**1449-S.E AMS CONW S3100.2 - NOT FOR FLOOR USE**

**ESHB 1449** - S AMD TO S AMD (S-3087.1/15) **452**

By Senators Conway, Keiser, Hasegawa

**NOT ADOPTED 4/15/2015**

On page 29, after line 19 of the amendment, insert the following:

"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" means 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.

(3) "Hazardous material train" means any train:

(a) Carrying twenty or more car loads of a class 2 flammable gas or class 3 flammable liquid as defined by the United States department of transportation in 49 C.F.R. Part 173 as of the effective date of this section; or

(b) Containing 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 24 of this act, the following minimum crew requirements apply:

(1) 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.

(2) 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)(a) Class II and class III carriers transporting fewer than twenty loaded hazardous material cars on trains operating on their road while at a speed of twenty-five miles per hour or less are exempt from the additional train crew requirements specified in section 23 of this act.

(b) 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 23 of this act constitutes a separate offense. However, section 23 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 23 of this act 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."

Renumber the remaining section consecutively and correct any internal references accordingly.

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On page 29, line 31 of the title amendment, after "81.44 RCW;" strike "and creating new sections." and insert "adding new sections to chapter 81.40 RCW; creating new sections; and repealing RCW 81.40.010 and 81.40.035."

EFFECT: Establishes minimum crew size requirements for railroad carriers transporting hazardous materials.