



S.B. 40

125th General Assembly
(As Introduced)

Sens. Hagan, Miller, Dann, Brady

BILL SUMMARY

- Prohibits the operation of a nonpassenger train locomotive by "remote control" outside a railway yard.
- Prohibits certain locomotive operations within a railway yard except by the "most stringently certified" locomotive engineer.

CONTENT AND OPERATION

In regard to nonpassenger train locomotives operated within Ohio, the bill prohibits all of the following:

- (1) The operation by a "remote-controlled system" outside a railway yard;
- (2) The operation over a public crossing within a railway yard except by an employee with the "most stringent certification" as a locomotive engineer;
- (3) The operation within a railway yard except by such an employee, if the operation could involve the switching of a railroad car transporting hazardous material as designated by federal law.¹ (Sec. 4907.65.) (See **COMMENT**.)

The bill does not establish a specific penalty for violation of these prohibitions, but under existing law a railroad that does any prohibited act for which no specific penalty is established, may be required to forfeit to the state treasury \$100 to \$10,000 for each violation. Also, a railroad that does a prohibited act may be liable for treble damages in a civil action. (Secs. 4907.60 and 4907.62, not in the bill.)

¹ *The "Hazardous Materials Transportation Authorization Act of 1994," 108 Stat. 759, 49 U.S.C. 5101.*

COMMENT

The bill does not define the phrases "remote-controlled system" and "most stringent certification" for a locomotive engineer. However, the Federal Railroad Administration (FRA) adopts regulations to enforce the "Federal Railway Safety Act of 1970" (FRSA), which has as its general purpose the promotion of safety in every area of railroad operations. The issues of remote controlled locomotives and engineer qualifications both are addressed by the FRA and may be subject to the FRSA requirement for national uniformity in the laws, regulations, and orders governing railroads. The FRSA allows a state to adopt or continue in force a law, regulation, or order related to railroad safety until the Secretary of Transportation prescribes a regulation or issued an order covering the subject matter of the state requirement. When a federal law or regulation addresses the same subject matter, the FRSA contains an additional savings clause allowing a state to adopt a more stringent law if all three of the following criteria are met: (1) it is necessary to eliminate or reduce an essentially local safety hazard, (2) it is not incompatible with a federal law, regulation, or order, and (3) it does not unreasonably burden interstate commerce. (49 U.S.C.A. § 20106.)

HISTORY

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Introduced	03-04-03	p. 165

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