

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 743

Introduced by Connealy, 16

Read first time January 19, 2005

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to railroad carriers; to amend sections
2 75-109.01, 75-401, 75-402, and 75-405, Reissue Revised
3 Statutes of Nebraska; to require safety and accident
4 reports from railroad carriers as prescribed; to provide
5 powers and duties for the Public Service Commission; to
6 harmonize provisions; to provide severability; and to
7 repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Railroad carriers operating in the State
2 of Nebraska shall report to the commission information on current
3 safety trends and safety measures the railroad carrier is studying
4 or planning for implementation within Nebraska. Such safety trends
5 and measures may include, but not be limited to, fatigue
6 countermeasures, walkway safety, and train control systems and
7 safety-enhancing technology. The report shall include, if
8 available, the detailed plan and timeline of implementation of any
9 such measure.

10 (2) The commission may conduct additional research and
11 surveillance activities, consistent with 49 C.F.R. part 212, as
12 such part existed on the effective date of this act, and the needs
13 and capabilities of the state.

14 (3) Railroad carriers operating in the State of Nebraska
15 shall report all accidents occurring within Nebraska to the
16 commission consistent with 49 C.F.R. part 225, as such part existed
17 on the effective date of this act. The report shall be in writing
18 and shall include (a) details of any personal injuries from which
19 there is a twenty-four-hour or longer disability, (b) details of
20 any property damage which exceeds seven hundred fifty dollars, and
21 (c) the likely cause of the accident, including a detailed
22 description of any mechanical or technical failure that may have
23 contributed to the accident. Such reports shall be due within
24 thirty days after the end of the month in which the accident
25 occurred.

26 Sec. 2. Section 75-109.01, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 75-109.01. Except as otherwise specifically provided by

1 law, the Public Service Commission shall have jurisdiction, as
2 prescribed, over the following subjects:

3 (1) Common carriers, generally, pursuant to sections
4 75-101 to 75-158;

5 (2) Grain pursuant to the Grain Dealer Act and the Grain
6 Warehouse Act and sections 89-1,104 to 89-1,108;

7 (3) Manufactured homes and recreational vehicles pursuant
8 to the Uniform Standard Code for Manufactured Homes and
9 Recreational Vehicles;

10 (4) Modular housing units pursuant to the Nebraska
11 Uniform Standards for Modular Housing Units Act;

12 (5) Motor carrier registration and safety pursuant to
13 sections 75-301 to 75-322, 75-369.03, 75-370, 75-371, 75-383, and
14 75-384;

15 (6) Pipeline carriers and rights-of-way pursuant to
16 sections 57-1301 to 57-1307 and 75-501 to 75-503;

17 (7) Railroad carrier safety pursuant to sections 74-918,
18 74-919, 74-1323, and 75-401 to 75-430 and section 1 of this act;

19 (8) Telecommunications carriers pursuant to the Automatic
20 Dialing-Announcing Devices Act, the Emergency Telephone
21 Communications Systems Act, the Enhanced Wireless 911 Services Act,
22 the Intrastate Pay-Per-Call Regulation Act, the Nebraska
23 Telecommunications Regulation Act, the Nebraska Telecommunications
24 Universal Service Fund Act, the Telecommunications Relay System
25 Act, the Telephone Consumer Slamming Prevention Act, and sections
26 86-574 to 86-580;

27 (9) Transmission lines and rights-of-way pursuant to
28 sections 70-301 and 75-702 to 75-724;

1 (10) Water service pursuant to the Water Service
2 Regulation Act; and

3 (11) Jurisdictional utilities governed by the State
4 Natural Gas Regulation Act. If the provisions of Chapter 75 are
5 inconsistent with the provisions of the State Natural Gas
6 Regulation Act, the provisions of the State Natural Gas Regulation
7 Act control.

8 Sec. 3. Section 75-401, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 75-401. The commission shall exercise jurisdiction over
11 the service, facilities, ~~and equipment, and safety issues~~ of all
12 railroad carriers in this state. This jurisdiction shall extend
13 and apply to the general public, as well as those having business
14 relations with the railroad carrier. ~~Sections 75-401 to 75-430~~
15 ~~shall not be construed as giving the commission jurisdiction or~~
16 ~~control over the relations between any railroad carrier and its~~
17 ~~employees, or its employees' order, union, or other bargaining~~
18 ~~agent, either contractual or otherwise, except as provided in~~
19 ~~sections 75-419 to 75-426.~~

20 The commission shall enforce the standards of railroad
21 safety set forth in 49 C.F.R. parts 213, 215, 223, 225, 229, 231,
22 and 232, as such parts existed on the effective date of this act.

23 Sec. 4. Section 75-402, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 75-402. As used in sections 75-401 to 75-430 and section
26 1 of this act, and in all rules and regulations prescribed by the
27 commission, unless the context otherwise requires:

28 (1) Railroad carrier shall mean any common carrier

1 engaged in the carrying of freight or passengers over any line of
2 railroad, or part thereof, within the State of Nebraska; and

3 (2) Railroad shall mean any line of railroad track, or
4 part thereof, located within the State of Nebraska.

5 Sec. 5. Section 75-405, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 75-405. Every railroad carrier which operates lines
8 within this state shall make an annual agreement with each shipper
9 that receives or sends ten or more cars annually which provides the
10 terms under which reciprocal demurrage charges shall be made on the
11 part of the railroad carrier or shipper. Such terms shall be equal
12 for all shippers. Any agreement made under this section shall
13 control the relation between the parties thereto, the provisions of
14 sections 75-401 to 75-430 and section 1 of this act to the contrary
15 notwithstanding. Monthly settlements may be entered into, but all
16 credits due a shipper for the current month shall be carried to the
17 shipper's credit for the succeeding month, except that at the
18 termination of the agreement, any credits due the shipper shall be
19 eliminated.

20 Sec. 6. If any section in this act or any part of any
21 section is declared invalid or unconstitutional, the declaration
22 shall not affect the validity or constitutionality of the remaining
23 portions.

24 Sec. 7. Original sections 75-109.01, 75-401, 75-402, and
25 75-405, Reissue Revised Statutes of Nebraska, are repealed.