

SENATE BILL REPORT

SB 5878

As of February 21, 2019

Title: An act relating to hours of service for certain railroad employees.

Brief Description: Concerning hours of service for certain railroad employees.

Sponsors: Senators Conway, Keiser, Hasegawa, Wilson, C., Zeiger, Fortunato, Kuderer, Hunt, Takko, Nguyen, Carlyle, Darneille, Lias, Das, Palumbo, Saldaña, McCoy and Van De Wege.

Brief History:

Committee Activity: Labor & Commerce: 2/21/19.

Brief Summary of Bill

- Requires railroad carriers to observe rules limiting the hours of service for individuals performing yardmaster duties.
- Prohibits railroad carriers from communicating with an individual who performs yardmaster duties in a way that disrupts the individual's rest during an off-duty period.

SENATE COMMITTEE ON LABOR & COMMERCE

Staff: Jarrett Sacks (786-7448)

Background: The federal Hours of Service Act (Act) prescribes the maximum hours and minimum rest periods for train employees, signal employees, and dispatching service employees employed by railroad carriers. A train employee is an individual engaged in or connected with the movement of a train. A signal employee is an individual who is engaged in installing, repairing, or maintaining signal systems. A dispatching service employee is an operator, train dispatcher, or other train employee who dispatches orders affecting train movement. The secretary of transportation may exempt railroad carriers with 15 or fewer employees.

Federal law requires that laws, regulations, and orders relating to railroad safety and security shall be uniform to the extent possible. Therefore, federal law may preempt a state law relating to railroad safety. However, a state may adopt a law related to railroad safety until the United States secretary of transportation issues a rule or order covering the same subject

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matter of the state law. A state may also adopt or continue to enforce an additional or more stringent law under certain circumstances.

Under federal law, there are three classes of railroad carriers: Class I, II, and III. The classes are determined by railroad carrier's annual operating revenue. Class I railroad carriers have an annual operating revenue of \$448 million or more. Class II railroad carriers have an annual operating revenue of less than \$250 million but more than \$36 million. Class III railroad carriers have an annual operating revenue of \$36 million or less.

Summary of Bill: Railroad carriers must observe certain requirements regarding scheduling a yardmaster or an individual performing yardmaster duties (employee). An employee:

- may not be on duty for the railroad carrier in excess of 276 hours per month;
- may not remain on duty for an excess of 12 hours;
- may not remain on, or go on duty unless that employee has had ten hours of off duty in the previous 24 hours;
- may not go on duty after they have worked for six consecutive days unless the employee has had at least 48 consecutive off-duty hours—if an employee works seven consecutive days, then the employee must have 72 consecutive off-duty hours;
- may not go on-duty when prohibited by the act; and
- must remain unavailable for any railroad carrier for at least ten hours following an on-duty period.

An employee is on-duty when they are performing the duties of a yardmaster, signal employee, dispatching service employee, or train employee. While an employee is on their minimum required off-duty period, a railroad carrier may not communicate with the employee in any manner that could reasonably be expected to disrupt the employee's rest.

A railroad carrier is exempt from the requirements relating to hours of service and the prohibition on certain communications in emergency situations involving a casualty, an unavoidable accident, an act of God, or a delay caused by something unknown and unforeseeable to the railroad carrier. Additionally, the Utilities and Transportation Commission (UTC) may exempt Class II and Class III railroad carriers from these requirements, so long as the exempted carriers are not allowed to work their employees more than 16 hours in a 24-hour period.

If the UTC determines a railroad carrier has violated any of these requirements, the UTC may impose:

- a civil penalty between \$10,000 and \$50,000 for a Class I carrier, but if the UTC finds that the Class I carrier was grossly negligent or a pattern of violations caused an imminent hazard of death or injury, the UTC may impose a penalty of up to \$1 million; and
- a civil penalty between \$500 and \$25,000 for a Class II or Class III carrier, but if the UTC finds that the Class II or Class III carrier was grossly negligent or a pattern of violations caused an imminent hazard of death or injury, the UTC may impose a penalty of up to \$100,000.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: The bill is important for public safety. It imposes the federal hours of work standards to yardmasters. Yardmasters are working too many hours and it is endangering people's safety. Public safety should not be subject to collective bargaining.

CON: The bill conflicts with federal law and it undermines the collective bargaining process. Railroads are already safe. The bill would put Washington on a regulatory island.

Persons Testifying: PRO: Senator Steve Conway, Prime Sponsor; Shahrain C. Allen, Brotherhood of Locomotive Engineers and Trainmen; Herb Krohn, Washington State Legislative Director, SMART-TD, United Transportation Union; Mike Elliott, Rail Safety Advocate.

CON: Johan Hellman, BNSF Railway; Tom Parker, Union Pacific Railroad.

Persons Signed In To Testify But Not Testifying: No one.