SENATE BILL No. 215

By Committee on Ways and Means

2-8

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) "Train" means one or more locomotives, coupled with or without cars, that require an air brake test in accordance with 49 C.F.R. part 232 or
part 238.

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

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

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

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

(a) Any scrap iron, lumber, debris or vegetation exceeds a height of four inches;
(b) there exists a marked unevenness of the terrain; or
(c) any material or condition exists that endangers any employee.

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

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

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

(d) (1) In cases where the department of transportation finds that rail
carrier employees who regularly work adjacent to a portion of track are 
exposed to safety hazards due to the lack of a walkway or due to the 
condition of a walkway, the department may order a rail carrier to 
construct, when feasible, a walkway adjacent to a portion of track or 
require a rail carrier to modify an existing walkway in conformance with 
the standards set forth in this section. Such order shall only occur after 
otice and an opportunity to be heard has been given to the railroad in 
accordance with the provisions of the Kansas administrative procedure act. 

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

   (A) At least two days per week,
   (B) one shift per day; or
   (C) any other period established by the department of transportation 
pursuant to rules and regulations.

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

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

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

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

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

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

   (b) The notice of violation shall contain:

      (1) A summons to appear in court that shall provide the time and 
place that a representative of the railroad shall appear;
      (2) the name and address of the railroad as provided by the 
representative or agent;
      (3) the name of the representative or agent receiving the citation;
      (4) the offense or offenses charged;
      (5) the potential fine provided in section 10, and amendments thereto;
      and
      (6) the signature of the law enforcement officer.
(c) The time specified in the notice to appear shall be at least five
days after the alleged violation unless a representative of the railroad
demands an earlier hearing.

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

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

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

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

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

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

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

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

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