

As Introduced

134th General Assembly

Regular Session

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H. B. No. 195

Representatives Sheehy, Lepore-Hagan

**Cosponsors: Representatives Blackshear, Hillyer, Liston, Miller, A., Miller, J.,
Skindell, Smith, K., Sobecki, Weinstein**

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, and 4907.72 of the Revised 3
Code regarding rail yard walkway safety and 4
illumination and public roadway obstruction that 5
delays emergency vehicles. 6

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

Section 1. That sections 4907.01, 4907.99, 5589.21, 7
5589.24, and 5589.99 be amended and sections 4907.70, 4907.71, 8
and 4907.72 of the Revised Code be enacted to read as follows: 9

Sec. 4907.01. As used in sections 4907.01 to ~~4907.63~~ 10
4907.72 of the Revised Code: 11

(A) "Public utility" has the same meaning as in section 12
4905.02 of the Revised Code. 13

(B) "Telephone company," "street railway company," and 14
"interurban railroad company" have the same meanings as in 15
section 4905.03 of the Revised Code. 16

(C) "Railroad" has the same meaning as in section 4907.02 17
of the Revised Code. 18

(D) "Public highway" has the same meaning as in section 19
4921.01 of the Revised Code. 20

Sec. 4907.70. (A) As used in this section: 21

(1) "Walkway" means any walkway used in a rail yard. 22
"Walkway" does not include tracks constructed in industry yards 23
owned by an entity other than a railroad company. 24

(2) "Frequently" means at least one shift per day, five or 25
more days a week. 26

(3) "Good cause" includes a showing that compliance with 27
this section will impose an undue hardship on the railroad 28
company. 29

(B) On and after the effective date of this section, a 30
railroad company that is constructing a track within a rail yard 31
owned or operated by the company shall construct a walkway 32
adjacent to that track in areas where railroad company employees 33
frequently perform switching activities. The railroad company 34
shall construct the walkway in accordance with the standards 35
established in division (D) of this section. This division does 36
not apply to a railroad company if both of the following apply: 37

(1) The area adjacent to the track in which the walkway is 38
otherwise required to be constructed is necessary, under federal 39
law, for track stability or track support. 40

(2) The construction of the walkway in accordance with 41
division (D) of this section will prevent the railroad company 42
from complying with federal law governing track stability or 43
track support. 44

(C) If the public utilities commission finds, after a 45
hearing held in accordance with Chapter 119. of the Revised 46
Code, that railroad company employees who frequently perform 47
switching activities adjacent to a portion of track within a 48
rail yard are exposed to safety hazards due to the absence of a 49
walkway or due to the condition of a walkway constructed before 50
the effective date of this section, the commission may order a 51
railroad company to construct a walkway adjacent to that portion 52
of track, or require a railroad company to modify an existing 53
walkway. If so ordered, the railroad company shall construct or 54
modify the walkway in accordance with the standards set forth in 55
division (D) of this section within a reasonable period of time. 56
The commission shall not issue an order under this division if 57
both of the following apply: 58

(1) The area adjacent to the track in which the walkway is 59
otherwise required to be constructed or modified is necessary, 60
under federal law, for track stability or track support. 61

(2) The construction or modification of the walkway in 62
accordance with division (D) of this section will prevent the 63
railroad company from complying with federal law governing track 64
stability or track support. 65

(D) With respect to walkways constructed or modified under 66
this section, a railroad company shall ensure all of the 67
following: 68

(1) Walkways have a reasonably uniform surface. 69

(2) Cross slopes for walkways do not exceed one inch of 70
elevation for each eight inches of horizontal length in any 71
direction. 72

(3) Walkways are a minimum width of two feet. 73

(4) Walkways are surfaced with asphalt, concrete, 74
planking, grating, native material, crushed material, or other 75
similar material. 76

When crushed material is used, the railroad company shall 77
ensure that one hundred per cent of the material is capable of 78
passing through a one and one-half inch square sieve opening and 79
between ninety to one hundred per cent of the material is 80
capable of passing through a one inch square sieve opening. 81
However, with respect to crushed material, a de minimis 82
variation from such percentages is not a violation of this 83
section if the railroad company has made a good faith effort to 84
comply with the requirements governing crushed material. 85

(E) (1) A railroad company shall keep a walkway that is 86
constructed or modified in accordance with this section in a 87
safe condition and free of spilled oil, sand, posts, vegetation, 88
nonballast rocks, debris, and other hazards and obstructions. 89

(2) Division (E) (1) of this section does not apply to a 90
railroad company during maintenance activities or any period of 91
heavy rain or snow, derailments, rock and earth slides, washouts 92
and similar weather or seismic conditions, and during a 93
reasonable period after such events. 94

(F) A railroad company may petition the commission for a 95
waiver from any of the requirements of this section for good 96
cause. 97

Sec. 4907.71. A railroad company shall illuminate each 98
rail yard in accordance with the standards established by the 99
illuminating engineering society of North America. 100

Sec. 4907.72. A railroad company employee or a 101
representative of a railroad company employee may file a 102

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

Sec. 4907.99. (A) Whoever violates section 4907.21 of the 111
Revised Code shall be fined not less than one hundred nor more 112
than one thousand dollars. 113

(B) Whoever violates section 4907.22 of the Revised Code 114
shall be fined not less than five hundred nor more than one 115
thousand dollars. 116

(C) Whoever violates section 4907.32 of the Revised Code 117
shall be fined not less than fifty nor more than five hundred 118
dollars. 119

(D) Whoever violates section 4907.35 or 4907.38 of the 120
Revised Code shall be fined not less than fifty nor more than 121
one thousand dollars. 122

(E) Whoever violates section 4907.45 of the Revised Code 123
shall be fined not more than five hundred dollars, imprisoned 124
not more than one year, or both. 125

(F) Whoever violates section 4907.473 of the Revised Code 126
is guilty of a minor misdemeanor. 127

(G) Whoever violates section 4907.63 of the Revised Code 128
is guilty of a felony of the fifth degree. 129

(H) Whoever recklessly violates section 4907.70 or 4907.71 130

of the Revised Code shall be fined not more than one hundred 131
dollars. Each day a violation exists constitutes a separate 132
offense. 133

Sec. 5589.21. (A) As used in this section, "emergency 134
vehicle" has the same meaning as in section 4511.01 of the 135
Revised Code. 136

(B) (1) No railroad company shall obstruct, or permit or 137
cause to be obstructed a public street, road, or highway, by 138
permitting a railroad car, locomotive, or other obstruction to 139
remain upon or across it for longer than five minutes, to the 140
hindrance or inconvenience of travelers or a person passing 141
along or upon such street, road, or highway. 142

~~(B)~~ (2) At the end of each five minute period of 143
obstruction of a public street, road, or highway, each railroad 144
company shall cause such railroad car, locomotive, or other 145
obstruction to be removed for sufficient time, not less than 146
three minutes, to allow the passage of persons and vehicles 147
waiting to cross. 148

(C) (1) No railroad company shall obstruct, or permit or 149
cause to be obstructed, a public street, road, or highway by 150
permitting a railroad car, locomotive, or other obstruction to 151
remain upon or across it for any amount of time if the 152
obstruction causes the delay of an emergency vehicle that is 153
assisting or attempting to assist a person or property in 154
danger. 155

(2) Whoever violates division (C) (1) of this section shall 156
pay a civil penalty of five thousand dollars for each violation. 157

(D) This section does not apply to obstruction of a public 158
street, road, or highway by a continuously moving through train 159

or caused by circumstances wholly beyond the control of the 160
railroad company, but does apply to other obstructions, 161
including without limitation those caused by stopped trains and 162
trains engaged in switching, loading, or unloading operations. 163

~~(D)~~ (E) If a railroad car, locomotive, or other 164
obstruction is obstructing a public street, road, or highway in 165
violation of division ~~(A)~~ (B) (1) or (C) (1) of this section and 166
the violation occurs in the unincorporated area of one or more 167
counties, or in one or more municipal corporations, the officers 168
and employees of each affected county or municipal corporation 169
may charge the railroad company with only one violation of the 170
law arising from the same facts and circumstances and the same 171
act. 172

~~(E)~~ (F) Upon the filing of an affidavit or complaint for 173
violation of division ~~(A)~~ (B) (1) or (C) (1) of this section, 174
summons shall be issued to the railroad company pursuant to 175
division (B) of section 2935.10 of the Revised Code, which 176
summons shall be served on the regular ticket or freight agent 177
of the company in the county where the offense occurred. 178

Sec. 5589.24. (A) All fines and civil penalties collected 179
for a violation of division ~~(A)~~ (B) (1) or (C) (1) of section 180
5589.21 or section 5589.211 of the Revised Code shall be paid as 181
follows: 182

(1) To the railroad grade crossing improvement fund of the 183
county if the violation occurred in an unincorporated area of 184
the county; 185

(2) To the railroad grade crossing improvement fund of the 186
municipal corporation in which the violation occurred if the 187
violation occurred in a municipal corporation. 188

(B) The board of county commissioners of each county and 189
the legislative authority of each municipal corporation shall 190
establish a railroad grade crossing improvement fund. The fund 191
shall consist of fines paid to the county or municipal 192
corporation under division (A) of this section and any other 193
moneys allocated to the fund by the county or municipal 194
corporation. Except as otherwise provided in this division, a 195
county or municipal corporation shall use its railroad grade 196
crossing improvement fund to pay any part of the cost assigned 197
by the public utilities commission to the county or municipal 198
corporation under section 4907.471 of the Revised Code. The 199
county or municipal corporation also may use its railroad grade 200
crossing improvement fund for other improvements to railroad 201
grade crossings, including signs, signals, gates, or other 202
protective devices, as the board of county commissioners or 203
legislative authority of a municipal corporation determines to 204
be appropriate. 205

If, during any fiscal year, the fines a county collects 206
for violations of division ~~(A)~~ (B) (1) of section 5589.21 and 207
section 5589.211 of the Revised Code equal three thousand 208
dollars or less, during the subsequent fiscal year the county 209
may use that amount of money in its railroad grade crossing 210
improvement fund for any purpose that the board of county 211
commissioners determines to be appropriate. 212

If, during any fiscal year, the fines and civil penalties 213
a county collects for violations of ~~division (A)~~ divisions (B) 214
(1) and (C) (1) of section 5589.21 and section 5589.211 of the 215
Revised Code exceed three thousand dollars, during the 216
subsequent two fiscal years the county shall use all the money 217
in its railroad grade crossing improvement fund only for those 218
purposes described in this division. In such a case, the amount 219

of money the county collects for violations of ~~division (A)~~ 220
divisions (B) (1) and (C) (1) of section 5589.21 and section 221
5589.211 of the Revised Code during the fiscal year immediately 222
following the second of those two fiscal years shall determine 223
the disposition under this division of the money the county 224
collects during that fiscal year. 225

Sec. 5589.99. (A) Whoever violates section 5589.01 of the 226
Revised Code is guilty of a misdemeanor of the third degree. 227

(B) Whoever violates section 5589.02, 5589.03, 5589.05, 228
5589.06, 5589.08, 5589.081, 5589.09, 5589.11, 5589.12, 5589.32, 229
or 5589.33 of the Revised Code is guilty of a minor misdemeanor. 230

(C) Whoever violates section 5589.07 or 5589.10 of the 231
Revised Code is guilty of a misdemeanor of the fourth degree. 232

(D) Whoever violates division ~~(A)~~ (B) (1) of section 233
5589.21 of the Revised Code is guilty of a misdemeanor of the 234
first degree and shall be fined one thousand dollars. 235

(E) Whoever violates section 5589.211 of the Revised Code 236
is guilty of a misdemeanor of the first degree and shall be 237
fined five thousand dollars. 238

Section 2. That existing sections 4907.01, 4907.99, 239
5589.21, 5589.24, and 5589.99 of the Revised Code are hereby 240
repealed. 241