

Chapter 81.44 RCW
COMMON CARRIERS—EQUIPMENT

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RCW 81.44.010 Order for improved equipment and facilities.

Whenever the commission, after a hearing had upon its own motion or upon complaint, finds that any equipment or facility for use by any common carrier in, or in connection with the transportation of persons or property, ought reasonably to be provided, or any repairs or improvements to, or changes in, any theretofore in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for the transportation of passengers or property, the commission may, after a hearing, either on its own motion or after complaint, serve an order directing such repairs, improvements, changes, or additions to be made. [2007 c 234 § 38; 1961 c 14 § 81.44.010. Prior: 1911 c 117 § 64; RRS § 10400.]

RCW 81.44.020 Correction of unsafe or defective conditions—Walkways and handrails as unsafe or defective condition, when.

If upon investigation the commission finds that the equipment, facilities, tracks, bridges, or other structures of any common carrier are defective, and that the operation thereof is dangerous to the employees of the common carrier or to the public, it shall immediately give notice to the superintendent or other officer of the common carrier of the repairs or reconstruction necessary to place the same in a safe condition. The commission may also prescribe the rate of speed for trains or cars passing over the dangerous or defective track, bridge, or other structure until the repairs or reconstruction required are made, and may also prescribe the time when the repairs or

reconstruction must be made; or if, in the commission's opinion, it is needful or proper, the commission may forbid trains or cars to run over any defective track, bridge, or structure until the track, bridge, or structure is repaired and placed in a safe condition. Railroad bridges or trestles without walkways and handrails may be identified as an unsafe or defective condition under this section after a hearing by the commission upon complaint or on its own motion. The commission, in making the determination, shall balance considerations of employee and public safety with the potential for increased danger to the public resulting from adding walkways or handrails to railway bridges. A railroad company and its employees are not liable for injury to or death of any person occurring on or about any railway bridge or trestle if the person was not a railway employee but was a trespasser or was otherwise not authorized to be in the location where the injury or death occurred.

Appeal from or action to review any order of the commission made under this section is not available if the commission finds that immediate compliance is necessary for the protection of employees or the public. [2007 c 234 § 39; 1982 c 141 § 1; 1977 ex.s. c 46 § 1; 1961 c 14 § 81.44.020. Prior: 1911 c 117 § 65; RRS § 10401.]

RCW 81.44.040 Streetcars. Every streetcar must be equipped with proper and efficient brakes, steps, grab irons or hand rails, fenders or aprons or pilots, and with such other appliances, apparatus, and machinery necessary for the safe operation of the streetcar as the commission may prescribe. [2007 c 234 § 40; 1961 c 14 § 81.44.040. Prior: 1911 c 117 § 66, part; RRS § 10402, part. Formerly RCW 81.44.040 and 81.64.120, part.]

RCW 81.44.070 Duties of inspector of safety appliances. It shall be the duty of the inspector of tracks, bridges, structures, and equipment, and such deputies as may be appointed, to inspect all equipment, and appliances connected therewith, and all apparatus, tracks, bridges and structures, depots and facilities and accommodations connected therewith, and facilities and accommodations furnished for the use of employees, and make such reports of his or her inspection to the commission as may be required. He or she shall, on discovering any defective equipment or appliances connected therewith, rendering the use of such equipment dangerous, immediately report the same to the superintendent of the road on which it is found, and to the proper official at the nearest point where such defect is discovered, describing the defect. Such inspector may, on the discovery of any defect rendering the use of any car, motor or locomotive dangerous, condemn such car, motor or locomotive, and order the same out of service until repaired and put in good working order. He or she shall, on discovering any track, bridge, or structure defective or unsafe in any particular, report such condition to the commission, and, in addition thereto, report the same to the official in charge of the division of such railroad upon which such defect is found. In case any track, bridge, or structure is found so defective as to be dangerous to the employees or public for a train or trains to be operated over the same, the inspector is hereby authorized to condemn such track, bridge, or structure and notify the commission and the office in charge of the division of such railroad where such defect is found of his or her action concerning the same, reporting in

detail the defect complained of, and the work or improvements necessary to repair such defect. He or she shall also report to the commission the violation of any law governing, controlling, or affecting the conduct of public service companies in this state, as such companies are defined in this title or in Title 80 RCW.

The inspector, or such deputies as may be appointed, shall have the right and privilege of riding on any locomotive, either on freight or passenger trains, or on the caboose of any freight train, for the purpose of inspecting the track on any railroad in this state: PROVIDED, That the engineer or conductor in charge of any such locomotive or caboose may require such inspector to produce his or her authority, under the seal of the commission, showing that he or she is such inspector or deputy inspector.

The inspector, or such deputy inspector or inspectors as may be appointed, shall, when required by the commission, inspect any street railroad, gas plant, electrical plant, water system, telephone line, or telegraph line, and upon discovering any defective or dangerous track, bridge, structure, equipment, apparatus, machinery, appliance, facility, instrumentality, or building, rendering the use of the same dangerous to the public or to the employees of the company owning or operating the same, report the same to the commission, and to the official in charge of such road, plant, system, or line. [2013 c 23 § 298; 1961 c 14 § 81.44.070. Prior: 1911 c 117 § 67; RRS § 10403. Formerly RCW 81.44.070 and 81.44.080.]

RCW 81.44.085 First aid kits and drinking water—Penalty. (1)

Every person operating a common carrier railroad in this state shall equip each locomotive and caboose used in train or yard switching service, and every car used in passenger service with a first aid kit of a type to be approved by the commission, which kit shall be plainly marked and be readily visible and accessible and be maintained in a fully quipped condition: PROVIDED, That such kits shall not be required on equipment used exclusively in yard or switching service where such kits are maintained in the yard or terminal.

(2) Each locomotive and caboose shall also be furnished with sanitary cups and sanitary ice-cooled drinking water.

(3) For the purpose of this section a "locomotive" shall include all railroad engines propelled by any form of energy and used in rail line haul or yard switching service.

(4) Any person violating this section is guilty of a misdemeanor. [2003 c 53 § 391; 1969 ex.s. c 210 § 7; 1961 c 14 § 81.44.085. Prior: 1951 c 66 §§ 1, 2, 3.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 81.44.130 Safeguarding frogs, switches, and guardrails.

Every railroad and street railroad operating in this state shall so adjust, fill, block and securely guard all frogs, switches and guardrails so as to protect and prevent the feet of persons being caught therein. [1961 c 14 § 81.44.130. Prior: 1911 c 117 § 68; RRS § 10404.]

RCW 81.44.170 Hazardous materials inspections—Authority for certified commission employees to enter property of certain businesses. Commission employees certified by the federal railroad administration to perform hazardous materials inspections may enter the property of any business that receives, ships, or offers for shipment hazardous materials by rail. Entry shall be at a reasonable time and in a reasonable manner. The purpose of entry is limited to performing inspections, investigations, or surveillance of equipment, records, and operations relating to the packaging, loading, unloading, or transportation of hazardous materials by rail, pursuant only to the state participation program outlined in 49 C.F.R. Part 212. The term "business" is all inclusive and is not limited to common carriers or public service companies. [2015 c 274 § 19.]

Effective date—2015 c 274: See note following RCW 90.56.005.

RCW 81.44.180 Annual work plan and inspection activity—Incorporation of certain data. (1) The commission shall, for the purposes of targeting high-risk inspections, incorporate data received from the department of ecology as required under RCW 90.56.565(4) in the development of its annual work plan and inspection activity.

(2) Nothing in this section is intended to interfere with or prevent the participation of the commission in the federal railroad administration's state rail safety participation program. [2019 c 354 § 3.]