



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Amy L. Archer

S.B. 74

132nd General Assembly
(As Introduced)

Sens. Yuko and Skindell, Brown, O'Brien, Williams, Oelslager, Schiavoni, Tavares

BILL SUMMARY

- Requires a train or light engine used in connection with the movement of freight to have at least a two-person crew.
 - Prohibits a railroad superintendent, trainmaster, or other railroad employee from requiring operation of a train or light engine unless it has at least a two-person crew.
 - Establishes civil penalties ranging from \$250 to \$1,000 for a first violation, \$1,000 to \$5,000 for a second violation within three years of the first, and \$5,000 to \$10,000 for a third or subsequent violation within three years of the first.
 - Requires the Attorney General, at the request of the Public Utilities Commission, to bring a civil action to collect the penalties.
 - Specifies that the penalties collected be deposited to the credit of the Public Utilities Fund.
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CONTENT AND OPERATION

Train or light engine crew requirement for movement of freight

The bill requires a train or light engine used in connection with the movement of freight to have a crew that consists of at least two individuals. Under the bill, no railroad superintendent, trainmaster, or other railroad employee may order or "otherwise require" a train or light engine that is used in connection with the movement of freight to be operated unless it has at least a two-person crew.

Under the bill, "hostler service" (which, according to railroad industry usage, involves moving locomotives within a railroad yard to various locations for fuel,

cleaning, service, and repair) and "utility employees" (defined under federal regulations as railroad employees that are temporarily part of a train or yard crew to help the crew assemble, disassemble, or classify rail cars or operate trains¹) are not subject to the minimum crew requirement. Neither term is defined in the bill.²

Civil penalties

The bill requires the Attorney General, upon the request of the Public Utilities Commission (PUCO), to bring a civil action to collect the penalties that the bill establishes. Under the bill, whoever violates the minimum crew requirement is liable for a civil penalty as follows:

Violation	Penalty Range
First Violation	Not less than \$250 but not more than \$1,000
Second violation committed within three years of the first violation	Not less than \$1,000 but not more than \$5,000
Third or subsequent violation committed within three years of the first violation	Not less than \$5,000 but not more than \$10,000

Penalties collected under the bill are deposited to the credit of the Public Utilities Fund. The Fund is used for the administration of the PUCO and its supervision and jurisdiction over the state's railroads and public utilities.³

COMMENT

Federal law requires laws, regulations, and orders regarding railroad safety and railroad security to be nationally uniform to the extent practicable. States may adopt or continue laws, regulations, or orders regarding railroad safety or security until the Secretary of Transportation (with respect to railroad safety matters) or the Secretary of Homeland Security (with respect to railroad security matters) prescribes a regulation or issues an order on that subject matter. Federal law permits states to adopt or continue an additional or more stringent law, regulation, or order if it (1) is necessary to eliminate or reduce an essentially local safety or security hazard, (2) is not incompatible with a federal law, regulation, or United States Government order, and (3) does not

¹ 49 C.F.R. 218.5.

² R.C. 4999.09(A).

³ R.C. 4999.09(B); R.C. 4905.10, not in the bill.



unreasonably burden interstate commerce.⁴ The Seventh Circuit Federal Appeals Court found that federal law did not preempt a similar Wisconsin "two-person crew" statute.⁵

HISTORY

ACTION	DATE
Introduced	02-27-17

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⁴ 49 U.S.C. 20106.

⁵ See *Burlington N. & Santa Fe Ry. Co. v. Doyle*, 186 F.3d 790 (7th Cir. Wis. 1999).

