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Bill Analysis
Legislative Service Commission

H.B. 399

123rd General Assembly
(As Introduced)

Reps. Krebs, Perry, Damschroder, Flannery, Hartnett, Olman, Ford, Bender, Pringle, D. Miller

BILL SUMMARY

- Prohibits any railroad company from obstructing, or permitting to be obstructed, a public street, road, or highway or a private road used as the primary means of ingress and egress by a landowner or business enterprise by permitting a railroad car, locomotive, or other obstruction to remain upon or across it for a continuous period of more than 25 minutes.
- Provides that whoever violates the above prohibition must be fined \$500 plus an additional \$100 for each minute that the violation exceeds 25 minutes, up to a maximum total fine of \$10,000.
- Prohibits a railroad company from failing to pay, within 120 days of the date set by the court for the payment of the fine, a fine imposed for a violation relating to the blocking of a public or private road and makes each additional day beyond the 120th day of failure to pay such a fine a separate offense.
- Provides that whoever violates the above prohibition must be fined \$10,000.

CONTENT AND OPERATION

Blocking of roads by railroad companies; current law

Current law prohibits a railroad company from obstructing, or permitting or causing 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 the street, road, or highway. No railroad company, at the end of each five-minute period of obstruction of a public street, road, or highway, may

fail to cause the 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. This prohibition 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 it does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading, or unloading operations.

Upon the filing of an affidavit or complaint for a violation of this prohibition, a summons must be issued to the railroad company pursuant to current law. The summons must be served on the regular ticket or freight agent of the company in the county where the offense occurred. (R.C. 5589.21.)

A violation of this prohibition is a minor misdemeanor, which under the law governing organizational penalties is punishable by a fine of not more than \$1,000 (R.C. 2929.31, not in the bill).

All penalties collected for violations of this prohibition must be paid to the township clerk of the township in which the offense was committed and be applied by the board of township trustees to the improvement of roads and highways in that township (R.C. 5589.24).

Operation of the bill

New prohibition

The bill retains the current prohibition and the applicable fine for a violation of that prohibition but enacts a new, more specific prohibition. It prohibits any railroad company from obstructing, or permitting to be obstructed, a public street, road, or highway or a private road used as the primary means of ingress and egress by a landowner or business enterprise by permitting a railroad car, locomotive, or other obstruction to remain upon or across it for a continuous period of more than 25 minutes. (R.C. 5589.21(B).)

Actions required of a peace officer if a violation of the current or new prohibition occurs

Under the bill, any peace officer who has reasonable cause to believe that a violation of either the current or new prohibition has occurred or is occurring must do all of the following (R.C. 5589.21(C)):

(1) Calculate the length of time the train is stopped and blocking the intersection in violation of the applicable prohibition;

(2) Give notice to the person in control of the train to clear the intersection or, if the peace officer is unable to give notice to the person in control of the train after exercising reasonable effort to do so, send a notice by certified mail of the violation on a form prescribed by the Public Utilities Commission to the home office address of the railroad company, to the Public Utilities Commission, and to the Attorney General;

(3) File an affidavit together with a formal complaint with the Public Utilities Commission regarding the violation and give a copy of the complaint to either the railroad company or the person in control of the train.

The bill eliminates the current requirement that, upon the filing of an affidavit or complaint for a violation of the current prohibition, a summons must be issued to the railroad company and be served on the regular ticket or freight agent of the company in the county where the offense occurred (R.C. 5589.21, last paragraph).

If a train that is stopped and blocking an intersection in violation of the new prohibition is located entirely on territory that comprises more than one county, township, township police district, joint township police district, or municipal corporation, a peace officer must perform the peace officer's duties prescribed in the bill in the territory on which any part of the train is located. The peace officer must so act even if that territory is outside the limits of the county, township, township police district, joint township police district, or municipal corporation in which the peace officer is appointed, employed, or elected. (R.C. 5589.21(F).)

Actions required of the Public Utilities Commission and the Attorney General

If a peace officer files an affidavit and complaint with the Public Utilities Commission and if the Commission determines from the affidavit and complaint that probable cause exists to believe that a violation of either of the prohibitions was committed, the Commission must report the violation to the Attorney General. Upon receipt of such a report from the Public Utilities Commission, the Attorney General is required to prosecute the action in the name of the state by filing in the court of common pleas of the county in which the violation occurred a complaint alleging the violation included in the report. (R.C. 5589.21(D) and (E).)

Penalty

The bill provides that whoever violates this new prohibition must be fined \$500 plus an additional \$100 for each minute that the violation exceeds 25 minutes, except that the total amount of the fine cannot exceed \$10,000 (R.C. 5589.99(D)).

Disposition of fine money

All penalties collected for violations of the current prohibition must be paid to the township clerk of the township in which the offense was committed and be applied by the board of township trustees to the improvement of roads and highways in that township.

The bill requires that all fine moneys collected for violations of the current prohibition and the new prohibition be paid to the treasury of the county if the sheriff or a deputy sheriff of the county filed the affidavit and complaint; to the treasury of a township if a member of its township police department, township police district police force, or joint township police district police force, or an employee of the office of the township constable filed the affidavit and complaint; or to the treasury of a municipal corporation if a member of its police department filed the affidavit and complaint. (R.C. 5589.24.)

Prohibition against a railroad company failing to pay a fine; penalty

The bill prohibits a railroad company from failing to pay a fine imposed for a violation of either the current or new prohibition within 120 days of the date set by the court for the payment of the fine. Each additional day beyond the 120th day of failure to pay such a fine is a separate offense. (R.C. 5589.25.)

Whoever violates this prohibition must be fined \$10,000 (R.C. 5589.99(E)). All fine moneys collected for violations of this prohibition must be deposited in the treasury into which is deposited the fine of which the failure to pay is the basis for such a violation (R.C. 5589.24(B)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced H0399-I.123/rss	06-24-99	p. 965