

A bill for an act
relating to railroads; enacting Railroad Walkways Safety Act; creating position
of state rail safety inspector; establishing special account; authorizing imposition
of administrative penalties after rulemaking; appropriating money; amending
Minnesota Statutes 2006, section 218.041, subdivision 6; proposing coding for
new law in Minnesota Statutes, chapter 219.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 218.041, subdivision 6, is amended to read:

Subd. 6. **Investigative powers.** In the exercise of powers granted in this chapter,
the commissioner may:

(1) subpoena books, papers, or accounts kept by any regulated business within or
without the state, or compel production of verified copies;

(2) prepare all forms or blanks for obtaining information that the commissioner
may deem necessary or useful for the proper exercise of the authority and duties of the
commissioner in connection with regulated businesses, and prescribe the time and manner
within which the blanks and forms must be completed and filed;

(3) inspect, at all reasonable times, and copy the books, records, memoranda,
correspondence, or other documents and records of any business under the commissioner's
jurisdiction; ~~and~~

(4) examine, under oath, any officer, agent, or employee of a business under the
commissioner's jurisdiction concerning any matter within the commissioner's jurisdiction;
and

(5) assess common carriers, administer the state rail safety inspection account, and
perform other duties on behalf of the state rail safety inspector under section 219.015.

Sec. 2. [219.015] STATE RAIL SAFETY INSPECTOR.

(a) The commissioner of transportation shall establish a position of state rail safety inspector in the Office of Freight and Commercial Vehicle Operations of the Minnesota Department of Transportation. The commissioner shall apply to the Federal Railroad Administration (FRA) of the United States Department of Transportation to participate in the Federal State Rail Safety Partnership Program for training and certification of an inspector. The state rail safety inspector shall inspect mainline and secondary track and industry track; inspect railroad right-of-way, including adjacent or intersecting drainage, culverts, bridges, overhead structures, and traffic and other public crossings; inspect yards and physical plants; review and enforce safety requirements; review maintenance and repair records; review railroad security measures; and plan and coordinate with law enforcement officials for emergency public evacuation by rail. To the extent so delegated by the commissioner, the inspector may issue citations and collect fines for violations of this chapter, or as otherwise applicable under civil law, to ensure railroad and public safety and welfare. The proceeds of fines levied for violations must be deposited in the special account created in paragraph (b).

(b) The commissioner shall annually assess railroad companies that are (1) defined as common carriers under section 218.011, (2) classified by federal law or regulation as Class I Railroads or Class I Rail Carriers, and (3) operating in this state, a set fee per statutory ton moving by rail in the state under revenue service. The assessments must be deposited in a special account in the special revenue fund, to be known as the state rail safety inspection account. Money in the account is appropriated to the commissioner and may be expended to cover the costs incurred for the establishment and ongoing responsibilities of the state rail safety inspector.

(c) The commissioner may exempt a common carrier not federally classified as Class I from violation fines for a period of up to two years if the common carrier applies for participation in a work site safety coaching program, such as the "MNSharp" program administered by the Minnesota Department of Labor and Industry, and the commissioner determines such participation to be preferred enforcement for safety or security violations.

(d) The commissioner shall adopt by rule a schedule of administrative penalties for safety violations of this chapter, with a minimum penalty of \$500 and a maximum penalty of \$50,000 for each violation, to be deposited in the special account created in paragraph (b).

(e) Any person aggrieved by an assessment or administrative penalty levied under this section may appeal within 90 days any assessment, violation, or administrative

3.1 penalty to the Office of Administrative Hearings, with further appeal and review by the
3.2 district court.

3.3 Sec. 3. **[219.371] DEFINITIONS.**

3.4 Subdivision 1. **Scope.** The terms used in sections 219.371 to 219.382 have the
3.5 meanings given them in this section and section 218.011.

3.6 Subd. 2. **Inside edge of a walkway.** "Inside edge of a walkway" means that edge of
3.7 a walkway closest to the nearest rail of the track for which the walkway is constructed.

3.8 Subd. 3. **Major repair.** "Major repair" means a repair that normally requires
3.9 greater than four hours of work to accomplish or involves the use of specialized tools and
3.10 equipment. Major repairs include such activities as coupler replacement, draft gear repair,
3.11 and repairs requiring the use of an air jack, but the term does not include changing wheels
3.12 on intermodal loading ramps either with or without an air jack.

3.13 Subd. 4. **Railroad shop or repair track.** "Railroad shop" or "repair track" means
3.14 a fixed repair facility or track that is regularly and consistently used to perform major
3.15 repairs, regardless of whether a mobile repair vehicle is used to conduct the repairs.

3.16 Subd. 5. **Structure.** "Structure" means any bridge or trestle on which a railroad
3.17 track is constructed.

3.18 Subd. 6. **Walkway.** "Walkway" means a pathway located alongside or in the
3.19 vicinity of a railroad track for the purpose of providing an area for railroad employees
3.20 to perform their normal trackside duties.

3.21 Subd. 7. **Yard.** "Yard" means a system of tracks other than main tracks and sidings
3.22 used for making up trains, storing cars, and other purposes including the inspection,
3.23 repair, and cleaning of cars.

3.24 Sec. 4. **[219.372] WALKWAYS ON BRIDGES AND TRETTLES.**

3.25 (a) Every railroad company shall construct and maintain, adjacent to at least one side
3.26 of its tracks, walkways on all newly constructed bridges and trestles.

3.27 (b) Every railroad company shall construct and maintain, adjacent to at least one
3.28 side of its tracks, walkways on all bridges and trestles designated by the commission
3.29 after a hearing. Except as provided in paragraph (c), walkways must be located so that
3.30 they will provide a minimum side clearance of eight feet from the center of the track to
3.31 the outside edge of the walkway.

3.32 (c) Compliance with the eight-foot requirement referred to in paragraph (b) is
3.33 waived with regard to all designated bridges and trestles that presently have minimum side
3.34 clearances of less than eight feet if the railroad company is able to show to the satisfaction

of the commissioner of transportation that compliance with the eight-foot requirement is structurally or economically unfeasible.

(d) All walkways must be kept free from obstacles that would render them unsafe or difficult to traverse on foot, except those facilities with minimum clearances prescribed by other sections of this chapter.

(e) Walkways must be equipped with a securely attached handrail located on the side of the walkway farthest from the track, except no handrails are required on through-girder structures. Handrails must be located so as to comply with the clearance standards in sections 219.45 to 219.53.

(f) Walkways on bridges and trestles must conform to the standards of width, surface, and vertical placement for walkways alongside track set forth in section 219.373, except that the inside edge of such a walkway may be placed closer than six feet from the nearest rail when necessary.

(g) This section does not apply to culverts.

Sec. 5. [219.373] WALKWAYS BY TRACK; GENERAL STANDARDS.

(a) Except as otherwise provided in paragraph (f) or otherwise exempted by other law, a walkway alongside track that is required under sections 219.373 to 219.382, must be constructed and maintained in conformity to the standards in sections 219.373 to 219.383.

(b) A walkway alongside track that is required pursuant to sections 219.373 to 219.382, must:

(1) provide a reasonably regular surface that is smooth and safe for use by railroad employees and other persons who have duties in proximity to trains;

(2) be surfaced with crushed material, asphaltic concrete, planking, or other material that does not compromise track drainage;

(3) unless the grade of the track is greater than one inch in eight inches, have a grade that is less than one inch in eight inches;

(4) if the walkway is alongside track with a curve greater than 18 degrees, be not less than one foot wider than otherwise required; and

(5) be kept reasonably free of hazards and obstructions, including, but not limited to, fuel, oil, sand, posts, rocks, grains, grain products or byproducts, fertilizer products, chemical molten, steel, tin, metallic products, solid raw minerals, palletized products, silica products, materials spilled during revenue shipment, detached pieces or parts of railroad rolling stock or track structure, and vegetation.

(c) Except as provided otherwise in this section or sections 219.374 to 219.379, walkways located along main-line tracks and tracks where switching is regularly

performed more than twice in a seven-day period must be surfaced with crushed material not to exceed American Railway Engineering and Maintenance-of-Way Association (AREMA) standard number 4, 1-1/2 inches in size, or with asphalt, concrete, planking, grating, or similar material.

(d) Walkways located along switching lead tracks, switches in yards, car spotting areas, and railroad shop or repair tracks must be surfaced with crushed material not to exceed AREMA standard number 5, three-fourths to one inch in size, or with asphalt, concrete, planking, grating, or similar material.

(e) No railroad company shall allow debris or litter on walkways.

(f) This section is temporarily suspended during periods of heavy rain or snow, derailments, rocks and earth slides, and similar abnormal periods and for a reasonable time thereafter to permit restoration work.

(g) Compliance with sections 219.372 to 219.379 is not a complete defense to any civil action brought for the violation of a railroad safety regulation, rule, or order.

(h) The commissioner, after investigation, upon the commissioner's own motion, or upon the petition of the aggrieved person, may determine that the safety of railroad employees requires implementation of the applicable standards set forth in paragraphs (a) to (e), for any walkway.

Sec. 6. [219.374] WALKWAYS BY MAIN-LINE TRACK.

Except as otherwise provided in section 219.375, 219.377, or 219.378, walkways alongside main-line track, in addition to the requirements of section 219.373, must:

(1) be present on each side of the track;

(2) be not less than two feet in width; and

(3) provide a minimum side clearance of 8-1/2 feet from the centerline of the track to the outside edge of the walkway.

Sec. 7. [219.375] WALKWAYS BY TRACK AT SIDING LOCATIONS.

Walkways alongside main-line and branch-line track at siding locations, in addition to the requirements of section 219.373, must:

(1) be present:

(i) on the outside of the main-line or branch-line track; and

(ii) on the outside of the siding track;

(2) be not less than two feet in width; and

(3) provide a minimum side clearance of 8-1/2 feet from the centerline of the track to the outside edge of the walkway.

Sec. 8. [219.3755] WALKWAYS BY TRACKS WHERE TRAIN CREWS SHIFT.

Walkways alongside main-line and siding tracks at nonterminal locations that are frequently used as train crew relief for boarding and debarking crews, in addition to the requirements of section 219.373, must:

(1) be present:

(i) on the outside of the main-line or branch-line track; and

(ii) on the outside of the siding track;

(2) be not less than two feet in width;

(3) provide a minimum side clearance of 8-1/2 feet from the centerline of the track to the outside edge of the walkway;

(4) be surfaced according to AREMA standard number 5 or with three-fourths inch to one inch crushed material, asphalt, concrete, planking, or other material that does not compromise track drainage; and

(5) run continuous from a road, walkway, or other right-of-way to 100 feet past the designated stopping point for the train or locomotive.

Sec. 9. [219.376] WALKWAYS BY TRACK IN YARDS, INDUSTRY TURNOUTS, AND SPOTTING AREAS.

Walkways alongside track in all yards and in advance thereof, wherever an employee's assigned duties regularly require the employee to be present on the ground in proximity to the track and, except as otherwise provided in section 219.377 or 219.378, in industry turnouts and spotting areas, in addition to the requirements of section 219.373, must:

(1) be present on each side of the track not less than 50 feet in advance of the turnout;

(2) be not less than two feet in width;

(3) provide a minimum side clearance of 8-1/2 feet from the centerline of the track to the outside edge of the walkway; and

(4) if the track is in a yard where substantial switching is performed, be:

(i) present between tracks;

(ii) present alongside tracks bordering the yard or switching area; and

(iii) if the tracks are 17 feet apart or less, continuous between the tracks.

Sec. 10. [219.377] WALKWAYS BY TRACK AT MAIN-LINE TURNOUTS ENTERING YARDS OR SERVING INDUSTRY TRACKS.

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Except as otherwise provided in section 219.378 or 219.379, walkways alongside track at main-line turnouts entering yards or serving industry tracks, in addition to the requirements of section 219.373, must:

(1) be present on the switch stand side of the track from not less than 50 feet ahead of each switch stand to not less than 25 feet beyond the 12-1/2 feet clearance point behind the switch stand;

(2) if 20 feet or more from the switch stand, be not less than six feet in width;

(3) if less than 20 feet, but more than four feet from the switch stand:

(i) be not less than six feet in width;

(ii) have a straight outer edge; and

(iii) occupy a total area of not less than 120 square feet; and

(d) if less than four feet from the switch stand, be not less than three feet in width.

Sec. 11. [219.378] WALKWAYS BY MAIN-LINE TRACK AT TURNOUTS FOR SWITCHING CARS.

Walkways alongside main-line track at turnouts used frequently for switching cars, in addition to the requirements of sections 219.373 to 219.377, must:

(1) be present on the switch stand side of the track from not less than 125 feet ahead of the switch stand to not less than 25 feet beyond the 12-1/2 feet clearance point behind the switch stand;

(2) if 20 feet or more from the switch stand, be not less than six feet in width;

(3) if less than 20 feet, but more than four feet from the switch stand:

(i) be not less than six feet in width;

(ii) have a straight outer edge; and

(iii) occupy a total area of not less than 120 square feet; and

(4) if less than four feet from the switch stand, be not less than three feet in width.

Sec. 12. [219.379] WALKWAYS BY TRACK AT OTHER TURNOUTS.

Walkways alongside tracks at short-line and branch-line turnouts and, except as otherwise provided in section 219.378, at all power-operated turnouts, in addition to the requirements of section 219.373, must:

(1) be present on the switch stand side of the track from not less than 50 feet ahead of the switch stand to not less than the 12-1/2 feet clearance point behind the switch stand;

(2) if ten feet or more from the switch stand, be not less than five feet in width;

(3) if less than ten feet, but more than four feet from the switch stand:

(i) be not less than five feet in width;

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- 8.1 (ii) have a straight outer edge; and
8.2 (iii) occupy a total area of not less than 39 square feet; and
8.3 (4) if four feet or less from the switch stand, be not less than three feet in width.

8.4 Sec. 13. **[219.381] WALKWAY EXEMPTIONS.**

8.5 Subdivision 1. Existing track. (a) Except as otherwise provided in paragraph
8.6 (b), sections 219.373 to 219.382 do not apply to track placed in revenue service before
8.7 the effective date of this section.

8.8 (b) The commissioner of transportation shall issue an order requiring the
8.9 construction or maintenance of such a walkway alongside track described in paragraph
8.10 (a) on determining, after notice and hearing, that the construction or maintenance of a
8.11 walkway alongside the track is:

- 8.12 (1) necessary to eliminate an unsafe condition; and
8.13 (2) practicable.

8.14 Subd. 2. Small business. (a) Except as otherwise provided in paragraph (b), a small
8.15 business that owns or operates any track in this state is exempt from sections 219.373 to
8.16 219.382.

8.17 (b) On determining after notice and hearing that exempting a small business that
8.18 owns or operates any track in this state pursuant to paragraph (a) poses an unreasonable
8.19 threat of substantial harm to the public safety, the commissioner of transportation shall
8.20 order that business to eliminate any unsafe walkway condition.

8.21 (c) As used in this section, "small business" has the meaning given it in section
8.22 645.445.

8.23 Sec. 14. **[219.382] RULES.**

8.24 The commissioner of transportation may adopt rules under chapter 14 to implement
8.25 and administer sections 219.371 to 219.381.

8.26 Sec. 15. **SHORT TITLE.**

8.27 Sections 2 to 14 may be cited as the "Railroad Walkways Safety Act."

8.28 Sec. 16. **APPROPRIATION.**

8.29 \$125,000 is appropriated from the general fund to the commissioner of transportation
8.30 for the fiscal year ending June 30, 2008, for the purposes of this act. The commissioner of
8.31 transportation shall assess each Class I Rail Carrier under section 2 an amount sufficient to
8.32 repay this appropriation, to be deposited in the general fund before July 1, 2008.

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9.1 Sec. 17. **EFFECTIVE DATE.**

9.2 This act is effective July 1, 2007, except that any provision authorizing the
9.3 imposition of a fine or administrative penalty is effective July 1, 2008.