



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5159

by Rep. Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

610 ILCS 80/2

from Ch. 114, par. 98

625 ILCS 5/18c-7503

from Ch. 95 1/2, par. 18c-7503

Amends the Railroad Police Act. Requires allegations of abuse of authority or misconduct by members of a railroad police force to be investigated by the Illinois State Police. Amends the Illinois Vehicle Code. Exempts elected representatives of rail carriers from the restrictions concerning trespassing on railroad property. Provides that the listed persons shall be exempt from the restrictions while performing required duties in accordance with reasonable rail carrier company guidelines, engaging in safety inspections, or exercising a right under the federal Railway Labor Act (instead of just while performing required duties in accordance with reasonable rail carrier company guidelines).

LRB095 18226 LCT 44310 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Railroad Police Act is amended by changing
5 Section 2 as follows:

6 (610 ILCS 80/2) (from Ch. 114, par. 98)

7 Sec. 2. Conductors of all railroad trains, and the captain
8 or master of any boat carrying passengers within the
9 jurisdiction of this state, is vested with police powers while
10 on duty on their respective trains and boats, and may wear an
11 appropriate badge indicative of such authority.

12 In the policing of its properties any registered rail
13 carrier, as defined in Section 18c-7201 of the Illinois Vehicle
14 Code, may provide for the appointment and maintenance of such
15 police force as it may find necessary and practicable to aid
16 and supplement the police forces of any municipality in the
17 protection of its property and the protection of the persons
18 and property of its passengers and employees, or otherwise in
19 furtherance of the purposes for which such railroad was
20 organized. While engaged in the conduct of their employment,
21 the members of such railroad police force have and may exercise
22 like police powers as those conferred upon any peace officer
23 employed by a law enforcement agency of this State.

1 Any registered rail carrier that appoints and maintains a
2 police force shall comply with the following requirements:

3 (1) Establish an internal policy that includes
4 procedures to ensure objective oversight in addressing
5 allegations of abuse of authority or other misconduct on
6 the part of its police officers.

7 (2) Adopt appropriate policies and guidelines for
8 employee investigations by police officers. These policies
9 and guidelines shall provide for initiating employee
10 investigations only under the following conditions:

11 (A) There is reason to believe criminal misconduct
12 has occurred.

13 (B) In response to an employee accident.

14 (C) There is reason to believe that the interview
15 of an employee could result in workplace violence.

16 (D) There is a legitimate concern for the personal
17 safety of one or more employees.

18 These policies and guidelines shall provide for the
19 right of an employee to request a representative to be
20 present during any interview concerning a non-criminal
21 matter.

22 (3) File copies of the policies and guidelines adopted
23 under paragraphs (1) and (2) with the Illinois Law
24 Enforcement Training Standards Board, which shall make
25 them available for public inspection.

26 Allegations of abuse of authority or misconduct by members

1 of a railroad police force authorized under this Section to
2 exercise police powers shall be investigated by the Illinois
3 State Police.

4 (Source: P.A. 94-846, eff. 1-1-07.)

5 Section 10. The Illinois Vehicle Code is amended by
6 changing Section 18c-7503 as follows:

7 (625 ILCS 5/18c-7503) (from Ch. 95 1/2, par. 18c-7503)

8 Sec. 18c-7503. Trespassing on railroad property; terminal
9 security.

10 (1) Trespassing on railroad property prohibited.

11 (a) General prohibition. Except as otherwise provided
12 in paragraph (b) of this subsection, no person may:

13 (i) walk, ride, drive or be upon or along the right
14 of way or rail yard of a rail carrier within the State,
15 at a place other than a public crossing;

16 (ii) enter or be upon any railroad property;

17 (iii) without lawful authority or the railroad
18 carrier's consent, ride on the outside of a train or
19 inside a passenger car, locomotive, or freight car,
20 including a box car, flatbed, or container;

21 (iv) willfully lead or contrive any animal to go
22 upon the railroad's rights of way for any reason other
23 than to pass over such rights of way at a marked public
24 crossing; or

1 (v) throw or cause to be thrown on to the
2 railroad's rights of way any waste paper, ashes,
3 household waste, glass, metal, tires, refuse, or
4 rubbish.

5 (b) Exceptions. This subsection shall not apply to:

6 (i) fare paying passengers on trains or employees
7 of a rail carrier;

8 (ii) railroad employees and ~~an~~ authorized or
9 elected representatives ~~representative~~ of rail carrier
10 employees, while performing required duties in
11 accordance with reasonable rail carrier company
12 guidelines, engaging in safety inspections, or
13 exercising a right under the federal Railway Labor Act;

14 (iii) a person going upon the right of way or into
15 the rail yard to save human life or to remove an object
16 that a reasonable person would believe poses an
17 imminent threat to human life or limb;

18 (iv) a person being on the station grounds or in
19 the depot of the rail carrier for the purpose of
20 transacting business;

21 (v) a person, his family, or his employees or
22 agents going across a farm crossing, as defined in this
23 Chapter, for the purpose of crossing from one part to
24 another part of a farm he owns or leases, where the
25 farm lies on both sides of the right of way;

26 (vi) a person having written permission from the

1 rail carrier to go upon the right of way or into the
2 rail yard;

3 (vii) representatives of local, State, and federal
4 governmental agencies in performance of their official
5 duties; and

6 (viii) a person having written permission from the
7 rail carrier to go in or be upon railroad property.

8 (2) Penalties.

9 (a) Any person found in violation of item (i), (ii),
10 (iii) or (iv) of paragraph (a) of subsection (1) shall be
11 guilty of a Class C misdemeanor for a first offense. In
12 addition to such other sanctions as may be deemed
13 appropriate by the court, the person shall be subject to a
14 mandatory fine of not less than \$150 or more than \$500, or
15 to imprisonment for not less than 5 days nor more than 30
16 days, or both. For each subsequent offense, the person
17 shall be guilty of a Class A misdemeanor. In addition to
18 such sanctions as may be deemed appropriate by the court,
19 the person shall be subject to a mandatory fine of not less
20 than \$500 nor more than \$1,000, or to imprisonment for not
21 less than 10 days or more than one year, or both.

22 (b) Any person found in violation of item (v) of
23 paragraph (a) of subsection (1) shall be guilty of an
24 offense and in addition to such sanctions as may be deemed
25 appropriate by the court shall be subject to a fine of not
26 less than \$100 nor more than \$500, or community service of

1 not less than 8 hours nor more than 50 hours, or both. If
2 damage to any railroad property or bodily injury occurs to
3 another as a result of a violation of item (v) of paragraph
4 (a) of subsection (1), that person shall be charged with
5 the offense of Malicious Removal of or Damage to Railroad
6 Property or Freight pursuant to Section 18c-7502.

7 (c) Local authorities shall impose fines as
8 established in paragraphs (a) and (b) of this subsection
9 (2) for persons found in violation of this Section or any
10 similar local ordinance.

11 (2.5) Terminal security. The owner of a terminal is
12 expressly authorized, within the terminal property, to
13 construct and operate berms, commercially constructed electric
14 fences, and monitoring equipment as security measures for
15 reducing the economic impact of theft, enhancing homeland
16 security, and improving the protection of the general public
17 welfare. The terminal owner shall properly operate and maintain
18 these security measures. Any electric fence installed pursuant
19 to this subsection shall: (i) be marked with appropriate signs;
20 (ii) be entirely surrounded at a distance of at least 36 inches
21 by properly maintained non-electric perimeter fences at least 8
22 feet tall; (iii) operate at a level of current that is not
23 lethal to a human being upon contact; (iv) be covered at all
24 times by an insurance policy maintained by the operator of the
25 terminal for liability from claims arising out of the operation
26 of the fence in an amount not less than \$10,000,000 per

1 occurrence; and (v) be regularly monitored and inspected by a
2 qualified electrician. The use of any of these security
3 measures in accordance with this subsection is not a violation
4 of this Sub-chapter.

5 (3) Definitions. For purposes of this Section:

6 "Passenger" means a person who is traveling by train with
7 lawful authority and who does not participate in the train's
8 operation. The term "passenger" does not include stowaways.

9 "Railroad" means any form of nonhighway ground
10 transportation that runs on rails or electromagnetic
11 guideways, including:

12 (i) commuter or other short-haul railroad
13 passenger service in a metropolitan or urban area; and

14 (ii) high-speed ground transportation systems that
15 connect metropolitan areas; but does not include rapid
16 transit operations in an urban area that are not
17 connected to the general railroad system of
18 transportation.

19 "Railroad carrier" means a person providing railroad
20 transportation.

21 "Railroad property" means all tangible property owned,
22 leased, or operated by a railroad carrier including a right of
23 way, track, bridge, yard, shop, station, tunnel, viaduct,
24 trestle, depot, warehouse, terminal, or any other structure,
25 appurtenance, or equipment owned, leased, or used in the
26 operation of any railroad carrier including trains,

1 locomotives, engines, railroad cars, work equipment, rolling
2 stock, or safety devices. "Railroad property" does not include
3 a railroad carrier's administrative buildings or offices,
4 office equipment, or intangible property such as software or
5 other information.

6 "Right of way" means the track or roadbed owned, leased, or
7 operated by a rail carrier which is located on either side of
8 its tracks and which is readily recognizable to a reasonable
9 person as being railroad property or is reasonably identified
10 as such by fencing or appropriate signs.

11 "Terminal" means a rail terminal facility, intermodal
12 facility where at least one mode of transportation serviced by
13 the facility is a railroad, or other railroad freight facility
14 larger than 25 acres.

15 "Yard" means a system of parallel tracks, crossovers, and
16 switches where railroad cars are switched and made up into
17 trains, and where railroad cars, locomotives, and other rolling
18 stock is kept when not in use or when awaiting repair.

19 (Source: P.A. 94-736, eff. 5-1-06.)