

ESHB 1105 - S AMD 230

By Senator King

ADOPTED 04/10/2017

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

3 "Sec. 1. RCW 81.61.010 and 1977 ex.s. c 2 s 1 are each amended
4 to read as follows:

5 Unless the context clearly requires otherwise(~~(, the term)~~):

6 (1) "Contract crew transportation vehicle," as used in this
7 chapter, means every motor vehicle, designed to transport fifteen or
8 fewer passengers, including the driver, that is owned, leased,
9 operated, or maintained by a person contracting with a railroad
10 company or its agents, contractors, subcontractors, vendors,
11 subvendors, secondary vendors, or subcarriers, and used primarily to
12 provide railroad crew transportation.

13 (2) "Passenger-carrying vehicle," as used in this chapter, means
14 those buses ((and)), vans, trucks, and cars owned, operated, and
15 maintained by a railroad company ((which)) and primarily used to
16 transport((s)) railroad employees in other than the cab of such
17 vehicle and designed primarily for operation on roads which may or
18 may not be equipped with retractable flanged wheels for operation on
19 railroad tracks.

20 NEW SECTION. Sec. 2. A new section is added to chapter 81.61
21 RCW to read as follows:

22 (1) The commission must regulate persons providing contract
23 railroad crew transportation and every contract crew transportation
24 vehicle with respect to driver qualifications, equipment safety,
25 safety of operations, hours of service by drivers, passenger safety,
26 drug testing requirements, and record retention. This regulation must
27 be consistent with the manner in which the commission regulates these
28 areas under chapter 81.70 RCW and the manner in which it regulates
29 safety under chapter 81.68 RCW, as well as with the approach used in
30 federal motor carrier safety regulations under Title 49 of the code
31 of federal regulations. In the event of a conflict between this

1 chapter and the laws referenced in this subsection, this chapter
2 governs.

3 (2) The commission must adopt rules under chapter 34.05 RCW as
4 necessary to carry out this chapter regarding the operation of
5 contract crew transportation vehicles.

6 (3)(a) The commission must require insurance coverage for each
7 contract crew transportation vehicle that satisfies the following
8 minimum amounts:

9 (i) Five million dollars combined single limit coverage for
10 bodily injury and property damage liability coverage; and

11 (ii) Uninsured and underinsured motorist coverage of one million
12 dollars.

13 (b) If a third party contracts with the person operating the
14 vehicle on behalf of the railroad company or its agents, contractors,
15 subcontractors, vendors, subvendors, secondary vendors, or
16 subcarriers to transport railroad crew, the insurance requirements
17 may be satisfied by either the third party or the person operating
18 the vehicle, so long as the person operating the vehicle names the
19 third party as an additional insured or named insured. The railroad
20 company may also satisfy the insurance requirements. Proof of
21 coverage must be provided to the commission by the person contracting
22 with the railroad company.

23 (4) The commission must require the form and posting of adequate
24 notices in a conspicuous location in all contract crew transportation
25 vehicles to advise railroad employee passengers of their rights, the
26 opportunity to submit safety complaints to the commission, the
27 complaint process, and contact information for the commission.

28 (5) The commission must require persons providing contract
29 railroad crew transportation to ensure that all drivers of contract
30 crew transportation vehicles successfully complete at least eight
31 hours of commission-approved safety training that includes, but is
32 not limited to, vehicle and passenger safety awareness, rail yard
33 safety, grade crossing safety, load securement, and distracted and
34 fatigued driving.

35 (6) The commission must investigate safety complaints related to
36 contract railroad crew transportation under this chapter and take
37 appropriate enforcement action as authorized.

38 (7) The commission may enforce this chapter with respect to
39 persons providing contract railroad crew transportation under the

1 authority in RCW 81.04.380 through 81.04.405, including assessing
2 penalties as warranted.

3 (8) The commission may suspend or revoke a permit upon complaint
4 by any interested party, or upon the commission's own motion after
5 notice and opportunity for hearing, when it finds that any person
6 owning, leasing, operating, or maintaining contract crew
7 transportation vehicles has violated this chapter or the rules of the
8 commission, or that the company or its agent has been found by a
9 court or governmental agency to have violated the laws of a state or
10 the United States.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.61
12 RCW to read as follows:

13 (1) A person is immediately and automatically disqualified from
14 operating a contract crew transportation vehicle for a period of
15 three years if (a) the person is convicted of, or is found to have
16 committed, two or more traffic violations that result in suspension
17 or revocation of the person's driver's license within a three-year
18 period, for a reason other than the nonpayment of fines, or (b) the
19 person is found guilty of, or is found to have committed, any drug or
20 alcohol-related traffic offense, using a vehicle to commit a felony,
21 leaving the scene of an accident, prohibited passing of another
22 vehicle, a railroad-highway grade crossing offense identified in RCW
23 46.25.090(8), or driving with a suspended, revoked, or canceled
24 license.

25 (2) A driver that sustains a conviction or a traffic violation as
26 outlined under this section while employed by a contract carrier must
27 report the conviction or infraction to the carrier within ten days of
28 the date of conviction or the finding that the infraction was
29 committed.

30 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.61
31 RCW to read as follows:

32 (1) The commission must compile data regarding any reported
33 safety complaints, accidents, regulatory violations and fines, and
34 corrective actions taken by the commission involving vehicles
35 regulated under this chapter. A railroad company, and any person that
36 owns or leases, operates, or maintains contract crew transportation
37 vehicles in the state, must, at the request of the commission,
38 provide data relevant to any complaints and accidents, including

1 location, time of day, visibility, a description of the event,
2 whether any property damage or personal injuries resulted, and any
3 corrective action taken by the railroad company, person operating the
4 contract crew transportation vehicle, or commission. The commission
5 must make this data available upon request.

6 (2) Information included in safety complaints that identifies the
7 employee who submitted the complaint is exempt from public inspection
8 and copying pursuant to RCW 42.56.330.

9 **Sec. 5.** RCW 81.61.040 and 1977 ex.s. c 2 s 4 are each amended to
10 read as follows:

11 (1) The commission may, in enforcing rules and orders under this
12 chapter, inspect any passenger-carrying vehicle ((provided by a
13 railroad company to transport employees in the course of their
14 employment)) or contract crew transportation vehicle. Upon request,
15 the chief of the state patrol may assist the commission in these
16 inspections.

17 (2) Consistent with section 2 of this act, the commission must
18 develop an inspection program for contract crew transportation
19 vehicles. This program must require a periodic inspection of each
20 vehicle, including a review of operational practices.

21 **Sec. 6.** RCW 42.56.330 and 2015 c 224 s 4 are each amended to
22 read as follows:

23 The following information relating to public utilities and
24 transportation is exempt from disclosure under this chapter:

25 (1) Records filed with the utilities and transportation
26 commission or attorney general under RCW 80.04.095 or 81.77.210 that
27 a court has determined are confidential under RCW 80.04.095 or
28 81.77.210;

29 (2) The addresses, telephone numbers, electronic contact
30 information, and customer-specific utility usage and billing
31 information in increments less than a billing cycle of the customers
32 of a public utility contained in the records or lists held by the
33 public utility of which they are customers, except that this
34 information may be released to the division of child support or the
35 agency or firm providing child support enforcement for another state
36 under Title IV-D of the federal social security act, for the
37 establishment, enforcement, or modification of a support order;

1 (3) The names, residential addresses, residential telephone
2 numbers, and other individually identifiable records held by an
3 agency in relation to a vanpool, carpool, or other ride-sharing
4 program or service. (~~Participant's [Participants']~~) Participants'
5 names, general locations, and point of contact may be disclosed to
6 other persons who apply for ride-matching services and who need that
7 information in order to identify potential riders or drivers with
8 whom to share rides;

9 (4) The personally identifying information of current or former
10 participants or applicants in a paratransit or other transit service
11 operated for the benefit of persons with disabilities or elderly
12 persons;

13 (5) The personally identifying information of persons who acquire
14 and use transit passes or other fare payment media including, but not
15 limited to, stored value smart cards and magnetic strip cards, except
16 that an agency may disclose personally identifying information to a
17 person, employer, educational institution, or other entity that is
18 responsible, in whole or in part, for payment of the cost of
19 acquiring or using a transit pass or other fare payment media for the
20 purpose of preventing fraud. As used in this subsection, "personally
21 identifying information" includes acquisition or use information
22 pertaining to a specific, individual transit pass or fare payment
23 media.

24 (a) Information regarding the acquisition or use of transit
25 passes or fare payment media may be disclosed in aggregate form if
26 the data does not contain any personally identifying information.

27 (b) Personally identifying information may be released to law
28 enforcement agencies if the request is accompanied by a court order;

29 (6) Any information obtained by governmental agencies that is
30 collected by the use of a motor carrier intelligent transportation
31 system or any comparable information equipment attached to a truck,
32 tractor, or trailer; however, the information may be given to other
33 governmental agencies or the owners of the truck, tractor, or trailer
34 from which the information is obtained. As used in this subsection,
35 "motor carrier" has the same definition as provided in RCW 81.80.010;

36 (7) The personally identifying information of persons who acquire
37 and use transponders or other technology to facilitate payment of
38 tolls. This information may be disclosed in aggregate form as long as
39 the data does not contain any personally identifying information. For
40 these purposes aggregate data may include the census tract of the

1 account holder as long as any individual personally identifying
2 information is not released. Personally identifying information may
3 be released to law enforcement agencies only for toll enforcement
4 purposes. Personally identifying information may be released to law
5 enforcement agencies for other purposes only if the request is
6 accompanied by a court order; ((and))

7 (8) The personally identifying information of persons who acquire
8 and use a driver's license or identicard that includes a radio
9 frequency identification chip or similar technology to facilitate
10 border crossing. This information may be disclosed in aggregate form
11 as long as the data does not contain any personally identifying
12 information. Personally identifying information may be released to
13 law enforcement agencies only for United States customs and border
14 protection enforcement purposes. Personally identifying information
15 may be released to law enforcement agencies for other purposes only
16 if the request is accompanied by a court order; and

17 (9) Personally identifying information included in safety
18 complaints submitted under chapter 81.61 RCW.

19 NEW SECTION. Sec. 7. This act takes effect January 1, 2018."

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20 On page 1, line 1 of the title, after "Relating to" strike the
21 remainder of the title and insert "railroad crew transportation;
22 amending RCW 81.61.010, 81.61.040, and 42.56.330; adding new sections
23 to chapter 81.61 RCW; and providing an effective date."

EFFECT: (1) Replaces most of the specific regulated practices
identified in the bill with broad direction to the utilities and
transportation commission (UTC) to act consistently with the federal
motor carrier safety regulations under Title 49 of the Code of
Federal Regulations, and state law regarding charter party carriers
and auto transportation companies.

(2) Renames "contract crew hauling vehicles" to "contract crew
transportation vehicles" within the bill.

(3) Removes the department of licensing's role in a 16-hour
driver safety course by requiring drivers to complete at least 8
hours of UTC-approved safety training.

(4) Specifies the types of violations that result in automatic
disqualification from operating a contract crew transportation
vehicle.

(5) Amends the title to conform to the bill.

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