As Introduced

133rd General Assembly
Regular Session 2019-2020

H. B. No. 186

Representatives Hillyer, Sheehy


A BILL

To amend sections 4907.01, 4907.99, 5589.21, 5589.24, and 5589.99 and to enact sections 4907.70, 4907.71, 4907.72, and 4999.09 of the Revised Code regarding rail yard walkway safety and illumination, two-person freight train crews, and public roadway obstruction that delays emergency vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4907.01, 4907.99, 5589.21, 5589.24, and 5589.99 be amended and sections 4907.70, 4907.71, 4907.72, and 4999.09 of the Revised Code be enacted to read as follows:

Sec. 4907.01. As used in sections 4907.01 to 4907.63, 4907.72 of the Revised Code:

(A) "Public utility" has the same meaning as in section 4905.02 of the Revised Code.
"Telephone company," "street railway company," and "interurban railroad company" have the same meanings as in section 4905.03 of the Revised Code.

(C) "Railroad" has the same meaning as in section 4907.02 of the Revised Code.

(D) "Public highway" has the same meaning as in section 4921.01 of the Revised Code.

Sec. 4907.70. (A) As used in this section:

(1) "Walkway" means any walkway used in a rail yard. "Walkway" does not include tracks constructed in industry yards owned by an entity other than a railroad company.

(2) "Frequently" means at least one shift per day, five or more days a week.

(3) "Good cause" includes a showing that compliance with this section will impose an undue hardship on the railroad company.

(B) On and after the effective date of this section, a railroad company that is constructing a track within a rail yard owned or operated by the company shall construct a walkway adjacent to that track in areas where railroad company employees frequently perform switching activities. The railroad company shall construct the walkway in accordance with the standards established in division (D) of this section. This division does not apply to a railroad company if both of the following apply:

(1) The area adjacent to the track in which the walkway is otherwise required to be constructed is necessary, under federal law, for track stability or track support.

(2) The construction of the walkway in accordance with
division (D) of this section will prevent the railroad company from complying with federal law governing track stability or track support.

(C) If the public utilities commission finds, after a hearing held in accordance with Chapter 119. of the Revised Code, that railroad company employees who frequently perform switching activities adjacent to a portion of track within a rail yard are exposed to safety hazards due to the absence of a walkway or due to the condition of a walkway constructed before the effective date of this section, the commission may order a railroad company to construct a walkway adjacent to that portion of track, or require a railroad company to modify an existing walkway. If so ordered, the railroad company shall construct or modify the walkway in accordance with the standards set forth in division (D) of this section within a reasonable period of time. The commission shall not issue an order under this division if both of the following apply:

(1) The area adjacent to the track in which the walkway is otherwise required to be constructed or modified is necessary, under federal law, for track stability or track support.

(2) The construction or modification of the walkway in accordance with division (D) of this section will prevent the railroad company from complying with federal law governing track stability or track support.

(D) With respect to walkways constructed or modified under this section, a railroad company shall ensure all of the following:

(1) Walkways have a reasonably uniform surface.

(2) Cross slopes for walkways do not exceed one inch of
elevation for each eight inches of horizontal length in any direction.

(3) Walkways are a minimum width of two feet.

(4) Walkways are surfaced with asphalt, concrete, planking, grating, native material, crushed material, or other similar material.

When crushed material is used, the railroad company shall ensure that one hundred per cent of the material is capable of passing through a one and one-half inch square sieve opening and between ninety to one hundred per cent of the material is capable of passing through a one inch square sieve opening. However, with respect to crushed material, a de minimis variation from such percentages is not a violation of this section if the railroad company has made a good faith effort to comply with the requirements governing crushed material.

(E)(1) A railroad company shall keep a walkway that is constructed or modified in accordance with this section in a safe condition and free of spilled oil, sand, posts, vegetation, nonballast rocks, debris, and other hazards and obstructions.

(2) Division (E)(1) of this section does not apply to a railroad company during maintenance activities or any period of heavy rain or snow, derailments, rock and earth slides, washouts and similar weather or seismic conditions, and during a reasonable period after such events.

(F) A railroad company may petition the commission for a waiver from any of the requirements of this section for good cause.

Sec. 4907.71. A railroad company shall illuminate each rail yard in accordance with the standards established by the
illuminating engineering society of North America.

Sec. 4907.72. A railroad company employee or a representative of a railroad company employee may file a complaint with the public utilities commission alleging a violation of section 4907.70 or 4907.71 of the Revised Code. The railroad company employee or representative of the employee shall submit along with the complaint written evidence that, prior to the filing of the complaint, the employee or representative requested the railroad company to address the circumstances that gave rise to the complaint. The commission shall establish procedures for the filing of such a complaint.

Sec. 4907.99. (A) Whoever violates section 4907.21 of the Revised Code shall be fined not less than one hundred nor more than one thousand dollars.

(B) Whoever violates section 4907.22 of the Revised Code shall be fined not less than five hundred nor more than one thousand dollars.

(C) Whoever violates section 4907.32 of the Revised Code shall be fined not less than fifty nor more than five hundred dollars.

(D) Whoever violates section 4907.35 or 4907.38 of the Revised Code shall be fined not less than fifty nor more than one thousand dollars.

(E) Whoever violates section 4907.45 of the Revised Code shall be fined not more than five hundred dollars, imprisoned not more than one year, or both.

(F) Whoever violates section 4907.473 of the Revised Code is guilty of a minor misdemeanor.
(G) Whoever violates section 4907.63 of the Revised Code is guilty of a felony of the fifth degree.

(H) Whoever recklessly violates section 4907.70 or 4907.71 of the Revised Code shall be fined not more than one hundred dollars. Each day a violation exists constitutes a separate offense.

Sec. 4999.09. (A) A train or light engine used in connection with the movement of freight shall have a crew that consists of at least two individuals. No superintendent, trainmaster, or other employee of a railroad shall order or otherwise require a train or light engine used in connection with the movement of freight to be operated unless it has a crew that consists of at least two individuals.

As used in this division, "train or light engine used in connection with the movement of freight" does not include hostler service or utility employees.

(B)(1) The public utilities commission may assess a civil penalty against a person who has willfully violated division (A) of this section. If the commission assesses a civil penalty, the commission shall do so as follows:

(a) If, within three years of the violation, the commission has not previously assessed a civil penalty against the person under this section, in an amount not less than two hundred and fifty, but not more than one thousand dollars;

(b) If, within three years of the violation, the commission has previously assessed one civil penalty against the person under this section, in an amount not less than one thousand, but not more than five thousand dollars;

(c) If, within three years of the violation, the
commission has previously assessed two or more civil penalties against the person under this section, in an amount not less than five thousand, but not more than ten thousand dollars.

(2) The attorney general, upon the request of the public utilities commission, shall bring a civil action to collect the penalties described in division (B)(1) of this section. All penalties collected under the division shall be deposited into the state treasury to the credit of the public utilities fund created in section 4905.10 of the Revised Code.

Sec. 5589.21. (A) As used in this section, "emergency vehicle" has the same meaning as in section 4511.01 of the Revised Code.

(B)(1) No railroad company shall obstruct, or permit or cause to be obstructed a public street, road, or highway, by permitting a railroad car, locomotive, or other obstruction to remain upon or across it for longer than five minutes, to the hindrance or inconvenience of travelers or a person passing along or upon such street, road, or highway.

(B)(2) At the end of each five minute period of obstruction of a public street, road, or highway, each railroad company shall cause such railroad car, locomotive, or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.

(C)(1) No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway by permitting a railroad car, locomotive, or other obstruction to remain upon or across it for any amount of time if the obstruction causes the delay of an emergency vehicle that is
assisting or attempting to assist a person or property in
danger.

(2) Whoever violates division (C)(1) of this section shall
pay a civil penalty of five thousand dollars for each violation.

(D) This section does not apply to obstruction of a public
street, road, or highway by a continuously moving through train
or caused by circumstances wholly beyond the control of the
railroad company, but does apply to other obstructions,
including without limitation those caused by stopped trains and
trains engaged in switching, loading, or unloading operations.

(E) If a railroad car, locomotive, or other
obstruction is obstructing a public street, road, or highway in
violation of division (A)(B)(1) or (C)(1) of this section and
the violation occurs in the unincorporated area of one or more
counties, or in one or more municipal corporations, the officers
and employees of each affected county or municipal corporation
may charge the railroad company with only one violation of the
law arising from the same facts and circumstances and the same
act.

(F) Upon the filing of an affidavit or complaint for
violation of division (A)(B)(1) or (C)(1) of this section,
summons shall be issued to the railroad company pursuant to
division (B) of section 2935.10 of the Revised Code, which
summons shall be served on the regular ticket or freight agent
of the company in the county where the offense occurred.

Sec. 5589.24. (A) All fines and civil penalties collected
for a violation of division (A)(B)(1) or (C)(1) of section
5589.21 or section 5589.211 of the Revised Code shall be paid as
follows:
(1) To the railroad grade crossing improvement fund of the county if the violation occurred in an unincorporated area of the county;

(2) To the railroad grade crossing improvement fund of the municipal corporation in which the violation occurred if the violation occurred in a municipal corporation.

(B) The board of county commissioners of each county and the legislative authority of each municipal corporation shall establish a railroad grade crossing improvement fund. The fund shall consist of fines paid to the county or municipal corporation under division (A) of this section and any other moneys allocated to the fund by the county or municipal corporation. Except as otherwise provided in this division, a county or municipal corporation shall use its railroad grade crossing improvement fund to pay any part of the cost assigned by the public utilities commission to the county or municipal corporation under section 4907.471 of the Revised Code. The county or municipal corporation also may use its railroad grade crossing improvement fund for other improvements to railroad grade crossings, including signs, signals, gates, or other protective devices, as the board of county commissioners or legislative authority of a municipal corporation determines to be appropriate.

If, during any fiscal year, the fines a county collects for violations of division (A)(B)(1) of section 5589.21 and section 5589.211 of the Revised Code equal three thousand dollars or less, during the subsequent fiscal year the county may use that amount of money in its railroad grade crossing improvement fund for any purpose that the board of county commissioners determines to be appropriate.
If, during any fiscal year, the fines and civil penalties a county collects for violations of division (A) divisions (B) (1) and (C)(1) of section 5589.21 and section 5589.211 of the Revised Code exceed three thousand dollars, during the subsequent two fiscal years the county shall use all the money in its railroad grade crossing improvement fund only for those purposes described in this division. In such a case, the amount of money the county collects for violations of division (A) divisions (B)(1) and (C)(1) of section 5589.21 and section 5589.211 of the Revised Code during the fiscal year immediately following the second of those two fiscal years shall determine the disposition under this division of the money the county collects during that fiscal year.

Sec. 5589.99. (A) Whoever violates section 5589.01 of the Revised Code is guilty of a misdemeanor of the third degree.

(B) Whoever violates section 5589.02, 5589.03, 5589.05, 5589.06, 5589.08, 5589.081, 5589.09, 5589.11, 5589.12, 5589.32, or 5589.33 of the Revised Code is guilty of a minor misdemeanor.

(C) Whoever violates section 5589.07 or 5589.10 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(D) Whoever violates division (A) (B)(1) of section 5589.21 of the Revised Code is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars.

(E) Whoever violates section 5589.211 of the Revised Code is guilty of a misdemeanor of the first degree and shall be fined five thousand dollars.

Section 2. That existing sections 4907.01, 4907.99, 5589.21, 5589.24, and 5589.99 of the Revised Code are hereby repealed.