

HOUSE BILL NO. HB0081

Safe transportation of railroad employees.

Sponsored by: Representative(s) Esquibel, K., Blake, Cannady, Goggles, Kimble, Moniz and Peasley and Senator(s) Anderson, J., Hastert and Johnson

A BILL

for

1 AN ACT relating to transportation; establishing
2 requirements for a railroad contract carrier transporting
3 railroad employees as specified; establishing driver and
4 vehicle requirements; providing definitions; providing a
5 penalty; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 31-18-1001 through 31-18-1011 are
10 created to read:

11

12

ARTICLE 10

13

SAFE TRANSPORTATION OF RAILROAD EMPLOYEES BY CONTRACT

14

CARRIERS

15

1 **31-18-1001. Short title; applicability.**

2

3 (a) This article shall be known and may be cited as
4 the "Safe Transportation of Railroad Employees by Contract
5 Carriers Act".

6

7 (b) The provisions of this article are in addition to
8 the general requirements for carriers under this act and
9 the requirements for licensure under chapter 7 of this
10 title.

11

12 **31-18-1002. Definitions.**

13

14 (a) As used in this article:

15

16 (i) "On-duty time" means all time at a terminal,
17 facility or other property of a railroad contract carrier
18 or on any public property waiting to be dispatched and
19 includes time spent inspecting, servicing or conditioning
20 the vehicle, unless the driver has been relieved from duty
21 by the railroad contract carrier;

22

23 (ii) "Railroad contract carrier" means a carrier
24 that for compensation transports railroad company employees

1 with a vehicle designed or used to transport eight (8)
2 persons or less, including the driver.

3

4 **31-18-1003. Driver qualification file.**

5

6 (a) A railroad contract carrier shall maintain a
7 driver qualification file for each driver it employs. The
8 driver qualification file may be combined with the
9 personnel file of the employee.

10

11 (b) The driver qualification file shall include:

12

13 (i) A certificate of physical examination
14 conducted by a physician every two (2) years that certifies
15 the physical ability of the driver to operate a commercial
16 motor vehicle;

17

18 (ii) Documentation that establishes that the
19 driver's driving record has been reviewed at least one (1)
20 time per year;

21

22 (iii) Documentation related to the driver's
23 violation of motor vehicle laws or ordinances, if
24 applicable;

1

2

(iv) Other documentation related to the driver's qualification or ability to drive a motor vehicle;

4

5

(v) The driver's application for employment;

6

7

(vi) Responses from previous employers, if required by the current employer; and

9

10

(vii) A certificate of the driver's road test or a copy of the driver's current driver's license.

12

13

31-18-1004. Driver disqualification and limitations.

14

15

(a) A driver is disqualified from driving for a railroad contract carrier under this article if the driver has committed two (2) or more traffic violations within a three (3) year period.

19

20

(b) A railroad contract carrier shall not allow or require a driver to drive or remain on duty for more than:

22

23

(i) Ten (10) hours after eight (8) consecutive hours off duty;

24

1

2 (ii) Fifteen (15) hours of combined on-duty time
3 and drive time since last obtaining eight (8) consecutive
4 hours of off-duty time; or

5

6 (iii) Seventy (70) hours of on-duty and drive
7 time in any period of eight (8) consecutive days. After
8 twenty-four (24) hours off-duty, a driver begins a new
9 seven (7) consecutive day period and on-duty time is reset
10 to zero (0).

11

12 (c) A driver for a railroad contract carrier who
13 encounters an emergency and cannot, because of that
14 emergency, safely complete a transportation assignment
15 within the ten (10) hour maximum driving time permitted
16 under subsection (b) of this section may drive and be
17 permitted or required to drive a transport motor vehicle
18 for not more than two (2) additional hours in order to
19 complete that transportation assignment or to reach a place
20 offering safety for the occupants of the transport motor
21 vehicle and security for the transport motor vehicle if the
22 transportation assignment reasonably could have been
23 completed within the ten (10) hour period absent the
24 emergency.

1

2 (d) A railroad contract carrier shall maintain and
3 retain for a period of six (6) months accurate time records
4 that show:

5

6 (i) The time each driver reports for duty each
7 day;

8

9 (ii) The total number of hours of on-duty time
10 for each driver for each day;

11

12 (iii) The time the driver is released from duty
13 each day; and

14

15 (iv) The total number of hours driven each day.

16

17 **31-18-1005. Driver testing.**

18

19 (a) Before the first time a driver performs any
20 duties for a railroad contract carrier under this article,
21 the driver shall undergo testing for alcohol and controlled
22 substances.

23

1 (b) A driver is qualified to drive for a railroad
2 contract carrier if:

3

4 (i) The alcohol test result under subsection (a)
5 of this section indicates an alcohol concentration of zero
6 (0); and

7

8 (ii) The controlled substances test result
9 indicates a verified negative test result.

10

11 (c) A driver is disqualified from driving for a
12 railroad contract carrier under this article if:

13

14 (i) The alcohol test result and the controlled
15 substances test result are not in compliance with
16 subsection (b) of this section;

17

18 (ii) The driver refuses to provide a specimen
19 for or an alcohol test result or the controlled substances
20 test result or both; or

21

22 (iii) The driver submits an adulterated
23 specimen, a dilute positive specimen or a substituted

1 specimen for the alcohol test or the controlled substances
2 test.

3

4 (d) As soon as practicable after an accident
5 involving a motor vehicle owned or operated by a railroad
6 contract carrier, the contract carrier shall test each
7 surviving driver for alcohol and controlled substances if:

8

9 (i) The accident involved the loss of human
10 life; or

11

12 (ii) The driver received a citation for a
13 traffic violation arising from the accident and the
14 accident involved:

15

16 (A) Bodily injury to a person who
17 immediately received medical treatment after the accident;
18 or

19

20 (B) Disabling damage that required one (1)
21 or more of the motor vehicles involved in the accident to
22 be towed from the accident scene.

23

1 (e) A railroad contract carrier or the employer of a
2 driver for a railroad contract carrier shall maintain
3 records of the alcohol testing and controlled substances
4 testing of drivers for five (5) years. The records shall
5 be maintained in a secure location.

6

7 **31-18-1006. Vehicle inspection.**

8

9 (a) A railroad contract carrier shall inspect or
10 cause to be inspected a motor vehicle that it operates for
11 passenger transportation.

12

13 (b) If a railroad contract carrier uses a commercial
14 motor vehicle for passenger transportation, the railroad
15 contract carrier shall perform an inspection on the
16 commercial motor vehicle and its components at least one
17 (1) time each year in compliance with the rules promulgated
18 by the United States Department of Transportation as
19 provided in 49 C.F.R. 396.17, Appendix G.

20

21 (c) An inspection under this section shall be
22 performed by an individual who is qualified to perform the
23 inspection as prescribed in 49 C.F.R. Part 396.19.

24

1 (d) A railroad contract carrier shall require each of
2 its drivers to complete a written motor vehicle report upon
3 completion of each day's work on the motor vehicle that the
4 driver operated as prescribed under 49 C.F.R. Part 396.11.

5
6 **31-18-1007. Maintenance and repair program.**

7
8 (a) A railroad contract carrier shall establish a
9 maintenance and repair program to include at least weekly
10 inspections under this section.

11
12 (b) A railroad contract carrier's maintenance and
13 repair program shall include checking parts and accessories
14 for safety and proper operation at all times, including the
15 items specified under subsection (c) of this section, and
16 overall cleanliness of the motor vehicle.

17
18 (c) A motor vehicle used by a railroad contract
19 carrier shall have:

20
21 (i) Tires with sufficient tread as prescribed
22 under 49 C.F.R. Part 393.75;

23
24 (ii) A spare tire that is fully inflated;

1

2 (iii) A secured location for personal baggage,
3 including proper restraints;

4

5 (iv) Fully-operational seatbelts for all
6 passenger seats;

7

8 (v) If required because of weather, traction
9 devices, studs or chains;

10

11 (vi) A heater and air conditioner that are
12 properly working with properly working fans; and

13

14 (vii) An emergency road kit that contains at
15 least a tire inflating aerosol can, flares or reflective
16 triangles, jumper cables and a fire extinguisher.

17

18 (d) A motor vehicle shall not be operated in a
19 condition that is likely to cause an accident or mechanical
20 breakdown.

21

22 (e) A railroad contract carrier shall maintain
23 records for its maintenance and repair program for each
24 motor vehicle. The records shall include:

1

2 (i) Identifying information for the motor
3 vehicle including the vehicle identification number, make,
4 year manufactured and company identification number if one
5 is provided;

6

7 (ii) Owner information if the railroad contract
8 carrier is not the owner of the vehicle; and

9

10 (iii) The history of inspections, repairs and
11 maintenance that describe the activity and the date the
12 activity was performed.

13

14 (f) Except as otherwise provided, the records
15 required under subsection (e) of this section shall be
16 maintained by the railroad contract carrier at its place of
17 business for one (1) year. If the motor vehicle leaves the
18 railroad contract carrier's control, the records required
19 under subsection (e) of this section shall be maintained by
20 the railroad contract carrier at its place of business for
21 six (6) months.

22

23 (g) A railroad contract carrier and its officers,
24 drivers, agents and employees who are concerned with the

1 inspection or maintenance of motor vehicles shall comply
2 with and be knowledgeable of the contract carrier's
3 maintenance and repair program under this section.

4

5 **31-18-1008. Access to facilities and records.**

6

7 (a) A railroad contract carrier shall allow the
8 department or its designee access to:

9

10 (i) A facility of the railroad contract carrier
11 to determine compliance with this article; and

12

13 (ii) Records required under this article and any
14 information related to an accident investigation under this
15 article.

16

17 **31-18-1009. Liability protection.**

18

19 A railroad contract carrier shall obtain and maintain an
20 insurance policy of five million dollars (\$5,000,000.00)
21 for each motor vehicle that transports railroad employees.

22

23 **31-18-1010. Penalties.**

24

1 (a) A person who knowingly violates a provision of
2 this article is liable to the state for a civil penalty not
3 to exceed one thousand dollars (\$1,000.00) for each
4 violation.

5

6 (b) Each day that a violation continues is a separate
7 offense.

8

9 (c) The department shall assess penalties for
10 violations under this subchapter by written notice to the
11 violator.

12

13 (d) To determine the amount of the penalty, the
14 department or its designee shall evaluate:

15

16 (i) The nature, circumstances, extent and
17 severity of the violation;

18

19 (ii) The degree of culpability, history of prior
20 offenses, ability to pay and effect on the ability to
21 continue to do business of the person found to have
22 committed a violation; and

23

1 (iii) Other circumstances as justice may
2 require.

3

4 **31-18-1011. Right of railroad to contract.**

5

6 (a) This article is not intended to limit, and shall
7 not be construed as limiting, the right of a railroad
8 company to contract with a railroad contract carrier that
9 certifies to the railroad company that it is in compliance
10 with the provisions of this article or any applicable
11 federal requirements.

12

13 (b) A railroad company is entitled to rely on a
14 railroad contract carrier's certification that it is
15 operating in compliance with this article without further
16 inquiry.

17

18 **Section 2.** W.S. 31-18-101(a)(xix) and 31-18-303(a)
19 are amended to read:

20

21 **31-18-101. Definitions.**

22

23 (a) As used in this act:

24

1 (xix) "This act" means W.S. 31-18-101 through
2 ~~31-18-903~~ 31-18-1011;

3

4 **31-18-303. Authority of department to adopt rules and**
5 **regulations governing drivers, equipment and hazardous**
6 **materials; exceptions; maximum operating hours.**

7

8 (a) The department shall adopt rules and regulations
9 prescribing the permissible operating time and other
10 requirements of motor carrier drivers, equipment and the
11 transportation of hazardous materials which are consistent
12 with comparable regulations of the United States department
13 of transportation. The department may adopt rules and
14 regulations in accordance with the provisions of article 10
15 of this act for the transportation of railroad employees.

16

17 **Section 3.** This act is effective July 1, 2010.

18

19

(END)