not more than one hundred thousand
36 dollars for each offense, as determined by the commission through
37 order.

38 (4) The commission may impose fines exceeding the provisions in
39 subsection (3) of this section when a serious injury or fatality

1 occurs involving a carrier's violation of this act. All relevant
2 factors may be considered including, but not limited to, the class,
3 assets, profitability, and operational safety record of the carrier,
4 as well as deterrence in ascertaining an appropriate punitive
5 penalty, as determined by the commission through order.

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

7 NEW SECTION. **Sec. 6.** The following acts or parts of acts are
8 each repealed:

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

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

13 NEW SECTION. **Sec. 7.** If any provision of this act or its
14 application to any person, entity, or circumstance is held invalid,
15 the remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of
19 the state government and its existing public institutions, and takes
20 effect immediately."

HB 1841 - S AMD
By Senator Kuderer

ADOPTED 3/6/20

21 On page 1, line 2 of the title, after "trains;" strike the
22 remainder of the title and insert "adding new sections to chapter
23 81.40 RCW; creating a new section; repealing RCW 81.40.010 and
24 81.40.035; prescribing penalties; and declaring an emergency."

--- END ---