

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 676

Introduced by Dubas, 34; Burling, 33; Christensen, 44; Hudkins, 21;
Louden, 49; Schimek, 27; Wallman, 30

Read first time January 17, 2007

Committee:

A BILL

1 FOR AN ACT relating to railroad crossings; to prohibit the
2 obstruction of highways in certain classes of cities
3 and villages and other areas; to provide penalties; to
4 provide exemptions; to provide an affirmative defense;
5 to define terms; and to outright repeal section 17-225,
6 Reissue Revised Statutes of Nebraska.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) No person shall occupy or block any public
2 highway, street, or alley in any city of the first class, city
3 of the second class or village, or any unincorporated area of the
4 state with freight or passenger cars, locomotives, or with any
5 other rolling stock for more than ten minutes at a time.

6 (2) A state or local law enforcement officer may issue
7 citations for violations of subsection (1) of this section. Any
8 person violating subsection (1) of this section, upon conviction
9 thereof, also shall be fined a sum not less than five hundred
10 dollars nor more than five thousand dollars.

11 (3) This section shall not apply to:

12 (a) Any member of a train crew, yard crew, or locomotive
13 crew upon reasonable proof that the occupying or blocking of the
14 public highway, street, or alley was necessary to comply with
15 orders or instructions, either written or oral, from his or her
16 employer or its officers or supervisory officials;

17 (b) A grain dealer licensed under the Grain Dealer Act;
18 and

19 (c) A warehouse licensee under the Grain Warehouse Act.

20 (4) This section does not relieve an employer from
21 any responsibility placed upon the employer by any other law
22 or ordinance. This section is supplemental to any other law or
23 ordinance.

24 (5) A person may have an affirmative defense to a
25 violation of subsection (1) of this section if the public highway,

1 street, or alley was occupied or blocked due to an emergency
2 condition, including a serious rail accident, derailment, or a
3 critical mechanical failure, a track or bridge washout, or a storm,
4 flood, or other emergency.

5 (6) For purposes of this section:

6 (a) Occupy or block means to prevent motor vehicular
7 traffic from safely crossing over the grade crossing and continuing
8 on the public highway, street, or alley.

9 (b) Person means any individual, partnership, firm,
10 limited liability company, corporation, company, association, or
11 any other legal entity.

12 Sec. 2. Any railroad cited for any violation of section 1
13 of this act may only address the citation with the respective crew
14 members as follows:

15 (1) Such railroad shall accord any crew members a due
16 process hearing that the railroad deems may have violated written
17 railroad rules or published policy, prior to the issuance of any
18 decision adversely affecting the employment of such employees;

19 (2) Such railroad, prior to the due process hearing,
20 shall provide any accused crew members with copies of all
21 documentation the employees request that are relevant to receipt of
22 the citation;

23 (3) Such railroad, prior to the due process hearing,
24 shall provide any accused crew members with the required witnesses
25 at the expense of the railroad;

1 (4) Such railroad shall accord the accused crew members
2 the due process hearing within twenty days after receipt of the
3 citation; and

4 (5) Such railroad shall notify the accused members in
5 writing of the requirements set forth in this section.

6 Sec. 3. The following section is outright repealed:
7 Section 17-225, Reissue Revised Statutes of Nebraska.

Nebraska Statute 17-225

Railroads; blocking crossings; penalty.

It shall be unlawful for any railroad company or for any of its officers, agents, servants or employees to obstruct with car or cars, engine or engines, or with any other rolling stock, for more than ten minutes at a time, any public highway, street or alley in any unincorporated town or village in the State of Nebraska. Any corporation, person, firm or individual violating any provision of this section shall, upon conviction thereof, be fined in any sum not less than ten dollars nor more than one hundred dollars.

Source:

Laws 1907, c. 109, § 1, p. 384; Laws 1907, c. 109, § 2, p. 384;
R.S.1913, § 5075; C.S.1922, § 4247; C.S.1929, § 17-225.

Railroads could be fined for blocking crossings

BY NATE JENKINS
The Associated Press

Drivers soon could have more than expletives to throw at trains that block busy intersections.

Should a state senator get her way, their concerns would carry legal weight — and as much as \$5,000 in fines each time a railroad crossing is blocked for more than 10 minutes.

"They're not happy I'm dropping this," Sen. Annette Dubas of Fullerton said about railroad companies' reaction to the bill (LB676) she introduced Wednesday.

For more than 80 years, the state has had a law that prohibits trains from blocking intersections for more than 10 minutes, but the rule has a curious component: It only covers unincorporated towns, which are mostly villages.

That means most cities in the state are excluded, including those with heavy train traffic. Also, the old law allows railroads to be fined as much as \$100 per violation — 50



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times less than the maximum penalty Dubas wants.

While on the campaign trail, Dubas said she was surprised to find how important the issue was to people, and not just to drivers grumpy about interrupted commutes to work.

Sheriffs and emergency personnel say blocked intersections pose dangerous obstacles to providing public safety, and the problem is getting worse, with more train traffic that Dubas said she doesn't expect to subside.

When Columbus firefighters exit the fire station downtown, it is common to see a train blocking a key intersection, firefighter Ryan Loewenstein said. They automatically avoid the intersection when a train is

there, and doing so can add two to five minutes to the department's response time.

"It hasn't caused a problem yet," Loewenstein said. "But it only takes one time."

Dubas' bill is targeted at villages and cities with populations as high as 100,000. In the unincorporated areas where the law now applies, Dubas said she found that complaints often are ignored by local county attorneys because the fines are so small.

"It's a law in the books," said Dubas, a first-year senator whose district includes a part of Grand Island. "If we have laws, we need to enforce them or take them off the books."

Steve Forsberg, a spokesman for Burlington Northern Santa Fe Railroad, said laws such as the one Dubas is proposing are uncommon in other states.

A spokesman for the rail company Union Pacific said rail lines have become more congested with an in-

crease in business, including more coal traffic, and said time wasted at rail crossings can be a subjective judgment.

"It's all in your perception," said spokesman Gene Hinkle. "If you need to get somewhere, the last thing you want is to end up at a crossing and be blocked."

"There are towns, especially in rural areas, where the only way they've got is to use crossings," Hinkle said. "I can understand how frustrating it can be."

Hinkle said there is a solution for emergency vehicles that are impeded. Emergency officials can call a phone number and ask that trains be moved to clear the way, he said.

"On paper, that's how it's supposed to work," said Hamilton County Sheriff Kirk Handrup, who said that trains have not moved when he has asked they be.

Handrup said deputies have told him that some crossings in the county have been blocked for as long as an hour.