



House of Representatives

File No. 672

General Assembly

February Session, 2000

(Reprint of File No. 276)

Substitute House Bill No. 5798
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 27, 2000

An Act Concerning Trespass Or Damage Of Railroad Property.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-3 of the general statutes is amended by adding
2 subdivision (23) as follows:

3 (NEW) (23) "Railroad property" means all tangible property owned,
4 leased or operated by a railroad carrier including, but not limited to, a
5 right-of-way, track, roadbed, bridge, yard, shop, station, tunnel,
6 viaduct, trestle, depot, warehouse, terminal or any other structure or
7 appurtenance or equipment owned, leased or used in the operation of
8 a railroad carrier including a train, locomotive, engine, railroad car,
9 signals or safety device or work equipment or rolling stock.

10 Sec. 2. (NEW) (a) A person is guilty of simple trespass of railroad
11 property when, knowing that such person is not licensed or privileged
12 to do so, such person enters or remains on railroad property without
13 lawful authority or the consent of the railroad carrier.

14 (b) Simple trespass of railroad property is an infraction.

15 Sec. 3. (NEW) (a) A person is guilty of damage to railroad property
16 in the first degree when: (1) With intent to cause damage to railroad
17 property and having no reasonable ground to believe that such person
18 has a right to do so, such person damages such property in an amount
19 exceeding one thousand five hundred dollars, or (2) with intent to
20 cause an interruption or impairment of railroad service rendered to the
21 public and having no reasonable ground to believe that such person
22 has a right to do so, such person damages or tampers with railroad
23 property and thereby causes an interruption or impairment of railroad
24 service rendered to the public.

25 (b) Damage to railroad property in the first degree is a class D
26 felony.

27 Sec. 4. (NEW) (a) A person is guilty of damage to railroad property
28 in the second degree when: (1) With intent to cause damage to railroad
29 property and having no reasonable ground to believe that such person
30 has a right to do so, such person damages such property in an amount
31 exceeding two hundred fifty dollars, or (2) with intent to cause an
32 interruption or impairment of railroad service rendered to the public
33 and having no reasonable ground to believe that such person has a
34 right to do so, such person damages or tampers with railroad property
35 and thereby causes a risk of interruption or impairment of railroad
36 service rendered to the public.

37 (b) Damage to railroad property in the second degree is a class A
38 misdemeanor.

39 Sec. 5. (NEW) (a) A person is guilty of damage to railroad property
40 in the third degree when, having no reasonable ground to believe that
41 such person has a right to do so, such person: (1) Intentionally or
42 recklessly (A) damages railroad property, or (B) tampers with railroad
43 property and thereby causes such property to be placed in danger of
44 damage, or (2) damages railroad property by negligence involving the
45 use of any potentially harmful or destructive force or substance

46 including, but not limited to, fire, explosives, flood, avalanche, collapse
47 of building, poison gas or radioactive material.

48 (b) Damage to railroad property in the third degree is a class B
49 misdemeanor.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

- State Impact:** See Explanation Below
- Affected Agencies:** Various Criminal Justice Agencies
- Municipal Impact:** None

Explanation

State Impact:

The bill does not appear to result in a fiscal impact to the state. The bill establishes penalties for damaging railroad property in the first, second, or third degrees. These penalties are dependent on the amount of damage done to the property, and range from a class D felony (1-5 years imprisonment and/or up to a \$5,000 fine) to a class B misdemeanor (up to 6 months imprisonment and/or up to a \$1,000 fine). Under current law, a person found damaging railroad property could presumably be charged with criminal mischief, which carries the same three degrees and penalties as those proposed in the bill.

The bill also establishes a penalty of an infraction for simple trespass of railroad property. Under current law, a person found trespassing on railroad property could presumably be charged with simple trespass. Both the existing penalty and the new penalty contained in the bill are infractions.

House Amendment "A" eliminated the cost contained in the original bill related to various railroad trespassing violations.

OLR Amended Bill Analysis

sHB 5798 (as amended by House "A")*

AN ACT CONCERNING RAILROAD TRESPASS PREVENTION.**SUMMARY:**

This bill establishes specific classifications of offenses involving trespass upon, and damage to, railroad property. It defines simple trespass on railroad property as someone entering or remaining on such property without lawful authority or the railroad carrier's consent, with knowledge that he is not licensed or privileged to do so. It makes this an infraction.

The bill also establishes the crimes of damaging railroad property in the first, second, and third degrees. It makes first-degree damage to railroad property a Class D felony and makes someone guilty of committing it when he (1) with intent and having no reasonable ground to believe he has a right to, damages railroad property in an amount exceeding \$1,500 or (2) with intent to interrupt or impair rail service to the public and having no reasonable right to do so, damages or tampers with the property, which causes a service interruption or impairment.

The bill makes second-degree damage to railroad property a Class A misdemeanor. To be guilty of committing it, someone must: (1) with intent and without reasonable ground to believe he has a right to, damage property in an amount exceeding \$250 or (2) with intent to interrupt or impair service and without reasonable ground to believe he has a right to, damage or tamper with railroad property which causes a risk of service interruption or impairment.

The bill makes third-degree damage to railroad property a Class B misdemeanor and makes someone guilty of committing it when, having no reasonable ground to believe he has a right to, he (1) intentionally or recklessly damages railroad property or tampers with it, thus placing it at risk of damage or (2) damages railroad property by negligence involving the use of any potentially harmful or destructive force or substance, including, but not limited to explosives, fire, flood,

avalanche, building collapse, poison gas, or radioactive material.

Railroad property covered under these offenses is all tangible property a railroad carrier owns or leases including, but not limited to, a right-of-way, track, roadbed, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal, or any other structure, appurtenance, or equipment the carrier owns, uses, or leases to operate. This includes trains, locomotives, engines, rail cars, signals and safety devices, and work equipment and rolling stock.

*House Amendment "A" replaces the original bill (File 276) with the provisions summarized above. The original bill increased the penalty for trespassing on railroad property from an infraction to a misdemeanor and made it a Class B misdemeanor to ride on the outside or a train or inside a rail car without legal authority or the carrier's consent.

EFFECTIVE DATE: October 1, 2000

BACKGROUND

Infractions

Infractions are punishable by fines, usually set by Superior Court judges, of between \$35 and \$90, plus additional fees, surcharges, and costs. Some infractions increase when committed in designated construction, utility work, and school zones. This means some violators could have to pay \$361, although most have to pay less than that and many pay less than \$100. An infraction is not a crime; thus, violators do not have criminal records and can pay the fine by mail without appearing in court.

Crimes

The law authorizes courts to impose fines, imprisonment, or both when sentencing a convicted criminal. They must specify the period of incarceration for anyone so sentenced. The prison terms below represent the range within which a judge must set the sentence. The judge also sets the exact amount of a fine, up to the established limits listed below. Some crimes have a mandatory minimum sentence or a minimum sentence higher than the minimum term specified in the table. Repeated offenses may result in a higher maximum than

specified here.

Classification of Crime	Imprisonment	Fine
Capital felony	execution or life	—
Class A felony (murder)	25 to 60 years	up to \$20,000
Class A felony	10 to 25 years	up to 20,000
Class B felony	1 to 20 years	up to 15,000
Class C felony	1 to 10 years	up to 10,000
Class D felony	1 to 5 years	up to 5,000
Class A misdemeanor	up to 1 year	up to 2,000
Class B misdemeanor	up to 6 months	up to 1,000
Class C misdemeanor	up to 3 months	up to 500

Legislative History

The House referred the bill to the Judiciary Committee on March 31, and the committee reported it favorably on April 7. The House referred it to the Legislative Management Committee on April 16, and the committee reported it favorably on April 18.

Related Bill

sHB 5733 (File 237), *An Act Concerning Vandalism on Railroad Property*, defines certain acts as vandalism of railroad property and designates graduated criminal penalties for them based on the amount of property damage or severity of injury that results.

COMMITTEE ACTION

Transportation Committee

Joint Favorable Report
Yea 21 Nay 3

Judiciary Committee

Joint Favorable Report
Yea 33 Nay 0

Joint Committee on Legislative Management

Joint Favorable Report
Yea 20 Nay 0