

1 A bill to be entitled
2 An act relating to high-speed passenger rail; creating
3 s. 341.601, F.S.; providing a short title; creating s.
4 341.602, F.S.; providing definitions; creating s.
5 341.603, F.S.; providing legislative intent; creating
6 s. 341.604, F.S.; providing applicability; creating s.
7 341.605, F.S.; providing powers and duties of the
8 Department of Transportation; authorizing the
9 department to regulate railroads where not federally
10 preempted; authorizing the department to collect
11 information from relevant parties; requiring the
12 department to keep certain records; requiring the
13 department to offer certain response training for
14 accidents involving passengers or hazardous materials
15 under certain circumstances; requiring the department
16 to adopt rules; creating s. 341.606, F.S.; providing
17 reporting requirements for certain railroad companies;
18 requiring the department to publish certain
19 information on its website; requiring the department,
20 in coordination with the Federal Railroad
21 Administration and other entities as necessary, to
22 develop certain rules; specifying that reporting
23 requirements are for informational purposes only and
24 not to be used to economically regulate the railroad
25 company; creating s. 341.607, F.S.; providing minimum

26 safety standards for high-speed passenger rail;
27 requiring certain railroad companies to comply with
28 certain federal laws and regulations; providing safety
29 technology requirements for certain railroad
30 companies; specifying that such railroad companies may
31 be subject to civil or criminal penalties for an
32 incident caused by the use of an unapproved safety
33 technology; providing certain requirements for
34 railroad companies before operating a high-speed
35 passenger rail system; creating s. 341.608, F.S.;
36 requiring construction, maintenance, and repair of
37 certain infrastructure by certain railroad companies;
38 specifying requirements for certain roadbed
39 modifications; requiring certain contractual
40 agreements to adhere to the department's requisition
41 and procurement procedures; providing for
42 construction; creating s. 341.609, F.S.; requiring the
43 department's railroad inspectors, in accordance with a
44 specified program, to meet certain certification
45 requirements and to coordinate their activities with
46 those of federal inspectors in the state in compliance
47 with certain federal regulations; requiring the
48 inspectors to report the results of their inspections,
49 subject to certain requirements; requiring the reports
50 to be made available on the department's website;

51 creating s. 341.611, F.S.; requiring the department to
52 adopt rules that identify standards for conducting
53 field surveys of certain rail corridors; providing
54 requirements for the field survey; requiring the
55 department to hold certain public meetings; requiring
56 certain railroad companies to construct and maintain
57 fences under certain circumstances; providing fencing
58 requirements; requiring a railroad company to be
59 liable for all damages arising from its failure to
60 construct or maintain the fence under certain
61 circumstances; creating s. 341.612, F.S.; requiring a
62 railroad company operating a high-speed passenger rail
63 system to be solely responsible for all rail corridor
64 improvements or upgrades relating to its operation and
65 safety; prohibiting a local government or the state
66 from being responsible for certain costs unless it
67 expressly consents in writing; creating s. 341.613,
68 F.S.; providing administrative fines for certain
69 violations, subject to certain requirements; providing
70 certain factors to consider in determining the amount
71 of the fine to be imposed; requiring all fines
72 collected to be deposited into the State
73 Transportation Trust Fund; creating s. 341.614, F.S.;
74 authorizing certain suits to be brought in any court
75 of this state having jurisdiction; providing for

76 attorney fees and costs; creating s. 341.615, F.S.;

77 authorizing local governments to enact ordinances

78 regulating the speed limits of railroad traffic under

79 certain circumstances; providing an effective date.

80

81 Be It Enacted by the Legislature of the State of Florida:

82

83 Section 1. Section 341.601, Florida Statutes, is created

84 to read:

85 341.601 Short title.—Sections 341.601-341.615 shall be

86 known as the "Florida High-Speed Passenger Rail Safety Act."

87 Section 2. Section 341.602, Florida Statutes, is created

88 to read:

89 341.602 Definitions.—As used in ss. 341.601-341.615, the

90 term:

91 (1) "Department" means the Department of Transportation.

92 (2) "Freight railroad carrier" means any person, railroad

93 corporation, or other legal entity in the business of providing

94 freight rail transportation.

95 (3) "Governmental entity" means the state, any of its

96 agencies, or any of its political subdivisions.

97 (4) "High-speed passenger rail system" means any new

98 intrastate passenger rail system that operates or proposes to

99 operate its passenger trains at a maximum speed in excess of 80

100 miles per hour on or after July 1, 2017.

101 (5) "Pedestrian grade crossing" means a separate sidewalk
102 or pathway where pedestrians, but not vehicles, cross railroad
103 tracks.

104 (6) "Public railroad-highway grade crossing" means a
105 location at which a railroad track is crossed at grade by a
106 public road.

107 (7) "Rail corridor" means a linear, continuous strip of
108 real property that is used for rail service. The term includes
109 the corridor and structures essential to railroad operations,
110 including the land, buildings, improvements, rights-of-way,
111 easements, rail lines, rail beds, guideway structures, switches,
112 yards, parking facilities, power relays, switching houses, rail
113 stations, any ancillary development, and any other facilities or
114 equipment used for the purposes of construction, operation, or
115 maintenance of a railroad that provides rail service.

116 (8) "Railroad company" means any individual, partnership,
117 association, corporation, or company and its respective lessees,
118 trustees, or receivers, appointed by a court, that develops or
119 provides ground transportation that runs on rails, including,
120 but not limited to:

121 (a) A high-speed passenger rail system;

122 (b) A freight railroad carrier; or

123 (c) A company that owns a rail corridor.

124 Section 3. Section 341.603, Florida Statutes, is created
125 to read:

126 341.603 Public purpose and intent.—It is the intent of the
 127 Legislature to:

128 (1) Encourage the creation of safe and cost-effective
 129 transportation options for this state's residents and visitors,
 130 including high-speed passenger rail systems.

131 (2) Promote and enhance the safety of high-speed passenger
 132 rail systems operating within the state to protect the health,
 133 safety, and welfare of the public.

134 Section 4. Section 341.604, Florida Statutes, is created
 135 to read:

136 341.604 Applicability.—This act applies to any railroad
 137 company operating a high-speed passenger rail system, or any
 138 railroad company that allows a high-speed passenger rail system
 139 to operate on or within its rail corridor.

140 Section 5. Section 341.605, Florida Statutes, is created
 141 to read:

142 341.605 Powers and duties of the department; rules.—

143 (1) The department shall have the authority to regulate
 144 railroad companies in this state insofar as such authority is
 145 not preempted by federal laws or regulations.

146 (2) The department may obtain from any party all necessary
 147 information to enable it to perform its duties and carry out the
 148 requirements set forth in this act.

149 (3) The department shall keep a record of all its
 150 findings, decisions, determinations, and investigations carried

151 out under this act.

152 (4) If a high-speed passenger rail system operates within
153 the same rail corridor or on the same set of tracks as another
154 railroad company that transports hazardous materials, the
155 department shall offer the local communities and local emergency
156 services located along the rail corridor training specifically
157 designed to help them respond to an accident involving rail
158 passengers or hazardous materials.

159 (5) The department shall adopt rules, pursuant to the
160 requirements of chapter 120, relating to this act.

161 Section 6. Section 341.606, Florida Statutes, is created
162 to read:

163 341.606 Reporting requirements.-

164 (1) A railroad company operating a high-speed passenger
165 rail system shall furnish to the department a copy of the
166 accident reports filed with the Federal Railroad Administration
167 for each train accident that occurs within the rail corridor.

168 (2) The department shall annually publish on its official
169 website a report that discloses all of the fatalities, injuries,
170 and accidents during the reporting timeframe which have occurred
171 within a rail corridor where a high-speed passenger rail system
172 operates.

173 (3) A railroad company that transports liquefied natural
174 gas on the same tracks or within the same rail corridor as a
175 high-speed passenger rail system within the state must submit an

176 annual report to the department containing:

177 (a) All insurance carried by the railroad company that
178 covers any losses resulting from a reasonable worst-case
179 unplanned release of liquefied natural gas.

180 (b) Coverage amounts, limitations, and other conditions of
181 the insurance identified in paragraph (a).

182 (c) The average and largest liquefied natural gas train,
183 as measured in metric tons, operated in the state by the
184 railroad company in the previous calendar year.

185 (d) Information sufficient to demonstrate the railroad
186 company's ability to pay the costs of remediating a reasonable
187 worst-case unplanned release of liquefied natural gas,
188 including, but not limited to, insurance, reserve accounts,
189 letters of credit, or other financial instruments or resources
190 on which the company can rely to pay all such costs. The
191 department, in coordination with the Federal Railroad
192 Administration and other public and private entities as
193 necessary, shall develop rules to determine applicable criteria
194 for a reasonable worst-case unplanned release of liquefied
195 natural gas.

196 (4) All reporting requirements are for informational
197 purposes only and may not be used to economically regulate the
198 railroad company.

199 Section 7. Section 341.607, Florida Statutes, is created
200 to read:

201 341.607 Minimum safety standards for high-speed passenger
202 rail.—

203 (1) A railroad company operating a high-speed passenger
204 rail system shall comply with all of the federal laws and
205 regulations administered by the Federal Railroad Administration.

206 (2) A railroad company operating a high-speed passenger
207 rail system must install safety technology that has been
208 approved by the Federal Railroad Administration or the
209 department as applicable. Safety technology at a minimum shall
210 include positive train control and remote health monitoring. The
211 railroad company may be subject to civil or criminal penalties
212 for an incident caused by the use of an unapproved safety
213 technology.

214 (3) Before operating a high-speed passenger rail system, a
215 railroad company shall also:

216 (a) Install or realign crossing gates, including those at
217 severely skewed acute-angled locations as identified by either
218 the department or the Federal Railroad Administration, so the
219 gates are parallel to the tracks and in accordance with the most
220 recent edition of the Manual on Uniform Traffic Control Devices
221 published by the Federal Highway Administration and adopted by
222 the state pursuant to s. 316.0745.

223 (b) Equip all automatic public railroad-highway grade
224 crossing warning systems with remote health monitoring
225 technology capable of:

226 1. Detecting false activations;
227 2. Detecting other crossing signal malfunctions; and
228 3. Notifying the train dispatcher and crossing signal
229 maintenance personnel whenever such a malfunction is detected.

230 (c) Construct and maintain fencing in accordance with s.
231 341.611.

232 Section 8. Section 341.608, Florida Statutes, is created
233 to read:

234 341.608 Maintenance and repair of roadbeds, tracks,
235 culverts, and certain streets and sidewalks.—

236 (1) A railroad company that constructs or operates a high-
237 speed passenger rail system on tracks that intersect with a
238 public street or highway at grade shall, at its sole cost and
239 expense, construct and thereafter maintain, renew, and repair
240 all railroad roadbed, track, and railroad culverts within the
241 confines of the public street or highway, and the streets or
242 pedestrian grade crossings lying between the rails and for a
243 distance outside the rails of 1 foot beyond the end of the
244 railroad ties.

245 (2) If the railroad company that constructs or operates a
246 high-speed passenger rail system is required to install safety
247 improvements that modify the width of a roadbed, it shall be
248 responsible for ensuring that the impacted roadbed meets the
249 department's transition requirements as set forth in the most
250 recent edition of the department's Design Standards and the

251 Manual of Uniform Minimum Standards for Design, Construction and
252 Maintenance for Streets and Highways.

253 (3) If a railroad company that constructs or operates a
254 high-speed passenger rail system enters into a contractual
255 agreement with a governmental entity that requires the
256 governmental entity to reimburse a private entity for the
257 installation or maintenance of the track improvements or
258 crossing safety improvements necessary to operate a high-speed
259 passenger rail system, the work to be performed must adhere to
260 the department's applicable requisition and procurement
261 procedures.

262 (4) This section does not impair any existing contractual
263 agreements between the railroad company operating the high-speed
264 passenger rail system and a governmental entity within the
265 state.

266 Section 9. Section 341.609, Florida Statutes, is created
267 to read:

268 341.609 Safety inspections and inspectors.-

269 (1) In accordance with the State Rail Safety Participation
270 Program, which is designed to promote safety in all areas of
271 railroad operations to reduce deaths, injuries, and damage to
272 railroad property, the department's railroad inspectors shall be
273 certified by the Federal Railroad Administration and shall
274 coordinate their activities with those of federal inspectors in
275 the state in compliance with 49 C.F.R. part 212 and any other

276 federal regulations governing state safety participation.

277 (2) The department's railroad inspectors shall report in
278 writing the results of their inspections in the manner and on
279 forms prescribed by the department. These reports shall be made
280 available on the department's website for the public to access.

281 Section 10. Section 341.611, Florida Statutes, is created
282 to read:

283 341.611 Fencing and separation requirements to protect the
284 public.-

285 (1) The department shall adopt rules that identify
286 standards for conducting field surveys of the rail corridor
287 being used by a high-speed passenger rail system. The field
288 surveys must indicate areas where fencing is necessary for the
289 health, safety, and welfare of the public.

290 (2) At a minimum, the field survey should identify
291 pedestrian traffic generators, such as nearby schools and parks,
292 and signs of current pedestrian traffic that crosses the
293 railroad tracks. The department must hold at least one public
294 meeting in each community where new or substantially modified
295 fencing is proposed before designs and plans for such fencing
296 are finalized.

297 (3) Once it has been determined that a fence is necessary
298 to protect the health, safety, and welfare of the surrounding
299 community, the railroad company operating a high-speed passenger
300 rail system shall construct and maintain the fence on both sides

301 of its railroad tracks sufficient to prevent intrusion.

302 (4) The fencing must be placed 1 foot inside the edge of
 303 the railroad company's right-of-way, except in locations where
 304 the railroad intersects with a highway or road.

305 (5) The fencing must be maintained by the railroad company
 306 operating a high-speed passenger rail system, unless maintenance
 307 is specifically addressed in a separate contract with a property
 308 owner or local government.

309 (6) The fence must be at least 4 1/2 feet in height.
 310 Ornamental fencing must be used within urban areas. Chain-link
 311 fencing may be used in locations outside of urban areas.

312 (7) If a railroad company neglects to construct or
 313 maintain a required fence, the railroad company is liable for
 314 all damages arising from its failure to construct or maintain
 315 such fence unless another entity is responsible for maintenance
 316 under subsection (5).

317 Section 11. Section 341.612, Florida Statutes, is created
 318 to read:

319 341.612 Operation of a high-speed passenger rail system
 320 over the tracks of another railroad company.—A railroad company
 321 operating a high-speed passenger rail system shall be solely
 322 responsible for all rail corridor improvements or upgrades
 323 relating to the system's operation and safety. A local
 324 government or the state shall not be responsible for any costs
 325 associated with the construction and maintenance of the

326 improvements necessary to operate a high-speed passenger rail
327 system unless it expressly consents in writing.

328 Section 12. Section 341.613, Florida Statutes, is created
329 to read:

330 341.613 Administrative fines.—

331 (1) In addition to any administrative action authorized by
332 chapter 120 or by other law, the department may impose a fine,
333 which may not exceed \$10,000 for each violation, for a violation
334 of this act or for a violation of any rule adopted pursuant to
335 this act. Notice of intent to impose such fine shall be given by
336 the department to the alleged violator. Each day that a
337 violation continues constitutes a separate violation.

338 (2) In determining the amount of the fine, if any, to be
339 imposed for a violation, the following factors shall be
340 considered:

341 (a) The gravity of the violation, including the
342 probability that death or serious physical or emotional harm to
343 any person will result or has resulted, the severity of the
344 actual or potential harm, and the extent to which this act or
345 department rules were violated;

346 (b) Actions taken by the owner or operator to correct
347 violations; and

348 (c) Any previous violations.

349 (3) All fines collected under this section shall be
350 deposited into the State Transportation Trust Fund.

351 Section 13. Section 341.614, Florida Statutes, is created
352 to read:

353 341.614 Action to enforce penalties; attorney fees.—A suit
354 to collect any of the damages, penalties, forfeitures,
355 demurrage, or storage charges provided for in this act may be
356 brought in any court of this state having jurisdiction of the
357 subject matter and parties. If a suit is adjudicated in favor of
358 a plaintiff, the plaintiff shall be permitted to recover
359 reasonable attorney fees and costs.

360 Section 14. Section 341.615, Florida Statutes, is created
361 to read:

362 341.615 Ordinances; speed limits.—This act does not
363 prevent a local government from enacting ordinances regulating
364 the speed limits of railroad traffic due to local safety hazards
365 not statewide in nature and not capable of being adequately
366 encompassed within the national uniform standards.

367 Section 15. This act shall take effect July 1, 2017.