



Am. Sub. S.B. 207
123rd General Assembly
(As Passed by the General Assembly)

Sens. Armbruster, Carnes, Spada, Hagan, Oelslager, Cupp, Mumper

Reps. Clancy, Perry, Bender, Mettler, Robinson, Damschroder, Olman, Schuler, D. Miller, Harris, Schuring, O'Brien, Roberts, Winkler, Krebs, Barnes, Gardner, Hoops, Britton, Buehrer, Taylor, Sullivan, Logan

Effective date: *

ACT SUMMARY

- Declares that the General Assembly finds the improper obstruction of railroad grade crossings by trains a direct threat to the health, safety, and welfare of citizens and a potential "local safety problem" by preventing the timely movement of ambulances, the vehicles of law enforcement officers and firefighters, and vehicles transporting health care professionals.
- Increases the penalty for obstruction of a street, road, or highway by a railroad from a minor misdemeanor to a misdemeanor of the first degree, and establishes a mandatory fine of \$1,000 for such an offense.
- Creates the offense of obstruction of a street, road, or highway by a railroad where the crew has abandoned the locomotive, and establishes a mandatory fine of \$5,000 for such an offense.
- Specifies that the officers and employees of each county or municipal corporation within which an instance of obstruction not caused by abandonment of a locomotive occurs may charge the railroad company with only one violation arising from that instance.
- Requires that fines for obstruction of a street, road, or highway by a railroad be paid to the railroad grade crossing improvement fund of the

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

county if the violation occurred in an unincorporated area of a county or to the railroad grade crossing improvement fund of the municipal corporation in which the violation occurred, rather than to the township where the offense was committed as required by current law.

- Permits a board of county commissioners to appropriate moneys from the general fund for any purposes for which moneys in the railroad grade crossing improvement fund may be used.

CONTENT AND OPERATION

Prohibition against a railroad company obstructing a street, road, or highway

Continuing law prohibits a railroad company from obstructing a public street, road, or highway by permitting a train or other obstruction to remain across it for longer than five minutes. Also, no railroad company may "fail at the end of each five-minute period of obstruction," to remove the obstruction "for a sufficient time, not less than three minutes," to allow the passage of those who are waiting to cross. The law prohibiting this type of obstruction does not apply to a "continuously moving through" train or if the obstruction is caused by circumstances wholly beyond the control of the railroad company. The law *does* apply to obstructions caused by stopped trains and trains engaged in switching, loading, or unloading operations. (R.C. 5589.21.)

Violation of the prohibition

Previously, a railroad company violating the obstruction prohibition was guilty of a minor misdemeanor. The act increases the degree of the offense from a minor misdemeanor to a first degree misdemeanor, but establishes a mandatory fine of \$1,000 for such a violation. (R.C. 5589.99(B) and (D)).¹ The act specifies that the officers and employees of each county or municipal corporation within which an instance of obstruction not caused by the abandonment of a locomotive occurs may charge the railroad company with only one violation arising from that instance. Under the act, if such an obstruction occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, each affected county or municipal corporation is limited to only one charge arising from the same facts and circumstances and the same act. (R.C. 5589.21(D).) For example,

¹ Under general sentencing law, when an organization is convicted of a minor misdemeanor, the maximum fine is \$1,000. When an organization is convicted of a misdemeanor of the first degree, the maximum fine is \$5,000. (R.C. 2929.21 and 2929.31, not in the act.)

if a train is a mile long and blocks *two* intersections in Columbus and *one* intersection in an unincorporated area of Franklin County at the same time for the same half hour, the city of Columbus and Franklin County could each charge the railroad with one violation.

By restructuring prior law, the act clarifies that there is no additional criminal penalty (beyond the basic penalty for obstructing travel for more than five minutes) if the railroad company fails to remove the obstruction for three minutes at the end of each five-minute period of obstruction. The law still requires removal of the obstruction for at least three minutes after a five-minute blockage in order to avoid prosecution for the blockage. (R.C. 5589.21(B) and 5589.99(D).)

New prohibition relating to abandonment of locomotives

The act contains a new prohibition relating to the blocking of railroad grade crossings. It prohibits a railroad company from permitting any part of a train whose crew has abandoned the locomotive to remain across a grade crossing for longer than five minutes to the "hindrance or inconvenience" of travelers, unless the safety of the train crew required them to abandon the locomotive. Upon the filing of an affidavit or complaint for violation of the new prohibition, a summons must be issued to the railroad company in accordance with continuing law. It must be served on the regular ticket or freight agent of the company in the county where the offense occurred. (R.C. 5589.211.)

Whoever violates this new prohibition is guilty of a misdemeanor of the first degree and must be fined \$5,000. (R.C. 5589.99(E).)

Use of funds deriving from fines

Prior law required that all penalties collected for the obstruction of railroad crossings be paid to the township clerk of the township in which the offense was committed. Under the act, fines collected for a violation of the existing or new prohibition against obstructions must be paid either (1) to the railroad grade crossing improvement fund of the county (see below) if the violation occurred in an unincorporated area of the county or (2) to the railroad grade crossing improvement fund of the municipal corporation (see below) if the violation occurred in a municipal corporation. (R.C. 5589.24(A).) The act requires the board of county commissioners of each county and the legislative authority of each municipal corporation to establish a railroad grade crossing improvement fund (R.C. 5589.24(B)).

Under prior law, the board of township trustees was required to apply penalties collected for railroad obstructions to the improvement of township roads (R.C. 5589.24). Under the act, a county or municipal corporation, except as

explained below, must use the railroad grade crossing improvement fund to pay any part of the cost of grade crossing protection devices assigned by the Public Utilities Commission to the county or municipal corporation. The county or municipal corporation also may use the fund for other improvements to railroad grade crossings, including signs, signals, gates, or other protective devices, as the county or the municipal corporation determines to be appropriate. (R.C. 5589.24(B).)

The act also specifically authorizes a board of county commissioners to appropriate moneys from the county's general fund for any of the purposes for which moneys in the railroad grade crossing improvement fund may be used; after the appropriation, the moneys may be transferred to that fund (R.C. 307.203).

Special spending provision for certain counties

During any fiscal year, if a county collects \$3,000 or less in fines, in the subsequent fiscal year the county may use that amount for any purpose the board of county commissioners determines to be appropriate. However, during any fiscal year, if a county collects more than \$3,000, it must, for the subsequent two fiscal years, use all fine money for grade crossing protection devices as described above. After the second of those two fiscal years, the disposition of funds is again determined by whether the amount of the fines exceeds \$3,000. These provisions do not apply to the railroad grade crossing improvement fund of a municipal corporation. (R.C. 5589.24(B).)

Statement of intent of the General Assembly

The act contains a finding of the General Assembly that the improper obstruction of railroad grade crossings by trains is a direct threat to the health, safety, and welfare of citizens "inasmuch as improper obstructions create uniquely different local safety problems by preventing the timely movement of ambulances, the vehicles of law enforcement officers and firefighters, and official and unofficial vehicles transporting health care officials and professionals." The act states the intent of the General Assembly to enhance the health, safety, and welfare through the act's provisions. (R.C. 5589.20.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-09-99	p. 1147
Reported, S. Highways & Transportation	01-26-00	pp. 1348-1349



Passed Senate (30-0)	01-26-00	p.	1354
Reported, H. Transportation & Public Safety	05-10-00	pp.	1936-1937
Passed House (92-4)	05-23-00	pp.	2030-2032
Concurrence (33-0)	05-24-00	pp.	1818-1819

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