

SENATE BILL No. 530

By Committee on Ways and Means

2-21

1 AN ACT concerning railroads; establishing the Kansas rail safety
2 improvement act; providing for safety requirements for railroad
3 operations and crossings.
4

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

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

8 Sec. 2. As used in sections 1 through 8, and amendments thereto:

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

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

15 (1) The railroad has 5,000,000 or more gross tons of railroad tra□c
16 transported annually; or

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

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

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

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

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

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

30 (1) The actual grade level to a distance of 14 feet above the top of the
31 railhead; and

32 (2) a distance of eight feet on both sides of a perpendicular from the
33 centerline of a railroad track with a radius of fewer than 400 feet lateral
34 curvature.

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

5 (b) Except as provided in subsection (c), upon a finding of a violation
6 of subsection (a), the secretary of transportation shall impose a civil
7 penalty against the railroad, or the person operating the train when the
8 violation occurred, in an amount not less than \$500 per foot but not more
9 than \$1,000 per foot for a train that exceeds the limitation set forth in
10 subsection (a).

11 (c) If the secretary determines that the railroad, or the person
12 operating the train when the violation occurred, committed a grossly
13 negligent violation or a pattern of repeated violations that caused an
14 imminent threat of death or injury to individuals or has caused such death
15 or injury, the secretary may issue a one-time fine not to exceed \$250,000.

16 (d) (1) The secretary may reduce the amount of the civil penalty
17 under subsection (b). In determining the amount of the civil penalty, the
18 secretary shall consider:

19 (A) The nature, circumstances, extent and gravity of the violation;

20 (B) with respect to the violator, the degree of culpability, any history
21 of violations, the ability to pay and any effect on the violator's ability to
22 continue to do business; and

23 (C) any other matters that justice requires.

24 (2) At the request of the secretary, the attorney general may initiate a
25 civil action to collect any fine or civil penalty imposed pursuant to this
26 section. The attorney general may bring a civil action in any court of
27 competent jurisdiction.

28 (3) A civil action under this subsection shall be commenced within
29 three years after the date the violation of subsection (a) was committed.

30 Sec. 4. (a) A railroad operating within this state is required to
31 maintain certain minimum distances from the near-edge railroad crossings
32 to railroad rolling stock stored on sidings. As used in this subsection,
33 "rolling stock" includes the rolling stock not used for the pickup or
34 delivery of freights and which placement on the railroad-owned siding by
35 a railroad is for the sole convenience of the railroad. The minimum
36 distance for storage or railroad rolling stock shall be 300 feet.

37 (b) Upon a finding of a violation of subsection (a), the secretary of
38 transportation shall impose a civil penalty against the railroad in an
39 amount not less than \$500.

40 Sec. 5. (a) No train, locomotive or light engine used in connection
41 with the movement of freight may be operated unless such train,
42 locomotive or light engine has a crew consisting of at least two
43 individuals. As used in this section, "train, locomotive or light engine used

1 in connection with the movement of freight" does not include hostler
2 service or utility employees.

3 (b) (1) Violation of this section is punishable by a fine:

4 (A) Not less than \$250 nor more than \$1,000, except as provided
5 further;

6 (B) not less than \$1,000 nor more than \$5,000 for a second
7 conviction within three years immediately preceding the violation; or

8 (C) not less than \$5,000 nor more than \$10,000 for a third or
9 subsequent conviction within three years immediately preceding the
10 violation.

11 (2) For purposes of this subsection, the number of violations within
12 three years shall be measured by the date the violations occur.

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

15 (a) Any scrap iron, lumber, debris or vegetation exceed a height of
16 four inches;

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

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

19 Sec. 7. (a) Rail carriers shall provide walkways adjacent to portions
20 of yard tracks where employees regularly work performing switching
21 service. Such walkways may be surfaced with reasonably uniform asphalt,
22 concrete, planking, grating, native material, crushed material or other
23 similar material. When crushed material is used, 100% of the material
24 shall be capable of passing through a 1¹/₂ inch sieve and at least 90% of the
25 material must be capable of passing through a one-inch square sieve
26 opening. A de minimis variation shall not be a violation of this rule in
27 an instance where the rail carrier has made a good faith effort to comply with
28 the percentage requirements. Smaller crushed material shall be used
29 where practical and where drainage and durability issues do not arise.

30 (b) Material that is ³/₄ inch or less in size is recommended for
31 switching lead tracks. Such walkways shall have a reasonably uniform
32 surface and shall be maintained in a safe condition without compromising
33 track drainage.

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

38 (d) (1) In cases where the department of transportation finds that rail
39 carrier employees who regularly work adjacent to a portion of track are
40 exposed to safety hazards due to the lack of a walkway or due to the
41 condition of a walkway, the department may order a rail carrier to
42 construct, when feasible, a walkway adjacent to a portion of track or
43 require a rail carrier to modify an existing walkway in conformance with

1 the standards set forth above. Such order shall only occur after notice and
2 an opportunity to be heard has been given to the railroad in accordance
3 with the provisions of the Kansas administrative procedure act.

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

5 (A) At least two days per week,

6 (B) one shift per day; or

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

9 (e) The secretary of transportation may adopt such rules and
10 regulations as may be necessary for the administration of the provisions of
11 this section.

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

18 Sec. 9. This act shall take effect and be in force from and after its
19 publication in the statute book.