

TO:	Senate Committee on Local Government
From:	Jill Shelley, Principal Research Analyst, Kansas Legislative Research Department

RAILROAD SAFETY: SB 530

SB 530 would enact the Kansas Rail Safety Improvement Act, to be named in Section 1.

Definitions. Section 2 would provides definitions of terms including “railroad,” “main line,” and “train,” for purposes of the bill.

Limiting train length. Section 3 would prohibit a railroad operating in Kansas from running or permitting any train exceeding 8,500 feet in length on any main line or branch line. The bill would authorize the Secretary of Transportation (Secretary) to impose civil penalties for violation, of not less than \$500 per foot or more than \$1,000 per foot. The bill would authorize the Secretary to impose a one-time fine of up to \$250,000 for a grossly negligent violation or a pattern of violations that caused an imminent threat of death or injury to individuals or has caused death or injury. The bill also would authorize the Secretary to reduce a fine.

Minimum distances. Section 4 would require a railroad operating in Kansas to maintain a minimum distance of 300 feet from near-edge railroad crossings to railroad rolling stock placed on railroad-owned siding for the sole convenience of the railroad. The bill would authorize the Secretary to impose a civil penalty against the railroad of not less than \$500.

Crew size. Section 5 would prohibit operation of a train, locomotive, or light engine for movement of freight unless the train, locomotive, or light engine has a crew of at least two individuals. Violation would be punishable by a fine of:

- \$250-\$1,000;
- \$1,000-\$5,000 for a second conviction with three years of the date of the initial violation;
- \$5,000-\$10,000 for a third or subsequent conviction within three years of the date of the initial violation.

Warning device. Section 6 would require a warning device of an impending train, locomotive, or light engine in a safe space that the railroad controls if there is a marked unevenness of the terrain or any scrap iron, lumber, debris, or vegetation exceed a height of 4 inches. The bill would define “safe space” to mean the area from the grade level to 14 feet above the top of the railhead and 8 feet perpendicular from the centerline of the track on both sides on a track with a radius of less than 400 feet lateral curvature.

Walkway standards. Section 7 would require a rail carrier to provide walkways a minimum of 2 feet wide adjacent to portions of yard tracks where employees regularly work performing switching service. The bill would require the material used to meet certain standards as to the size of the crushed material used. The bill also would specify the cross slopes of the walkways could not exceed 1 inch of elevation for each 8 inches of horizontal length in any direction. The bill also would require the walkways be kept reasonably free of hazards or obstructions.

The bill would authorize the Kansas Department of Transportation (KDOT) to order a railroad to construct a walkway if it finds that rail carrier employees who regularly work adjacent

to a portion of track are exposed to safety hazards due to the lack of a walkway or a walkway's condition. The bill would define "regularly" for this purpose. The bill would authorize the Secretary to adopt rules and regulations for this purpose.

Disposition of fines and penalties. Section 8 would direct moneys collected from fines and penalties under the provisions of the bill to the State Highway Fund.

ADDITIONAL INFORMATION

Note: Bills of other states introduced since January 1, 2020, were located using the National Conference of State Legislatures' Bill Information Service. All bills are pending as of March 16, 2022, unless otherwise noted.

Limiting Train Length

Federal study. The Infrastructure Investment and Jobs Act, H.R. 3684 (Public Law 117058), in Section 22422, requires study of train length by the National Academies of Sciences, Engineering, and Medicine:

SEC. 22422. NATIONAL ACADEMIES STUDY ON TRAINS LONGER THAN 7,500 FEET.

(a) Study.--The Secretary shall seek to enter into an agreement with the National Academies to conduct a study on the operation of freight trains that are longer than 7,500 feet.

(remainder of this section is provided as an attachment)

Other states. Bills of these states would establish a maximum train length of 8,500 feet:

- Arizona – HB 2186 (2022);
- Illinois – HB 2524 (2021);
- Iowa - HF 278 (2021), HF 2339 (2022), HF 2208 (2022), SF 2051 (2022), SF 2125 (2022), and SF 2286 (2022);
- Missouri – HB 1318 (2021) and HB 1530 (2022); if the train carries hazardous materials – HB 2662 (2022); and
- North Carolina – HB 438 (2021).

Nebraska LB 539 (2021) would limit train length to 7,500 feet.

Additional bills would take different actions on train length:

- Georgia – HR 919 (2022) would urge the Federal Railroad Administration to limit train length to 8,500 feet; HB 139 (2021) and HB 1473 (2022) would prohibit a railroad company from authorizing blocking a crossing for more than 15 minutes, with exceptions;
- Tennessee – SB 2388 (2022) and HB 2413 (2022) would authorize municipalities to request department of transportation assistance to apply for federal funds to address the impacts of blocked crossings.

- Washington – SB 5955 (2022) would prohibit a railroad company from blocking a crossing upon the request of law enforcement or crew awareness of law enforcement or emergency services at a crossing; the bill would require the crossing be cleared by the fastest available method that would not violate Federal Railroad Administration rules.

Crew Size

Bills of these states would require crews of at least two individuals:

- Arizona – HB 2521 (2022); the bill also would require a minimum of two operating employees during remote control operations;
- Iowa - HF 2208 (2022), SF 2051 (2022), SF 2125 (2022), and HF 462 (2021);
- Kentucky – HB 140 (2022);
- Michigan – HB 5596 (2021) and SB 767 (2021);
- Minnesota - HF 3929 (2022) and SF 4033 (2022);
- Missouri – HB 2620 (2022);
- New York – AB 1287 (2021) and SB 3953 (2021);
- North Carolina – HB 408 (2021), HB 822 (2021), and SB 348 (2021); and
- Ohio – HB 194 (2021).

Illinois statute 625 ILCS 5/18c-7402 currently requires a two-person crew until federal law or rule is adopted on this topic.

Federal Railroad Administration Rule on Crew Size

In its Notice of Proposed Rulemaking, withdrawal, published in the Federal Register of May 29, 2019, the Federal Railroad Administration withdrew its March 15, 2016, notice of proposed rulemaking. The 2016 proposed rule would have required a minimum two-person crew, with some exceptions. The May 29, 2019, notice of proposed rulemaking included this:

In issuing this withdrawal, FRA has determined that no regulation of train crew staffing is necessary or appropriate at this time and intends for the withdrawal to preempt all state laws attempting to regulate train crew staffing in any manner. FRA believes that nine states have laws in place regulating crew size in some manner: California, West Virginia, and Wisconsin require a minimum of two crew members for certain trains; Arizona, California, Ohio, and Oregon have “full crew” requirements for certain trains; and Massachusetts, New Jersey, and Washington impose other restrictions. FRA also believes that laws regulating crew size have been proposed in 30 states since 2015.

Walkway Standards

Iowa HF 183 (2021) and SF 2019 (2022) and Ohio HB 195 (2021) would provide standards similar to those proposed in Kansas SB 530 but also would include exceptions and a waiver process.

Form FRA F 6180.54 (Rail Equipment Accident/Incident Report) to collect, with respect to trains involved in accidents required to be reported to the Federal Railroad Administration—

- (1) the number of cars and length of the involved trains; and
- (2) the number of crew members who were aboard a controlling locomotive involved in an accident at the time of such accident.

SEC. 22422. NATIONAL ACADEMIES STUDY ON TRAINS LONGER THAN 7,500 FEET.

(a) **STUDY.**—The Secretary shall seek to enter into an agreement with the National Academies to conduct a study on the operation of freight trains that are longer than 7,500 feet.

Contracts.

(b) **ELEMENTS.**—The study conducted pursuant to subsection (a) shall—

(1) examine any potential impacts to safety from the operation of freight trains that are longer than 7,500 feet and the mitigation of any identified risks, including—

Examination.

(A) any potential changes in the risk of loss of communications between the end of train device and the locomotive cab, including communications over differing terrains and conditions;

(B) any potential changes in the risk of loss of radio communications between crew members when a crew member alights from the train, including communications over differing terrains and conditions;

(C) any potential changes in the risk of derailments, including any risks associated with in-train compressive forces and slack action or other safety risks in the operations of such trains in differing terrains and conditions;

(D) any potential impacts associated with the deployment of multiple distributed power units in the consists of such trains; and

(E) any potential impacts on braking and locomotive performance and track wear and tear;

(2) evaluate any impacts on scheduling and efficiency of passenger operations and in the shipping of goods by freight as a result of longer trains;

Evaluation.

(3) determine whether additional engineer and conductor training is required for safely operating such trains;

Determination.

(4) assess the potential impact on the amount of time and frequency of occurrence highway-rail grade crossings are occupied; and

Assessment.

(5) identify any potential environmental impacts, including greenhouse gas emissions, that have resulted from the operation of longer trains.

(c) **COMPARISON.**—When evaluating the potential impacts of the operation of trains longer than 7,500 feet under subsection (b), the impacts of such trains shall be compared to the impacts of trains that are shorter than 7,500 feet, after taking into account train frequency.

(d) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of

Representatives that contains the results of the study conducted by the National Academies under this section.

(e) FUNDING.—From the amounts appropriated for fiscal year 2021 pursuant to the authorization under section 20117(a) of title 49, United States Code, the Secretary shall expend not less than \$1,000,000 and not more than \$2,000,000 to carry out the study required under this section.

SEC. 22423. HIGH-SPEED TRAIN NOISE EMISSIONS.

(a) IN GENERAL.—Section 17 of the Noise Control Act of 1972 (42 U.S.C. 4916) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

“(c) HIGH-SPEED TRAIN NOISE EMISSIONS.—

“(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator, may prescribe regulations governing railroad-related noise emission standards for trains operating on the general railroad system of transportation at speeds exceeding 160 miles per hour, including noise related to magnetic levitation systems and other new technologies not traditionally associated with railroads.

“(2) FACTORS IN RULEMAKING.—The regulations prescribed pursuant to paragraph (1) may—

“(A) consider variances in maximum pass-by noise with respect to the speed of the equipment;

“(B) account for current engineering best practices; and

“(C) encourage the use of noise mitigation techniques to the extent reasonable if the benefits exceed the costs.

“(3) CONVENTIONAL-SPEED TRAINS.—Railroad-related noise regulations prescribed under subsection (a) shall continue to govern noise emissions from the operation of trains, including locomotives and rail cars, when operating at speeds not exceeding 160 miles per hour.”

(b) TECHNICAL AMENDMENT.—The second sentence of section 17(b) of the Noise Control Act of 1972 (42 U.S.C. 4916(b)) is amended by striking “the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act” and inserting “subtitle V of title 49, United States Code”.

SEC. 22424. CRITICAL INCIDENT STRESS PLANS.

The Secretary shall amend part 272 of title 49, Code of Federal Regulations, to the extent necessary to ensure that—

(1) the coverage of a critical incident stress plan under section 272.7 of such part includes employees of commuter railroads and intercity passenger railroads (as such terms are defined in section 272.9 of such part), including employees who directly interact with passengers; and

(2) an assault against an employee requiring medical attention is included in the definition of critical incident under section 272.9 of such part.

SEC. 22425. REQUIREMENTS FOR RAILROAD FREIGHT CARS PLACED INTO SERVICE IN THE UNITED STATES.

(a) IN GENERAL.—Subchapter II of chapter 201 of subtitle V of title 49, United States Code (as amended by section 22416(a)), is amended by adding at the end the following:

Consultation.
Regulations.

49 USC 20109
note.