



# Stakeholder Workshop

**Establishment of Minimum Crew Sizes on Certain Trains**

**Docket TR-200536**

Nov. 19, 2020

9:00 a.m. to Noon

# Virtual Workshop Instructions

Contact information for  
technical difficulties (2  
options)

- Use the chat feature in Teams
- Call Ryan Smith at (360) 915-3646

## **DO:**

- ✓ Mute your computer microphone or phone (\*6)
- ✓ Wait to be called on for comment
- ✓ Identify yourself before speaking
- ✓ Use video during the time you are directly addressing the commission (video is not required for participants)
- ✓ Only use the “Chat” feature in Teams to report technical difficulties

## **DON'T:**

- × Hesitate to “raise your hand” or ask a question!
- × Speak over the presenter or a speaker who is voicing a question or thought.
- × Forget this is a public workshop. The presentation will be recorded and posted.



# Agenda



**UTC**  
Washington Utilities  
and Transportation  
Commission

1. Introductions
2. History of Legislative Actions and Brief Overview of HB 1841
3. Scope and Process for the Rulemaking and Workshop
4. Discussion – Guided by Questions Posed in Workshop Notice/Stakeholder Comments
5. Next Steps and Rulemaking Timeline



# History of Legislative Actions

- **1911 Statutory Language**

Section 2, chapter 134, Laws of 1911, provides in part as follows:

*"It shall be unlawful for any . . . corporation . . . operating any railroad . . . in the State of Washington . . . to operate over its road or any part thereof, or suffer or permit to be run over its road outside of the yard limits, any freight train consisting of twenty-five or more cars exclusive of engine and caboose, with less than a full train crew consisting of six men, to wit: one engineer, one fireman, one conductor, two brakemen and one flagman . . ."*

Section 3, chapter 134, Laws of 1911, provides in part as follows:

*"Each train or engine run in violation of section one or two of this act shall constitute a separate offense: Provided, That nothing in this act shall be construed as applying . . . to any line, or part of line, where not more than two trains are run in each twenty-four hours."*

- **1966 - Washington Repeal of Freight Train Crew Law, Initiative 233**

The Washington Repeal of Freight Train Crew Law Initiative, also known as Initiative 233, was on the Nov. 8, 1966, ballot in Washington as an Initiative to the People, where it was approved. The measure repealed the statutory limitation on the size of freight train crews.

- **2014 – HB 2718 (Minimum Crew Bill)**

- **2015 – SB 5697 & HB 1809 (Minimum Crew Bills)**

- **2016 – UTC submitted a multi-state letter supporting a minimum of two crew members on trains.**

Docket No. FRA-2014-0033 (RIN 2130-AC48), Train Crew Staffing - Notice of Proposed Rulemaking

- **2017 – SB 5846 & HB 1669 (Minimum Crew Bills)**



# Brief Overview of HB 1841

## 2019 REGULAR SESSION

### HOUSE

- Feb 18 Executive action in the House Committee on Labor & Workplace Standards
- Mar 13 Third reading, passed; yeas, 72; nays, 24; absent, 0; excused, 2.

### SENATE

- Apr 2 Executive action taken in the Senate Committee on Labor & Commerce  
Passed with amendment - Made an exception to the minimum crew size requirements for class III railroad carriers.

## 2020 REGULAR SESSION

### HOUSE

- Jan 30 Third reading, passed; yeas, 65; nays, 30; absent, 0; excused, 3.

### SENATE

- Feb 25 Executive action taken in the Senate Committee on Labor & Commerce  
Passed with amendment
- Mar 6 Committee amendment not adopted.  
Floor amendment(s) adopted.  
Third reading, passed; yeas, 34; nays, 15; absent, 0; excused, 0.

### HOUSE

- Mar 10 House concurred in Senate amendments.  
Passed final passage; yeas, 64; nays, 33; absent, 0; excused, 1.

### OTHER

- Mar 27 Governor partially vetoed.  
Emergency clause in Section 8 vetoed.  
Chapter 170, 2020 Laws PV.  
Effective date 6/11/2020.



# Brief Overview of HB 1841

HB 1841 adds new sections to and repeals specific sections of Chapter 81.40 RCW. The amendments necessitate a rulemaking in order to:

- Define specific terms in the law
- Develop standards and practices for rescission of automatic waivers
- Establish a process for UTC-ordered train crew size increases
- Incorporate all statutory changes
- Perform investigations and adjudications related to violations of the law

# Scope and Process for Rulemaking/Workshop

- The purpose of the workshop is to gather additional information, beyond the written comments, the Commission can use to help it develop the language used in the rules to implement the Laws of 2020, chapter 170 (House Bill 1841).
- The Commission is seeking further comments regarding whether there may be viable, cost-effective alternatives to implementing specific proposals, and whether proposals present logistical (rather than legal) implementation challenges.
- This rulemaking workshop will not include a discussion of preemption concerns, as those arguments are primarily legal and do not provide constructive input regarding the text of potential draft rules.



# Discussion – a. Definitions

HB 1841 defines “Class I” railroads more broadly than federal rules.

Section 2 states:

*“(1) “Class I” means a railroad carrier designated as a class I railroad by the United States surface transportation board and its subsidiaries or is owned and operated by entities whose combined total railroad operational ownership and controlling interest meets the United States surface transportation board designation as a class I railroad carrier.”*

- **How should the Commission interpret “owned” as that term is used in the definition?**
- **How should the Commission interpret “operated” as that term is used in the definition?**





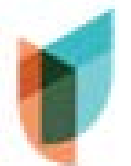
# Discussion – a. Definitions (cont.)

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Section 2 states:

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- **What revenues should be used to determine whether a railroad is a Class 1 railroad under the Laws of 2020, chapter 170?**
- **Specifically, what revenues should be included when determining the “combined total railroad operational ownership and controlling interest” under Section 2(1) of HB 1841?**



# Discussion – b. Operating Speed

Section 3 states:

*“(2) Class III railroad carriers operating on their roads while at a speed of twenty-five miles per hour or less are exempt from subsection (1) of this section.”*

- **What documentation or verification should the Commission require to show that a railroad’s operating speeds are 25 miles per hour or less?**



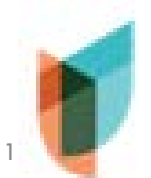
# Discussion – c. Risk Criteria

Section 4 states, in part:

*“(a) The commission may order railroad carriers to increase the number of railroad employees in areas of increased risk to the public, passengers, railroad employees, or the environment, or on specific trains, routes, or to switch assignments on their road with additional numbers of crewmembers, and may direct the placement of additional crewmembers, if it is determined that such an increase in staffing or the placement of additional crewmembers is necessary to protect the safety, health, and welfare of the public, passengers, or railroad employees, to prevent harm to the environment or to address site specific safety or security hazards.*

*(b) In issuing such an order, the commission may consider relevant factors... ”*

- **What are the specific risk criteria the Commission should consider when determining whether to order an increase in crew size?**



# Next Steps & Rulemaking Timeline

## Next Steps

UTC staff will review stakeholder comments and information gathered during the workshop and begin drafting rules.

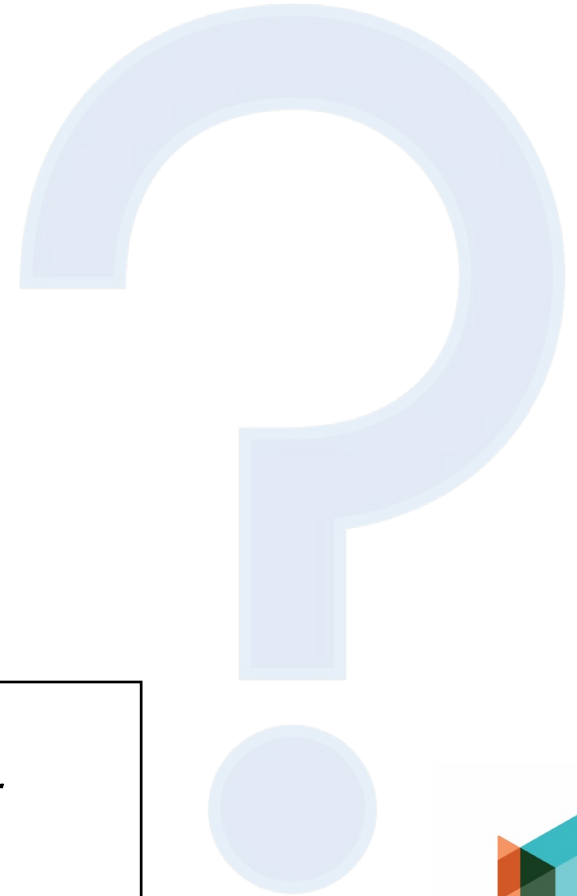
## Timeline

- Draft Rules – Dec. 2020/Jan. 2021
- Possible Rule Workshop – Jan./Feb. 2021
- Rule Adoption – May/June 2021





# Questions?



Contact:

Betty Young, UTC Rail Safety Program Advisor

[betty.young@utc.wa.gov](mailto:betty.young@utc.wa.gov)

(360) 292-5470

