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Bill Analysis
Legislative Service Commission

Sub. S.B. 207

123rd General Assembly

(As Reported by H. Transportation & Public Safety)

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

Reps. Clancy, Perry, Bender, Mettler, Robinson, Damschroder, Olman

BILL SUMMARY

- 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.
- Clarifies that no additional criminal penalty attaches if the railroad company fails to remove the obstruction for three minutes at the end of each five-minute period of obstruction.
- 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 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.
- Requires each county and each municipal corporation to establish and use its railroad grade crossing improvement fund to pay the costs of a railroad grade crossing protective device assigned by the Public Utilities

Commission to the county or municipal corporation and allows the funds to be used for other improvements to railroad grade crossings.

- 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.
- 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.

CONTENT AND OPERATION

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

Existing law prohibits a railroad company from obstructing a public street, road, or highway by permitting a railroad car, locomotive, or other obstruction to remain across the street, road, or highway for longer than five minutes. Also under existing law, "no railroad company shall fail at the end of each five-minute period of obstruction, to cause the railroad car, locomotive, or obstruction to be removed for a sufficient time, not less than three minutes, to allow the passage of persons and vehicles that 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

Under current law, a railroad company violating the prohibitions against obstructing a public street, road, or highway is guilty of a minor misdemeanor. The bill 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 bill 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

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 bill.)

railroad company with only one violation arising from that instance. Under the bill, 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, 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 existing law, the bill 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 bill 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 existing 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

Current law requires 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 bill, 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 bill 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 current law, the board of township trustees must apply penalties collected for railroad obstructions to the improvement of township roads (R.C. 5589.24). Under the bill, a county or municipal corporation 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 bill also permits 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).

Statement of intent of the General Assembly

The bill 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 bill states the intent of the General Assembly to enhance the health, safety, and welfare through the bill'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

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