

SUBJECT:           Obstruction of roadways by trains

COMMITTEE:       Transportation — committee substitute recommended

VOTE:             9 ayes — Alexander, Siebert, Y. Davis, Edwards, Hamric, Hawley, Hill,  
                      Noriega, Uher

0 nays

WITNESSES:       *(On original bill:)*

For — James Lawhorn, City of West Police Department; Russell Willsey,  
City of West

Against — Sam Arrington, United Transportation Union; Ron Olson, Union  
Pacific Railroad

BACKGROUND:     Transportation Code, sec. 471.007 prohibits officers, agents, servants, or  
receivers of railway companies from allowing a train to obstruct a street,  
railroad crossing, or public highway for more than five minutes. An offense  
under this section is punishable by a fine of \$5 to \$100.

DIGEST:           CSHB 2922 would increase the range of fines for permitting a train to  
obstruct a street, railroad crossing, or public highway to a minimum of \$100  
and a maximum of \$300. The bill would increase to 10 minutes the time  
allowed for obstruction before a fine could be levied. It would hold the  
railway company responsible for such an offense and would remove that  
responsibility from officers, agents, servants, or receivers of railway  
companies. It would be a defense to prosecution if a train obstructed a road  
because of a breakdown or an act of God.

The bill would require an officer who cited a railway company for obstructing  
a roadway to attach a copy of the citation to the train or to deliver a copy to  
an employee or agent of the company. The citation would have to show the  
name of the railway company and the time and place that a company  
representative would have to appear in court. The bill also would delete the  
current requirement that the conductor of the train sign the citation as an  
agent of the railway company.

The bill would take effect September 1, 1999, and would apply only to an offense committed on or after that date.

**SUPPORTERS  
SAY:**

Several cities have experienced problems with trains that block roadways for extended periods of time. For example, the city of West had at least 40 instances of lengthy obstruction during 1997 and 1998, a few of which lasted for at least 18 hours. Higher fines would provide a better deterrent against lengthy obstructions of roadways by trains. The fines would give cities and counties greater authority to keep their roadways unobstructed.

Railway companies, not their employees, should be legally responsible for obstruction offenses. Employees often are not at fault when trains obstruct roadways and should not be held liable for actions they cannot control. Officers need the authority to post citations on trains since they cannot always find employees of a train that is obstructing a roadway before the train leaves the site of the infraction.

Railway companies need more time to move their trains out of obstructing positions before they are charged with an offense. Delays under 10 minutes are not enough of an inconvenience to motorists to justify a fine. Companies also need a clear exemption from fines for obstruction in situations caused by breakdowns or acts of God.

The committee substitute is substantially different from the original bill, which was opposed by railroad company and union representatives. These representatives now support the committee substitute.

**OPPONENTS  
SAY:**

The fines in the committee substitute are not enough of a deterrent to railroad companies whose trains obstruct roads. The fines should be set using a scale based on the length of time of the obstruction, with higher fines for longer delays.

**NOTES:**

The committee substitute removed the responsibility of officers, agents, servants, or receivers of railway companies for paying a fine related to an obstruction of a roadway and placed the responsibility on the railway company. The substitute also changed the range of fines for obstructing roads to a minimum of \$100 and a maximum of \$300, instead of \$5 to \$2,000 as in the original bill.

The committee substitute also extended to 10 minutes the length of time an obstruction would be allowed before a train could be charged with an offense. It added the provisions that would require officers to attach citations to the train or to deliver them to an employee, and that would make a breakdown or an act of God a defense to prosecution. The substitute also would remove the section of current law that defines the conductor of a train as an agent for service of the citation.