

Senator Dubas, Substitute amendment presented at committee hearing for LB676

Section 1) The Legislature hereby finds, determines, and declares this act as necessary for the immediate preservation of public health and safety.

(2) No railroad carrier shall occupy or block any public highway, street, or alley in any city of the first class, city of the second class or village, or any unincorporated area of the state with standing freight or passenger cars, or locomotives for more than ten minutes at a time.

(3) A state or local law enforcement officer may issue citations to railroad carriers by submitting the violation to the appropriate county attorney for prosecution when a railroad carrier has violated subsection (2) of this section. Any railroad carrier violating subsection (2) of this section, upon conviction thereof, shall be fined a sum not less than five hundred dollars nor more than five thousand dollars.

(4) This section shall not apply to:

(a) Any member of a train crew, yard crew, or locomotive crew when the railroad carrier has provided an affirmative defense to the violation as provided by subsection (). Any action that was necessary to comply with orders or instructions, either written, visual or oral, from his or her employer or its officers or supervisory officials shall rest completely at the responsibility of the railroad carrier.

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

(c) A warehouse licensee under the Grain Warehouse Act

(5) This section does not relieve an employer from any responsibility placed upon the employer or any other law or ordinance. This section is supplemental to any other law or ordinance.

(6) A railroad carrier may have an affirmative defense to a violation of subsection (2) of this section if the public highway, street, or alley was occupied or blocked due to an emergency condition, including a serious rail accident, derailment, or critical mechanical failure, a track or bridge washout, or a storm, flood or other emergency. These protections should not interfere with any Federal Safety Regulations but to should impose clear restrictions on blocking railroad crossings with a standing train which may create a potential local safety issue.

(7) For purposes of this section:

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

(b) Railroad carrier means any partnership, firm limited liability company, corporation, company, association or any other legal entity.

(c) Standing means a train that is not in continuous motion.

(d) Continuous motion means a train that is not at a standstill.