

House File 273 - Introduced

HOUSE FILE 273

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.*

2 a. A person alleging a violation of this section shall
3 first attempt to address the allegation with the rail carrier
4 by making a written complaint to the rail carrier. No later
5 than thirty days after receiving the written complaint, the
6 rail carrier shall respond in writing to the person alleging
7 the violation, describing what action, if any, the rail carrier
8 intends to take to correct the alleged violation. If the rail
9 carrier does not respond in writing to the person alleging the
10 violation within thirty days of receiving the complaint, or
11 does not correct the alleged violation within ninety days of
12 receiving the complaint, the person may file a formal complaint
13 with the department.

14 b. A formal complaint to the department shall contain a
15 copy of the written complaint that was addressed to the rail
16 carrier under paragraph "a", along with the rail carrier's
17 written response, if any. No later than ten days after
18 receiving the formal complaint of an alleged violation, the
19 department shall notify the rail carrier in writing of the
20 complaint and that the rail carrier has thirty days in which
21 to correct the alleged violation or contest the complaint. If
22 the rail carrier contests the complaint, the department shall
23 inspect the area of the alleged violation. If the department
24 finds upon inspection that a violation exists, the department
25 shall issue an order requiring the rail carrier to correct
26 the violation within thirty days of receipt of the order. If
27 the department finds upon inspection that a violation does
28 not exist, the department shall notify the person who filed
29 the complaint, in writing, that the complaint is denied. The
30 rail carrier or the person who filed the complaint may appeal
31 the department's order or decision by filing an appeal with
32 the department of inspections and appeals within ten days of
33 being notified of the department's order or decision. The
34 department of inspections and appeals shall render a decision
35 on the appeal and notify the rail carrier or person filing the

1 appeal in writing within fifteen days of the filing of the
2 appeal. Judicial review of the decision of the department
3 of inspections and appeals may be sought in accordance with
4 chapter 17A.

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

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

10

EXPLANATION

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

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

32 The bill establishes a standard requirement for rail
33 carriers to provide walkways adjacent to portions of yard
34 tracks where rail carrier employees work on the ground
35 performing switching activities at least five days per week,

1 one shift per day. However, following an administrative
2 hearing, the department of transportation may order a rail
3 carrier to construct a walkway or conform a preexisting walkway
4 to the new standards along any portion of track where the lack
5 of a walkway or condition of a walkway poses a safety hazard
6 to employees performing switching activities for any period of
7 time.

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

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

17 A person who alleges a violation of the requirements of the
18 bill must first address the allegation with the rail carrier
19 by making a written complaint. The rail carrier is required
20 to respond to the complaint within 30 days, describing what
21 action, if any, the rail carrier will take to resolve the
22 alleged violation. If the rail carrier does not respond
23 within 30 days, or does not resolve the alleged violation
24 within 90 days, the person may file a formal complaint with
25 the department of transportation. Within 10 days of receiving
26 the formal complaint, the department shall notify the rail
27 carrier of the complaint, and the rail carrier has 30 days in
28 which to respond, either by correcting the alleged violation
29 or by contesting the complaint. If the rail carrier contests
30 the complaint, the department is required to inspect the area
31 of the alleged violation and, upon a finding that a violation
32 exists, order the rail carrier to correct the violation within
33 30 days of receipt of the order. If, following the inspection,
34 the department finds that no violation exists, it must notify
35 the person who filed the complaint that the complaint is

1 denied. The rail carrier or the person who filed the complaint
2 may appeal the department's decision by filing an appeal with
3 the department of inspections and appeals within 10 days. The
4 department of inspections and appeals has 15 days in which
5 to render a decision on the appeal. Judicial review of an
6 adverse decision of the department of inspections and appeals
7 may be sought according to the Iowa administrative procedure
8 Act. A violation of the bill's provisions is a "schedule one"
9 violation, punishable by a \$100 fine for each day a violation
10 exists.

11 The bill makes technical changes to Code chapter 327F to
12 codify definitions applicable to the bill and to the entire
13 Code chapter.