



Gerald T. Noel, Jr.

Bill Analysis
Legislative Service Commission

S.B. 282

123rd General Assembly
(As Introduced)

Sens. Nein, Kearns, Hagan, Brady

BILL SUMMARY

- Provides limited immunity from civil and criminal liability to a railroad company and to an employee of a railroad company if the employee complies with a municipal ordinance by failing to sound a locomotive engine whistle or bell at a crossing.

CONTENT AND OPERATION

Operation of the bill

The bill provides that, notwithstanding R.C. 4955.32 (governing the use of locomotive engine bells and whistles at crossings--see "Existing law, etc.," below) and 4955.34 (assigning civil liability for failure to use locomotive engine bells and whistles at crossings--see "Existing law, etc.," below), no railroad company, no engineer of a railroad company, and no other employee of a railroad company is subject to prosecution in a criminal proceeding or is liable in damages in a civil action for injury, death, or loss to person or property allegedly arising from the failure of the engineer or other employee to sound a whistle or ring a bell at a highway or street crossing or private crossing if all of the following apply: (1) the incident giving rise to the proceeding or claim occurred within a municipal corporation that had adopted an ordinance regulating the use of a whistle or bell by a locomotive engine within the municipal corporation, (2) the engineer or employee was operating the locomotive engine in compliance with that municipal ordinance, and (3) the failure of the engineer or other employee to sound a whistle or ring a bell allegedly was the proximate cause of the incident giving rise to the proceeding or claim. (R.C. 4955.321(A).)

The bill does not create a new cause of action or substantive legal right against a railroad company, an engineer, or other employee of a railroad company. Additionally, the bill does not affect any immunities from or defenses to a criminal proceeding or civil action established by other R.C. sections or available at

common law to which the railroad company, engineer, or other employee of a railroad company may be entitled. (R.C. 4955.321(B) and (C).)

Existing law--requirement to sound whistle and bell at crossing and penalty

Existing law requires each railroad company to attach a bell and a steam or compressed air whistle to each of its locomotive engines. Existing law also requires the engineer or person in charge of a moving locomotive engine to sound the engine's whistle at a distance of between 80 and 100 rods from any crossing it approaches that is obstructed to view and to ring the engine's bell continuously until the engine passes the crossing. These requirements are not to interfere with the proper observance of a municipal ordinance regulating the management of railroads, locomotives, and steam whistles on locomotives within the limits of a municipal corporation. (R.C. 4955.32.)

Any railroad engineer or other person in charge of a locomotive engine who fails to comply with the requirement to sound the engine's whistle and bell as described above is personally liable for a penalty of not less than \$50 nor more than \$100. The state can recover that penalty by bringing a civil action in the court of common pleas of the county in which the crossing is located. The engineer or person who fails to comply with those requirements and the company that employs that person are liable in damages to a person or company injured in person or property by the engineer's or person's failure to sound the whistle and bell. (R.C. 4955.34.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-30-00	p. 1543

S0282-I.123/nlr