

HOUSE BILL REPORT

HB 2923

As Reported by House Committee On:
Transportation

Title: An act relating to railroad grade crossings.

Brief Description: Concerning railroad grade crossings.

Sponsors: Representatives Peterson, Walsh, Gregerson, Lekanoff, Ramel, Davis, Orwall, Stonier and Robinson.

Brief History:

Committee Activity:

Transportation: 2/10/20, 2/11/20 [DP].

Brief Summary of Bill

- Prohibits railroad companies from blocking railroad grade crossings when law enforcement or other emergency services personnel request they not be blocked or when any member of a train's crew becomes aware that a law enforcement or other emergency services vehicle is approaching or has stopped at the crossing with its emergency lights flashing.
- Requires a railroad crossing to be cleared by the fastest method available in the situations described above, as long as the method used does not violate train movement rules issued by the Federal Railroad Administration.
- Establishes that a railroad company that violates these requirements is subject to a penalty to be issued by the Utilities and Transportation Commission of no greater than \$1,000 per offense.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 19 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Walsh, Assistant Ranking Minority Member; Boehnke, Doglio, Duerr, Entenman, Eslick, Kloba, Lovick, Mead, Ortiz-Self, Paul, Ramos, Riccelli, Shewmake and Volz.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 10 members: Representatives Barkis, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chambers, Chapman, Dufault, Goehner, Irwin, McCaslin, Orcutt and Van Werven.

Staff: Jennifer Harris (786-7143).

Background:

Federal vs. State Jurisdiction over Rail Carriers.

The Surface Transportation Board, a federal regulatory agency charged with resolving railroad rate and service issues, reviewing proposed railroad mergers, and investigating rail service matters of regional and national significance, has jurisdiction over transportation by rail carriers with respect to rates, classifications, rules, practices, routes, services, and facilities. The Surface Transportation Board also has jurisdiction over remedies related to this oversight. These remedies are exclusive and preempt the remedies provided under other federal law and state law.

The Federal Railroad Administration (FRA) formulates and enforces rail safety regulations, including setting rules for the maximum allowable operating speed for freight and passenger trains by class of track and the maximum speeds for traveling through rail crossings.

Under federal law, state and local regulation of rail carriers is permissible when it does not interfere with interstate rail operations, with localities retaining certain police powers to protect public health and safety. Laws of general applicability that incidentally regulate railroads may be permitted under federal law at times, but interference with interstate rail operations is not.

State Law and Rail Crossings.

The Utilities and Transportation Commission (UTC) has limited authority to regulate rail carriers in the state. The UTC inspects intersections where railway meets road, referred to as grade crossings, to make sure they are designed and maintained in a way that promotes safe crossings. The UTC also investigates accidents and authorizes improvements of public crossings, installation of signals and gates, and closures of crossings.

Summary of Bill:

Railroad companies are prohibited from blocking a railroad grade crossing under the following circumstances:

1. law enforcement or other emergency services personnel requests the railroad crossing not be blocked; or
2. any member of the crew becomes aware that the crossing is being approached by a law enforcement or other emergency services vehicle with its lights flashing or that such a vehicle has stopped at the blocked crossing.

A railroad grade crossing must be cleared by the fastest method available, subject to rules related to train movements issued by the FRA.

A railroad that violates these requirements is subject to a penalty of no greater than \$1,000 for each offense committed, to be enforced by the UTC.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill focuses on public safety issues. Firefighters are frequently delayed when responding to a call. This is true for law enforcement as well, especially at certain locations in Kent, Auburn, and Edmonds.

There was a situation in Edmonds where a train was involved in an incident with a passenger truck. The train blocked two crossings for more than five hours, long after the time when the incident was resolved, blocking areas of the city from emergency vehicle access for a long time. It is of paramount importance that companies that run these tracks take some responsibility to find the best and most efficient ways to clear tracks when there are imminent public safety dangers.

(Opposed) Federal law and rules preempt the state in this area. State regulation has proven unenforceable when states have attempted to regulate this area in the past. In Washington specifically, a court found that federal preemption invalidated the regulation of rail. The UTC's website states that it will forward complaints related to blocked crossings on to the FRA.

Rail companies make an effort to work with communities. There is a protocol in place to communicate with law enforcement if there is an incident at a rail crossing. Blocked crossings are a problem at the national level and states have been encouraging the FRA to develop rules to address this issue.

Persons Testifying: (In support) Representative Peterson, prime sponsor; AJ Johnson, Washington State Council of Fire Fighters; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Opposed) Bill Stauffacher, BNSF Railway; and Tom Parker, Union Pacific Railroad.

Persons Signed In To Testify But Not Testifying: None.