

1 *House* BILL NO. *806*
 2 INTRODUCED BY *E.N. Dassinger Board MUA/R*
 3 *Doyle*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A FINE AS AN
 5 ALTERNATIVE PENALTY FOR VIOLATION OF SAFETY, SANITATION, AND
 6 SHELTER REGULATIONS FOR RAILROADS; AMENDING SECTION 72-153,
 7 R.C.M. 1947."

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 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 72-153, R.C.M. 1947, is amended to
 11 read as follows:

12 ~~"72-153. Proceedings Fine for violations --~~
 13 ~~proceedings in district court. (1) A railroad which violates~~
 14 ~~any rule of the commission adopted under 72-150 shall be~~
 15 ~~fined not less than \$500 or more than \$1,000, and each day~~
 16 ~~of refusal or failure to comply with an order of the~~
 17 ~~commission enforcing such a rule is a separate offense. The~~
 18 ~~commission may recover the fine in a civil action against~~
 19 ~~the railroad in district court.~~

20 (2) The district court shall also have jurisdiction to
 21 enforce, by proper decree, injunction, or order, the
 22 rulings, orders, and regulations made or established by the
 23 commission under the provisions of this act. The proceeding
 24 therefor shall be by equitable action in the name of the
 25 state, and shall be instituted by the attorney general or

1 county attorney, whenever advised by the board that any
 2 railroad is violating or refusing to comply with any rule,
 3 order, or regulation made by the commission, and applicable
 4 to such railroad. Such proceedings shall have precedence
 5 over all other business in such courts, except criminal
 6 business. In any action the burden of proof shall rest upon
 7 the defendant, who must show by clear and satisfactory
 8 evidence that the rule, order, or regulation involved is
 9 unreasonable and unjust as to them. If, in such action, it
 10 be the decision of the court that the rule, regulation, or
 11 order is not so unreasonable or unjust, and that in refusing
 12 compliance therewith the railroad is thereby failing or
 13 omitting the performance of any duty or obligation, the
 14 court shall decree a mandatory and perpetual injunction
 15 compelling obedience to and compliance with the rule,
 16 regulation, or order, by the defendant, and its officers,
 17 agents, servants, and employees, and may grant such other
 18 relief as may be deemed just and proper.

19 (3) Any violation of such decree shall render the
 20 defendant and officer, agent, servant or servants, or
 21 employees of the defendant, who are in any manner
 22 instrumental in such violation, guilty of contempt, and
 23 shall be punishable by a fine not exceeding one thousand
 24 dollars for each offense, or by imprisonment of the person
 25 guilty of contempt until he shall sufficiently purge himself

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1 therefrom, and such decree shall continue and remain in
2 effect and be in force until the rule, regulation, or order
3 shall be modified or vacated by the board; provided,
4 however, that nothing herein contained shall be construed to
5 deprive either party to such proceedings of the right to
6 trial by jury, as provided by the seventh amendment to the
7 constitution of the United States, or as provided by the
8 constitution of this state. An appeal shall lie to the
9 supreme court from the decree in such action, and the cause
10 shall have precedence over all other civil actions of a
11 different nature pending in the supreme court.*

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