

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1094  
Committee Substitute Favorable 4/29/97  
Committee Substitute #2 Favorable 6/4/97

Short Title: Repeal/Recodify Railroad Laws.

(Public)

Sponsors:

Referred to:

April 21, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL OBSOLETE OR PREEMPTED PROVISIONS OF THE  
3 GENERAL STATUTES AFFECTING RAILROADS, TO RECODIFY CERTAIN  
4 RAILROAD STATUTES, AND TO MAKE CONFORMING CHANGES AND  
5 CLARIFYING CHANGES.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 62-3(6) reads as rewritten:

8 "(6) 'Common carrier' means any ~~person~~ person, other than a carrier by rail,  
9 which holds itself out to the general public to engage in transportation  
10 of persons or household goods for compensation, including  
11 transportation by ~~train~~, bus, truck, boat or other conveyance, except as  
12 exempted in G.S. 62-260."

13 Section 2. G.S. 62-3(22) reads as rewritten:

14 "(22) 'Private carrier' means any ~~person~~ person, other than a carrier by rail, not  
15 included in the definitions of common carrier, which transports in  
16 intrastate commerce in its own vehicle or vehicles property of which  
17 such person is the owner, lessee, or bailee, when such transportation is  
18 for the purpose of sale, lease, rent, or bailment, or when such

1 transportation is purely an incidental adjunct to some other established  
2 private business owned and operated by such person other than the  
3 transportation of household goods for compensation."

4 Section 3. G.S. 62-3(23)a. reads as rewritten:

5 "(23) a. 'Public utility' means a person, whether organized under the laws of  
6 this State or under the laws of any other state or country, now or  
7 hereafter owning or operating in this State equipment or facilities for:

- 8 1. Producing, generating, transmitting, delivering or  
9 furnishing electricity, piped gas, steam or any other like  
10 agency for the production of light, heat or power to or for  
11 the public for compensation; provided, however, that the  
12 term 'public utility' shall not include persons who  
13 construct or operate an electric generating facility, the  
14 primary purpose of which facility is for such person's own  
15 use and not for the primary purpose of producing  
16 electricity, heat, or steam for sale to or for the public for  
17 compensation;
- 18 2. Diverting, developing, pumping, impounding, distributing  
19 or furnishing water to or for the public for compensation,  
20 or operating a public sewerage system for compensation;  
21 provided, however, that the term 'public utility' shall not  
22 include any person or company whose sole operation  
23 consists of selling water to less than 10 residential  
24 customers, except that any person or company which  
25 constructs a water system in a subdivision with plans for  
26 10 or more lots and which holds itself out by contracts or  
27 other means at the time of said construction to serve an  
28 area containing more than 10 residential building lots shall  
29 be a public utility at the time of such planning or holding  
30 out to serve such 10 or more building lots, without regard  
31 to the number of actual customers connected;
- 32 3. Transporting persons or household goods by street,  
33 suburban or interurban bus ~~or railways~~ for the public for  
34 compensation;
- 35 4. Transporting persons or household goods by ~~railways or~~  
36 ~~motor vehicles, —vehicles~~ or any other form of  
37 transportation for the public for compensation, except  
38 motor carriers exempted in G.S. 62-260, ~~and except~~  
39 carriers by rail, and carriers by air;
- 40 5. Transporting or conveying gas, crude oil or other fluid  
41 substance by pipeline for the public for compensation;
- 42 6. Conveying or transmitting messages or communications  
43 by telephone or telegraph, or any other means of

1 transmission, where such service is offered to the public  
2 for compensation."

3 Section 4. G.S. 62-133(h) is repealed.

4 Section 5. G.S. 62-150 reads as rewritten:

5 **"§ 62-150. Ticket may be refused intoxicated person; penalty for prohibited entry.**

6 The ticket agent of any common carrier of passengers shall at all times have power to  
7 refuse to sell a ticket to any person applying for the same who may at the time be  
8 intoxicated. The ~~conductor~~, driver or other person in charge of any conveyance for the  
9 use of the traveling public shall at all times have power to prevent any intoxicated person  
10 from entering such conveyance. If any intoxicated person, after being forbidden by the  
11 ~~conductor~~, driver or other person having charge of any such conveyance for the use of the  
12 traveling public, shall enter such conveyance, he shall be guilty of a Class 1  
13 misdemeanor."

14 Section 6. G.S. 62-151 reads as rewritten:

15 **"§ 62-151. Passenger refusing to pay fare or violating rules may be ejected.**

16 If any passenger shall refuse to pay his fare, or be or become intoxicated, or violate  
17 the rules of a common carrier, it shall be lawful for the ~~conductor or~~ driver of the ~~train or~~  
18 ~~bus, bus~~ or other conveyance, and servants of the carrier, on stopping the conveyance, to  
19 put him and his baggage out of the conveyance, using no unnecessary force."

20 Section 7. G.S. 62-152.1(a)(2) reads as rewritten:

21 "(2) For purposes of this section, ~~carriers by rail are carriers of the same class,~~  
22 carriers by motor vehicles are carriers of the same class, carriers by  
23 pipeline are carriers of the same class, carriers by water are carriers of  
24 the same class, carriers by air are carriers of the same class, and freight  
25 forwarders are carriers of the same class."

26 Section 8. G.S. 62-190(a) reads as rewritten:

27 "(a) Any pipeline company transporting or conveying natural gas, gasoline, crude  
28 oil, coal in suspension, or other fluid substances by pipeline for the public for  
29 compensation, and incorporated under the laws of the State, or foreign corporations  
30 domesticated under the laws of North Carolina, may exercise the right of eminent domain  
31 under the provisions of the Chapter, Eminent Domain, and for the purpose of  
32 constructing and maintaining its pipelines and other works shall have all the rights and  
33 powers given ~~railroads and~~ other corporations by this Chapter and acts amendatory  
34 thereof. Nothing herein shall prohibit any such pipeline company granted the right of  
35 eminent domain under the laws of this State from extending its pipelines from within this  
36 State into another state for the purpose of transporting natural gas or coal in suspension  
37 into this State, nor to prohibit any such pipeline company from conveying or transporting  
38 natural gas, gasoline, crude oil, coal in suspension, or other fluid substances from within  
39 this State into another state. All such pipeline companies shall be deemed public utilities  
40 and shall be subject to regulation under the provisions of this Chapter."

41 Section 9. G.S. 62-200(b) reads as rewritten:

42 "(b) Any common carrier violating any of the provisions of this section shall forfeit  
43 to the party aggrieved the sum of ~~fifteen dollars (\$15.00) for the first day and two dollars~~

1 ~~(\$2.00) for each succeeding day of such unlawful detention or neglect where such~~  
2 ~~shipment is made in carload lots, and in less quantities there shall be a forfeiture in like~~  
3 ~~manner of ten dollars (\$10.00) for the first day and one dollar (\$1.00) for each succeeding~~  
4 ~~day, day of such unlawful detention or neglect, but the forfeiture shall not be collected for~~  
5 ~~a period exceeding 30 days."~~

6 Section 10. G.S. 62-300(a) reads as rewritten:

7 "(a) The Commission shall receive and collect the following fees and charges in  
8 accordance with the classification of utilities as provided in rules and regulations of the  
9 Commission, and no others:

10 (1) Twenty-five dollars (\$25.00) with each notice of appeal to the Court of  
11 Appeals or the Supreme Court, and with each notice of application for a  
12 writ of certiorari.

13 (2) With each application for a new certificate for motor ~~and rail~~ carrier  
14 rights, the fee shall be two hundred fifty dollars (\$250.00) when filed by  
15 Class 1 motor ~~and rail~~ carriers, one hundred dollars (\$100.00) when filed  
16 by Class 2 motor ~~and rail~~ carriers, and twenty-five dollars (\$25.00)  
17 when filed by Class 3 motor ~~and rail~~ carriers, and twenty-five dollars  
18 (\$25.00) as filing fee for any amendment thereto so as to extend or  
19 enlarge the scope of operations thereunder, and twenty-five dollars  
20 (\$25.00) for each broker who applies for a brokerage license under the  
21 provisions of this Chapter.

22 (3) With each application for a general increase in rates, fares and charges  
23 and for each filing of a tariff which seeks general increases in rates,  
24 fares and charges, the fee will be five hundred dollars (\$500.00) for  
25 Class A utilities and Class 1 motor ~~and rail~~ carriers, two hundred fifty  
26 dollars (\$250.00) for Class B utilities and Class 2 motor ~~and rail~~ carriers,  
27 one hundred dollars (\$100.00) for Class C utilities and twenty-five  
28 dollars (\$25.00) for Class D utilities and Class 3 motor ~~and rail~~ carriers;  
29 provided that in the case of an application or tariff for a general increase  
30 in rates filed by a tariff agent for more than one carrier, the applicable  
31 fee shall be the highest fee prescribed for any motor carrier included in  
32 the application or tariff. This fee shall not apply to applications for  
33 adjustments in particular rates, fares, or charges for the purpose of  
34 eliminating inequities, preferences or discriminations or to applications  
35 to adjust rates and charges based solely on the increased cost of fuel  
36 used in the generation or production of electric power.

37 (4) One hundred dollars (\$100.00) with each application by motor carrier of  
38 passengers for the abandonment or permanent or temporary  
39 discontinuance of transportation service previously authorized in a  
40 certificate.

41 ~~(4a) Two hundred fifty dollars (\$250.00) with each application for~~  
42 ~~discontinuance of train service, or for a change in or discontinuance of~~  
43 ~~station facilities.~~

- 1 (5) With each application for a certificate of public convenience and  
2 necessity or for any amendment thereto so as to extend or enlarge the  
3 scope of operations thereunder, the fee shall be two hundred fifty dollars  
4 (\$250.00) for Class A utilities, one hundred dollars (\$100.00) for Class  
5 B utilities, and twenty-five dollars (\$25.00) for Class C and D utilities  
6 and twenty-five dollars (\$25.00) for any other person seeking a  
7 certificate of public convenience and necessity.
- 8 (5a) With each application by a bus company for an original certificate of  
9 authority or for any amendment thereto or to an existing certificate of  
10 public convenience and necessity so as to extend or enlarge the scope of  
11 operations thereunder the fee shall be two hundred fifty dollars  
12 (\$250.00).
- 13 (6) With each application for approval of the issuance of securities or for  
14 the approval of any sale, lease, hypothecation, lien, or other transfer of  
15 any household goods or operating rights of any carrier or public utility  
16 over which the Commission has jurisdiction, the fee shall be two  
17 hundred fifty dollars (\$250.00) for Class A utilities and Class 1 motor  
18 ~~and rail~~ carriers, one hundred dollars (\$100.00) for Class B utilities and  
19 Class 2 motor ~~and rail~~ carriers, and twenty-five dollars (\$25.00) for  
20 Class C and D utilities and Class 3 motor ~~and rail~~ carriers; provided, that  
21 in the case of sales, leases and transfers between two or more carriers or  
22 utilities, the applicable fee shall be the highest fee prescribed for any  
23 party to the transaction.
- 24 (7) Ten dollars (\$10.00) with each application, petition, or complaint not  
25 embraced in (2) through (6) of this section, wherein such application,  
26 petition, or complaint seeks affirmative relief against a carrier or public  
27 utility over which the Commission has jurisdiction. This fee shall not  
28 apply to applications for adjustments in particular rates, fares or charges  
29 for the purpose of eliminating inequities, preferences or discriminations;  
30 nor shall this fee apply to applications, petitions, or complaints made by  
31 any county, city or town; nor shall this fee apply to applications or  
32 petitions made by individuals seeking service or relief from a public  
33 utility.
- 34 (8) Repealed by Session Laws 1985, c. 454, s. 18.
- 35 (9) One dollar (\$1.00) for each page (8 1/2 x 11 inches) of transcript of  
36 testimony, but not less than five dollars (\$5.00) for any such transcript.
- 37 (10) Twenty cents (20¢) for each page of copies of papers, orders,  
38 certificates or other records, but not less than one dollar (\$1.00) for any  
39 such order or record, plus five dollars (\$5.00) for formal certification of  
40 any such paper, order or record.
- 41 (11), (12) Repealed by Session Laws 1985, c. 454, s. 18.

1 (13) Two hundred fifty dollars (\$250.00) with each application for a  
2 certificate of public convenience and necessity to construct a  
3 transmission line.

4 (14) Twenty-five dollars (\$25.00) with each filing by a person otherwise  
5 exempt from Commission regulation under Public Law 103-305 to  
6 participate in standard transportation practices as set out by the  
7 Commission."

8 Section 11. G.S. 160A-195 is repealed.

9 Section 12. Chapter 14 of the General Statutes is amended by adding a new

10 Article to read:

11 **"ARTICLE 61.**

12 **"TRAINS AND RAILROADS.**

13 **"§ 14-460. Riding on train unlawfully; venue.**

14 If any person, with the intention of being transported free in violation of law, rides or  
15 attempts to ride on top of any car, coach, engine, or tender, on any railroad in this State,  
16 or on the drawheads between cars, or under cars, on truss rods, or trucks, or in any freight  
17 car, or on a platform of any baggage car, express car, or mail car on any train, he shall be  
18 guilty of a Class 3 misdemeanor. Any person charged with a violation of this section  
19 may be tried in any county in this State through which such train may pass carrying such  
20 person, or in any county in which such violation may have occurred or may be  
21 discovered.

22 **"§ 14-461. Unauthorized manufacture or sale of switch-lock keys a misdemeanor.**

23 It shall be unlawful for any person to make, manufacture, sell, or give away to any  
24 other person any duplicate key to any lock used by any railroad company in this State on  
25 its switches or switch tracks, except upon the written order of that officer of such railroad  
26 company whose duty it is to distribute and issue switch-lock keys to the employees of  
27 such railroad company. Any person violating the provisions of this section shall be guilty  
28 of a Class 1 misdemeanor."

29 Section 13. G.S. 62-152, 62-192, 62-207, 62-221, 62-222, 62-227, 62-228, 62-  
30 229, 62-230, 62-231, 62-232, 62-233, 62-234, 62-238, 62-238.1, 62-239, 62-241, 62-242,  
31 62-243, 62-244, 62-245, 62-246, and 62-247 are repealed.

32 Section 14. Article 11 of Chapter 62 of the General Statutes, as amended by  
33 Section 13 of this act, G.S. 62-220, 62-223, 62-224, 62-225, 62-226, 62-237, and 62-240,  
34 is recodified as Article 15 of Chapter 136 of the General Statutes, G.S. 136-190 through  
35 G.S. 136-196.

36 Section 15. G.S. 62-237, recodified as G.S. 136-195 by Section 14 of this act,  
37 reads as rewritten:

38 **"§ 136-195. To regulate crossings and to abolish grade crossings.**

39 The ~~Commission~~ Department may require the raising or lowering of any tracks or  
40 roadway at any grade crossing in a road or street not forming a link in or part of the State  
41 highway system and designate who shall pay for the same by partitioning the cost of said  
42 work and the maintenance of such crossing among the railroads and municipalities

1 interested in accordance with the formula provided for grade crossing alterations or  
2 eliminations on the State highway system in G.S. 136-20(b)."

3 Section 16. Article 15 of Chapter 136 of the General Statutes, as enacted by  
4 this act, is amended by adding two new sections to read:

5 "**§ 136-197. Ticket may be refused intoxicated person; penalty for prohibited entry.**

6 The ticket agent of a passenger train shall at all times have the power to refuse to sell  
7 a ticket to a person wanting to purchase a ticket who may at the time be intoxicated. The  
8 conductor in charge of the train shall at all times have the power to prevent an intoxicated  
9 person from boarding the train. An intoxicated person who boards a train after being  
10 forbidden by the conductor to do so is guilty of a Class 1 misdemeanor.

11 "**§ 136-198. Passenger refusing to pay fare or violating rules may be ejected.**

12 If a passenger shall refuse to pay the fare, be or become intoxicated, or violate the  
13 rules of a passenger train, it shall be lawful for the conductor of the train to stop the train  
14 and to put the passenger and the passenger's baggage out of the train, using no  
15 unnecessary force."

16 Section 17. This act is effective when it becomes law.