



**OREGON STATE SENATE**

May 19, 2021

Testimony to the Joint Committee on Transportation

HB 3339 is not ready for passage. It appears the intent of the bill has nothing to do with the testimony in the hearings. All the written testimony is about trains blocking railroad crossing but that is inaccurate if not outright false if you read the LC Opinion online.

The Oregon Court of Appeals has already ruled against the exact language in the bill in 2009. As have dozens of appellate courts. LC and the AG have developed the text of the bill as a possible court work around by claiming this is about wandering people, cars, and trucks blocking the railroads. Then the bill was presented to the committee as a train safety bill. ODOT said nothing?

Maybe ODOT can explain how they are going to fine pedestrians, homeless and pick up truck drivers \$3000 each for blocking the road crossings in La Grande and Klamath Falls for ten minutes? Or the 12<sup>th</sup> Street railroad crossing next to the Oregon State Capitol?

We all got a one-pager titled improving emergency response this past week claiming the Federal Railroad Administration generally permitted this type bill in thirty-three states. See attached. I went to every FRA link for every state but found no reference to any minute restriction on anything. Likewise, could locate nothing on NCLS's webpage?

What is important about the one-pager on HB 3339 is it states "exemptions to this policy include ... actions that are preempted by federal law." If railroads are preempted is the bill required? There dozens of appellate cases just like Oregon's. Is this the full employment bill for the Attorney General at the expense of the highway fund?

Next, I looked at the maps for Kingsley Field and La Grande given the testimony claimed both are dangerously blocked by trains when they pass. No way around!

If did not notice, the pdf of the paper bill lists two sponsors but no 'at the request of' but the OLIS version states the bill is "at the request of International Association of Sheet Metal, Air, Rail and Transportation Workers" who testified about trains blocking railroad crossings. But it is not.

The bill is about the age long argument between management and labor. It is about having more shorter trains with move union workers which will raise costs to everyone while delaying the supply chain in a pandemic? This bill needs better vetting.

## Background

A railroad at-grade crossing is the intersection of railroad tracks and a pathway for another transportation mode - usually a road or pedestrian path. There are 1,878 at-grade crossings with public roads in Oregon, and approximately another 2,000 private at-grade crossings, encompassing 30 railroads and over 200 road authorities. ODOT is the regulatory entity for public at-grade crossings, and also has signage requirements for private at-grade crossings.

According to the [Federal Railroad Administration](#) and NCSL, trains are generally permitted to stop in road crossings for the following time limits:

|                              |                               |                              |  |                          |                             |
|------------------------------|-------------------------------|------------------------------|--|--------------------------|-----------------------------|
| Arkansas -<br>10 minutes     | Arizona -<br>15 minutes       | Connecticut -<br>5 minutes   | Delaware -<br>10 minutes   | D.C. -<br>5 minutes      | Idaho -<br>15 minutes       |
| Illinois -<br>10 minutes     | Indiana -<br>10 minutes       | Iowa -<br>10 minutes         | Kansas -<br>10 minutes   | Kentucky -<br>5 minutes  | Louisiana -<br>20 minutes   |
| Massachusetts -<br>5 minutes | Michigan -<br>5 minutes       | Minnesota -<br>10 minutes    | Mississippi -<br>5 minutes   | Montana -<br>15 minutes  | Nebraska -<br>10 minutes    |
| New Hampshire -<br>5 minutes | New York -<br>5 minutes       | North Dakota -<br>10 minutes | Ohio -<br>5 minutes; but<br>train has 3 min.<br>to move to<br>allow vehicles<br>to cross | Oklahoma -<br>10 minutes | Pennsylvania -<br>5 minutes |
| Rhode Island -<br>5 minutes  | South Carolina -<br>5 minutes | South Dakota -<br>20 minutes | Texas -<br>10 minutes  | Utah -<br>5 minutes      | Vermont -<br>5 minutes      |
| Virginia -<br>5 minutes      | West Virginia -<br>10 minutes | Wisconsin -<br>10 minutes    |  |                          |                             |

## How HB 3339 Works

HB 3339 would prohibit anyone from blocking railroad highway crossings for longer than 10 consecutive minutes, provide exemptions for specific circumstances, and establish civil penalties for violations.

- Prohibit willingly obstructing, blocking, interfering use of a crossing for more than 10 minutes. Exemptions to this policy include:
  - Actions that are preempted by federal law
  - Actions related to a train emergency, breakdown, or mechanical failure
- Qualifies as a civil penalty fee of \$3,000 for a first-time violation. Exemption for train employees directed to take actions resulting in blocking use of the crossing. This is to ensure an employee under direction of dispatch or the company is not personally liable for the fine.
- ODOT is directed to establish rules for subsequent penalties and fees.
- Collected fees are directed to the Grade Crossing Safety Improvement Fund.

*Supporters:* [Oregon State Fire Fighters Council](#), [Brotherhood of Locomotive Engineers and Trainmen](#),



# Oregon State Legislature

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## 2021 Regular Session

HB 3339

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Overview Test Analysis Amendments Testimony

### Overview

#### At the request of:

at the request of the International Association of Sheet Metal, Air, Rail and Transportation Workers - Transportation Division

#### Chief Sponsors:

Representative Nathanson, Reschive

#### Regular Sponsors:

Representative Smith, OB, Witt

#### Bill Title:

Relating to railroad-highway grade crossing safety

#### Catchline/Summary:

Prohibits willfully obstructing, blockading, interfering with or preventing use of railroad-highway grade crossing for longer than 10 consecutive minutes

#### Chapter Number:

Has Minimal Fiscal Impact

#### Fiscal Impact:

Has Minimal Revenue Impact

#### Revenue Impact:

Staff Measure Summary / Impact Statements

#### Measure Analysis:

#### Current Location:

In House Committee

#### Current Committee:

Joint Committee On Transportation

#### Current Subcommittee:

#### Subsequent Referral(s):

Potential Conflicts of Interest/Vote Explanations

#### Potential Conflicts of Interest/Vote Explanations:

Potential Conflicts of Interest/Vote Explanations Documents

# House Bill 3339

Sponsored by Representative NATHANSON, Representative WITT

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Prohibits willfully obstructing, blockading, interfering with or preventing use of railroad-highway grade crossing for longer than 10 consecutive minutes. Provides exemptions.

Imposes civil penalty for each violation. Provides that maximum penalty is \$3,000 for first violation. Directs Department of Transportation to adopt by rule schedule of penalties for second and subsequent violations.

## A BILL FOR AN ACT

1  
2 Relating to railroad-highway grade crossing safety; creating new provisions; amending ORS 824.019;  
3 and repealing ORS 824.222.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** Section 2 of this 2021 Act is added to and made a part of the Oregon Vehicle  
6 Code.

7 **SECTION 2.** (1) A person may not willfully obstruct, blockade, interfere with or prevent  
8 the use of a railroad-highway grade crossing, for longer than 10 consecutive minutes.

9 (2) The Department of Transportation may impose a civil penalty for violation of sub-  
10 section (1) of this section. A civil penalty may not exceed \$3,000 for the first violation. The  
11 department by rule shall adopt a schedule establishing additional civil penalties for second  
12 and subsequent violations.

13 (3) The prohibition in subsection (1) of this section does not apply:

14 (a) To the extent preempted by federal law;

15 (b) When the action is unavoidable and occurs due to an emergency, breakdown or me-  
16 chanical failure; or

17 (c) To an employee directed to take the action.

18 (4) Civil penalties under this section shall be imposed as provided in ORS 183.745.

19 (5) All penalties recovered under this section shall be deposited into the Grade Crossing  
20 Safety Improvement Fund established under ORS 824.019.

21 (6) The department may adopt rules necessary to carry out the provisions of this section,  
22 including but not limited to:

23 (a) Defining terms used in this section;

24 (b) Establishing a schedule of civil penalties within the limits imposed under this section;  
25 and

26 (c) Establishing the processes, procedures and forms necessary for the implementation  
27 of this section.

28 **SECTION 3.** ORS 824.222 is repealed.

29 **SECTION 4.** ORS 824.019 is amended to read:

30 824.019. (1) The Grade Crossing Safety Improvement Fund is established separate and distinct

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.