

HOUSE BILL REPORT

HB 1621

As Reported by House Committee On:
Labor & Workforce Development

Title: An act relating to hours of service for certain railroad employees.

Brief Description: Regulating the hours of service for certain railroad employees.

Sponsors: Representatives Haler, Blake, Ryu, Sells, Manweller, Takko, Ormsby, Zeiger, Liias, Sawyer, Haigh, Jinkins, Appleton, Wilcox, Pedersen, Rodne, Angel, Upthegrove, Stanford, Pollet, Vick, Condotta, Kristiansen, Moeller, Moscoso and Santos.

Brief History:

Committee Activity:

Labor & Workforce Development: 2/19/13, 2/21/13 [DPS].

Brief Summary of Substitute Bill

- Requires railroad carriers to observe rules limiting the hours of service for railroad yardmasters.
- Prohibits a railroad carrier from communicating with a yardmaster in a way that disrupts sleep during an off-duty period.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

Minority Report: Do not pass. Signed by 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy and Short.

Staff: Alexa Silver (786-7190).

Background:

The federal Hours of Service Act (Act) prescribes maximum hours and minimum rest periods for train employees, signal employees, and dispatching service employees employed by

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railroad carriers. A signal employee installs, repairs, and maintains signal systems. A dispatching service employee is an operator, train dispatcher, or other employee who dispatches orders affecting train movements. A train employee is a person engaged or connected with the movement of a train.

Yardmasters are not covered by the federal Act, and the federal Act does not apply to situations involving certain emergencies and accidents. The United States Secretary of Transportation may exempt railroad carriers with 15 or fewer employees.

Federal law provides that laws, regulations, and orders related to railroad safety must be nationally uniform to the extent practicable. A state may adopt a law related to railroad safety until the United States Secretary of Transportation issues a rule or order covering the subject matter. A state may adopt an additional or more stringent law on railroad safety if the law: (1) is necessary to eliminate or reduce an essentially local safety hazard; (2) is not incompatible with federal law; and (3) does not unreasonably burden interstate commerce.

Federal regulations classify railroad carriers as Class I, Class II, and Class III based on their annual operating revenues.

Summary of Substitute Bill:

The Legislature declares that regulating the hours of service for yardmasters is an exercise of the state's police power to protect health, safety, and welfare.

Railroad carriers must observe the following rules related to the hours of service for employees:

- An employee may not be on duty for a railroad carrier in excess of 276 hours per month.
- An employee may not remain on duty for more than 12 hours.
- An employee may not go on duty unless he or she has had at least 10 hours off duty during the prior 24 hours.
- An employee may not go on duty after he or she has gone on duty six days in a row unless he or she has had 48 consecutive hours off duty. If an employee works a seventh day in a row, he or she must have 72 consecutive hours off duty.
- An employee may not go on duty during a statutory rest period under the federal Act.
- At the end of a shift, an employee must remain unavailable for service for at least 10 hours.

An employee is on duty during any time that he or she performs the duties of a yardmaster, train employee, signal employee, or dispatching service employee. Shorter hours and time on duty are proper subjects of collective bargaining.

"Employee" is defined as an individual employed by a railroad carrier, or a contractor or subcontractor of a railroad carrier, who performs the duties of a yardmaster. The duties of a yardmaster include: routing and directing trains in a rail yard; operating switching equipment in a rail yard tower; monitoring switching orders and schedules to determine the

time trains arrive and depart; supervising the breaking up and putting together of train cars according to a schedule; receiving and transmitting switching orders to and from yard crews; directing, overseeing, monitoring, and supervising switching crews and road switcher assignments; and arranging for defective cars to be removed from a train for repair.

A railroad carrier may not communicate with an employee in a manner that could reasonably be expected to disrupt the employee's sleep during an off-duty period. Communication necessary to notify an employee of an emergency is permissible.

The requirements related to hours of service and the prohibition on certain communications do not apply in situations involving a casualty, an unavoidable accident, an act of God, or a delay resulting from an unforeseeable cause.

A Class I railroad carrier that violates these requirements is subject to a civil penalty of \$10,000 to \$50,000, or up to \$1 million in cases where a grossly negligent violation or a pattern of repeated violations caused an imminent hazard of death or injury. A Class II or III carrier is subject to a civil penalty of \$500 to \$25,000, or up to \$100,000 in cases where a grossly negligent violation or a pattern of repeated violations caused an imminent hazard of death or injury.

The Utilities and Transportation Commission (UTC) may adopt rules to administer the law. Following a hearing and subject to annual review, the UTC may exempt a Class II or III carrier that has 15 or fewer employees. However, the exemption may not authorize a carrier to allow its employees to be on duty for more than 16 hours per 24-hour period.

Substitute Bill Compared to Original Bill:

The substitute bill codifies the bill in Title 81 RCW, a title related to transportation, instead of Title 49 RCW, a title related to labor.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a prudent bill that promotes safety, health, and operational efficiency. It is patterned after a similar federal law, which protects ground personnel and the public from unreasonable, unsafe scheduling schemes. Yardmasters' hours should be in line with other workers who have 12-hour shifts. Yardmasters coordinate train traffic in and out of the yard, manage and instruct crews to move cars, and are responsible for placement of hazardous materials, including radioactive materials and chemicals. Yardmasters must know where crews and sensitive materials are located at all times. Yardmasters' work is similar to air

traffic controllers. The job is busy and mentally draining. In Washington, there are 79 yardmasters in seven rail yards. Last year, 119 overtime shifts were forced overtime. It is hazardous for yardmasters to work 16-hour shifts with only eight hours of rest between, especially for workers who commute. If they are drowsy, they can be injured or killed. This is a public safety issue.

The UTC, which is the primary rail regulatory agency, is a small, responsive, and efficient department. Which agency oversees these requirements does not matter.

(With concerns) There are concerns that the UTC is not the correct agency to enforce this law. The UTC is responsible for railroad safety; inspectors check grade crossings and tracks. The UTC enforces the hours of service laws primarily for drivers. This bill is different from what the UTC has been directed to do by statute. There is also a concern that the bill is codified in Title 49 RCW, but the UTC's statutes are in Title 81 RCW.

(Opposed) Public safety and employee safety are the number one concern for railroads. The frequency of injuries has gone down dramatically in the Seattle-Tacoma area in the last three years. There has been a spike in retirements, which resulted in a short-term reduction in the availability of yardmasters. Most double shifts are voluntary. Less than one-half of 1 percent have been required to work a double shift. This is a good training path to help bring people up to the yardmaster position. This bill would lead to chronic overstaffing, which drives up costs. Given port competitiveness, cost is a challenge for railroads.

Persons Testifying: (In support) Representative Haler, prime sponsor; Herb Krohn, Jeff Sellman, Brian Ours, and Eric Tosi, United Transportation Union; Robert Hill, Railroad Workers United; and Mike Elliott, Brotherhood of Locomotive Engineers and Trainmen.

(With concerns) Ann Rendahl, Utilities and Transportation Commission.

(Opposed) Bill Stauffacher, BNSF Railway.

Persons Signed In To Testify But Not Testifying: None.