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**SENATE BILL 5877**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Kuderer, Fortunato, Conway, Hasegawa, Wilson, C., Walsh, Zeiger, Billig, Keiser, Hunt, Rivers, Nguyen, Takko, Carlyle, Darneille, Liias, and Das

1 AN ACT Relating to establishing minimum crew size on certain  
2 trains; adding new sections to chapter 81.40 RCW; creating a new  
3 section; repealing RCW 81.40.010 and 81.40.035; prescribing  
4 penalties; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the increasing  
7 transportation of hazardous and volatile materials on the railroads  
8 operating within our state, as well as significantly longer trains  
9 operating over the unique and widely varying geographical terrain  
10 existing in our state coupled with decreasing train crew size,  
11 creates a significant localized safety hazard to the public and the  
12 environment. Adequate personnel is critical to insuring railroad  
13 operational safety, security, and in the event of a hazardous  
14 material incident, support of first responder activities. Therefore,  
15 the legislature declares that this act regulating minimum railroad  
16 crew staffing to reduce risk to localities constitutes an exercise of  
17 the state's police power to protect and promote the health, safety,  
18 security, and welfare of the residents of the state by reducing the  
19 risk exposure to local communities and protecting environmentally  
20 sensitive and/or pristine lands and waterways.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 81.40  
2    RCW to read as follows:

3        The definitions in this section apply throughout this chapter  
4    unless the context clearly requires otherwise.

5        (1)    "Commission"    means    the    utilities    and    transportation  
6    commission created in chapter 80.01 RCW.

7        (2)    "Hazardous material" means spent nuclear fuel, high-level  
8    nuclear waste, class 1 substances or materials with a mass explosion  
9    hazard, class 2 flammable gases, or class 3 flammable liquids, as  
10   defined in the hazardous materials regulations of the United States  
11   department of transportation in 49 C.F.R. Part 173 as of the  
12   effective date of this section.

13        (3)    "Hazardous material train" means:

14        (a)    Any train carrying any combination of twenty or more car  
15    loads of class 2 flammable gases and class 3 flammable liquids, as  
16    defined by the United States department of transportation in 49  
17    C.F.R. Part 173 as of the effective date of this section;

18        (b)    Any train with one or more carloads of class 1 explosive  
19    materials with a mass explosion hazard, class 7 spent nuclear fuel,  
20    or high-level nuclear waste, as defined by the United States  
21    department of transportation in 49 C.F.R. Part 173 as of the  
22    effective date of this section; or

23        (c)    Any high-hazard flammable train as defined by the United  
24    States department of transportation as of the effective date of this  
25    section.

26        (4)    "Qualified crew member" means a railroad operating craft  
27    employee who has been trained and meets the requirements and  
28    qualifications as determined by the federal railroad administration  
29    for a railroad operating service employee.

30        (5)    "Railroad carrier" means a carrier of persons or property  
31    upon vehicles, other than streetcars, operated upon stationary rails,  
32    the route of which is principally outside incorporated cities and  
33    towns. "Railroad carrier" includes any officers and agents of the  
34    railroad carrier.

35        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 81.40  
36    RCW to read as follows:

37        Except as provided in section 4 of this act, the following  
38    minimum crew requirements apply:

1 (1) Any person, corporation, company, or officer of the court  
2 operating any railroad, railway, or any part of any railroad or  
3 railway, in the state of Washington, and engaged, as a common  
4 carrier, in the transportation of freight or passengers, shall  
5 operate all trains and switching assignments over its road with crews  
6 consisting of no less than two qualified crew members.

7 (2)(a) Railroad carriers shall operate all hazardous material  
8 trains over its road with crews consisting of no less than three  
9 qualified crew members. One qualified train crew member must be  
10 assigned to a position located on the rear of the train and within  
11 rolling equipment, situated to safely observe and monitor the train's  
12 contents and movement.

13 (b) Railroad carriers shall operate any hazardous material trains  
14 consisting of fifty or more car loads of any combination of hazardous  
15 materials over its road with crews consisting of no less than four  
16 qualified crew members. Two qualified crew members must be assigned  
17 to a position on the rear of the train and within rolling equipment,  
18 situated to safely observe and monitor the train's contents and  
19 movement.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 81.40  
21 RCW to read as follows:

22 (1) Trains transporting hazardous material shipments a distance  
23 of five miles or less may operate the train with the required crew  
24 members positioned on the lead locomotive.

25 (2)(a) Class II and class III carriers transporting fewer than  
26 twenty loaded hazardous material cars on trains operating on their  
27 road while at a speed of twenty-five miles per hour or less are  
28 exempt from the additional train crew requirements specified in  
29 section 3(2) of this act.

30 (b) The commission may grant exemptions to the minimum crew size  
31 requirements to class III railroad carriers that are not transporting  
32 hazardous materials on their road.

33 (3)(a) The commission may order class I or II railroad carriers  
34 to exceed the minimum crew size and operate specific trains, routes,  
35 or switching assignments on their road with additional numbers of  
36 qualified crew members if it is determined that such an increase in  
37 crew size is necessary to protect the safety, health, and welfare of  
38 the public and railroad employees, to prevent harm to the  
39 environment, and to address local safety and security hazards.

1 (b) In issuing such an order, the commission may consider  
2 relevant factors including, but not limited to, the volatility of the  
3 commodities being transported, vulnerabilities, risk exposure to  
4 localities along the train route, security risks including sabotage  
5 or terrorism threat levels, a railroad carriers prior history of  
6 accidents, compliance violations, and track and equipment maintenance  
7 issues.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 81.40  
9 RCW to read as follows:

10 (1) Each train or engine run in violation of section 3 of this  
11 act constitutes a separate offense. However, section 3 of this act  
12 does not apply in the case of disability of one or more members of  
13 any train crew while out on the road between division terminals, or  
14 assigned to wrecking trains.

15 (2) Any person, corporation, company, or officer of the court  
16 operating any railroad, or part of any railroad or railway within the  
17 state of Washington, and engaged as a common carrier, in the  
18 transportation of freight or passengers, who violates any of the  
19 provisions of section 3 of this act must be fined not less than one  
20 thousand dollars and not more than one hundred thousand dollars for  
21 each offense.

22 (3) It is the duty of the commission to enforce this section.

23 NEW SECTION. **Sec. 6.** The following acts or parts of acts are  
24 each repealed:

25 (1) RCW 81.40.010 (Full train crews—Passenger—Safety review—  
26 Penalty—Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14  
27 s 81.40.010; and

28 (2) RCW 81.40.035 (Freight train crews) and 1967 c 2 s 2.

29 NEW SECTION. **Sec. 7.** If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 remainder of the act or the application of the provision to other  
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect immediately.

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