

As Introduced

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H. B. No. 186

Representatives Hillyer, Sheehy

Cosponsors: Representatives Crossman, DeVitis, Hicks-Hudson, Kelly, Leland, Lepore-Hagan, Miller, A., Miller, J., O'Brien, Oelslager, Skindell, Smith, K., Sobecki, Strahorn, Upchurch, Weinstein, Miranda, Lightbody, Brown, Roemer, Russo, Rogers

A BILL

To amend sections 4907.01, 4907.99, 5589.21, 1
5589.24, and 5589.99 and to enact sections 2
4907.70, 4907.71, 4907.72, and 4999.09 of the 3
Revised Code regarding rail yard walkway safety 4
and illumination, two-person freight train 5
crews, and public roadway obstruction that 6
delays emergency vehicles. 7

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

Section 1. That sections 4907.01, 4907.99, 5589.21, 8
5589.24, and 5589.99 be amended and sections 4907.70, 4907.71, 9
4907.72, and 4999.09 of the Revised Code be enacted to read as 10
follows: 11

Sec. 4907.01. As used in sections 4907.01 to ~~4907.63~~ 12
4907.72 of the Revised Code: 13

(A) "Public utility" has the same meaning as in section 14
4905.02 of the Revised Code. 15

(B) "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 44
from complying with federal law governing track stability or 45
track support. 46

(C) If the public utilities commission finds, after a 47
hearing held in accordance with Chapter 119. of the Revised 48
Code, that railroad company employees who frequently perform 49
switching activities adjacent to a portion of track within a 50
rail yard are exposed to safety hazards due to the absence of a 51
walkway or due to the condition of a walkway constructed before 52
the effective date of this section, the commission may order a 53
railroad company to construct a walkway adjacent to that portion 54
of track, or require a railroad company to modify an existing 55
walkway. If so ordered, the railroad company shall construct or 56
modify the walkway in accordance with the standards set forth in 57
division (D) of this section within a reasonable period of time. 58
The commission shall not issue an order under this division if 59
both of the following apply: 60

(1) The area adjacent to the track in which the walkway is 61
otherwise required to be constructed or modified is necessary, 62
under federal law, for track stability or track support. 63

(2) The construction or modification of the walkway in 64
accordance with division (D) of this section will prevent the 65
railroad company from complying with federal law governing track 66
stability or track support. 67

(D) With respect to walkways constructed or modified under 68
this section, a railroad company shall ensure all of the 69
following: 70

(1) Walkways have a reasonably uniform surface. 71

(2) Cross slopes for walkways do not exceed one inch of 72

elevation for each eight inches of horizontal length in any 73
direction. 74

(3) Walkways are a minimum width of two feet. 75

(4) Walkways are surfaced with asphalt, concrete, 76
planking, grating, native material, crushed material, or other 77
similar material. 78

When crushed material is used, the railroad company shall 79
ensure that one hundred per cent of the material is capable of 80
passing through a one and one-half inch square sieve opening and 81
between ninety to one hundred per cent of the material is 82
capable of passing through a one inch square sieve opening. 83
However, with respect to crushed material, a de minimis 84
variation from such percentages is not a violation of this 85
section if the railroad company has made a good faith effort to 86
comply with the requirements governing crushed material. 87

(E) (1) A railroad company shall keep a walkway that is 88
constructed or modified in accordance with this section in a 89
safe condition and free of spilled oil, sand, posts, vegetation, 90
nonballast rocks, debris, and other hazards and obstructions. 91

(2) Division (E) (1) of this section does not apply to a 92
railroad company during maintenance activities or any period of 93
heavy rain or snow, derailments, rock and earth slides, washouts 94
and similar weather or seismic conditions, and during a 95
reasonable period after such events. 96

(F) A railroad company may petition the commission for a 97
waiver from any of the requirements of this section for good 98
cause. 99

Sec. 4907.71. A railroad company shall illuminate each 100
rail yard in accordance with the standards established by the 101

illuminating engineering society of North America. 102

Sec. 4907.72. A railroad company employee or a 103
representative of a railroad company employee may file a 104
complaint with the public utilities commission alleging a 105
violation of section 4907.70 or 4907.71 of the Revised Code. The 106
railroad company employee or representative of the employee 107
shall submit along with the complaint written evidence that, 108
prior to the filing of the complaint, the employee or 109
representative requested the railroad company to address the 110
circumstances that gave rise to the complaint. The commission 111
shall establish procedures for the filing of such a complaint. 112

Sec. 4907.99. (A) Whoever violates section 4907.21 of the 113
Revised Code shall be fined not less than one hundred nor more 114
than one thousand dollars. 115

(B) Whoever violates section 4907.22 of the Revised Code 116
shall be fined not less than five hundred nor more than one 117
thousand dollars. 118

(C) Whoever violates section 4907.32 of the Revised Code 119
shall be fined not less than fifty nor more than five hundred 120
dollars. 121

(D) Whoever violates section 4907.35 or 4907.38 of the 122
Revised Code shall be fined not less than fifty nor more than 123
one thousand dollars. 124

(E) Whoever violates section 4907.45 of the Revised Code 125
shall be fined not more than five hundred dollars, imprisoned 126
not more than one year, or both. 127

(F) Whoever violates section 4907.473 of the Revised Code 128
is guilty of a minor misdemeanor. 129

(G) Whoever violates section 4907.63 of the Revised Code 130
is guilty of a felony of the fifth degree. 131

(H) Whoever recklessly violates section 4907.70 or 4907.71 132
of the Revised Code shall be fined not more than one hundred 133
dollars. Each day a violation exists constitutes a separate 134
offense. 135

Sec. 4999.09. (A) A train or light engine used in 136
connection with the movement of freight shall have a crew that 137
consists of at least two individuals. No superintendent, 138
trainmaster, or other employee of a railroad shall order or 139
otherwise require a train or light engine used in connection 140
with the movement of freight to be operated unless it has a crew 141
that consists of at least two individuals. 142

As used in this division, "train or light engine used in 143
connection with the movement of freight" does not include 144
hostler service or utility employees. 145

(B) (1) The public utilities commission may assess a civil 146
penalty against a person who has willfully violated division (A) 147
of this section. If the commission assesses a civil penalty, the 148
commission shall do so as follows: 149

(a) If, within three years of the violation, the 150
commission has not previously assessed a civil penalty against 151
the person under this section, in an amount not less than two 152
hundred and fifty, but not more than one thousand dollars; 153

(b) If, within three years of the violation, the 154
commission has previously assessed one civil penalty against the 155
person under this section, in an amount not less than one 156
thousand, but not more than five thousand dollars; 157

(c) If, within three years of the violation, the 158

commission has previously assessed two or more civil penalties 159
against the person under this section, in an amount not less 160
than five thousand, but not more than ten thousand dollars. 161

(2) The attorney general, upon the request of the public 162
utilities commission, shall bring a civil action to collect the 163
penalties described in division (B)(1) of this section. All 164
penalties collected under the division shall be deposited into 165
the state treasury to the credit of the public utilities fund 166
created in section 4905.10 of the Revised Code. 167

Sec. 5589.21. (A) As used in this section, "emergency 168
vehicle" has the same meaning as in section 4511.01 of the 169
Revised Code. 170

(B)(1) No railroad company shall obstruct, or permit or 171
cause to be obstructed a public street, road, or highway, by 172
permitting a railroad car, locomotive, or other obstruction to 173
remain upon or across it for longer than five minutes, to the 174
hindrance or inconvenience of travelers or a person passing 175
along or upon such street, road, or highway. 176

~~(B)~~ (2) At the end of each five minute period of 177
obstruction of a public street, road, or highway, each railroad 178
company shall cause such railroad car, locomotive, or other 179
obstruction to be removed for sufficient time, not less than 180
three minutes, to allow the passage of persons and vehicles 181
waiting to cross. 182

(C)(1) No railroad company shall obstruct, or permit or 183
cause to be obstructed, a public street, road, or highway by 184
permitting a railroad car, locomotive, or other obstruction to 185
remain upon or across it for any amount of time if the 186
obstruction causes the delay of an emergency vehicle that is 187

assisting or attempting to assist a person or property in 188
danger. 189

(2) Whoever violates division (C)(1) of this section shall 190
pay a civil penalty of five thousand dollars for each violation. 191

(D) This section does not apply to obstruction of a public 192
street, road, or highway by a continuously moving through train 193
or caused by circumstances wholly beyond the control of the 194
railroad company, but does apply to other obstructions, 195
including without limitation those caused by stopped trains and 196
trains engaged in switching, loading, or unloading operations. 197

~~(D)~~(E) If a railroad car, locomotive, or other 198
obstruction is obstructing a public street, road, or highway in 199
violation of division ~~(A)~~(B)(1) or (C)(1) of this section and 200
the violation occurs in the unincorporated area of one or more 201
counties, or in one or more municipal corporations, the officers 202
and employees of each affected county or municipal corporation 203
may charge the railroad company with only one violation of the 204
law arising from the same facts and circumstances and the same 205
act. 206

~~(E)~~(F) Upon the filing of an affidavit or complaint for 207
violation of division ~~(A)~~(B)(1) or (C)(1) of this section, 208
summons shall be issued to the railroad company pursuant to 209
division (B) of section 2935.10 of the Revised Code, which 210
summons shall be served on the regular ticket or freight agent 211
of the company in the county where the offense occurred. 212

Sec. 5589.24. (A) All fines and civil penalties collected 213
for a violation of division ~~(A)~~(B)(1) or (C)(1) of section 214
5589.21 or section 5589.211 of the Revised Code shall be paid as 215
follows: 216

(1) To the railroad grade crossing improvement fund of the 217
county if the violation occurred in an unincorporated area of 218
the county; 219

(2) To the railroad grade crossing improvement fund of the 220
municipal corporation in which the violation occurred if the 221
violation occurred in a municipal corporation. 222

(B) The board of county commissioners of each county and 223
the legislative authority of each municipal corporation shall 224
establish a railroad grade crossing improvement fund. The fund 225
shall consist of fines paid to the county or municipal 226
corporation under division (A) of this section and any other 227
moneys allocated to the fund by the county or municipal 228
corporation. Except as otherwise provided in this division, a 229
county or municipal corporation shall use its railroad grade 230
crossing improvement fund to pay any part of the cost assigned 231
by the public utilities commission to the county or municipal 232
corporation under section 4907.471 of the Revised Code. The 233
county or municipal corporation also may use its railroad grade 234
crossing improvement fund for other improvements to railroad 235
grade crossings, including signs, signals, gates, or other 236
protective devices, as the board of county commissioners or 237
legislative authority of a municipal corporation determines to 238
be appropriate. 239

If, during any fiscal year, the fines a county collects 240
for violations of division ~~(A)~~ (B) (1) of section 5589.21 and 241
section 5589.211 of the Revised Code equal three thousand 242
dollars or less, during the subsequent fiscal year the county 243
may use that amount of money in its railroad grade crossing 244
improvement fund for any purpose that the board of county 245
commissioners determines to be appropriate. 246

If, during any fiscal year, the finest and civil penalties 247
a county collects for violations of ~~division (A)~~ divisions (B) 248
(1) and (C) (1) of section 5589.21 and section 5589.211 of the 249
Revised Code exceed three thousand dollars, during the 250
subsequent two fiscal years the county shall use all the money 251
in its railroad grade crossing improvement fund only for those 252
purposes described in this division. In such a case, the amount 253
of money the county collects for violations of ~~division (A)~~ 254
divisions (B) (1) and (C) (1) of section 5589.21 and section 255
5589.211 of the Revised Code during the fiscal year immediately 256
following the second of those two fiscal years shall determine 257
the disposition under this division of the money the county 258
collects during that fiscal year. 259

Sec. 5589.99. (A) Whoever violates section 5589.01 of the 260
Revised Code is guilty of a misdemeanor of the third degree. 261

(B) Whoever violates section 5589.02, 5589.03, 5589.05, 262
5589.06, 5589.08, 5589.081, 5589.09, 5589.11, 5589.12, 5589.32, 263
or 5589.33 of the Revised Code is guilty of a minor misdemeanor. 264

(C) Whoever violates section 5589.07 or 5589.10 of the 265
Revised Code is guilty of a misdemeanor of the fourth degree. 266

(D) Whoever violates division ~~(A)~~ (B) (1) of section 267
5589.21 of the Revised Code is guilty of a misdemeanor of the 268
first degree and shall be fined one thousand dollars. 269

(E) Whoever violates section 5589.211 of the Revised Code 270
is guilty of a misdemeanor of the first degree and shall be 271
fined five thousand dollars. 272

Section 2. That existing sections 4907.01, 4907.99, 273
5589.21, 5589.24, and 5589.99 of the Revised Code are hereby 274
repealed. 275