

HOUSE BILL REPORT

HB 1669

As Reported by House Committee On:
Labor & Workplace Standards

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

Brief Description: Establishing minimum crew size on certain trains.

Sponsors: Representatives Farrell, Chandler, Blake, Haler, Stonier, Johnson, Chapman, McCaslin, Jinkins, Stambaugh, Sells, Wilcox, Stanford, Barkis, Ryu, Macri, Koster, Goodman, Rodne, Doglio, Holy, Muri, Young, Vick, Fey, Stokesbary, Irwin, Senn, Harmsworth, J. Walsh, Santos, Sawyer, Hudgins, Ormsby, MacEwen, Harris, McBride, Riccelli, Fitzgibbon, Wylie, Lytton, Ortiz-Self, Bergquist, Lovick, Tarleton, Pollet and Robinson.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/30/17, 2/13/17 [DP].

Brief Summary of Bill

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

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 4 members: Representatives Sells, Chair; Gregerson, Vice Chair; Doglio and Frame.

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

Staff: Trudes Tango (786-7384).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

State statutes addressing crew size on freight and passenger trains explicitly state that no law may prevent a railroad from staffing its trains in 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 by federal law. 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 law on crew size for some of its operations was not preempted.

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.

Summary of Bill:

The Legislature declares that regulating minimum crew staffing constitutes an exercise of the state's police power to protect and promote the health, safety, security, and welfare of Washington's residents by reducing the risk of exposure to local communities and protecting environmentally sensitive and/or pristine lands and waterways.

The crew size regulations and the misdemeanor and monetary fines related to violations are repealed and replaced.

With certain exceptions, the following minimum crew size requirements are established:

- common carriers of freight or passengers must operate with no less than two crew members;

- railroad carriers operating hazardous material trains must operate with no less than three crew members, with one crew member assigned to the rear of the train and within rolling equipment to observe and monitor the train's contents and movement; and
- railroad carriers operating any hazardous material trains with 50 or more car loads of any combination of hazardous materials must operate with no less than four crew members, with two crew members assigned to the rear of the train.

The following exceptions apply:

- trains transporting hazardous material shipments a distance of five miles or less may operate with crew members positioned on the lead car;
- 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 member requirement;
- class III carriers that are not transporting hazardous materials may be exempted from the minimum crew size requirements by the Commission; and
- the Commission may order class I or class II carriers to exceed the minimum crew size requirements and require additional numbers of crew if it determines that such an increase in crew is necessary to protect the safety, health, and welfare of the public, employees, and the environment, and to address local safety and security hazards.

A violation of the crew size requirements results in a monetary fine of not less than \$1,000, and not more than \$100,000, for each offense. Each train or engine run in violation of the crew size requirement constitutes a separate offense. It is not a violation in the cases of disability of a crew member or crew members assigned to wrecking trains.

Definitions for "hazardous material" and "hazardous material train" and other terms are provided. "Hazardous material train" means:

- any train carrying a combination of 20 or more car loads of class 2 flammable gases and class 3 flammable liquids, as defined by the United States Department of Transportation;
- any train with one or more carloads of class 1 explosive materials with a mass explosion hazard, class 7 spent nuclear fuel, or high-level nuclear waste, as defined by the United States Department of Transportation; or
- any high-hazard flammable train, as defined by the United States Department of Transportation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2017.

Staff Summary of Public Testimony:

(In support) Crew members on hazardous trains are often the first responders when something goes wrong. Hazardous trains must be as safe as possible. Requiring a crew member at the back of the train allows the crew member to see the movement of the train and whether contents are leaking. The minimal crew size on trains is a result of technological advancements, but it is still important to have crew members at the back of the train. This is a safety issue, not a collective bargaining issue. These trains can be a risk to the public and the environment, especially now when trains can be hundreds of cars long. On very long trains, it takes a while to walk from one end to the other and it takes some time to separate cars in a disaster. There is no federal regulation on crew size at this time. This is not going to burden the railroad and will not interfere with interstate commerce. It will not cost the employer any more money to change crews at the state border. This will apply to less than 5 percent of all trains running.

(Opposed) This is preempted activity. The federal regulatory agency has been in discussion about this issue already. Additional crew does not automatically mean things are safer. Technology and investing in track improvements are what makes transportation safer regardless of crew size. Accident rates are down, according to statistics. When state legislatures attempt to alter the terms of a collective bargaining agreement, it disrupts railroad operations. When this is worked out in labor agreements, the results are fair.

Persons Testifying: (In support) Representative Farrell, prime sponsor; Steven Sanders, Herb Krohn, and Paul McGill, Sheet Metal, Air, Rail & Transportation Union—Transportation Division; Mike Elliott, Brotherhood of Locomotive Engineers and Trainmen; and Bruce Smith.

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

Persons Signed In To Testify But Not Testifying: None.