

# HOUSE BILL REPORT

## HB 1841

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### As Amended by the Senate

**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.

#### Floor Activity:

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

Senate Amended.

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

### 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.

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### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

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

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*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.*

**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.

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 5 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 (USDOT);
- any train with one or more carloads of class I explosive materials with a mass explosion hazard, class 7 spent nuclear fuel, or high-level nuclear waste, as defined by the USDOT; or
- any high-hazard flammable train, as defined by the USDOT.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment:

- provides that, on the effective date of the act, automatic waivers to the two crew member requirement must be granted to non-class I railroad carriers, and provides that such waivers remain in effect until ordered by the Utilities and Transportation Commission (UTC);
- removes the requirements for additional crew members and placement of crew members on hazardous material trains;
- exempts class III railroad carriers operating at a speed of 25 miles per hour or less from the two crew member requirement;

- defines class I railroad carriers as 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;
- allows the UTC to 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;
- requires the UTC to 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;
- allows the UTC to 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;
- specifies that the UTC'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;
- makes the imposition of monetary penalties discretionary, rather than mandatory, and allows the UTC to increase fines when a serious injury or fatality occurs involving a carrier's violation of the act; and
- amends the intent section.

**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.