

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 37

Introduced by Jacobson, 42.

Read first time January 09, 2025

Committee:

- 1 A BILL FOR AN ACT relating to railroads; to amend section 75-109.01,
- 2 Revised Statutes Cumulative Supplement, 2024; to adopt the Railroad
- 3 Safety Act; to change provisions relating to the jurisdiction of the
- 4 Public Service Commission; to eliminate provisions relating to
- 5 blocked crossings; to provide an operative date; to repeal the
- 6 original section; and to outright repeal section 17-225, Reissue
- 7 Revised Statutes of Nebraska.
- 8 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 9 of this act shall be known and may be
2 cited as the Railroad Safety Act.

3 **Sec. 2.** The Legislature finds that:

4 (1) Railroad transportation is a critical component of Nebraska's
5 economy and provides efficient and cost-effective movement of goods
6 across the state and beyond;

7 (2) Protecting Nebraska's residents, environment, and infrastructure
8 from exposure to hazardous substances carried by trains is a top
9 priority; and

10 (3) The safe and efficient operation of railroads requires certain
11 actions to be taken, including regularly maintaining railroad tracks and
12 rolling stock, appropriately using technology to detect and address
13 mechanical and other issues, employing experienced and well-paid workers
14 with critical skill sets to recognize and avoid accidents, and limiting
15 the number of cars that trains carry to ensure that trains have
16 reasonable lengths.

17 **Sec. 3.** For purposes of the Railroad Safety Act:

18 (1) Accident has the same meaning as in 49 C.F.R. 225.5;

19 (2) Class II railroad has the same meaning as in 49 U.S.C. 20102;

20 (3) Class III railroad has the same meaning as in 49 U.S.C. 20102;

21 (4) Commission means the Public Service Commission;

22 (5) Dangerous good means a substance that:

23 (a) Is corrosive, flammable, explosive, spontaneously combustible,
24 oxidizing, or water-reactive;

25 (b) Has the potential to cause significant harm to an individual,
26 property, or the environment; and

27 (c) Does not qualify as a hazardous substance;

28 (6) Defect includes, but is not limited to, hot wheel bearings, hot
29 wheels, deficient bearings detected through acoustic means, dragging of
30 equipment, excessive height, excessive weight, a shifted load, a loose
31 hose, improper rail temperature, or a deficient wheel condition;

1 (7) Dragging equipment detector means an electronic device or other
2 technology that monitors a passing train to actively detect and alert
3 operators of the train of the existence of any objects dragging from the
4 train;

5 (8) Hazardous substance has the same meaning as in 49 C.F.R. 171.8;

6 (9) Highway-rail crossing means:

7 (a) The point at which any public highway is or will be constructed
8 across the tracks or other facilities of a railroad at, above, or below
9 grade;

10 (b) The point at which the tracks or other facilities of a railroad
11 are or may be constructed across any public highway at, above, or below
12 grade;

13 (c) The point at which any public highway is or will be constructed
14 across private tracks on which any railroad may operate at, above, or
15 below grade; or

16 (d) The point at which private tracks over which any railroad may
17 operate are or will be constructed across any public highway at, above,
18 or below grade;

19 (10) Hot bearings detector means an infrared detector located along
20 railroad tracks to detect and alert the operators of a passing train to
21 any overheating of a train's bearings, axles, or wheels;

22 (11) Incident has the same meaning as in 49 C.F.R. 225.5;

23 (12) Main line means a segment or route of railroad tracks of any
24 railroad over which five million or more gross tons of railroad traffic
25 is transported annually as documented in timetables filed with the
26 Federal Railroad Administration pursuant to 49 C.F.R. 217.7. Main line
27 does not include tourist, scenic, historic, or excursion operations as
28 defined in 49 C.F.R. 238.5;

29 (13) Pathway crossing means:

30 (a) The point at which any public pathway is or will be constructed
31 across the tracks or other facilities of a railroad at, above, or below

1 grade;

2 (b) The point at which any tracks or other facilities of a railroad
3 are or will be constructed across any public pathway at, above, or below
4 grade;

5 (c) The point at which any public pathway is or will be constructed
6 across private tracks over which any railroad may operate at, above, or
7 below grade; or

8 (d) The point at which private tracks over which any railroad may
9 operate are or will be constructed across any public pathway at, above,
10 or below grade;

11 (14) Public crossing means a highway-rail crossing or pathway
12 crossing where the highway or pathway on both sides of the crossing is
13 under the jurisdiction of or is maintained by the state or any political
14 subdivision of the state and is open to public travel;

15 (15) Railroad means a person providing railroad transportation;

16 (16) Railroad transportation means any form of nonhighway ground
17 transportation that runs on rails or electromagnetic guideways. Railroad
18 transportation does not include rapid transit operations in an urban area
19 that are not connected to a general railroad system;

20 (17) Restricted speed has the same meaning as in 49 C.F.R. 236.812;

21 (18) Train means a locomotive unit or locomotive units, with or
22 without cars, that require an air brake test pursuant to 49 C.F.R. part
23 232 and 49 C.F.R. part 238; and

24 (19) Wayside detector system means an electronic device or a series
25 of connected devices that monitors a passing train to determine whether
26 the train has a defect, including a hot bearings detector and a dragging
27 equipment detector.

28 **Sec. 4.** (1) A railroad shall not operate a train carrying hazardous
29 substances that has a length greater than eight thousand five hundred
30 feet on any main line in the state.

31 (2) Except as provided in subsection (3) of this section:

1 (a) A railroad operating a train on any main line in the state shall
2 have an operational and properly maintained wayside detector system.
3 Along each main line, the wayside detector system must have a hot
4 bearings detector and a dragging equipment detector installed at least
5 every twenty miles;

6 (b) On or before January 1, 2027, and on or before January 1 of each
7 year thereafter, a railroad operating a train on any main line in the
8 state shall submit to the commission a report that, at a minimum,
9 discloses (i) the nearest milepost number, latitude and longitude
10 coordinates, or other attribute that specifically identifies the location
11 of each installed wayside detector system, (ii) the type and
12 characteristic of each installed wayside detector system, (iii) the
13 operational status of all installed hot bearings detectors and dragging
14 equipment detectors, and (iv) any other information regarding wayside
15 detector systems that the commission deems necessary. The commission
16 shall electronically submit the report to the Legislature by January 31,
17 2027, and by January 31 of each year thereafter; and

18 (c) After a train receives a defect message from a wayside detector
19 system, the railroad operating the train shall:

20 (i) Stop the train in accordance with the railroad's applicable
21 safety procedures;

22 (ii) Inspect the location of the defect from a position on the
23 ground;

24 (iii) If the inspection indicates that the train is safe for
25 movement, allow the train to proceed along the train's route at a speed
26 not greater than restricted speed if the train is carrying a hazardous
27 substance or dangerous good or at a speed of not greater than thirty
28 miles per hour if the train is not carrying a hazardous substance or
29 dangerous good;

30 (iv) Remove and set out any defective car at the earliest
31 opportunity;

1 (v) Prepare a written inspection report; and
2 (vi) Provide the written inspection report to the appropriate
3 railroad official.

4 (3) Subsection (2) of this section does not apply to a Class II
5 railroad or Class III railroad not exceeding restricted speed.

6 (4) A railroad operating a train on any main line in the state shall
7 not permit any train, freight car, passenger car, or railroad
8 transportation engine to:

9 (a) Obstruct a public crossing for longer than ten minutes; or

10 (b) Obstruct a public crossing in a manner that delays an emergency
11 vehicle in assisting a person or property in danger.

12 (5) It is not a violation of subsection (4) of this section if the
13 train, freight car, passenger car, or railroad transportation engine is
14 continuously moving or if circumstances beyond the railroad's control
15 prevent the train, freight car, passenger car, or railroad transportation
16 engine from moving.

17 **Sec. 5.** (1) A crew member of a train operated by a railroad in the
18 state may report to the crew member's designated union representative:

19 (a) A violation of any of the safety requirements specified in
20 section 4 of this act;

21 (b) An injury the crew member or another crew member sustained while
22 operating a train on any main line in the state or in yard service; or

23 (c) A death that occurred during the operation of a train or in yard
24 service.

25 (2) A designated union representative receiving a report pursuant to
26 subsection (1) of this section may enter a railroad's place of operation
27 during reasonable hours to investigate the report. Before entering, the
28 designated union representative shall give reasonable notice to the
29 appropriate railroad officer.

30 **Sec. 6.** (1) If a railroad or any officer, agent, or employee of the
31 railroad violates section 4 of this act or, by denying entry to a place

1 of operation, violates subsection (2) of section 5 of this act, the
2 commission may impose a fine of not less than ten thousand dollars but
3 not more than twenty-five thousand dollars on the railroad. Each day of a
4 continuing violation constitutes a separate violation.

5 (2) Notwithstanding subsection (1) of this section, the commission
6 may impose a fine of up to one hundred thousand dollars per violation if
7 the commission finds:

8 (a) The railroad intentionally or knowingly violated section 4 of
9 this act or subsection (2) of section 5 of this act; or

10 (b) The railroad's violation was part of a pattern and practice of
11 repeated violations of section 4 of this act or subsection (2) of section
12 5 of this act.

13 (3) All fines collected pursuant to this section shall be remitted
14 to the State Treasurer for distribution in accordance with Article VII,
15 section 5, of the Constitution of Nebraska.

16 (4) The commission shall adopt and promulgate rules and regulations
17 for the determination, imposition, and appeal of fines under this
18 section.

19 **Sec. 7.** (1) On or before January 1, 2027, and at least once every
20 three years thereafter, each railroad shall offer training to each fire
21 department having jurisdiction along tracks upon which the railroad
22 operates in the state. In satisfying this requirement, a railroad may
23 offer such training simultaneously to more than one fire department.

24 (2) The training described in subsection (1) of this section shall:

25 (a) Address the general hazards of dangerous goods and hazardous
26 substances, techniques to assess risks posed to the environment and to
27 the safety of emergency responders and the public, factors an incident
28 commander must consider in determining whether to attempt to suppress a
29 fire or to evacuate the public and emergency responders from an area, and
30 other strategies for initial response by emergency responders; and

31 (b) Include suggested protocols or practices for emergency

1 responders to use to safely accomplish the tasks described in subdivision
2 (2)(a) of this section.

3 **Sec. 8.** In any action brought against a railroad to recover damages
4 for property damage, personal injury, or death resulting from a crash or
5 collision, if the train exceeded seven thousand feet in length and the
6 jury finds that the length of the train caused the property damage,
7 personal injury, or death in the crash or collision, the recovery by the
8 plaintiff in such action shall not be diminished due to the comparative
9 fault of the plaintiff.

10 **Sec. 9.** The Railroad Safety Act shall not be construed as giving
11 the commission jurisdiction or control over the relations between any
12 railroad and its employees or its employees' order, union, or other
13 bargaining agent, either contractual or otherwise.

14 **Sec. 10.** Section 75-109.01, Revised Statutes Cumulative Supplement,
15 2024, is amended to read:

16 75-109.01 Except as otherwise specifically provided by law, the
17 Public Service Commission shall have jurisdiction, as prescribed, over
18 the following subjects:

19 (1) Common carriers, generally, pursuant to sections 75-101 to
20 75-158;

21 (2) Grain pursuant to the Grain Dealer Act and the Grain Warehouse
22 Act and sections 89-1,104 to 89-1,108;

23 (3) Manufactured homes and recreational vehicles pursuant to the
24 Uniform Standard Code for Manufactured Homes and Recreational Vehicles;

25 (4) Modular housing units pursuant to the Nebraska Uniform Standards
26 for Modular Housing Units Act;

27 (5) Motor carrier registration, licensure, and safety pursuant to
28 sections 75-301 to 75-343, 75-369.03, 75-370, and 75-371;

29 (6) Pipeline carriers and rights-of-way pursuant to the Major Oil
30 Pipeline Siting Act, the State Natural Gas Regulation Act, and sections
31 75-501 to 75-503. If the provisions of Chapter 75 are inconsistent with

1 the provisions of the Major Oil Pipeline Siting Act, the provisions of
2 the Major Oil Pipeline Siting Act control;

3 (7) Railroad carrier safety pursuant to the Railroad Safety Act and
4 sections 74-918, 74-919, 74-1323, and 75-401 to 75-430;

5 (8) Telecommunications carriers pursuant to the Automatic Dialing-
6 Announcing Devices Act, the Emergency Telephone Communications Systems
7 Act, the Enhanced Wireless 911 Services Act, the 911 Service System Act,
8 the Intrastate Pay-Per-Call Regulation Act, the Nebraska
9 Telecommunications Regulation Act, the Nebraska Telecommunications
10 Universal Service Fund Act, the Telecommunications Relay System Act, the
11 Telephone Consumer Slamming Prevention Act, sections 86-574 to 86-578,
12 86-1031, 86-1307, and 86-1308;

13 (9) Transmission lines and rights-of-way pursuant to sections 70-301
14 and 75-702 to 75-724;

15 (10) Water service pursuant to the Water Service Regulation Act; and

16 (11) Jurisdictional utilities governed by the State Natural Gas
17 Regulation Act. If the provisions of Chapter 75 are inconsistent with the
18 provisions of the State Natural Gas Regulation Act, the provisions of the
19 State Natural Gas Regulation Act control.

20 **Sec. 11.** This act becomes operative on July 1, 2026.

21 **Sec. 12.** Original section 75-109.01, Revised Statutes Cumulative
22 Supplement, 2024, is repealed.

23 **Sec. 13.** The following section is outright repealed: Section
24 17-225, Reissue Revised Statutes of Nebraska.