



Julie A. Rishel

Bill Analysis
Legislative Service Commission

H.B. 400
127th General Assembly
(As Introduced)

Reps. Patton, R. Hagan, Brown, Yuko

BILL SUMMARY

- Requires any railroad company operating in Ohio to provide for the use of its employees at least one heated room at all terminals and headquarters and specifies facilities that the room must contain.
- Requires a railroad company to maintain at all permanent assembly points located in Ohio a supply of drinking water for the company's employees in accordance with the bill's requirements and rules adopted by the Director of Health.
- Requires any railroad company that houses maintenance of way employees in a mobile camp in Ohio to provide and adequately maintain that mobile camp in accordance with the bill's requirements.
- Requires any railroad company as described in the dot point immediately above to install and permanently wire, with battery backup, an emergency alert weather radio, a smoke detector, and a carbon monoxide detector and to post emergency evacuation instructions specific to the housing location in each car.
- Requires any railroad company that houses maintenance of way employees in a mobile camp in Ohio to notify the board of health with jurisdiction in the area where the mobile camp is located of the existence of the mobile camp and to request and allow that board to inspect that camp.
- Requires a railroad company to pay a fee to a board of health for inspecting a mobile camp, in an amount established by the Director in rules the Director adopts.

- Prohibits any railroad company from operating any commissary car or cook car without a mobile food service operation license issued under continuing law.
- Allows the Director to investigate alleged violations of the bill and requires the Director to conduct a hearing in accordance with the bill's requirements if the Director determines that reasonable evidence exists that a violation has occurred.
- Allows the Director, through the Attorney General or a prosecuting attorney, to apply to an appropriate court for an order enjoining a violation committed by a railroad company if the company fails to comply with the Director's recommendations to remedy the violation.

CONTENT AND OPERATION

Duties of railroad companies operating in Ohio

The bill requires any railroad company that operates in Ohio to provide and adequately maintain for the use of its employees at least one heated room at all terminals and headquarters located in Ohio that are operated by that railroad company. Each room must contain (1) a washbasin, determined by the Director of Health to be adequate, (2) a shower or bath, (3) an indoor toilet, and (4) a minimum of one locker for each employee of sufficient size to store the employee's clothing. (Sec. 3733.60(B).)

Additionally, any railroad company that operates in Ohio must maintain at all permanent assembly points located in Ohio a supply of drinking water that the Director determines to be sufficient for all employees and that is dispensed in a sanitary manner. Under the bill, "permanent assembly point" means a location where maintenance of way employees meet for work at the beginning and end of each work day. A "maintenance of way employee" is defined by the bill as a person who is employed to maintain railroad rights-of-way. (Sec. 3733.60(A)(3) and (C).)

The bill requires the Director to adopt rules determining standards of adequacy or sufficiency for the purposes of the provisions described above (see "*Rule adoption by the Director of Health*" below) (sec. 3733.60(L)(2)).

Specific duties regarding maintenance of way employees

The bill requires any railroad company that houses maintenance of way employees in a mobile camp in Ohio to provide and adequately maintain that mobile camp with all of the following:

- Heat and air conditioning in each car;
- Lockers for the clothing and personal belongings of maintenance of way employees, washbasins, showers, and indoor toilets, determined by the Director to be adequate in number;
- A supply of potable water dispensed in a sanitary manner for drinking, bathing, cooking, and cleaning cooking utensils that the Director determines to be adequate;
- Minimum floor space of 80 square feet per occupant using single beds with a maximum of four occupants per car. (Sec. 3733.60(D).)

The bill defines a "mobile camp" as "a temporary location where maintenance of way employees are housed in camp cars, bunk cars, sleeping cars, outfit cars, or trailers." (Sec. 3733.60(A)(1).)

Additionally, under the bill, any railroad company that houses maintenance of way employees in mobile camps in Ohio must notify the board of health¹ with jurisdiction in the area where the mobile camp is located of the existence of the mobile camp within two business days after the employees arrive at the mobile camp. In addition, the railroad company must request and permit inspection of the camp and the cars by an authorized representative of the board to ensure that the camp and cars are sanitary and healthful for the maintenance of way employees and for the local community. Prior to any inspection, the railroad company must pay to the board of health the fee prescribed in rules adopted by the Director as described under "*Rule adoption by the Director of Health*" below. The board must deposit the fee in the board's district health fund. (Sec. 3733.60(F) and (L)(3).)

Under the bill, any railroad company that houses maintenance of way employees in Ohio must install and permanently wire, with battery backup, an emergency alert weather radio, a smoke detector, and a carbon monoxide detector

¹ The bill defines "board of health" as a board of health of a city or general health district or the authority having the duties of a board of health under the Health Districts Law (R.C. Chapter 3709.) (sec. 3733.60(A)(4) and sec. 3709.05, not in the bill).

and must post emergency evacuation instructions specific to the housing location in each car. (Sec. 3733.60(E).)

Prohibitions

The bill prohibits any railroad company from failing to comply with the bill (sec. 3733.60(H)). The bill, notwithstanding the list of persons exempt from the requirements to obtain a license as a food service operation under continuing law (R.C. 3717.42, not in the bill), also prohibits any railroad company from operating any commissary car or cook car, alone or in conjunction with a mobile camp, for the preparation and service of food for maintenance of way employees, without a mobile food service operation license issued under continuing law (R.C. 3717.43, not in the bill). Under the continuing law that governs the issuance of licenses for food service operations, unless an exception applies, a person or government entity who operates a food service operation without a license is guilty of a third degree misdemeanor on a first offense, and for a second offense or subsequent offense, is guilty of a second degree misdemeanor. Each day the violation continues is a separate offense. (Sec. 3733.60(G) and R.C. 3717.41 and 3717.99, not in the bill.)

Investigations and disciplinary actions

The bill permits the Director to investigate any railroad company that allegedly has violated the bill. If, after the investigation, the Director determines that reasonable evidence exists that a railroad company has violated the bill, within seven days after that determination, the Director must send a written notice to the railroad company and the company's maintenance of way employees in the same manner as prescribed in the Administrative Procedure Act (R.C. Chapter 119.), except that the notice must specify that a hearing will be held and specify the date, time, and place of the hearing. (Sec. 3733.60(I).)

The Director must hold a hearing regarding an alleged violation of the bill in the same manner prescribed for an adjudication hearing under the Administrative Procedure Act. If the Director determines after the hearing that a violation has occurred, the Director must issue a report and recommendations to the railroad company that includes all of the following information:

- (1) The time any examination regarding the alleged violation was made by a local department of health or by the Director;
- (2) The exact location, character, and extent of the violation;
- (3) Reasonable changes, improvements, additions, buildings, or accommodations necessary to remedy the violation;

(4) A reasonable time within which the changes, improvements, additions, buildings, or accommodations must be completed. (Sec. 3733.60(J).)

If the railroad company does not complete the recommendations issued to the railroad company, the Director, through the Attorney General or an appropriate prosecuting attorney, may apply to an appropriate court for an order enjoining the violation. On the filing of a verified petition, the court must conduct a hearing on the petition and give the same preference to the proceeding as is given to all proceedings under the Administrative Procedure Act, irrespective of the position of the proceeding on the court's calendar. On a showing that the railroad company violated the bill, the court must grant an injunction or other order as appropriate. (Sec. 3733.60(K).)

Rule adoption by the Director of Health

The Director must adopt rules to administer the bill, including all of the following rules:

(1) Rules regulating the sanitary conditions, operation, and facilities of mobile camps;

(2) Rules determining standards of adequacy or sufficiency for the purposes of the provisions described under "**Duties of railroad companies operating in Ohio**" and the first paragraph of "**Specific duties regarding maintenance of way employees**" above;

(3) A fee for inspections conducted by a board of health as described under "**Specific duties regarding maintenance of way employees**" above and an additional fee for any mobile camp that houses more than 50 occupants.

(4) Rules allowing a board of health to conduct an investigation pursuant to "**Specific duties regarding maintenance of way employees**" above with the Director, a representative of the appropriate employee organization,² or a representative of the railroad company. (Sec. 3733.60(L).)

The additional fee described under (3) above must be incrementally increased for each additional group of 50 occupants. For purposes of calculating the additional fee when the number of occupants is not evenly divisible by 50, the

² "Employee organization" means "any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment" (sec. 3733.60(A)(5) and sec. 4117.01, not in the bill).

number of occupants must be rounded up to the next higher increment of 50. (Sec. 3733.60(L)(3).)

HISTORY

ACTION	DATE
Introduced	11-27-07

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