

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 361

Representatives Hall, Miranda

**Cosponsors: Representatives Creech, Click, Weinstein, Miller, A., Johnson,
Crossman, O'Brien, Ghanbari**

A BILL

To amend sections 121.95 and 5589.99 and to enact 1
section 5589.25 of the Revised Code to establish 2
new requirements and increased penalties that 3
apply to a railroad company that unlawfully 4
blocks a railroad crossing. 5

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

Section 1. That sections 121.95 and 5589.99 be amended and 6
section 5589.25 of the Revised Code be enacted to read as 7
follows: 8

Sec. 121.95. (A) As used in this section, "state agency" 9
means an administrative department created under section 121.02 10
of the Revised Code, an administrative department head appointed 11
under section 121.03 of the Revised Code, and a state agency 12
organized under an administrative department or administrative 13
department head. "State agency" also includes the department of 14
education, the state lottery commission, the Ohio casino control 15
commission, the state racing commission, and the public 16
utilities commission of Ohio. Rules adopted by an otherwise 17
independent official or entity organized under a state agency 18

shall be attributed to the agency under which the official or 19
entity is organized for the purposes of this section. 20

(B) Not later than December 31, 2019, a state agency shall 21
review its existing rules to identify rules having one or more 22
regulatory restrictions that require or prohibit an action and 23
prepare a base inventory of the regulatory restrictions in its 24
existing rules. Rules that include the words "shall," "must," 25
"require," "shall not," "may not," and "prohibit" shall be 26
considered to contain regulatory restrictions. 27

(C) In the base inventory, the state agency shall indicate 28
all of the following concerning each regulatory restriction: 29

(1) A description of the regulatory restriction; 30

(2) The rule number of the rule in which the regulatory 31
restriction appears; 32

(3) The statute under which the regulatory restriction was 33
adopted; 34

(4) Whether state or federal law expressly and 35
specifically requires the agency to adopt the regulatory 36
restriction or the agency adopted the regulatory restriction 37
under the agency's general authority; 38

(5) Whether removing the regulatory restriction would 39
require a change to state or federal law, provided that removing 40
a regulatory restriction adopted under a law granting the agency 41
general authority shall be presumed not to require a change to 42
state or federal law; 43

(6) Any other information the joint committee on agency 44
rule review considers necessary. 45

(D) The state agency shall compute and state the total 46

number of regulatory restrictions indicated in the base 47
inventory, shall post the base inventory on its web site, and 48
shall electronically transmit a copy of the inventory to the 49
joint committee. The joint committee shall review the base 50
inventory, then transmit it electronically to the speaker of the 51
house of representatives and the president of the senate. 52

(E) The following types of rules or regulatory 53
restrictions are not required to be included in a state agency's 54
inventory of regulatory restrictions: 55

(1) An internal management rule; 56

(2) An emergency rule; 57

(3) A rule that state or federal law requires the state 58
agency to adopt verbatim; 59

(4) A regulatory restriction contained in materials or 60
documents incorporated by reference into a rule pursuant to 61
sections 121.71 to 121.75 of the Revised Code; 62

(5) A rule adopted pursuant to section 1347.15 of the 63
Revised Code; 64

(6) A rule concerning instant lottery games; 65

(7) A rule adopted pursuant to section 5589.25 of the 66
Revised Code; 67

(8) Any other rule that is not subject to review under 68
Chapter 106. of the Revised Code. 69

(F) Beginning on the effective date of this section and 70
ending on June 30, 2023, a state agency may not adopt a new 71
regulatory restriction unless it simultaneously removes two or 72
more other existing regulatory restrictions. The state agency 73

may not satisfy this section by merging two or more existing 74
regulatory restrictions into a single surviving regulatory 75
restriction. 76

Sec. 5589.25. (A) (1) A railroad company that violates 77
division (A) of section 5589.21 of the Revised Code shall submit 78
to the public utilities commission an incident report of the 79
violation within a time and in a manner determined in rules 80
established by the commission in accordance with division (B) of 81
this section. A railroad company shall comply with this division 82
even if the company is not charged or cited with the violation. 83

(2) By the first day of July each year, the public 84
utilities commission shall compile all incident reports 85
submitted during the prior calendar year and submit an annual 86
report to the president and minority leader of the senate and 87
the speaker and minority leader of the house of representatives. 88
The annual report shall consist of aggregated incident 89
information and shall be presented in a manner that depicts the 90
number of incident reports attributable to each railroad company 91
and the aggregate amount of time that each railroad company 92
blocked railroad crossings during the year in violation of 93
division (A) of section 5589.21 of the Revised Code. 94

(B) The public utilities commission shall adopt rules in 95
accordance with Chapter 119. of the Revised Code that specify 96
all of the following: 97

(1) The time period after an incident by which a railroad 98
company must submit an incident report in accordance with 99
division (A) of this section; 100

(2) The manner in which the railroad company must submit 101
the incident report; 102

<u>(3) The information that a railroad company must include</u>	103
<u>in each incident report, including all of the following:</u>	104
<u>(a) The date on which the incident occurred;</u>	105
<u>(b) The railroad crossing that was blocked by the railroad</u>	106
<u>company during the incident;</u>	107
<u>(c) The duration of the blocked railroad crossing and the</u>	108
<u>time the blocking began and the time the blocking concluded.</u>	109
<u>(C) A railroad company that submits an incident report in</u>	110
<u>accordance with division (A) of this section regarding a blocked</u>	111
<u>railroad crossing for which no charges, citations, or complaints</u>	112
<u>have been made or filed is not subject to the penalty</u>	113
<u>established in division (D) of section 5589.99 of the Revised</u>	114
<u>Code solely as a result of the submission of the report.</u>	115
<u>(D) Notwithstanding division (F) of section 121.95 of the</u>	116
<u>Revised Code, the public utilities commission may adopt new</u>	117
<u>regulatory restrictions pursuant to this section without</u>	118
<u>simultaneously removing two or more other existing regulatory</u>	119
<u>restrictions.</u>	120
Sec. 5589.99. (A) Whoever violates section 5589.01 of the	121
Revised Code is guilty of a misdemeanor of the third degree.	122
(B) Whoever violates section 5589.02, 5589.03, 5589.05,	123
5589.06, 5589.08, 5589.081, 5589.09, 5589.11, 5589.12, 5589.32,	124
or 5589.33 of the Revised Code is guilty of a minor misdemeanor.	125
(C) Whoever violates section 5589.07 or 5589.10 of the	126
Revised Code is guilty of a misdemeanor of the fourth degree.	127
(D) Whoever violates division (A) of section 5589.21 <u>or</u>	128
<u>division (A) of section 5589.25</u> of the Revised Code is guilty of	129
a misdemeanor of the first degree and shall be fined one <u>as</u>	130

<u>follows:</u>	131
<u>(1) For a first violation within a thirty-day period, five</u>	132
thousand dollars;	133
<u>(2) For any subsequent violation within a thirty-day</u>	134
<u>period, ten thousand dollars.</u>	135
(E) Whoever violates section 5589.211 of the Revised Code	136
is guilty of a misdemeanor of the first degree and shall be	137
fined five thousand dollars.	138
Section 2. That existing sections 121.95 and 5589.99 of	139
the Revised Code are hereby repealed.	140