

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 676

Introduced by Dubas, 34; Burling, 33; Christensen, 44; Hudkins, 21;
Louden, 49; Schimek, 27; Wallman, 30

Read first time January 17, 2007

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to railroad crossings; to prohibit the
2 obstruction of highways in certain classes of cities
3 and villages and other areas; to provide penalties; to
4 provide exemptions; to provide an affirmative defense;
5 to define terms; and to outright repeal section 17-225,
6 Reissue Revised Statutes of Nebraska.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) No person shall occupy or block any public
 2 highway, street, or alley in any city of the first class, city
 3 of the second class or village, or any unincorporated area of the
 4 state with freight or passenger cars, locomotives, or with any
 5 other rolling stock for more than ten minutes at a time.

6 (2) A state or local law enforcement officer may issue
 7 citations for violations of subsection (1) of this section. Any
 8 person violating subsection (1) of this section, upon conviction
 9 thereof, also shall be fined a sum not less than five hundred
 10 dollars nor more than five thousand dollars.

11 (3) This section shall not apply to:

12 (a) Any member of a train crew, yard crew, or locomotive
 13 crew upon reasonable proof that the occupying or blocking of the
 14 public highway, street, or alley was necessary to comply with
 15 orders or instructions, either written or oral, from his or her
 16 employer or its officers or supervisory officials;

17 (b) A grain dealer licensed under the Grain Dealer Act;
 18 and

19 (c) A warehouse licensee under the Grain Warehouse Act.

20 (4) This section does not relieve an employer from
 21 any responsibility placed upon the employer by any other law
 22 or ordinance. This section is supplemental to any other law or
 23 ordinance.

24 (5) A person may have an affirmative defense to a
 25 violation of subsection (1) of this section if the public highway,

1 street, or alley was occupied or blocked due to an emergency
2 condition, including a serious rail accident, derailment, or a
3 critical mechanical failure, a track or bridge washout, or a storm,
4 flood, or other emergency.

5 (6) For purposes of this section:

6 (a) Occupy or block means to prevent motor vehicular
7 traffic from safely crossing over the grade crossing and continuing
8 on the public highway, street, or alley.

9 (b) Person means any individual, partnership, firm,
10 limited liability company, corporation, company, association, or
11 any other legal entity.

12 Sec. 2. Any railroad cited for any violation of section 1
13 of this act may only address the citation with the respective crew
14 members as follows:

15 (1) Such railroad shall accord any crew members a due
16 process hearing that the railroad deems may have violated written
17 railroad rules or published policy, prior to the issuance of any
18 decision adversely affecting the employment of such employees;

19 (2) Such railroad, prior to the due process hearing,
20 shall provide any accused crew members with copies of all
21 documentation the employees request that are relevant to receipt of
22 the citation;

23 (3) Such railroad, prior to the due process hearing,
24 shall provide any accused crew members with the required witnesses
25 at the expense of the railroad;

1 (4) Such railroad shall accord the accused crew members
2 the due process hearing within twenty days after receipt of the
3 citation; and

4 (5) Such railroad shall notify the accused members in
5 writing of the requirements set forth in this section.

6 Sec. 3. The following section is outright repealed:
7 Section 17-225, Reissue Revised Statutes of Nebraska.