

By the Committee on Transportation; and Senators Mayfield and Gainer

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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 that authority
10 is not federally preempted; authorizing the department
11 to collect information from relevant parties;
12 requiring the department to keep certain records;
13 requiring the department to adopt rules; creating s.
14 341.606, F.S.; requiring the Florida Division of
15 Emergency Management to offer, under certain
16 circumstances, the local communities and local
17 emergency services located along the rail corridor
18 training specifically designed to help them respond to
19 an accident involving rail passengers or hazardous
20 materials; creating s. 341.607, F.S.; providing
21 reporting requirements for certain railroad companies;
22 requiring the department to publish certain
23 information on its website; requiring the department,
24 in coordination with the Federal Railroad
25 Administration and other necessary entities, to
26 develop certain rules; specifying that reporting
27 requirements are for informational purposes only and
28 are not to be used to economically regulate a railroad
29 company; creating s. 341.608, F.S.; specifying minimum

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30 safety standards for a high-speed passenger rail
31 system; requiring certain railroad companies to comply
32 with certain federal laws and regulations; specifying
33 safety equipment and technology requirements for
34 certain railroad companies; requiring certain railroad
35 companies to meet specified requirements before
36 operating a high-speed passenger rail system; creating
37 s. 341.609, F.S.; requiring construction, maintenance,
38 and repair of certain infrastructure by certain
39 railroad companies; specifying requirements for
40 certain roadbed modifications; providing for
41 construction; creating s. 341.6101, F.S.; requiring
42 the department's railroad inspectors, in accordance
43 with a specified program, to meet certain
44 certification requirements and to coordinate their
45 activities with those of federal inspectors in the
46 state in compliance with certain federal regulations;
47 requiring the inspectors to report the results of
48 their inspections, subject to certain requirements;
49 requiring the reports to be made available on the
50 department's website unless they are deemed
51 confidential; creating s. 341.611, F.S.; requiring the
52 department to adopt rules that identify standards for
53 it to conduct field surveys of certain rail corridors;
54 providing requirements for the field surveys;
55 requiring the department to hold certain public
56 meetings; requiring certain railroad companies to
57 construct and maintain fences under certain
58 circumstances; providing fencing requirements;

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59 providing that a railroad company operating a high-
60 speed passenger rail system is liable for all damages
61 arising from its failure to construct or maintain the
62 fence, under certain circumstances; creating s.
63 341.612, F.S.; requiring a railroad company operating
64 a high-speed passenger rail system to be solely
65 responsible for certain maintenance, improvement, and
66 upgrade costs; specifying that a governmental entity
67 is not responsible for any costs associated with the
68 maintenance and improvements necessary to operate a
69 high-speed passenger rail system unless the
70 governmental entity expressly consents in writing;
71 providing construction; creating s. 341.613, F.S.;
72 establishing jurisdiction for the state to enforce
73 specified provisions; requiring penalties for
74 violations of specified provisions to be imposed upon
75 the railroad company that commits such violations;
76 creating s. 341.614, F.S.; providing severability;
77 providing an effective date.

78
79 Be It Enacted by the Legislature of the State of Florida:

80
81 Section 1. Section 341.601, Florida Statutes, is created to
82 read:

83 341.601 Short title.—Sections 341.601-341.614 shall be
84 known as the "Florida High-Speed Passenger Rail Safety Act."

85 Section 2. Section 341.602, Florida Statutes, is created to
86 read:

87 341.602 Definitions.—As used in ss. 341.601-341.614, the

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88 term:

89 (1) "Department" means the Florida Department of
90 Transportation.

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

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

96 (4) "Hazardous materials" includes all materials and
97 substances that are now designated or defined as hazardous by 49
98 C.F.R. parts 100-199 and its implementing regulations, by 49
99 U.S.C. s. 9601, and in any state law, rule, or program that
100 regulates handling or transporting of such materials, wastes, or
101 substances.

102 (5) "High-speed passenger rail system" means any new
103 intrastate passenger rail system that operates or proposes to
104 operate its passenger trains at a maximum speed in excess of 80
105 miles per hour and which was not carrying passengers before
106 January 1, 2017.

107 (6) "Pedestrian grade crossing" means a separate sidewalk
108 or pathway where pedestrians, but not vehicles, cross railroad
109 tracks.

110 (7) "Public railroad-highway grade crossing" means a
111 location at which a railroad track is crossed at grade by a
112 public road.

113 (8) "Rail corridor" means a linear, continuous strip of
114 real property that is used for rail service. The term includes
115 the corridor and structures essential to railroad operations,
116 including the land, buildings, improvements, rights-of-way,

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117 easements, rail lines, rail beds, guideway structures, switches,
118 yards, parking facilities, power relays, switching houses, rail
119 stations, any ancillary development, and any other facilities or
120 equipment used for the purposes of construction, operation, or
121 maintenance of a railroad that provides rail service.

122 (9) "Railroad company" means any individual, partnership,
123 association, corporation, or company and its respective lessees,
124 trustees, or receivers, appointed by a court, which develops or
125 provides ground transportation that runs on rails, including,
126 but not limited to, any of the following:

127 (a) A high-speed passenger rail system.

128 (b) A freight railroad carrier.

129 (c) A company that owns a rail corridor.

130 Section 3. Section 341.603, Florida Statutes, is created to
131 read:

132 341.603 Public purpose and intent.—It is the intent of the
133 Legislature to:

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

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

140 Section 4. Section 341.604, Florida Statutes, is created to
141 read:

142 341.604 Applicability.—This act applies to any railroad
143 company operating a high-speed passenger rail system and any
144 railroad company that allows a high-speed passenger rail system
145 to operate on or within its rail corridor.

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146 Section 5. Section 341.605, Florida Statutes, is created to
147 read:

148 341.605 Powers and duties of the department; rules.-

149 (1) The department may regulate railroad companies in this
150 state insofar as such authority is not preempted by federal laws
151 or regulations.

152 (2) The department may obtain from any party all necessary
153 information to enable it to perform its duties and carry out the
154 requirements set forth in this act.

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

158 (4) The department shall adopt rules, pursuant to the
159 requirements of chapter 120, to administer this act.

160 Section 6. Section 341.606, Florida Statutes, is created to
161 read:

162 341.606 Training for local emergency services.-If a high-
163 speed passenger rail system operates within the same rail
164 corridor or on the same set of tracks as another railroad
165 company that transports hazardous materials, the Florida
166 Division of Emergency Management must offer the local
167 communities and local emergency services located along the rail
168 corridor training specifically designed to help them respond to
169 an accident involving rail passengers or hazardous materials.

170 Section 7. Section 341.607, Florida Statutes, is created to
171 read:

172 341.607 Reporting requirements.-

173 (1) A railroad company operating a high-speed passenger
174 rail system shall furnish to the department a copy of the

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175 accident reports filed with the Federal Railroad Administration
176 for each train accident that occurs within the rail corridor.

177 (2) The department shall annually publish on its official
178 website a compendium of the reports that include any fatalities,
179 injuries, and accidents during the reporting timeframe which
180 have occurred within a rail corridor where a high-speed
181 passenger rail system operates.

182 (3) A railroad company that transports liquefied natural
183 gas on the same tracks or within the same rail corridor used by
184 a high-speed passenger rail system within the state must submit
185 an annual report to the department containing:

186 (a) All insurance carried by the railroad company which
187 covers any losses resulting from a reasonable worst-case
188 unplanned release of liquefied natural gas.

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

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

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

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204 natural gas.

205 (4) All reporting requirements are for informational
206 purposes only and may not be used to economically regulate the
207 railroad company.

208 Section 8. Section 341.608, Florida Statutes, is created to
209 read:

210 341.608 Minimum safety standards for high-speed passenger
211 rail.-

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

215 (2) A railroad company operating a high-speed passenger
216 rail system must install safety equipment that has been approved
217 by the Federal Railroad Administration. Safety technology at a
218 minimum shall include positive train control pursuant to 49
219 C.F.R. part 236.

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

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

229 (b) Equip all automatic public railroad-highway grade
230 crossing warning systems with remote health monitoring
231 technology capable of constantly monitoring the highway-railroad
232 crossing to:

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233 1. Detect false activations;

234 2. Detect other crossing signal malfunctions; and

235 3. Notify the train dispatcher and railroad maintenance
236 personnel whenever such a malfunction is detected.

237 (c) Construct and maintain fencing in accordance with s.
238 341.611.

239 Section 9. Section 341.609, Florida Statutes, is created to
240 read:

241 341.609 Maintenance and repair of roadbeds, tracks,
242 culverts, and certain streets and sidewalks.—

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

252 (2) If the railroad company that constructs or operates a
253 high-speed passenger rail system is required to install safety
254 improvements that modify the width of a roadbed, the company is
255 responsible for ensuring that the impacted roadbed meets the
256 department's transition requirements as set forth in the most
257 recent edition of the department's Design Standards and the
258 Manual of Uniform Minimum Standards for Design, Construction and
259 Maintenance for Streets and Highways.

260 (3) This section does not impair any existing contractual
261 agreements between the railroad company operating the high-speed

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262 passenger rail system and a governmental entity within the
263 state.

264 Section 10. Section 341.6101, Florida Statutes, is created
265 to read:

266 341.6101 Safety inspections and inspectors.—

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

275 (2) Unless the results are otherwise confidential under
276 state or federal law, the department's railroad inspectors shall
277 report in writing the results of their inspections in the manner
278 and on forms prescribed by the department. These reports shall
279 be made available on the department's website for the public to
280 access.

281 Section 11. Section 341.611, Florida Statutes, is created
282 to read:

283 341.611 Fencing and separation requirements to protect the
284 public.—

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

290 (2) At a minimum, the field survey should identify

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291 pedestrian traffic generators, such as nearby schools and parks,
292 and signs of current pedestrian traffic that crosses the
293 railroad tracks. The department must hold at least one public
294 meeting in each community where new or substantially modified
295 fencing is proposed before designs and plans for such fencing
296 are finalized.

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

303 (4) The fencing must be placed 1 foot inside the edge of
304 the railroad company's right-of-way.

305 (5) The fencing must be maintained by the railroad company
306 operating a high-speed passenger rail system, unless a
307 governmental entity has contractually consented to undertaking
308 the responsibility for maintaining the fence within its
309 jurisdiction.

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 operating a high-speed passenger
314 rail system neglects to construct or maintain a required fence,
315 the railroad company is liable for all damages arising from its
316 failure to construct or maintain such fence unless another
317 entity is responsible for maintenance under subsection (5).

318 Section 12. Section 341.612, Florida Statutes, is created
319 to read:

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320 341.612 Safety improvements associated with the operation
321 of a high-speed passenger rail system.-

322 (1) A railroad company operating a high-speed passenger
323 rail system shall be solely responsible for all maintenance
324 costs associated with the safety equipment installed at public
325 railroad-highway grade crossings and at pedestrian grade
326 crossings which are related to the system's operation and
327 safety. A governmental entity is not responsible for any costs
328 associated with the maintenance necessary to operate a high-
329 speed passenger rail system unless the governmental entity
330 expressly consents in writing.

331 (2) A railroad company operating a high-speed passenger
332 rail system shall be solely responsible for all costs associated
333 with the improvements and upgrades at all public railroad-
334 highway grade crossings on which the state does not use federal
335 funds to eliminate hazards, and at pedestrian grade crossings
336 relating to the system's operation and safety. A governmental
337 entity is not responsible for any costs associated with the
338 improvements necessary to operate a high-speed passenger rail
339 system unless the governmental entity expressly consents in
340 writing.

341 (3) This section does not impair any existing contractual
342 agreements between a railroad company and a governmental entity
343 within the state.

344 (4) This section does not require a railroad company to
345 share in the cost of work for the elimination of hazards at
346 public railroad-highway grade crossings on which the state uses
347 federal funds to eliminate hazards.

348 Section 13. Section 341.613, Florida Statutes, is created

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349 to read:

350 341.613 Enforcement.—Jurisdiction to enforce ss. 341.601-
351 341.614 shall be as provided by s. 316.640, and any penalty for
352 a violation of ss. 341.601-341.614 shall be imposed upon the
353 railroad company that commits such violation.

354 Section 14. Section 341.614, Florida Statutes, is created
355 to read:

356 341.614 Severability.—If any provision of this act or its
357 application to any person or circumstance is held invalid, the
358 invalidity does not affect other provisions or applications of
359 this act which can be given effect without the invalid provision
360 or application, and to this end the provisions of this act are
361 severable.

362 Section 15. This act shall take effect July 1, 2018.