

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 AND WARREN, APRIL 25, 2023

REFERRED TO COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY AND UTILITIES, APRIL 25, 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
20 a civil penalty of \$10,000 for each violation of this section.

1 § 2711. Limitation on length of freight or work trains.

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

6 § 2712. Authorization to monitor safety practices and
7 operations by collective bargaining representatives.

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

1 authorized under this section.

2 § 2713. Safe staffing levels for trains or light engines.

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

11 (b) Construction.--Subsection (a) shall be construed to
12 relate only to safety, including ensuring that no train or light
13 engine used in connection with the movement of freight is left
14 without a functional crew member as a result of a medical
15 emergency.

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

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

24 (2) If, within three years of the violation, the
25 commission has previously assessed one civil penalty against
26 the person under this subsection, the commission may impose a
27 civil penalty of not less than \$5,000, but not more than
28 \$10,000.

29 (3) If, within three years of the violation, the
30 commission has previously assessed two or more civil

1 penalties against the person under this subsection, the
2 commission may impose a civil penalty of not less than
3 \$10,000, but not more than \$25,000.

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

9 (e) Definitions.--As used in this section, the term "train
10 or light engine used in connection with the movement of freight"
11 does not include hostler service or utility employees.

12 § 2714. Wayside detector systems.

13 (a) System requirements.--The commission, in collaboration
14 with the department, shall work with a railroad operating in
15 this Commonwealth to certify that wayside detector systems are
16 located and functional on a track where the railroad operates.
17 The railroad shall ensure that the following requirements are
18 met:

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

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

26 (3) The distance between wayside detector systems shall
27 be appropriate, when accounting for the natural terrain
28 surrounding a track where the railroad operates and the
29 safety of the trains, rolling stock, on-track equipment,
30 their operators, their passengers and the persons and

1 property in the vicinity of the track, to provide an operator
2 of a train with sufficient time to do any of the following if
3 a defect is detected:

4 (i) Respond to an alert projected by a wayside
5 detector system.

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

8 (iii) Make necessary repairs or, if a repair is
9 impossible at the location, remove the component parts or
10 equipment that is defective.

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

18 (b) Refusal to cooperate.--If a railroad refuses to work or
19 otherwise cooperate with the commission or the department in
20 good faith under subsection (a), the commission or the
21 department shall investigate the railroad's safety practices and
22 standards in accordance with 49 CFR Pt. 212 (relating to State
23 safety participation regulations). The commission or the
24 department shall determine whether the railroad appears to be in
25 compliance with Federal railroad safety laws as defined in 49
26 CFR 209.3 (relating to definitions).

27 (c) Noncompliance.--If a railroad does not appear to be in
28 compliance with Federal railroad safety laws based on an
29 investigation conducted under subsection (b), no later than 60
30 days after the conclusion of the investigation, the commission

1 or the department shall make a report to the Federal Railroad
2 Administration. The report shall detail the results of the
3 investigation and recommend that the Federal Railroad
4 Administration take enforcement action within the Federal
5 Railroad Administration's authority against the railroad for the
6 safety violations discovered through the investigation. The
7 commission or the department shall send a copy of the report to
8 the following:

9 (1) The Governor.

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

11 (3) The Minority Leader of the Senate.

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

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

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

24 (e) 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 "Defect." Any of the following:

28 (1) A hot wheel bearing.

29 (2) A hot wheel.

30 (3) A defective bearing that is detected through

1 acoustics.

2 (4) Dragging equipment.

3 (5) Excessive height or weight.

4 (6) A shifted load.

5 (7) A low hose.

6 (8) A rail temperature defect.

7 (9) A wheel condition defect.

8 "Department." The Department of Transportation of the
9 Commonwealth.

10 "Wayside detector system." An electronic device or a series
11 of connected devices that scan passing trains, rolling stock,
12 on-track equipment and their component equipment and parts for
13 defects.

14 § 2715. Study of transportation of hazardous materials or
15 waste.

16 (a) Examination of Federal and State laws.--The commission,
17 in collaboration with the department, shall examine current
18 Federal and State laws regarding the following:

19 (1) The regulations and protocols pertaining to the
20 transportation of hazardous materials and hazardous waste by
21 railroads.

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

25 (b) Report.--The commission, in collaboration with the
26 department, shall compile the information examined under
27 subsection (a) into a report. The report shall include
28 recommendations regarding the following:

29 (1) Methods to strengthen the Commonwealth's safety
30 requirements for the transportation of hazardous materials

1 and hazardous waste by railroads.

2 (2) Appropriate enhancements to current civil and
3 criminal penalties relating to the transportation of
4 hazardous materials and hazardous waste by railroads,
5 including penalties for the following:

6 (i) The mishandling of hazardous materials and
7 hazardous waste.

8 (ii) Failing to disclose or failing to meet all
9 disclosure requirements relating to the transportation of
10 hazardous materials and hazardous waste.

11 (c) Submission.--No later than 90 days after the effective
12 date of this subsection, the commission, in collaboration with
13 the department, shall submit the report required under
14 subsection (b) to all of the following:

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

16 (2) The Minority Leader of the Senate.

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

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

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

22 "Department." The Department of Transportation of the
23 Commonwealth.

24 § 2716. Reporting system for transportation of hazardous
25 materials or waste.

26 The commission shall promulgate regulations to create a
27 reporting system for the transportation of hazardous materials
28 and waste by railroads within this Commonwealth. The information
29 contained in the reporting system shall not be made public or
30 otherwise be accessible under the act of February 14, 2008

1 (P.L.6, No.3), known as the Right-to-Know Law, but the
2 commission shall make the information available via a secure
3 online database accessible only to the Federal Emergency
4 Management Agency, the Pennsylvania Emergency Management Agency
5 and county emergency management agencies.

6 Section 2. The provisions of this act are severable. If any
7 provision of this act or its application to any person or
8 circumstance is held invalid, the invalidity shall not affect
9 other provisions or applications of this act which can be given
10 effect without the invalid provision or application.

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