

House File 233 - Introduced

HOUSE FILE 233

BY T. TAYLOR

A BILL FOR

1 An Act relating to the construction and maintenance of walkways
2 in rail yards and providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 327F.1A Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Department" means the department of transportation.

5 2. "Director" means the director of transportation.

6 Sec. 2. NEW SECTION. 327F.37 Rail yard walkways.

7 1. *Scope.* This section applies to all walkways in rail
8 yards in this state. This section does not apply to tracks
9 constructed in industry yards owned by an entity other than a
10 rail carrier.

11 2. *Definitions.* For purposes of this section, unless the
12 context otherwise requires:

13 a. "Frequently" means at least five days per week, one shift
14 per day.

15 b. "Good cause" includes but is not limited to a showing
16 that compliance will impose an undue hardship on the rail
17 carrier.

18 3. *General requirements and recommendations.*

19 a. (1) Walkways may be surfaced with asphalt, concrete,
20 planking, grating, native material, crushed material, or other
21 similar material. When crushed material is used, one hundred
22 percent of the material must be capable of passing through
23 a one and one-half inch square sieve opening, and not less
24 than ninety percent of the material must be capable of passing
25 through a one-inch square sieve opening; provided that a de
26 minimus variation shall not be a violation of this section
27 in an instance where the rail carrier has made a good faith
28 effort to comply with the percentage requirements of this
29 subparagraph.

30 (2) Crushed material smaller than that described in
31 subparagraph (1) should be used whenever practicable,
32 especially in places where drainage and durability issues do
33 not exist. Material that is three-fourths inch or smaller in
34 size is recommended for switching lead tracks.

35 b. Walkways shall have a reasonably uniform surface and

1 be maintained in a safe condition without compromising track
2 drainage.

3 *c.* Cross slopes for walkways shall not exceed one inch of
4 elevation for each eight inches of horizontal length in any
5 direction.

6 *d.* Walkways shall be at least two feet wide.

7 *e.* Walkways shall be kept reasonably free of spilled fuel
8 oil, sand, posts, vegetation, nonballast rocks, and other
9 hazards or obstructions.

10 4. *Standard.* A rail carrier shall provide walkways adjacent
11 to those portions of yard tracks where rail carrier employees
12 frequently work on the ground performing switching activities.

13 5. *Other tracks.*

14 *a.* If the department finds, after notice and hearing,
15 that rail carrier employees who frequently work adjacent
16 to a portion of track performing switching activities are
17 exposed to safety hazards due to the lack of a walkway or
18 due to the condition of a walkway constructed before July 1,
19 2009, the department may order a rail carrier to construct a
20 walkway adjacent to a portion of track where employees perform
21 switching activities or require a rail carrier to modify an
22 existing walkway in conformance with subsection 4 within a
23 reasonable period of time.

24 *b.* For purposes of this subsection, "*frequently*" means
25 at least five days per week, one shift per day, or any other
26 period the department deems frequent enough to warrant an order
27 pursuant to this subsection.

28 6. *Compliance.* A rail carrier is excused from complying
29 with this section during maintenance activities and during
30 any period of heavy rain or snow, derailment, rock and earth
31 slides, washouts, or similar weather or seismic conditions, and
32 for a reasonable period after such conditions to allow a return
33 to compliance.

34 7. *Waivers.* A rail carrier may petition the department for
35 a waiver of any provision of this section for good cause shown.

1 8. *Enforcement.* A formal complaint of an alleged violation
2 of this section shall not be filed with the department until
3 the filing party has attempted to address the allegations with
4 the rail carrier. A complaint of an alleged violation of
5 this part shall contain a written statement that the filing
6 party has made a reasonable, good faith attempt to address the
7 alleged violation with the rail carrier.

8 9. *Penalties.* A rail carrier who violates this section
9 commits a "schedule one" violation. Each day a violation
10 exists shall be considered a separate violation.

11 Sec. 3. Section 327F.39, subsection 1, paragraphs a and b,
12 Code 2011, are amended by striking the paragraphs.

13 EXPLANATION

14 This bill establishes standards and requirements for the
15 construction and maintenance of walkways in rail yards. The
16 provisions of the bill apply to all walkways in rail yards in
17 this state, but do not apply to tracks in industry yards owned
18 by an entity other than a rail carrier.

19 The bill specifies that walkways may be surfaced with
20 asphalt, concrete, planking, grating, native material, crushed
21 material, or other similar material. If crushed material is
22 used, 100 percent of the material must be able to pass through
23 a one and one-half inch sieve opening, and at least 90 percent
24 of the material must be able to pass through a one-inch sieve
25 opening, with allowance for a de minimus variation. The
26 bill contains general recommendations for the use of crushed
27 material. In addition, the bill requires that walkways be
28 at least two feet wide, with cross slopes of not more than
29 one inch of elevation for each eight inches of length in any
30 direction. Walkways must have a reasonably uniform surface,
31 be maintained in safe condition without compromising track
32 drainage, and be kept reasonably free of spilled fuel oil,
33 sand, posts, vegetation, nonballast rocks, and other hazards
34 and obstructions.

35 The bill establishes a standard requirement for rail

1 carriers to provide walkways adjacent to portions of yard
2 tracks where rail carrier employees work on the ground
3 performing switching activities at least five days per week,
4 one shift per day. However, following an administrative
5 hearing, the department of transportation may order a rail
6 carrier to construct a walkway or conform a preexisting walkway
7 to the new standards along any portion of track where the lack
8 of a walkway or condition of a walkway poses a safety hazard
9 to employees performing switching activities for any period of
10 time.

11 The bill excuses a rail carrier from compliance with walkway
12 requirements during maintenance activities and during periods
13 of heavy rain or snow, derailment, rock and earth slides,
14 washouts, or other weather or seismic conditions, and for a
15 reasonable period following such an occurrence.

16 The department of transportation may grant a waiver of any
17 provision of the bill to a rail carrier upon a showing of good
18 cause, including but not limited to a showing that compliance
19 will impose an undue hardship on the rail carrier.

20 A party who alleges a violation of the requirements of the
21 bill may not file a formal complaint until the filing party has
22 made a good faith attempt to address the alleged violation with
23 the rail carrier. A violation of the bill's provisions is a
24 "schedule one" violation, punishable by a \$100 fine for each
25 day a violation exists.

26 The bill makes technical changes to Code chapter 327F to
27 codify definitions applicable to the bill and to the entire
28 Code chapter.