

HOUSE BILL REPORT

HB 1841

As Passed Legislature

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

Brief Description: Establishing minimum crew size on certain trains.

Sponsors: Representatives Riccelli, Chandler, Blake, Boehnke, Macri, Eslick, Santos, Young, Ryu, Jenkin, Sells, Stokesbary, Senn, Griffey, Harris, Stonier, Morgan, Walsh, Gregerson, Lovick, Fey, Volz, Wylie, Hoff, Ramos, Chambers, Stanford, McCaslin, Fitzgibbon, Van Werven, Peterson, MacEwen, Dent, Graham, Hudgins, Valdez, Pollet, Ortiz-Self, Ybarra, Walen, Ormsby, Dolan, Frame, Cody, Jinkins, Tarleton, Appleton, Bergquist, Callan, Chapman, Pellicciotti, Shewmake, Kilduff, Lekanoff, Davis, Pettigrew, Doglio and Entenman.

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/14/19, 2/18/19 [DP].

Floor Activity:

Passed House: 3/13/19, 72-24.

Passed House: 1/30/20, 65-30.

Senate Amended.

Passed Senate: 3/6/20, 34-15.

House Concurred.

Passed House: 3/10/20, 64-33.

Passed Legislature.

Brief Summary of Bill

- Requires at least two crew members on freight and passenger trains, with certain exceptions.
- Provides for automatic waivers of the minimum two crew member requirement for non-class I railroad carriers.
- Allows the Utility and Transportation Commission to increase requirements for safety and impose monetary penalties.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

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.

Majority Report: Do pass. Signed by 6 members: Representatives Sells, Chair; Chapman, Vice Chair; Chandler, Assistant Ranking Minority Member; Gregerson, Hoff and Ormsby.

Minority Report: Without recommendation. Signed by 1 member: Representative Mosbrucker, Ranking Minority Member.

Staff: Trudes Tango (786-7384).

Background:

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 a 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, in which case the state law is preempted. 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 May 2019 the Federal Railroad Administration (FRA), which is a subagency of the United States Department of Transportation, published a final rule providing that "all state laws attempting to regulate train crew staffing in any manner" are preempted. In December 2019 the Washington Attorney General filed suit against the FRA, arguing that the final rule should be vacated because the FRA did not follow procedural requirements and the rule is contrary to the law allowing for exceptions to preemption.

Summary of Bill:

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

With certain exceptions, common carriers of freight or passengers must operate with no less than two crew members. Class III railroad carriers operating at a speed of 25 miles per hour or less are exempt from the two crew member requirement. In addition, automatic waivers to the two crew member requirement must be granted to non-class I railroad carriers, and

waivers remain in effect until ordered by the Commission. A class I railroad carrier is a carrier designated as a class I railroad by the United States Surface Transportation Board (USSTB) and its subsidiaries or a carrier owned and operated by entities whose combined total railroad operational ownership and controlling interest meets the USSTB designation as a class I railroad carrier.

The Commission may order railroad carriers to increase the number of crew, and direct placement of the crew, in areas of increased risk to the public, passengers, railroad employees, or the environment, or to address site specific safety or security hazards. The Commission must consider train volume, risk mitigation measures, environmental and operating factors, the carrier's operating practices, and other factors when issuing orders to increase crew size. The Commission must ensure that railroad carriers supplement trains entering the state with the requisite number of crew at the closest regular station stop or crew change point located in proximity to and adjacent with either side of the state border.

A violation of the crew size requirements may result in a monetary fine of not less than \$1,000, and not more than \$100,000, for each offense as determined by the Commission. The Commission may increase fines when a serious injury or fatality occurs involving a carrier's violation of the requirements.

The Commission's highest priority and paramount obligation is to ensure the safety and protection of the public, passengers, railroad employees, communities, environment, and areas of cultural significance in the furtherance of the highest degree of safety in railroad transportation.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The trend of reducing train crews down to a single person is dangerous and will lead to task fatigue and safety issues. This bill is about public safety. Hazardous trains account for less than 5 percent of all trains. Short lines that do not handle hazardous materials are exempt from the crew size requirements. Trains that do transport highly flammable hazardous material are potentially dangerous and the state cannot regulate how long trains can be. Oil trains can be over a hundred cars long, and it's important to have crew on the front and the back of these trains. Technology cannot replace crew members when it comes to safety.

(Opposed) This bill conflicts with federal law. Crew size is already determined by collective bargaining. The railroad companies cannot force unions to make changes to crew size policies without a negotiated agreement. Additional crews are not what make trains safer. The bill's provisions are unworkable and would have a chilling effect on trade and commerce. There could be unintended outcomes of this bill for agricultural-related products being moved by train. Adding crews at state lines could be disruptive.

Persons Testifying: (In support) Representative Riccelli, prime sponsor; Herb Krohn and Shane Sadler, United Transportation Union/Sheet Metal, Air, Rail, Transportation Union Division; Shahrain C. Allen, Brotherhood of Locomotive Engineers and Trainmen and Washington State Legislative Board; and Mike Elliot.

(Opposed) Johan Hellman, Burlington Northern Santa Fe Railway; Aaron Hunt, Union Pacific Railroad; Jeff Van Schaick, Genesey & Wyoming, Incorporated; and Tom McBride, Far West Agribusiness Association.

Persons Signed In To Testify But Not Testifying: None.