

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1028 Session of 2023

INTRODUCED BY MATZIE, MARSHALL, NEILSON, PISCIOTTANO, MALAGARI, MARKOSEK, CIRESI, SALISBURY, DEASY, VENKAT, BENHAM, OBERLANDER, HARKINS, McNEILL, MADDEN, SANCHEZ, SCHLOSSBERG, KHAN, OTTEN, HILL-EVANS, KINSEY, SAMUELSON, KRAJEWSKI, WARREN, O'MARA, HOGAN, FRANKEL, M. BROWN, T. DAVIS, GUZMAN, WEBSTER, MAJOR AND TAKAC, APRIL 25, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 24, 2023

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, in railroads, providing for
3 prohibition on blocking of crossings, for limitation on
4 length of freight or work trains, for authorization to
5 monitor safety practices and operations by collective
6 bargaining representatives, for safe staffing levels for
7 trains or light engines, for wayside detector systems, for
8 study of transportation of hazardous materials or waste and
9 for reporting system for transportation of hazardous
10 materials or waste; and imposing penalties.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Title 66 of the Pennsylvania Consolidated
14 Statutes is amended by adding sections to read:

15 § 2710. Prohibition on blocking of crossings.

16 A railroad owner or operator may not allow for the blocking
17 of a railroad/highway grade crossing that results in the delay
18 of an emergency vehicle from assisting a person or property in
19 distress for more than five minutes. The commission shall assess

1 a civil penalty of \$10,000 for each violation of this section.
2 § 2711. Limitation on length of freight or work trains.

3 A railroad operating on a main track or branch line in this
4 Commonwealth may not run, or permit to be run, a freight or work
5 train which exceeds 8,500 feet in length on any part of the main
6 track or branch line.

7 § 2712. Authorization to monitor safety practices and
8 operations by collective bargaining representatives.

9 The collective bargaining representative for each craft of
10 railroad employee and the State director or representative for
11 each craft of railroad employee shall be permitted to monitor
12 the safety practices and operations of a railroad operating in
13 this Commonwealth. The collective bargaining representative or
14 State director or representative may accompany the commission or~~or~~
15 the Department of Transportation during an investigation or
16 inspection of a railroad safety matter. In monitoring the safety
17 practices and operations of a railroad under this section, the
18 collective bargaining representative or State director or
19 representative may take photographs and conduct an investigation
20 on railroad property as may be necessary for the purpose of
21 ensuring compliance with Federal or State laws and regulations,
22 as well as take photographs and conduct an investigation of a
23 safety hazard that may result in injury or death to a railroad
24 employee. Any information, data, evidence or photographs
25 collected by the monitoring of the safety practices and
26 operations of a railroad under this section may not be
27 disseminated except in furtherance of an official investigation
28 related to a potential violation of Federal or State laws and
29 regulations. A railroad may not assert that the collective
30 bargaining representative or State director or representative is

1 trespassing on railroad property during an investigation
2 authorized under this section.

3 § 2713. Safe staffing levels for trains or light engines.

4 (a) Staffing levels.--A train or light engine used in
5 connection with the movement of freight in this Commonwealth
6 shall have a crew that consists of at least two individuals. A
7 superintendent, trainmaster or other employee of a railroad may
8 not order or otherwise require a train or light engine used in
9 connection with the movement of freight to be operated unless
10 the train or light engine has a crew that consists of at least
11 two individuals.

12 (b) Construction.--Subsection (a) shall NOT APPLY TO A CLASS <--
13 II OR III RAILROAD AS DEFINED BY THE UNITED STATES SURFACE
14 TRANSPORTATION BOARD ON THE EFFECTIVE DATE OF THIS SUBSECTION
15 AND SHALL be construed to relate only to safety, including
16 ensuring that no train or light engine used in connection with
17 the movement of freight is left without a functional crew member
18 as a result of a medical emergency.

19 (c) Penalties.--The commission may assess a civil penalty
20 against a person who willfully violates subsection (a) in
21 accordance with the following:

22 (1) If, within three years of the violation, the
23 commission has not previously assessed a civil penalty
24 against the person under this subsection, the commission may
25 impose a civil penalty of not less than \$1,000, but not more
26 than \$5,000.

27 (2) If, within three years of the violation, the
28 commission has previously assessed one civil penalty against
29 the person under this subsection, the commission may impose a
30 civil penalty of not less than \$5,000, but not more than

1 \$10,000.

2 (3) If, within three years of the violation, the
3 commission has previously assessed two or more civil
4 penalties against the person under this subsection, the
5 commission may impose a civil penalty of not less than
6 \$10,000, but not more than \$25,000.

7 (d) Enforcement.--The Attorney General, upon the request of
8 the commission, shall bring a civil action to collect the
9 penalties specified under subsection (c). The State Treasurer
10 shall deposit all of the money collected from the civil
11 penalties imposed under this section into the General Fund.

12 (e) Definitions.--As used in this section, the term "train
13 or light engine used in connection with the movement of freight"
14 does not include hostler service or utility employees.
15 § 2714. Wayside detector systems.

16 (a) System requirements.--The commission, in collaboration <--
17 CONSULTATION with the department, shall work with a railroad <--
18 operating in this Commonwealth to certify that wayside detector
19 systems are located and functional on a track TRACKS where the <--
20 railroad operates THAT ARE CLASSIFIED AS CLASS IV OR GREATER BY <--
21 THE FEDERAL RAILROAD ADMINISTRATION ON THE EFFECTIVE DATE OF
22 THIS SUBSECTION. The railroad shall ensure that the following
23 requirements are met:

24 (1) The wayside detector systems shall be properly
25 installed, maintained, repaired and operational in accordance
26 with the guidelines issued by the United States Department of
27 Transportation and the Federal Railroad Administration.

28 (2) Any expired, nonworking or outdated wayside detector
29 system or its component parts shall be removed and replaced
30 with new parts or an entirely new wayside detector system.

1 (3) The distance between wayside detector systems shall
2 be appropriate, when accounting for the natural terrain
3 surrounding a track where the railroad operates and the
4 safety of the trains, rolling stock, on-track equipment,
5 their operators, their passengers and the persons and
6 property in the vicinity of the track, to provide an operator
7 of a train with sufficient time to do any of the following if
8 a defect is detected:

9 (i) Respond to an alert projected by a wayside
10 detector system.

11 (ii) Stop the train, rolling stock or on-track
12 equipment, if necessary.

13 (iii) Make necessary repairs or, if a repair is
14 impossible at the location, remove the component parts or
15 equipment that is defective.

16 (4) The railroad shall have defined, written standards
17 and training for railroad employees pertaining to wayside
18 detector system defect alerts, the course of action that
19 railroad employees are required to take to respond to the
20 alerts and appropriate monitoring and responses by the
21 railroad if railroad employees fail to take the required
22 course of action.

23 (b) Refusal to cooperate.--If a railroad refuses to work or
24 otherwise cooperate with the commission ~~or the department~~ in <--
25 good faith under subsection (a), the commission ~~or the~~ <--
26 ~~department~~ shall investigate the railroad's safety practices and
27 standards in accordance with 49 CFR Pt. 212 (relating to State
28 safety participation regulations). The commission ~~or the~~ <--
29 ~~department~~ shall determine whether the railroad appears to be in
30 compliance with Federal railroad safety laws as defined in 49

1 CFR 209.3 (relating to definitions).

2 (c) Noncompliance.--If a railroad does not appear to be in
3 compliance with Federal railroad safety laws based on an
4 investigation conducted under subsection (b), no later than 60
5 days after the conclusion of the investigation, the commission
6 or the department shall make a report to the Federal Railroad <--
7 Administration. The report shall detail the results of the
8 investigation and recommend that the Federal Railroad
9 Administration take enforcement action within the Federal
10 Railroad Administration's authority against the railroad for the
11 safety violations discovered through the investigation. The
12 commission or the department shall send a copy of the report to <--
13 the following:

14 (1) The Governor.

15 (2) The President pro tempore of the Senate.

16 (3) The Minority Leader of the Senate.

17 (4) The Speaker of the House of Representatives.

18 (5) The Minority Leader of the House of Representatives.

19 (d) Notice of defects.--When a wayside detector system
20 detects a defect in a passing train, rolling stock, on-track
21 equipment or its component equipment and parts, if the message
22 regarding the defect is not immediately sent to the operator of
23 the train, rolling stock or on-track equipment, the person who
24 receives the message shall immediately notify the operator of
25 the train, rolling stock or on-track equipment of the defect.
26 The commission and department shall ensure that the manner in <--
27 which a wayside detector system message is sent and received
28 complies with this subsection.

29 (e) Definitions.--As used in this section, the following
30 words and phrases shall have the meanings given to them in this

1 subsection unless the context clearly indicates otherwise:

2 "Defect." Any of the following:

3 (1) A hot wheel bearing.

4 (2) A hot wheel.

5 (3) A defective bearing that is detected through
6 acoustics.

7 (4) Dragging equipment.

8 (5) Excessive height or weight.

9 (6) A shifted load.

10 (7) A low hose.

11 (8) A rail temperature defect.

12 (9) A wheel condition defect.

13 "Department." The Department of Transportation of the
14 Commonwealth.

15 "Wayside detector system." An electronic device or a series
16 of connected devices that scan passing trains, rolling stock,
17 on-track equipment and their component equipment and parts for
18 defects.

19 § 2715. Study of transportation of hazardous materials or
20 waste.

21 (a) Examination of Federal and State laws.--The commission,
22 in ~~collaboration~~ CONSULTATION with the department, shall examine <--
23 current Federal and State laws regarding the following:

24 (1) The regulations and protocols pertaining to the
25 transportation of hazardous materials and hazardous waste by
26 railroads.

27 (2) The requirements pertaining to when, how and to whom
28 the transportation of hazardous materials and hazardous waste
29 by railroads shall be disclosed.

30 (b) Report.--The commission, in ~~collaboration~~ CONSULTATION <--

1 with the department, shall compile the information examined
2 under subsection (a) into a report. The report shall include
3 recommendations regarding the following:

4 (1) Methods to strengthen the Commonwealth's safety
5 requirements for the transportation of hazardous materials
6 and hazardous waste by railroads.

7 (2) Appropriate enhancements to current civil and
8 criminal penalties relating to the transportation of
9 hazardous materials and hazardous waste by railroads,
10 including penalties for the following:

11 (i) The mishandling of hazardous materials and
12 hazardous waste.

13 (ii) Failing to disclose or failing to meet all
14 disclosure requirements relating to the transportation of
15 hazardous materials and hazardous waste.

16 (c) Submission.--No later than 90 days after the effective
17 date of this subsection, the commission, in ~~collaboration~~ <--
18 CONSULTATION with the department, shall submit the report <--
19 required under subsection (b) to all of the following:

20 (1) The President pro tempore of the Senate.

21 (2) The Minority Leader of the Senate.

22 (3) The Speaker of the House of Representatives.

23 (4) The Minority Leader of the House of Representatives.

24 (d) Definitions.--As used in this section, the following
25 words and phrases shall have the meanings given to them in this
26 subsection unless the context clearly indicates otherwise:

27 "Department." The Department of Transportation of the
28 Commonwealth.

29 § 2716. Reporting system for transportation of hazardous
30 materials or waste.

1 The commission shall promulgate regulations to create a
2 reporting system for the transportation of hazardous materials
3 and waste by railroads within this Commonwealth. The information
4 contained in the reporting system shall not be made public or
5 otherwise be accessible under the act of February 14, 2008
6 (P.L.6, No.3), known as the Right-to-Know Law, but the
7 commission shall make the information available via a secure
8 online database accessible only to the Federal Emergency
9 Management Agency, the Pennsylvania Emergency Management Agency
10 and county emergency management agencies.

11 Section 2. The provisions of this act are severable. If any
12 provision of this act or its application to any person or
13 circumstance is held invalid, the invalidity shall not affect
14 other provisions or applications of this act which can be given
15 effect without the invalid provision or application.

16 Section 3. This act shall take effect in 180 days.