
SENATE BILL 5878

State of Washington

66th Legislature

2019 Regular Session

By Senators Conway, Keiser, Hasegawa, Wilson, C., Zeiger, Fortunato, Kuderer, Hunt, Takko, Nguyen, Carlyle, Darneille, Lias, Das, Palumbo, Saldaña, McCoy, and Van De Wege

Read first time 02/08/19. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to hours of service for certain railroad
2 employees; adding a new chapter to Title 81 RCW; prescribing
3 penalties; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that railroad
6 yardmasters are required to work excessively long hours by railroad
7 carriers. Yardmasters are responsible for, among other things,
8 supervising the breaking up and putting together of train cars in
9 rail yards and overseeing the work of switching crews. Requiring
10 yardmasters to work sixteen-hour shifts without adequate rest between
11 shifts poses significant health and safety risks to both workers and
12 the public. The legislature declares that this act regulating the
13 hours of service for yardmasters constitutes an exercise of the
14 state's police power to protect and promote the health, safety, and
15 welfare of the residents of the state.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires
18 otherwise.

19 (1) "Commission" means the utilities and transportation
20 commission.

1 (2) "Day" means a period of twenty-four consecutive hours.

2 (3) "Duty assignment" means the employee's headquarters or the
3 location where the employee is expected to begin performing service
4 for the railroad.

5 (4) "Employee" means an individual employed by a railroad carrier
6 or a contractor or subcontractor of a railroad carrier to perform the
7 duties of a yardmaster. Such duties include: Routing and directing
8 trains in a rail yard; operating switching equipment in a rail yard
9 tower; monitoring switching orders and schedules to determine the
10 time trains arrive and depart; supervising the breaking up and
11 putting together of train cars according to a schedule; receiving and
12 transmitting switching orders to and from yard crews; directing,
13 overseeing, monitoring, and supervising switching crews and road
14 switcher assignments; and arranging for defective cars to be removed
15 from a train for repair.

16 (5) "Final release" means the time that an employee is released
17 from all activities at the behest of the railroad and begins his or
18 her statutory off-duty period.

19 (6) "Railroad carrier" means a carrier of persons or property
20 upon vehicles, other than streetcars, operating upon stationary
21 rails, the route of which is principally outside incorporated cities
22 and towns. "Railroad carrier" includes the officers and agents of the
23 railroad carrier.

24 NEW SECTION. **Sec. 3.** (1) When scheduling an employee for duty,
25 the following rules apply:

26 (a) An employee may not remain on duty, go on duty, or be in any
27 other mandatory service for a railroad carrier in excess of two
28 hundred seventy-six hours per calendar month.

29 (b) An employee may not remain or go on duty for a period in
30 excess of twelve consecutive hours.

31 (c) An employee may not remain or go on duty unless that employee
32 has had at least ten consecutive hours off duty during the prior
33 twenty-four hours.

34 (d) An employee may not remain or go on duty after the employee
35 has initiated an on-duty period each day for six consecutive days,
36 unless the employee has had at least forty-eight consecutive hours
37 off duty at the employee's duty assignment during which time the
38 employee is unavailable for any service for any railroad carrier. Any
39 employee who works a seventh consecutive day must have at least

1 seventy-two consecutive hours off duty at the employee's duty
2 assignment during which time the employee is unavailable for any
3 service for any railroad carrier.

4 (e) An employee may not remain or go on duty during any time when
5 the employee is prohibited by the federal hours of service law, 49
6 U.S.C. Sec. 21101 et seq., from going or remaining on duty.

7 (f) At the conclusion of the employee's on-duty period, the
8 employee must remain unavailable for any service for any railroad
9 carrier for a period of at least ten hours.

10 (2) In determining the time an employee is on or off duty, the
11 following rules apply:

12 (a) Time on duty begins when the employee reports for duty and
13 ends when the employee is finally released from duty.

14 (b) Time the employee performs the duties listed in section 2(4)
15 of this act is time on duty.

16 (c) Time the employee performs the duties of dispatching service
17 employee, signal employee, or train employee, as those terms are
18 defined in 49 U.S.C. Sec. 21101, is time on duty.

19 NEW SECTION. **Sec. 4.** (1) A railroad carrier may not communicate
20 with an employee by telephone, by pager, or in any other manner that
21 could reasonably be expected to disrupt the employee's rest during
22 the employee's minimum off-duty periods required under section 3 of
23 this act.

24 (2) This section does not prohibit communication necessary to
25 notify an employee of an emergency situation, as defined by the
26 commission.

27 NEW SECTION. **Sec. 5.** (1) This chapter does not apply to a
28 situation involving: (a) A casualty, (b) an unavoidable accident, (c)
29 an act of God, or (d) a delay resulting from a cause unknown and
30 unforeseeable to a railroad carrier or its officer or agent in charge
31 of the employee when the employee left a terminal.

32 (2) The commission may exempt a class II or class III railroad
33 carrier having not more than fifteen employees from the limitations
34 imposed by this chapter. The exemption must be for a specific period
35 of time and is subject to review. The exemption may not authorize a
36 railroad carrier to require or allow its employees to be on duty more
37 than a total of sixteen hours in a twenty-four hour period.

1 NEW SECTION. **Sec. 6.** The number of hours established under this
2 chapter that an employee may be required or allowed to be on duty is
3 the maximum number of hours consistent with safety. Shorter hours of
4 service and time on duty of an employee are proper subjects for
5 collective bargaining between a railroad carrier and its employees.

6 NEW SECTION. **Sec. 7.** If the commission determines that a
7 railroad carrier has violated a provision of this chapter, it may
8 assess the railroad carrier a civil penalty.

9 (1) For class II and class III railroad carriers, the commission
10 may assess a civil penalty of not less than five hundred dollars and
11 not more than twenty-five thousand dollars. When a grossly negligent
12 violation or a pattern of repeated violations has caused an imminent
13 hazard of death or injury to individuals, or has caused death or
14 injury, the maximum penalty is one hundred thousand dollars.

15 (2) For class I railroad carriers, the commission may assess a
16 civil penalty of not less than ten thousand dollars and not more than
17 fifty thousand dollars. When a grossly negligent violation or a
18 pattern of repeated violations has caused an imminent hazard of death
19 or injury to individuals, or has caused death or injury, the maximum
20 penalty is one million dollars.

21 (3) A separate violation occurs each day a facility is not in
22 compliance with the requirements of this chapter.

23 NEW SECTION. **Sec. 8.** The commission may adopt rules to
24 administer this chapter.

25 NEW SECTION. **Sec. 9.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 10.** Sections 1 through 8 and 11 of this act
30 constitute a new chapter in Title 81 RCW.

31 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
32 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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