

By Senator Mayfield

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1 A bill to be entitled
2 An act relating to high-speed passenger rail; creating
3 s. 341.601, F.S.; providing a short title; creating s.
4 341.602, F.S.; providing definitions; creating s.
5 341.603, F.S.; providing legislative intent; creating
6 s. 341.604, F.S.; providing applicability; creating s.
7 341.605, F.S.; providing powers and duties of the
8 Florida Department of Transportation; authorizing the
9 department to regulate railroads where not federally
10 preempted; authorizing the department to collect
11 information from relevant parties; requiring the
12 department to keep certain records; requiring the
13 department to offer certain response training for
14 accidents involving passengers or hazardous materials
15 under certain circumstances; requiring the department
16 to adopt rules; creating s. 341.606, F.S.; providing
17 reporting requirements for certain railroad companies;
18 requiring the department to publish certain
19 information on its website; requiring the department,
20 in coordination with the Federal Railroad
21 Administration and other entities as necessary, to
22 develop certain rules; specifying that reporting
23 requirements are for informational purposes only and
24 not to be used to economically regulate the railroad
25 company; creating s. 341.607, F.S.; providing minimum
26 safety standards for high-speed passenger rail;
27 requiring certain railroad companies to comply with
28 certain federal laws and regulations; providing safety
29 technology requirements for certain railroad
30 companies; specifying that such railroad companies may
31 be subject to civil or criminal penalties for an
32 incident caused by the use of an unapproved safety

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33 technology; providing certain requirements for
34 railroad companies before operating a high-speed
35 passenger rail system; creating s. 341.608, F.S.;
36 requiring construction, maintenance, and repair of
37 certain infrastructure by certain railroad companies;
38 specifying requirements for certain roadbed
39 modifications; requiring certain contractual
40 agreements to adhere to the department's requisition
41 and procurement procedures; providing for
42 construction; creating s. 341.609, F.S.; requiring the
43 department's railroad inspectors, in accordance with a
44 specified program, to meet certain certification
45 requirements and to coordinate their activities with
46 those of federal inspectors in the state in compliance
47 with certain federal regulations; requiring the
48 inspectors to report the results of their inspections,
49 subject to certain requirements; requiring the reports
50 to be made available on the department's website;
51 creating s. 341.611, F.S.; requiring the department to
52 adopt rules that identify standards for conducting
53 field surveys of certain rail corridors; providing
54 requirements for the field survey; requiring the
55 department to hold certain public meetings; requiring
56 certain railroad companies to construct and maintain
57 fences under certain circumstances; providing fencing
58 requirements; requiring a railroad company to be
59 liable for all damages arising from its failure to
60 construct or maintain the fence under certain
61 circumstances; creating s. 341.612, F.S.; requiring a

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62 railroad company operating a high-speed passenger rail
 63 system to be solely responsible for all rail corridor
 64 improvements or upgrades relating to its operation and
 65 safety; prohibiting a local government or the state
 66 from being responsible for certain costs unless it
 67 expressly consents in writing; creating s. 341.613,
 68 F.S.; providing administrative fines for certain
 69 violations, subject to certain requirements; providing
 70 certain factors to consider in determining the amount
 71 of the fine to be imposed; requiring all fines
 72 collected to be deposited into the State
 73 Transportation Trust Fund; creating s. 341.614, F.S.;
 74 authorizing certain suits to be brought in any court
 75 of this state having jurisdiction; providing for
 76 attorney fees and costs; creating s. 341.615, F.S.;
 77 authorizing local governments to enact ordinances
 78 regulating the speed limits of railroad traffic under
 79 certain circumstances; providing an effective date.

80
 81 Be It Enacted by the Legislature of the State of Florida:

82
 83 Section 1. Section 341.601, Florida Statutes, is created to
 84 read:

85 341.601 Short title.—Sections 341.601-341.615 shall be
 86 known as the "Florida High-Speed Passenger Rail Safety Act."

87 Section 2. Section 341.602, Florida Statutes, is created to
 88 read:

89 341.602 Definitions.—As used in ss. 341.601-341.615, the
 90 term:

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91 (1) "Department" means the Florida Department of
92 Transportation.

93 (2) "Freight railroad carrier" means any person, railroad
94 corporation, or other legal entity in the business of providing
95 freight rail transportation.

96 (3) "Governmental entity" means the state, any of its
97 agencies, or any of its political subdivisions.

98 (4) "High-speed passenger rail system" means any new
99 intrastate passenger rail system that operates or proposes to
100 operate its passenger trains at a maximum speed in excess of 80
101 miles per hour on or after July 1, 2017.

102 (5) "Pedestrian grade crossing" means a separate sidewalk
103 or pathway where pedestrians, but not vehicles, cross railroad
104 tracks.

105 (6) "Public railroad-highway grade crossing" means a
106 location at which a railroad track is crossed at grade by a
107 public road.

108 (7) "Rail corridor" means a linear, continuous strip of
109 real property that is used for rail service. The term includes
110 the corridor and structures essential to railroad operations,
111 including the land, buildings, improvements, rights-of-way,
112 easements, rail lines, rail beds, guideway structures, switches,
113 yards, parking facilities, power relays, switching houses, rail
114 stations, any ancillary development, and any other facilities or
115 equipment used for the purposes of construction, operation, or
116 maintenance of a railroad that provides rail service.

117 (8) "Railroad company" means any individual, partnership,
118 association, corporation, or company and its respective lessees,
119 trustees, or receivers, appointed by a court, that develops or

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120 provides ground transportation that runs on rails, including,
121 but not limited to:

- 122 (a) A high-speed passenger rail system;
123 (b) A freight railroad carrier; or
124 (c) A company that owns a rail corridor.

125 Section 3. Section 341.603, Florida Statutes, is created to
126 read:

127 341.603 Public purpose and intent.—It is the intent of the
128 Legislature to:

129 (1) Encourage the creation of safe and cost-effective
130 transportation options for this state's residents and visitors,
131 including high-speed passenger rail systems.

132 (2) Promote and enhance the safety of high-speed passenger
133 rail systems operating within the state to protect the health,
134 safety, and welfare of the public.

135 Section 4. Section 341.604, Florida Statutes, is created to
136 read:

137 341.604 Applicability.—This act applies to any railroad
138 company operating a high-speed passenger rail system, or any
139 railroad company that allows a high-speed passenger rail system
140 to operate on or within its rail corridor.

141 Section 5. Section 341.605, Florida Statutes, is created to
142 read:

143 341.605 Powers and duties of the department; rules.—

144 (1) The department shall have the authority to regulate
145 railroad companies in this state insofar as such authority is
146 not preempted by federal laws or regulations.

147 (2) The department may obtain from any party all necessary
148 information to enable it to perform its duties and carry out the

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149 requirements set forth in this act.

150 (3) The department shall keep a record of all its findings,
151 decisions, determinations, and investigations carried out under
152 this act.

153 (4) If a high-speed passenger rail system operates within
154 the same rail corridor or on the same set of tracks as another
155 railroad company that transports hazardous materials, the
156 department shall offer the local communities and local emergency
157 services located along the rail corridor training specifically
158 designed to help them respond to an accident involving rail
159 passengers or hazardous materials.

160 (5) The department shall adopt rules, pursuant to the
161 requirements of chapter 120, relating to this act.

162 Section 6. Section 341.606, Florida Statutes, is created to
163 read:

164 341.606 Reporting requirements.-

165 (1) A railroad company operating a high-speed passenger
166 rail system shall furnish to the department a copy of the
167 accident reports filed with the Federal Railroad Administration
168 for each train accident that occurs within the rail corridor.

169 (2) The department shall annually publish on its official
170 website a report that discloses all of the fatalities, injuries,
171 and accidents during the reporting timeframe which have occurred
172 within a rail corridor where a high-speed passenger rail system
173 operates.

174 (3) A railroad company that transports liquefied natural
175 gas on the same tracks or within the same rail corridor as a
176 high-speed passenger rail system within the state must submit an
177 annual report to the department containing:

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178 (a) All insurance carried by the railroad company that
179 covers any losses resulting from a reasonable worst-case
180 unplanned release of liquefied natural gas.

181 (b) Coverage amounts, limitations, and other conditions of
182 the insurance identified in paragraph (a).

183 (c) The average and largest liquefied natural gas train, as
184 measured in metric tons, operated in the state by the railroad
185 company in the previous calendar year.

186 (d) Information sufficient to demonstrate the railroad
187 company's ability to pay the costs of remediating a reasonable
188 worst-case unplanned release of liquefied natural gas,
189 including, but not limited to, insurance, reserve accounts,
190 letters of credit, or other financial instruments or resources
191 on which the company can rely to pay all such costs. The
192 department, in coordination with the Federal Railroad
193 Administration and other public and private entities as
194 necessary, shall develop rules to determine applicable criteria
195 for a reasonable worst-case unplanned release of liquefied
196 natural gas.

197 (4) All reporting requirements are for informational
198 purposes only and may not be used to economically regulate the
199 railroad company.

200 Section 7. Section 341.607, Florida Statutes, is created to
201 read:

202 341.607 Minimum safety standards for high-speed passenger
203 rail.-

204 (1) A railroad company operating a high-speed passenger
205 rail system shall comply with all of the federal laws and
206 regulations administered by the Federal Railroad Administration.

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207 (2) A railroad company operating a high-speed passenger
208 rail system must install safety technology that has been
209 approved by the Federal Railroad Administration or the
210 department as applicable. Safety technology at a minimum shall
211 include positive train control and remote health monitoring. The
212 railroad company may be subject to civil or criminal penalties
213 for an incident caused by the use of an unapproved safety
214 technology.

215 (3) Before operating a high-speed passenger rail system, a
216 railroad company shall also:

217 (a) Install or realign crossing gates, including those at
218 severely skewed acute-angled locations as identified by either
219 the department or the Federal Railroad Administration, so the
220 gates are parallel to the tracks and in accordance with the most
221 recent edition of the Manual on Uniform Traffic Control Devices
222 published by the Federal Highway Administration and adopted by
223 the state pursuant to s. 316.0745.

224 (b) Equip all automatic public railroad-highway grade
225 crossing warning systems with remote health monitoring
226 technology capable of:

227 1. Detecting false activations;
228 2. Detecting other crossing signal malfunctions; and
229 3. Notifying the train dispatcher and crossing signal
230 maintenance personnel whenever such a malfunction is detected.

231 (c) Construct and maintain fencing in accordance with s.
232 341.611.

233 Section 8. Section 341.608, Florida Statutes, is created to
234 read:

235 341.608 Maintenance and repair of roadbeds, tracks,

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236 culverts, and certain streets and sidewalks.-

237 (1) A railroad company that constructs or operates a high-
238 speed passenger rail system on tracks that intersect with a
239 public street or highway at grade shall, at its sole cost and
240 expense, construct and thereafter maintain, renew, and repair
241 all railroad roadbed, track, and railroad culverts within the
242 confines of the public street or highway, and the streets or
243 pedestrian grade crossings lying between the rails and for a
244 distance outside the rails of 1 foot beyond the end of the
245 railroad ties.

246 (2) If the railroad company that constructs or operates a
247 high-speed passenger rail system is required to install safety
248 improvements that modify the width of a roadbed, it shall be
249 responsible for ensuring that the impacted roadbed meets the
250 department's transition requirements as set forth in the most
251 recent edition of the department's Design Standards and the
252 Manual of Uniform Minimum Standards for Design, Construction and
253 Maintenance for Streets and Highways.

254 (3) If a railroad company that constructs or operates a
255 high-speed passenger rail system enters into a contractual
256 agreement with a governmental entity that requires the
257 governmental entity to reimburse a private entity for the
258 installation or maintenance of the track improvements or
259 crossing safety improvements necessary to operate a high-speed
260 passenger rail system, the work to be performed must adhere to
261 the department's applicable requisition and procurement
262 procedures.

263 (4) This section does not impair any existing contractual
264 agreements between the railroad company operating the high-speed

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265 passenger rail system and a governmental entity within the
266 state.

267 Section 9. Section 341.609, Florida Statutes, is created to
268 read:

269 341.609 Safety inspections and inspectors.-

270 (1) In accordance with the State Rail Safety Participation
271 Program, which is designed to promote safety in all areas of
272 railroad operations to reduce deaths, injuries, and damage to
273 railroad property, the department's railroad inspectors shall be
274 certified by the Federal Railroad Administration and shall
275 coordinate their activities with those of federal inspectors in
276 the state in compliance with 49 C.F.R. part 212 and any other
277 federal regulations governing state safety participation.

278 (2) The department's railroad inspectors shall report in
279 writing the results of their inspections in the manner and on
280 forms prescribed by the department. These reports shall be made
281 available on the department's website for the public to access.

282 Section 10. Section 341.611, Florida Statutes, is created
283 to read:

284 341.611 Fencing and separation requirements to protect the
285 public.-

286 (1) The department shall adopt rules that identify
287 standards for conducting field surveys of the rail corridor
288 being used by a high-speed passenger rail system. The field
289 surveys must indicate areas where fencing is necessary for the
290 health, safety, and welfare of the public.

291 (2) At a minimum, the field survey should identify
292 pedestrian traffic generators, such as nearby schools and parks,
293 and signs of current pedestrian traffic that crosses the

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294 railroad tracks. The department must hold at least one public
295 meeting in each community where new or substantially modified
296 fencing is proposed before designs and plans for such fencing
297 are finalized.

298 (3) Once it has been determined that a fence is necessary
299 to protect the health, safety, and welfare of the surrounding
300 community, the railroad company operating a high-speed passenger
301 rail system shall construct and maintain the fence on both sides
302 of its railroad tracks sufficient to prevent intrusion.

303 (4) The fencing must be placed 1 foot inside the edge of
304 the railroad company's right-of-way, except in locations where
305 the railroad intersects with a highway or road.

306 (5) The fencing must be maintained by the railroad company
307 operating a high-speed passenger rail system, unless maintenance
308 is specifically addressed in a separate contract with a property
309 owner or local government.

310 (6) The fence must be at least 4 1/2 feet in height.
311 Ornamental fencing must be used within urban areas. Chain-link
312 fencing may be used in locations outside of urban areas.

313 (7) If a railroad company neglects to construct or maintain
314 a required fence, the railroad company is liable for all damages
315 arising from its failure to construct or maintain such fence
316 unless another entity is responsible for maintenance under
317 subsection (5).

318 Section 11. Section 341.612, Florida Statutes, is created
319 to read:

320 341.612 Operation of a high-speed passenger rail system
321 over the tracks of another railroad company.—A railroad company
322 operating a high-speed passenger rail system shall be solely

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323 responsible for all rail corridor improvements or upgrades
324 relating to the system's operation and safety. A local
325 government or the state shall not be responsible for any costs
326 associated with the construction and maintenance of the
327 improvements necessary to operate a high-speed passenger rail
328 system unless it expressly consents in writing.

329 Section 12. Section 341.613, Florida Statutes, is created
330 to read:

331 341.613 Administrative fines.—

332 (1) In addition to any administrative action authorized by
333 chapter 120 or by other law, the department may impose a fine,
334 which may not exceed \$10,000 for each violation, for a violation
335 of this act or for a violation of any rule adopted pursuant to
336 this act. Notice of intent to impose such fine shall be given by
337 the department to the alleged violator. Each day that a
338 violation continues constitutes a separate violation.

339 (2) In determining the amount of the fine, if any, to be
340 imposed for a violation, the following factors shall be
341 considered:

342 (a) The gravity of the violation, including the probability
343 that death or serious physical or emotional harm to any person
344 will result or has resulted, the severity of the actual or
345 potential harm, and the extent to which this act or department
346 rules were violated;

347 (b) Actions taken by the owner or operator to correct
348 violations; and

349 (c) Any previous violations.

350 (3) All fines collected under this section shall be
351 deposited into the State Transportation Trust Fund.

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352 Section 13. Section 341.614, Florida Statutes, is created
353 to read:

354 341.614 Action to enforce penalties; attorney fees.—A suit
355 to collect any of the damages, penalties, forfeitures,
356 demurrage, or storage charges provided for in this act may be
357 brought in any court of this state having jurisdiction of the
358 subject matter and parties. If a suit is adjudicated in favor of
359 a plaintiff, the plaintiff shall be permitted to recover
360 reasonable attorney fees and costs.

361 Section 14. Section 341.615, Florida Statutes, is created
362 to read:

363 341.615 Ordinances; speed limits.—This act does not prevent
364 a local government from enacting ordinances regulating the speed
365 limits of railroad traffic due to local safety hazards not
366 statewide in nature and not capable of being adequately
367 encompassed within the national uniform standards.

368 Section 15. This act shall take effect July 1, 2017.