

CHAPTER 49-10.1

RAILROAD REGULATION BY PUBLIC SERVICE COMMISSION

49-10.1-01. Authority of public service commission.

The commission, to the extent not inconsistent with federal law, may regulate railroads within this state to the extent railroad activities constitute intrastate commerce. The commission may represent the state interests in direct negotiations with rail carriers and in proceedings before Congress, federal agencies, and courts.

49-10.1-02. Public policy concerning the regulation of railroads.

All railroads are common carriers affected with a public interest and subject to regulation as prescribed by this chapter and other applicable provisions of law. The commission, to the extent not inconsistent with federal law, shall regulate railroads to ensure that all rates, facilities, and services are just and reasonable, and are not unduly discriminatory, unduly or unreasonably prejudicial, nor unduly or unreasonably preferential.

49-10.1-03. Regulatory powers.

The commission shall regulate all railroads carrying property or passengers within this state. The commission, to the extent not inconsistent with federal law, shall:

1. Prevent unfair competition, unjust discrimination, or undue or unreasonable preferences between shippers or consignees by lines of competing railroads.
2. Require the filing of reports and data by railroads as the commission may determine to be necessary to allow it to carry out its regulatory functions under this chapter and other provisions of law.
3. Regulate railroads in all matters affecting the relations between railroads and the public to the end that this chapter may be fully and completely carried out.

49-10.1-04. Equipment distribution.

Repealed by S.L. 1997, ch. 284, § 8.

49-10.1-05. Railroad police.

Railroad police officers who are designated by a railroad to be licensed under the laws of this state, while within the scope of employment with the railroad, have the authority of a "law enforcement officer" as defined under section 12.1-01-04 for the purpose of:

1. Arresting an individual committing a felony on railroad property or associated with railroad equipment;
2. Arresting an individual committing a misdemeanor involving railroad property or relating to persons or property being transported by the railroad, or awaiting transportation by the railroad;
3. Issuing a citation to an individual committing an infraction or noncriminal offense on or relating to railroad property, or to individuals or property being transported by the railroad, or awaiting transportation by the railroad; and
4. Removing an individual from a train who has no right to be there, or who is engaging in a conduct prohibited by title 12.1.

49-10.1-06. Loading platforms.

Repealed by S.L. 1997, ch. 284, § 8.

49-10.1-07. Spur tracks.

On a finding by the commission that public convenience and necessity so require it, a railroad shall be required to build a spur track to serve elevators, warehouses, mills, or like structures, at the expense of the party desiring the spur track to be built. The person desiring the construction of said spur track may be required by the railroad to deposit the estimated cost of the spur track with the commission before the railroad can be required to construct said spur

track. The person desiring said spur track may be charged a monthly charge by the railroad for the cost of maintaining the spur track and the switch.

49-10.1-08. Tampering, altering, or damaging railroad property - Penalty.

Every unauthorized person who unlawfully tampers with, alters, or damages any railroad track, track mechanism, or signal, semaphore, or sign, or masks any light or signal, or exhibits any false light or signal with intent to endanger any person or damage property, shall be guilty of a class C felony.

49-10.1-09. Shipment of livestock.

Repealed by S.L. 1997, ch. 284, § 8.

49-10.1-10. Use of railroad tracks for highway purposes - Penalty.

No unauthorized person shall drive any vehicle or animal upon or use any railroad track and right of way in this state as a highway. This section shall not apply to highway or private crossings over any line of railway in the state, nor to depot grounds, station grounds, nor switches, sidetracks, and right of way intended for the use of railroad employees, shippers, or the consignees of freight. Any person violating the provisions of this section is guilty of a class B misdemeanor.

49-10.1-11. Minor excluded from railroad property - Exception.

A person under fifteen years of age, unless accompanied by a parent or guardian or unless the person has business with the railroad requiring the person to approach such place, shall not:

1. Approach closer than ten feet [3.05 meters] from any engine, car, train, or other rolling stock upon the tracks of any railroad in this state.
2. Enter any roundhouse, shop, or yard or upon any track bridge of any railroad company or upon the right of way or other place of danger owned by any railroad.

49-10.1-12. Trespassing and stealing rides on cars, engines, and trains - Penalty.

No person shall:

1. Enter, ride, or secure passage upon a railroad car or engine of any description other than a car commonly used exclusively for the carriage of passengers with intent thereby to obtain a ride without payment therefor or fraudulently to obtain carriage upon any such engine or car.
2. Take passage, ride, or enter for the purpose of taking passage or riding, upon the tracks, rods, brakebeams, or any part of any car, locomotive engine, or tender, not ordinarily and customarily used or intended for the resting place of a person riding upon or operating the same, unless the one taking such passage is a railway employee in the performance of the employee's duty.

Any person violating any of the provisions of this section shall be guilty of a class B misdemeanor.

49-10.1-13. Clearance required for tracks.

No person unless authorized by the commission shall erect or maintain on any railroad track or railroad right of way any:

1. Fixed or permanent structure or obstruction at a distance of less than eight feet [2.44 meters] from a railroad track, measured from the centerline of the track.
2. Bridges, viaducts, or any other obstructions passing over and above a railroad track at a height less than twenty-one feet [6.40 meters], measured from the top of the track rail. The commission, upon application and after a thorough investigation, may permit any person to which this section applies to erect or reconstruct and maintain any such facility at a lesser clearance than herein provided for when in the judgment of the commission the compliance with the clearance prescribed herein would be unreasonable or unnecessary and when a lesser clearance than that hereinbefore provided for would not create a condition unduly hazardous to the employees of such

railroad or any other person. Station freight house platforms which have a vertical height of not more than four feet [1.22 meters], measured from the top of the track rail, may be erected and maintained at a less distance from the center of the track which they adjoin than herein specified.

49-10.1-14. Commission may adopt and enforce safety rules - Investigation and surveillance records - Railroads - Exempt.

1. The commission, for the protection of persons and property, may adopt and enforce railroad safety rules not inconsistent with any federal agency having jurisdiction over railroads. The commission may adopt rules more stringent than federal rules when necessary to eliminate an essentially state or local safety hazard if the rules are not incompatible with any federal law or rule and do not create an undue burden on interstate commerce.
2. A record and portion of a meeting related to the ongoing railroad investigation and surveillance activities of the national transportation safety board and federal railroad administration state safety participation program is an exempt record as defined under section 44-04-17.1.

49-10.1-15. Semimonthly pay to railroad employees.

All railroads doing business within this state are required to pay their employees, at least semimonthly, the wages earned by them within fifteen days of the date of such payment unless prevented by inevitable casualty. Whenever an employee shall be discharged, the employee's wages shall be paid to the employee at the time of the employee's discharge or whenever the employee shall demand the same thereafter.

49-10.1-16. Intoxicated engineer or conductor - Penalty.

Every person who is intoxicated while in charge as engineer of a locomotive engine or while acting as a conductor or driver upon any railroad train or car is guilty of a class A misdemeanor.

49-10.1-17. Agreements to restore Amtrak service.

The governor or the director of the department of transportation may make agreements in accordance with applicable federal law with the state of Montana and relevant federal agencies for the renewal of service on the Amtrak north coast Hiawatha route from Fargo to Spokane, Washington. The governor, the director of the department of transportation, or the commissioner of commerce may enter agreements with any political subdivision, state, and federal agency for the restoration of daily service on the Amtrak empire builder route.

49-10.1-18. Determination of train speeds.

If the governing body of a city proposes to establish a speed limit on trains passing through its corporate limits and an agreement cannot be reached with the railway company operating the railroad, the governing body of the city may file with the commission a petition that sets forth the facts and requests the commission's assistance in resolving the matter.

49-10.1-19. Critical incident stress debriefing policy.

Each railroad corporation shall develop a written critical incident stress debriefing policy. The railroad corporation shall keep a copy of the policy posted in a conspicuous place on an area of its premises commonly frequented by its employees. Penalties for a violation of this section are limited to those allowed in section 49-07-01.1.

49-10.1-20. Accident report.

A railroad corporation shall provide immediate notification to the department of emergency services of an accidental release of a hazardous material.

49-10.1-21. Railroad crossing determination.

If a dispute arises as to whether a railroad grade crossing should be classified as public or private as defined in section 49-11-00.1, the railroad corporation, governmental entity, or private property owner may file with the commission a petition and the commission shall determine whether the crossing is public or private.

49-10.1-22. Railroad training program.

All railroads shall make training available to all fire departments having jurisdiction along routes traversed by unit oil trains. Training must be made available by June 30, 2016, with refresher training made available at least every three years thereafter. Training must address the general hazards of oil and hazardous substances, techniques to assess hazards to the environment and to the safety of responders and the public, factors an incident commander must consider in determining whether to attempt to suppress a fire or to evacuate the public and emergency responders from the area, and other strategies for initial response by local emergency responders. Training must include suggested protocol or practices for local responders to safely accomplish these tasks.