

State of Kansas
Senate Chamber

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COMMITTEE ASSIGNMENTS

CHAIRMAN
LOCAL GOVERNMENT

MEMBER
AGRICULTURE AND NATURAL RESOURCES
ETHICS AND TRANSPARENCY
WAYS AND MEANS

JOINT COMMITTEES
RULES AND REGULATIONS

RE: Proponent Testimony for SB 271

Chairman Petersen and Members of the Transportation Committee:

I stand in support of SB 271 that limits long train lengths due to the substantial burden it is placing upon my communities and many of yours. Few federal laws regulate the length of trains which is why we are seeing more bills of this nature from Kansas and other states which are addressing the needs of our constituents.

Newton, which is home of the Railroaders, is a community that has a long history of managing freight trains, is the closest station to Wichita that serves passenger rail. It is having problems with trains cutting the community in half for long periods of time. This has resulted in major disruption of the business of every day life as well as preventing half of the city from accessing the hospital in the event of life-threatening situations.

In my city, Sedgwick, there have been times when the temperatures were below freezing with people waiting to cross; situations where children have crawled under trains to get to the other side. In Wichita, 21st street, a main transportation artery, is often blocked because it is being used by the rail yard to stack cars because the rail yard itself is not large enough to accommodate all the rail cars.

Sidings, which are low-speed track sections on either side of the main tracks and used for stabilizing, storing, and unloading cars, are another significant safety concern for two reasons. They often do not have lights or electronic crossing guards over the crossings and stored or stacked box cars near crossing intersections can prevent clear lines of sight for any oncoming train traffic. These factors when combined are tragedies waiting to happen as in the case of 36-year old mother Ana Hirai Guerrero-Dominguez just west of Maize. The vehicle she was driving was struck by a train as she began to cross, see Attachment 1. She was killed on impact and her daughters were taken to the hospital in critical condition.

I requested that Sedgwick County look into the installation of cross guards since KDOT, which has access to federal dollars, will pay 80% of the cost. At this time, the railroad does not want to pay the 20% match. I find this to be disappointing since this legislative body increased the Rail Improvement Act to \$10 million which also allows for safety features.

SB 215, the Kansas Rail Safety Act, includes additional provisions for addressing the safety and staffing of crews for long trains which is also extremely important, see Attachment 2.

I think we all recognize the importance and need that rail serves to move products and resources from door to door and facilitates businesses. However, this bill is about safety and being a good neighbor. It is my hope that the wisdom of the committee will move this bill forward to decrease the length of trains and protect those who operate the trains as well as those who have to cross the tracks also.

Sincere request,

A handwritten signature in black ink, appearing to read 'Carolyn McGinn', with a stylized flourish at the end.

Senator Carolyn McGinn

Crash Diagram

850A page 2

SPECIAL EVENT

SPECIAL DATA

Local Case No.

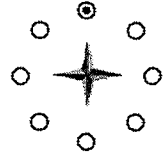
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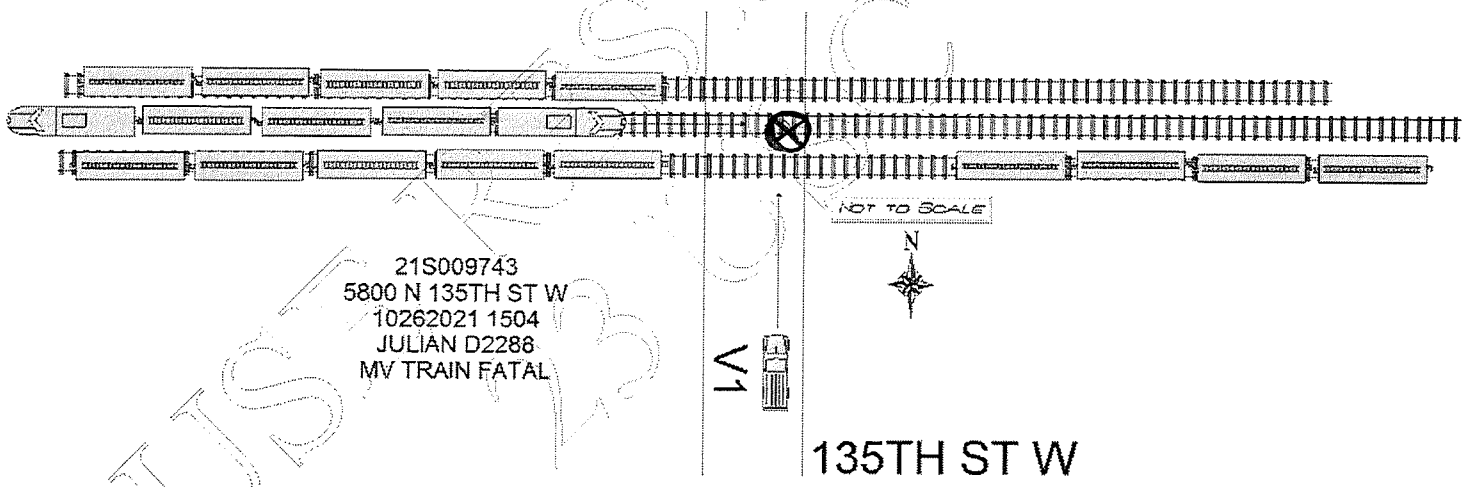
02 ON	ROADWAY NUMBER OF LANES	AT	01 ON	ROAD CHARACTER AT	01 00	SPECIAL JURISDICTION
	01 One			01 Straight & Level		00 Normal Jurisdiction (Not Special)
	02 Two			02 Straight on grade/slope		01 National Park Service
	03 Three			03 Straight on hillcrest		02 Military
	04 Four to Six			04 Curved & level		03 Indian Reservation
	05 Seven or more			05 Curved on grade/slope		04 College / University Campus
	88 Other: _____			06 Curved on hillcrest		05 Other Federal property
	99 Unknown			88 Other: _____		88 Other: _____
				99 Unknown		99 Unknown

A basic diagram is required for all state reportable crashes showing movements, direction, and positions of all traffic units in relationship to the trafficway. Identify (label) the street(s) and traffic unit(s) along with the area of impact (AOI) where possible. Refer to vehicles and pedestrians by unique numbers assigned in this report.

Indicate North Direction



Draw scene as observed or recreate per statements and evidence available



Attachment 1

SENATE BILL No. 215

By Committee on Ways and Means

2-8

AN ACT concerning railroads; establishing the Kansas rail safety improvement act; providing for safety requirements for railroad operations and crossings; allowing for the transfer of title for abandoned railroad tracks to municipalities.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 13, and amendments thereto, shall be known and may be cited as the Kansas rail safety improvement act.

Sec. 2. As used in sections 1 through 13, and amendments thereto:

(a) "Branch line" means a secondary railroad track that branches off from a main line.

(b) "Main line" means a class I railroad as documented in current timetables filed by the class I railroad with the federal railroad administration under 49 C.F.R. § 217.7 that satisfies at least one of the following conditions:

(1) The railroad has 5,000,000 or more gross tons of railroad traffic transported annually; or

(2) the railroad is used for regularly scheduled intercity or commuter rail passenger service, except that intercity or commuter passenger service does not include tourist, scenic, historic or excursion operations.

(c) (1) "Railroad" means any form of non-highway ground transportation that runs on rails or electromagnetic guideways, including:

(A) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service; and

(B) high-speed ground transportation systems that connect metropolitan areas, whether or not those systems use new technologies not associated with traditional railroads.

(2) "Railroad" does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(d) "Safe space" means the area encompassed from:

(1) The actual grade level to a distance of 22 feet above the top of the railroad; and

(2) a distance of eight feet and six inches on both sides of a perpendicular from the centerline of a railroad track.

(e) "Train" means one or more locomotives, coupled with or without cars, that require an air brake test in accordance with 49 C.F.R. part 232 or

SB 215

2

part 238.

Sec. 3. No railroad operating in the state of Kansas shall run or permit to be ran any train that exceeds 8,500 feet in length on any main line or branch line.

Sec. 4. A railroad operating within this state is required to maintain certain minimum distances from the near-edge railroad crossings to railroad rolling stock stored on sidings. The minimum distance for storage or railroad rolling stock shall be 300 feet. As used in this section, "rolling stock" includes the rolling stock not used for the pickup or delivery of freight and which placement on the railroad-owned siding by a railroad is for the sole convenience of the railroad.

Sec. 5. No train, locomotive or light engine used in connection with the movement of freight may be operated unless such train, locomotive or light engine has a crew consisting of at least two individuals. As used in this section, "train, locomotive or light engine used in connection with the movement of freight" does not include hostler service or utility employees.

Sec. 6. A device warning of an impending train, locomotive or light engine is required in a safe space that the railroad controls and where:

(a) Any scrap iron, lumber, debris or vegetation exceeds a height of four inches;

(b) there exists a marked unevenness of the terrain; or

(c) any material or condition exists that endangers any employee.

Sec. 7. (a) Rail carriers shall provide walkways adjacent to portions of yard tracks where employees regularly work performing switching service. Such walkways may be surfaced with reasonably uniform asphalt, concrete, planking, grating, native material, crushed material or other similar material. When crushed material is used, 100% of the material shall be capable of passing through a 1 1/2 inch sieve and at least 90% of the material must be capable of passing through a one-inch square sieve opening. A minimal variation shall not be a violation of this rule in an instance where the rail carrier has made a good faith effort to comply with the percentage requirements in this subsection. Smaller crushed material shall be used where practical and where drainage and durability issues do not arise.

(b) Material that is 3/4 inch or less in size is recommended for switching lead tracks. Such walkways shall have a reasonably uniform surface and shall be maintained in a safe condition without compromising track drainage.

(c) Cross slopes for walkways shall not exceed one inch of elevation for each eight inches of horizontal length in any direction. Such walkways shall be a minimum width of two feet and shall be kept reasonably free of spilled fuel oil, sand, posts, rocks and other hazards or obstructions.

(d) (1) In cases where the department of transportation finds that rail

Attachment 2

1 carrier employees who regularly work adjacent to a portion of track are
 2 exposed to safety hazards due to the lack of a walkway or due to the
 3 condition of a walkway, the department may order a rail carrier to
 4 construct, when feasible, a walkway adjacent to a portion of track or
 5 require a rail carrier to modify an existing walkway in conformance with
 6 the standards set forth in this section. Such order shall only occur after
 7 notice and an opportunity to be heard has been given to the railroad in
 8 accordance with the provisions of the Kansas administrative procedure act.

9 (2) For purposes of this subsection, "regularly" means:

- 10 (A) At least two days per week,
- 11 (B) one shift per day; or

12 (C) any other period established by the department of transportation
 13 pursuant to rules and regulations.

14 Sec. 8. In carrying out this act, a law enforcement officer or designee
 15 of the secretary of transportation may enter railroad property and inspect
 16 railroad equipment, facilities, rolling stock, operations and relevant records
 17 at reasonable times and in a reasonable way.

18 Sec. 9. In any proceeding under this act, a railroad shall be liable for
 19 the actions of its officers and employees.

20 Sec. 10. (a) Each day that a violation occurs is a separate violation of
 21 this act.

22 (b) A violation of section 3, 4, 5, 6 or 7, and amendments thereto, is
 23 punishable by a fine of not less than \$500 but not more than more than
 24 \$25,000.

25 (c) If the railroad is found to have committed a grossly negligent
 26 violation, or a pattern of repeated violations, such violation shall be
 27 punishable by a fine of not more than \$100,000.

28 Sec. 11. (a) A law enforcement officer may prepare and deliver a
 29 written notice of a violation, either personally or by first class mail, to the
 30 registered agent of the railroad if the law enforcement officer witnesses a
 31 violation of this act or receives a complaint with an accompanying
 32 affidavit containing sufficient information to determine that a violation
 33 was committed.

34 (b) The notice of violation shall contain:

- 35 (1) A summons to appear in court that shall provide the time and
 36 place that a representative of the railroad shall appear;
- 37 (2) the name and address of the railroad as provided by the
 38 representative or agent;
- 39 (3) the name of the representative or agent receiving the citation;
- 40 (4) the offense or offenses charged;
- 41 (5) the potential fine provided in section 10, and amendments thereto;
- 42 and
- 43 (6) the signature of the law enforcement officer.

1 (c) The time specified in the notice to appear shall be at least five
 2 days after the alleged violation unless a representative of the railroad
 3 demands an earlier hearing.

4 (d) The court specified in the notice to appear shall be the district
 5 court having jurisdiction where an alleged violation occurred.

6 Sec. 12. Any fine or civil penalty collected pursuant to the Kansas rail
 7 safety improvement act shall be remitted to the state treasurer in
 8 accordance with the provisions of K.S.A. 75-4215, and amendments
 9 thereto. Upon receipt of each such remittance, the state treasurer shall
 10 deposit the entire amount in the state treasury to the credit of the state
 11 highway fund.

12 Sec. 13. The secretary of transportation may adopt rules and
 13 regulations necessary to implement the provisions of this act.

14 Sec. 14. (a) A city or county that has a railroad track constructed in
 15 the jurisdiction of such city or county may petition the district court having
 16 jurisdiction where the track is located for transfer of title and possession of
 17 the land upon which such track is constructed, if:

- 18 (1) Such railroad track has been abandoned for not less than three
 19 years;
 - 20 (2) no train has used the track in the prior three years; and
 - 21 (3) no maintenance or upkeep is being done to prevent overgrowth of
 22 vegetation on the track or the area surrounding the track.
- 23 (b) In accordance with subsection (a), a title shall only be transferred
 24 upon appropriate service on the track owner if such owner can be located.
 25 Sec. 15. This act shall take effect and be in force from and after its
 26 publication in the statute book.