



Sub. S.B. 207*

123rd General Assembly

(As Reported by S. Highways & Transportation)

Sen. Armbruster

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.
- Specifies that the officers and employees of each county or municipal corporation within which an instance of obstruction of a public street, road, or highway 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.

* *This analysis was prepared before the report of the Senate Highways and Transportation Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

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 on or 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 obstruction of a street, road, or highway 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, whoever violates the prohibitions against obstructing a public street, road, or highway is guilty of a minor misdemeanor. The bill increases the penalty for a violation of the prohibition against blocking a public street, road, or highway to a first degree misdemeanor. (R.C. 5589.99(B) and (D)).¹ However, the bill specifies that the officers and employees of each county or municipal corporation within which an instance of obstruction of a public street, road, or highway occurs may charge the railroad company with only one violation arising from that instance. Under the bill, if the violation occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, the officers and employees of each affected county or municipal corporation may charge the railroad with a violation, but 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.

¹ When an organization is convicted of a minor misdemeanor, the maximum fine is \$1,000; the maximum fine when an individual is convicted of a minor misdemeanor is \$100. When an organization is convicted of a misdemeanor of the first degree, the maximum fine is \$5,000; the maximum fine when an individual is convicted of a misdemeanor of the first degree is \$1,000. (R.C. 2929.21 and 2929.31, not in the bill.)

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).)

Use of funds deriving from fines

Current law requires that all penalties collected for the obstruction of a street, road, or highway by a railroad company 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 prohibition against a railroad company obstructing a street, road, or highway 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 obstruction of a street, road, or highway by a railroad company to the improvement of roads and highways in the township (R.C. 5589.24). Under the bill, a county or municipal corporation must use its 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 its railroad grade crossing improvement fund for other improvements to railroad grade crossings, including signs, signals, gates, or other protective devices, as the board of county commissioners or the legislative authority of the municipal corporation determines to be appropriate. (R.C. 5589.24(B).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-09-99	p. 1147
Reported, S. Highways & Transportation	---	---

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