

# HOUSE BILL REPORT

## HB 1809

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**As Reported by House Committee On:**  
Labor

**Title:** An act relating to establishing minimum crew size on certain trains.

**Brief Description:** Establishing minimum crew size on certain trains.

**Sponsors:** Representatives Haler, Blake, Orcutt, S. Hunt, Harris, Takko, Walsh, Stanford, Muri, Moscoso, Holy, Pollet, Magendanz, Ryu, McCaslin, Appleton, Klippert, Fey, Johnson, Sells, Stokesbary, Vick, Young, Zeiger, Ormsby, Kochmar, Dunshee, Hayes, Farrell, Reykdal, Van De Wege, Fitzgibbon, Goodman and Harmsworth.

**Brief History:**

**Committee Activity:**

Labor: 2/9/15, 2/17/15 [DPS].

**Brief Summary of Substitute Bill**

- Establishes minimum crew size requirements for freight and passenger trains and trains carrying hazardous materials.
- Creates exceptions to the requirements and increases penalties for violations.

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### HOUSE COMMITTEE ON LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Sells, Chair; Gregerson, Vice Chair; Moeller and Ormsby.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Manweller, Ranking Minority Member; G. Hunt, Assistant Ranking Minority Member; McCabe.

**Staff:** Trudes Tango (786-7384).

**Background:**

State statutes addressing crew size on freight and passenger trains explicitly state that no law or agency rule may prevent a railroad from staffing its freight or passenger trains in

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accordance with collective bargaining agreements or any national settlement regarding train crew size. For passenger trains, if there is no collective bargaining agreement or national settlement, a railroad operating with less than two crew members is subject to a safety review by the Utilities and Transportation Commission (Commission).

A violation of the crew size provision is a misdemeanor, and upon conviction the railroad carrier is subject to a fine of at least \$100, but not more than \$500, for each offense. Each train run in violation of the crew size provision is a separate offense. The penalty does not apply in the case of disability of a crew member while out on the road between division terminals, wrecking trains, or to any line, or part of line, where not more than two trains are run in each 24 hours.

Federal law provides that laws, regulations, and orders related to railroad safety must be nationally uniform to the extent practicable. A state may enact a law related to safety unless the United States Secretary of Transportation adopts a rule or issues an order covering the subject matter. A state may adopt a more stringent law when it: (1) is necessary to eliminate or reduce an essentially local safety or security hazard; (2) is not incompatible with a federal law; and (3) does not unreasonably burden interstate commerce.

In 1999 a Seventh Circuit Court of Appeals case addressed whether a Wisconsin crew size statute was preempted. The court held that the state law was preempted with regard to certain types of train operations because there was a federal order on the subject matter. However, the court held that the state statute was not preempted with regard to crew size when it came to other operations.

The Hazardous Materials Division of the Federal Railroad Administration oversees the transportation of hazardous materials, such as petroleum, chemicals, and nuclear products, across the country. Federal regulations define what materials are hazardous and specify such things as proper placards for trains carrying hazardous materials and train car configuration.

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### **Summary of Substitute Bill:**

Findings are made regarding the safety risks involved with transporting hazardous materials within Washington's unique and widely varying geographical terrain. The Legislature declares it is exercising its police powers to reduce the risk of exposure to local communities and protect environmentally sensitive lands and waterways.

The following minimum crew size requirements are established:

- Common carriers transporting freight or passengers must operate with no less than two crew members.
- Railroad carriers operating hazardous material trains must have no less than three crew members. One member must be assigned to the rear of the train, within rolling equipment, situated to safely observe and monitor the train's content and movement.
- Railroad carriers operating hazardous material trains consisting of 51 or more cars of any combination of hazardous materials, must have no less than four crew members.

Two members must be assigned to the rear of the train, within rolling equipment, situated to safely observe and monitor the train's contents and movements.

The following exceptions apply:

- Trains transporting hazardous materials a distance of five miles or less may operate with the required number of crew positions on the lead locomotive.
- Class III carriers not transporting hazardous materials may be exempted by the Commission from the minimum crew size requirements.
- Class II and Class III carriers transporting fewer than 20 loaded hazardous material cars and traveling at 25 miles per hour or less are exempt from the additional crew size requirements.
- The Commission may order Class I or II carriers to exceed the minimum crew size requirements and comply with other requirements if it determines that an increase in crew size is necessary to protect the public, employees, the environment, and to address local safety and security hazards.

A violation of the crew size provision results in a civil penalty, rather than a misdemeanor, and the penalty is increased to \$1,000 at a minimum and up to \$100,000 maximum, for each offense. The exception to the penalty for any line where not more than two trains are run in each 24 hours is removed.

Definitions for "hazardous material" and other terms are provided.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill: (1) amends definitions and specifies that a hazardous material train includes any high-hazard flammable train as defined by federal law; (2) removes language making it a misdemeanor for violating the crew size provisions and turns the criminal fines into civil fines; and (3) exempts Class II and Class III trains traveling 25 miles per hour or less and transporting fewer than 20 loaded hazardous material cars.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on July 1, 2015.

#### **Staff Summary of Public Testimony:**

(In support) Trains carry hazardous materials through highly populated areas. One-person crews are not safe. That one person is the first responder and the engineer and is also responsible for de-coupling the train when there's an accident. Having a crew member on the back of a train will help prevent derailments and more crew will allow uncoupling rail cars in an emergency. Additional crew requirements will affect less than 10 percent of trains. Safety

should not be a subject of negotiations. This is not preempted by federal law because states may regulate on issues where the federal government has not substantially subsumed an area.

(In support with amendment(s)) There needs to be technical changes to the bill.

(Opposed) Rail crew size is preempted by federal authority. The federal administration is currently reviewing its crew size regulations. These issues are best done on a national level to avoid patchwork regulations from state to state. Hazardous trains already have two crew members.

**Persons Testifying:** (In support) Representative Haler, prime sponsor; Mike Elliot, Brotherhood of Locomotive Engineers and Trainmen; Susan Sunshine; Herb Krohn, SMART- Transportation Division Union; Jay Havner, Seattle Fire Department; Gary Howell, United Transportation Union; Patricia Holm, League of Women Voters; and George Thornton.

(In support with amendment(s)) Jason Lewis, Washington Utilities and Transportation Commission.

(Opposed) Bill Stauffacher, Burlington Northern Santa Fe Railroad; and Tom Parker, Union Pacific Railroad.

**Persons Signed In To Testify But Not Testifying:** None.