

SENATE BILL No. 215

By Committee on Ways and Means

2-8

1 AN ACT concerning railroads; establishing the Kansas rail safety
2 improvement act; providing for safety requirements for railroad
3 operations and crossings; allowing for the transfer of title for
4 abandoned railroad tracks to municipalities.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. Sections 1 through 13, and amendments thereto, shall be
8 known and may be cited as the Kansas rail safety improvement act.

9 Sec. 2. As used in sections 1 through 13, and amendments thereto:

10 (a) "Branch line" means a secondary railroad track that branches off
11 from a main line.

12 (b) "Main line" means a class I railroad as documented in current
13 timetables filed by the class I railroad with the federal railroad
14 administration under 49 C.F.R. § 217.7 that satisfies at least one of the
15 following conditions:

16 (1) The railroad has 5,000,000 or more gross tons of railroad traffic
17 transported annually; or

18 (2) the railroad is used for regularly scheduled intercity or commuter
19 rail passenger service, except that intercity or commuter passenger service
20 does not include tourist, scenic, historic or excursion operations.

21 (c) (1) "Railroad" means any form of non-highway ground
22 transportation that runs on rails or electromagnetic guideways, including:

23 (A) Commuter or other short-haul railroad passenger service in a
24 metropolitan or suburban area and commuter railroad service; and

25 (B) high-speed ground transportation systems that connect
26 metropolitan areas, whether or not those systems use new technologies not
27 associated with traditional railroads.

28 (2) "Railroad" does not include rapid transit operations in an urban
29 area that are not connected to the general railroad system of transportation.

30 (d) "Safe space" means the area encompassed from:

31 (1) The actual grade level to a distance of 22 feet above the top of the
32 railhead; and

33 (2) a distance of eight feet and six inches on both sides of a
34 perpendicular from the centerline of a railroad track.

35 (e) "Train" means one or more locomotives, coupled with or without
36 cars, that require an air brake test in accordance with 49 C.F.R. part 232 or

1 part 238.

2 Sec. 3. No railroad operating in the state of Kansas shall run or permit
3 to be ran any train that exceeds 8,500 feet in length on any main line or
4 branch line.

5 Sec. 4. A railroad operating within this state is required to maintain
6 certain minimum distances from the near-edge railroad crossings to
7 railroad rolling stock stored on sidings. The minimum distance for storage
8 or railroad rolling stock shall be 300 feet. As used in this section, "rolling
9 stock" includes the rolling stock not used for the pickup or delivery of
10 freights and which placement on the railroad-owned siding by a railroad is
11 for the sole convenience of the railroad.

12 Sec. 5. No train, locomotive or light engine used in connection with
13 the movement of freight may be operated unless such train, locomotive or
14 light engine has a crew consisting of at least two individuals. As used in
15 this section, "train, locomotive or light engine used in connection with the
16 movement of freight" does not include hostler service or utility employees.

17 Sec. 6. A device warning of an impending train, locomotive or light
18 engine is required in a safe space that the railroad controls and where:

19 (a) Any scrap iron, lumber, debris or vegetation exceeds a height of
20 four inches;

21 (b) there exists a marked unevenness of the terrain; or

22 (c) any material or condition exists that endangers any employee.

23 Sec. 7. (a) Rail carriers shall provide walkways adjacent to portions
24 of yard tracks where employees regularly work performing switching
25 service. Such walkways may be surfaced with reasonably uniform asphalt,
26 concrete, planking, grating, native material, crushed material or other
27 similar material. When crushed material is used, 100% of the material
28 shall be capable of passing through a 1 $\frac{1}{2}$ inch sieve and at least 90% of the
29 material must be capable of passing through a one-inch square sieve
30 opening. A minimal variation shall not be a violation of this rule in an
31 instance where the rail carrier has made a good faith effort to comply with
32 the percentage requirements in this subsection. Smaller crushed material
33 shall be used where practical and where drainage and durability issues do
34 not arise.

35 (b) Material that is $\frac{3}{4}$ inch or less in size is recommended for
36 switching lead tracks. Such walkways shall have a reasonably uniform
37 surface and shall be maintained in a safe condition without compromising
38 track drainage.

39 (c) Cross slopes for walkways shall not exceed one inch of elevation
40 for each eight inches of horizontal length in any direction. Such walkways
41 shall be a minimum width of two feet and shall be kept reasonably free of
42 spilled fuel oil, sand, posts, rocks and other hazards or obstructions.

43 (d) (1) In cases where the department of transportation finds that rail

1 carrier employees who regularly work adjacent to a portion of track are
2 exposed to safety hazards due to the lack of a walkway or due to the
3 condition of a walkway, the department may order a rail carrier to
4 construct, when feasible, a walkway adjacent to a portion of track or
5 require a rail carrier to modify an existing walkway in conformance with
6 the standards set forth in this section. Such order shall only occur after
7 notice and an opportunity to be heard has been given to the railroad in
8 accordance with the provisions of the Kansas administrative procedure act.

9 (2) For purposes of this subsection, "regularly" means:

10 (A) At least two days per week,

11 (B) one shift per day; or

12 (C) any other period established by the department of transportation
13 pursuant to rules and regulations.

14 Sec. 8. In carrying out this act, a law enforcement officer or designee
15 of the secretary of transportation may enter railroad property and inspect
16 railroad equipment, facilities, rolling stock, operations and relevant records
17 at reasonable times and in a reasonable way.

18 Sec. 9. In any proceeding under this act, a railroad shall be liable for
19 the actions of its officers and employees.

20 Sec. 10. (a) Each day that a violation occurs is a separate violation of
21 this act.

22 (b) A violation of section 3, 4, 5, 6 or 7, and amendments thereto, is
23 punishable by a fine of not less than \$500 but not more than more than
24 \$25,000.

25 (c) If the railroad is found to have committed a grossly negligent
26 violation, or a pattern of repeated violations, such violation shall be
27 punishable by a fine of not more than \$100,000.

28 Sec. 11. (a) A law enforcement officer may prepare and deliver a
29 written notice of a violation, either personally or by first class mail, to the
30 registered agent of the railroad if the law enforcement officer witnesses a
31 violation of this act or receives a complaint with an accompanying
32 affidavit containing sufficient information to determine that a violation
33 was committed.

34 (b) The notice of violation shall contain:

35 (1) A summons to appear in court that shall provide the time and
36 place that a representative of the railroad shall appear;

37 (2) the name and address of the railroad as provided by the
38 representative or agent;

39 (3) the name of the representative or agent receiving the citation;

40 (4) the offense or offenses charged;

41 (5) the potential fine provided in section 10, and amendments thereto;
42 and

43 (6) the signature of the law enforcement officer.

1 (c) The time specified in the notice to appear shall be at least five
2 days after the alleged violation unless a representative of the railroad
3 demands an earlier hearing.

4 (d) The court specified in the notice to appear shall be the district
5 court having jurisdiction where an alleged violation occurred.

6 Sec. 12. Any fine or civil penalty collected pursuant to the Kansas rail
7 safety improvement act shall be remitted to the state treasurer in
8 accordance with the provisions of K.S.A. 75-4215, and amendments
9 thereto. Upon receipt of each such remittance, the state treasurer shall
10 deposit the entire amount in the state treasury to the credit of the state
11 highway fund.

12 Sec. 13. The secretary of transportation may adopt rules and
13 regulations necessary to implement the provisions of this act.

14 Sec. 14. (a) A city or county that has a railroad track constructed in
15 the jurisdiction of such city or county may petition the district court having
16 jurisdiction where the track is located for transfer of title and possession of
17 the land upon which such track is constructed, if:

18 (1) Such railroad track has been abandoned for not less than three
19 years;

20 (2) no train has used the track in the prior three years; and

21 (3) no maintenance or upkeep is being done to prevent overgrowth of
22 vegetation on the track or the area surrounding the track.

23 (b) In accordance with subsection (a), a title shall only be transferred
24 upon appropriate service on the track owner if such owner can be located.

25 Sec. 15. This act shall take effect and be in force from and after its
26 publication in the statute book.