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HOUSE BILL 1670

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State of Washington

65th Legislature

2017 Regular Session

**By** Representatives Gregerson, J. Walsh, Ryu, Haler, Rodne, Barkis, Sells, Chapman, Koster, Goodman, McCaslin, Holy, Fey, Muri, Dolan, Hayes, Senn, Vick, Santos, Stokesbary, Macri, Sawyer, Hudgins, Ormsby, MacEwen, Harris, McBride, Riccelli, Fitzgibbon, Wylie, and Blake

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

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 of this act  
30 constitute a new chapter in Title 81 RCW.

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