
SENATE BILL 6559

State of Washington**53rd Legislature****1994 Regular Session****By Senator Morton**

Read first time 01/27/94. Referred to Committee on Transportation.

1 AN ACT Relating to railroad crossings of private roadways; adding
2 a new section to chapter 81.52 RCW; and adding new sections to chapter
3 81.53 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 81.52 RCW
6 to read as follows:

7 (1) A covenant, promise, agreement, or understanding in, or in
8 connection with or collateral to, a contract or agreement relative to
9 the provision, construction, alteration, repair, or maintenance of any
10 railroad crossing purporting to indemnify against liability for damages
11 arising out of bodily injury to persons or damage to property:

12 (a) Caused by or resulting from the sole negligence of the
13 indemnitee, its agents or employees is against public policy and is
14 void and unenforceable;

15 (b) Caused by or resulting from the concurrent negligence of: (i)
16 The indemnitee or the indemnitee's agents or employees; and (ii) the
17 indemnitor or the indemnitor's agents or employees, is valid and
18 enforceable only to the extent of the indemnitor's negligence and only
19 if the agreement specifically and expressly provides therefor.

1 (2) For the purposes of this section, "railroad crossing" means any
2 point or place where a private roadway crosses a railroad.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 81.53 RCW
4 to read as follows:

5 (1) A railroad crossing may not be closed, discontinued, or
6 otherwise abandoned except upon the approval of the commission.

7 (2) In determining whether a railroad crossing should be closed,
8 discontinued, or otherwise abandoned, the commission shall consider the
9 following factors:

10 (a) Whether the railroad crossing is reasonably necessary in order
11 to provide for the safety of persons or property;

12 (b) The reasonableness of the agreement or permit under which the
13 railroad crossing is maintained;

14 (c) Whether there exist other practical or reasonable means of
15 ingress or egress to or from the lands served by the railroad crossing;

16 (d) The burden on the owner or owners of lands served by the
17 railroad crossing if the crossing is closed, discontinued, or otherwise
18 abandoned; and

19 (e) Such other factors as the commission deems appropriate.

20 (3) For the purposes of this section, "railroad crossing" means any
21 point or place where a private roadway crosses a railroad.

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 81.53 RCW
23 to read as follows:

24 (1) Any railroad company may file with the commission a written
25 petition to close, discontinue, or otherwise abandon an existing
26 railroad crossing.

27 (2) Upon the petition being filed, the commission shall fix a time
28 and place for hearing the petition and shall give not less than twenty
29 days' notice to the petitioner and the affected owner or owners of land
30 served by the railroad crossing. At the time and place fixed in the
31 notice, all persons and parties interested are entitled to be heard and
32 introduce evidence. The commission may permit the railroad crossing to
33 be closed, discontinued, or otherwise abandoned without hearing when no
34 objections are received by the commission within twenty days from the
35 date of notice.

1 (3) At the conclusion of a hearing, the commission shall make and
2 file its written findings of fact concerning the matters inquired into.
3 The commission shall also enter its order based upon the findings of
4 fact. The order must specify whether the railroad crossing is to be
5 closed, discontinued, or otherwise abandoned.

6 (4) For the purposes of this section, "railroad crossing" means any
7 point or place where a private roadway crosses a railroad.

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