

SB BILL NO. 182

INTRODUCED BY

*Little Masala, Joe Reuben, DeMunster, Gregor, Sten, Barnett, Jono*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING LAWS RELATING TO RAILROADS; DELETING AND ELIMINATING ARCHAIC REQUIREMENTS FOR RAILROADS; AMENDING SECTIONS 30-1-111, 69-14-111, 69-14-112, 69-14-114, 69-14-115, 69-14-116, 69-14-120, 69-14-133, 69-14-232, 69-14-401, 69-14-604, 69-14-708, 69-14-713, 69-14-801, 69-14-921, 69-14-922, AND 69-14-1004, MCA; AND REPEALING SECTIONS 69-14-119, 69-14-216, 69-14-301, 69-14-302, 69-14-303, 69-14-304, 69-14-305, 69-14-306, 69-14-307, 69-14-308, 69-14-309, 69-14-310, 69-14-311, 69-14-312, AND 69-14-712, MCA."

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

Section 1. Section 30-1-111, MCA, is amended to read:

"30-1-111. **Laws not repealed.** The Chapter on Documents of Title (Chapter 7) does not repeal or modify any laws prescribing the form or contents of documents of title or the services or facilities to be afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein in chapters 1 through 9; but the fact that ~~such~~ document of title laws or laws regulating bailees are violated does not affect the status of a document of title which otherwise complies with the definition of a document of title (30-1-201).

References to a "branch" or "separate office" of a bank in this code are included to preserve uniformity in a Uniform Act and are not to be construed as affecting or amending in any way the laws of this state relative to the operation of branches or separate offices of a bank.

This code does not repeal or modify ~~any of the following provisions:~~ 30-11-504, relating to auctioneer's memorandum of sale; ~~69-14-216, relating to claims against carriers for damage to livestock;~~ or Title 18, chapter 1, part 4, ~~inclusive,~~ relating to contract actions against the state."

Section 2. Section 69-14-111, MCA, is amended to read:

"69-14-111. **General supervision of railroads.** The commission shall have the general supervision of all railroads, ~~express companies, car companies, sleeping car companies, and freight and freight line~~

1 ~~companies and any common carrier engaged in the transportation of passengers or property in this state,~~  
2 ~~in all matters appertaining to the duty of said commission and within its power and authority under subject~~  
3 ~~to the provisions of this chapter."~~

4  
5 **Section 3.** Section 69-14-112, MCA, is amended to read:

6 **"69-14-112. Investigatory authority.** (1) The commission shall investigate any alleged neglect or  
7 violation of the laws of the state by any railroad ~~or other company above specified~~ doing business therein  
8 ~~or by the officers, agents, or employees thereof in this state.~~ The commission shall examine and inspect  
9 or cause to be examined and inspected all books, records, files, and papers ~~of the persons and companies~~  
10 ~~specified above, insofar as the same may be pertinent~~ referred to in 69-14-111 that pertain to any matter  
11 under investigation before the commission, and shall hear and take testimony in the progress of any inquiry  
12 or investigation authorized by this chapter.

13 (2) The commission, ~~or some members thereof to be deputed by it,~~ upon request, investigate  
14 and make inquiry into every accident, as defined in 49 CFR 225.5, occurring in the operation of any railroad  
15 in this state ~~resulting in death, injury to any person of such gravity as to require the attention of a physician~~  
16 ~~or surgeon, or the destruction of property greater in value than \$2,000.~~ The testimony taken ~~on any such~~  
17 ~~hearing shall~~ must be transcribed and filed in the office of the commission."

18  
19 **Section 4.** Section 69-14-114, MCA, is amended to read:

20 **"69-14-114. Investigation of existing rates, classifications, and rules.** The commission may, on  
21 its own motion or on the complaint by a shipper or other interested person, investigate any rate,  
22 ~~classification, or rule~~ approved and in effect for transportation of freight by any railroad within the state.  
23 The commission ~~must~~ shall, within 60 days after the commencement of an investigation on the  
24 commission's initiative or after the filing with ~~such~~ the commission of a complaint by a shipper or other  
25 interested person, proceed to investigate and determine the justness and reasonableness of any  
26 ~~classification, rate, charge, toll, regulation,~~ rule or order made by ~~said~~ the commission."

27  
28 **Section 5.** Section 69-14-115, MCA, is amended to read:

29 **"69-14-115. Investigation, enforcement, and report concerning railroad safety laws.** (1) The  
30 commission shall:

1 (a) make inquiry into the observance by all railroads within this state of the laws of the United  
 2 States and of Montana intended to safeguard ~~the lives of the railroad~~ employees of ~~persons or corporations~~  
 3 ~~engaged in operating the same;~~

4 (b) ~~lay file a~~ complaint before the proper state or federal officer, ~~of any for an~~ infraction of any of  
 5 ~~such the safety~~ laws referred to in subsection (1)(a); and

6 (c) prosecute before the proper court or tribunal any person guilty of violation of the ~~penal~~  
 7 ~~provisions thereof~~ safety laws referred to in subsection (1)(a).

8 (2) The commission shall ~~in prepare~~ an annual report ~~set out what~~ specifying the effort it has made  
 9 to carry out the provisions of this section, ~~with the result thereof~~ the results of the efforts, and in detail  
 10 what steps it has taken to prosecute any violations of ~~any such acts~~ the safety laws of which it has secured  
 11 information. ~~A copy of this annual report shall be mailed to the secretary of the department of~~  
 12 ~~transportation."~~

13  
 14 **Section 6.** Section 69-14-116, MCA, is amended to read:

15 **"69-14-116. General protection of health and safety on railroads -- rear-end telemetry systems**  
 16 **-- exemption for a caboose-equipped train.** (1) The commission has full authority:

17 (a) after notice and hearing, to ~~make~~ adopt and enforce rules providing for the installation on and  
 18 equipment of trains, cars, or engines with safety appliances and providing for sanitation and adequate  
 19 shelter as it affects the health of all railroad employees; and

20 (b) to ~~inspect the safety appliances, sanitation facilities, and shelters and enforce regulations with~~  
 21 ~~regard to the provisions of~~ conduct inspections to implement subsection (1)(a).

22 (2) (a) Except as provided in subsection (4), the commission shall, to the extent permitted by  
 23 federal law, require a railroad operating trains in Montana to install a rear-end train telemetry system on all  
 24 trains operating within mountain grade territory as geographically defined and designated by mile posts in  
 25 the railroad's official timetable and operating rules on file with the commission.

26 (b) As used in this section, "telemetry system" means a radio transmitter and receiver system with  
 27 one device placed on the last car of a train and a second device placed in the cab of the controlling  
 28 locomotive. The second device must be visible to the locomotive engineer and capable of indicating through  
 29 electronic communication with the device located on the last car of the train the following:

30 (i) brake pipe pressure at the rear of the train, in increments of 1 pound per square inch;

1 (ii) rear car movement;

2 (iii) operation or nonoperation of the rear marker light;

3 (iv) remaining battery life powering the telemetry system;

4 (v) interruption of the communication link between the device located on the last car of the train  
5 and the device located in the cab of the controlling locomotive; and

6 (vi) total distance travelled in feet by the locomotive to which the device is attached.

7 (c) A train operating in the area defined under this subsection (2) may not depart a crew change  
8 point or its local point of origin unless the train is equipped with the telemetry system required under the  
9 rules established pursuant to this section.

10 (d) Telemetry systems installed on a train in conformity with rules made under this section must  
11 be equipped so that an emergency application of brakes of the train can be initiated by activation of the  
12 device placed on the last car at the rear end of the train.

13 (e) Disciplinary action or other adverse administrative or employment action may not be instituted  
14 against a person who reports a violation of this subsection (2) or who acts to enforce the provisions of this  
15 subsection (2).

16 (3) ~~The inspection, inspections and rules, and regulations~~ required under subsections (1) and (2)  
17 must be compatible with any federal provisions and may not create an undue burden on interstate  
18 commerce.

19 (4) The commission may not require the installation and use of a telemetry system as described  
20 in this section on a train equipped with a caboose that:

21 (a) meets the requirements of Montana law;

22 (b) is placed as the last car of the train; and

23 (c) is occupied by a member of the train crew."  
24

25 **Section 7.** Section 69-14-120, MCA, is amended to read:

26 **"69-14-120. Violations of provisions relating to rails coming together.** ~~Any~~ A railroad or railway  
27 company and its officers or agents who ~~shall~~ refuse or fail to comply with the provisions of 69-14-118 or  
28 ~~69-14-119~~ or any order or rule relative thereto made by the commission ~~shall be~~ under 69-14-118 is subject  
29 to a fine of not less than \$25 or more than \$50. Each day of ~~such~~ refusal or failure ~~shall be deemed~~ is  
30 considered a separate offense and ~~shall be~~ is subject to the penalty ~~herein prescribed, in this section.~~ such

1 ~~The fine to~~ must be recovered in a civil action filed upon complaint of the commission in any court of  
2 competent jurisdiction."

3  
4 **Section 8.** Section 69-14-133, MCA, is amended to read:  
5 **"69-14-133. Collection and disposition of penalties and forfeitures.** Unless otherwise provided in  
6 this chapter, all penalties and forfeitures ~~incurred, levied, and made~~ under the provisions of this chapter  
7 ~~shall~~ must be collected by the commission, ~~and paid over to the state, treasurer~~ and credited to the general  
8 fund. ~~Should~~ If the commission ~~fail~~ fails or ~~refuse~~ refuses to institute appropriate action for the recovery  
9 of any penalty or forfeiture provided for ~~herein in this chapter~~ for the space of 60 days after notice of the  
10 cause of complaint by an aggrieved person or shipper, ~~such~~ the person or shipper may institute and  
11 prosecute ~~such an~~ an action in the name of the state against ~~such~~ the railroad, in the same manner as ~~could~~  
12 the commission."  
13

14 **Section 9.** Section 69-14-232, MCA, is amended to read:  
15 **"69-14-232. Caboose required to be rear train car -- size and equipment of caboose.** (1) ~~Every~~  
16 ~~railroad must place, as the last car on any freight train required by federal railroad administration rules to~~  
17 ~~have its air system and cars inspected by qualified inspecting employees at any designated inspection point~~  
18 ~~and between said inspection points and operating within the state, a caboose occupied by at least one~~  
19 ~~employee of the railroad. A caboose is required on all through freight, local, and work trains. Provided~~  
20 ~~however, a caboose is not required on a train operating within railroad yard or switch limits as presently~~  
21 ~~established, or on a through freight if not more than 2,000 feet in overall length operating within an~~  
22 ~~automatic block signal system or within centralized traffic control limits.~~

23 ~~(2) Caboose shall~~ Occupied cabooses must be at least 24 feet in length, exclusive of platforms,  
24 and ~~shall~~ must be provided with a door in each end and with cupolas or bay windows, platforms, guardrails,  
25 grabirons, and steps for the safety of persons in alighting or getting on cabooses. Cabooses ~~shall~~ must be  
26 of metal frame construction and must be sufficiently insulated to eliminate track and other related noise  
27 above 85 decibels in any octave in the speech range. Other requirements for cabooses are as follows:

28 (a) The trucks shall provide riding qualities at least equal to those of freight type trucks modified  
29 with elliptical or additional coil springs or other means of equal or greater efficiency and ~~shall~~ must have  
30 at least two four-wheel trucks with standard steel wheels or their equivalent. Draft gears ~~shall~~ must have

1 a minimum travel of 2 1/2 inches and a minimum capacity of 18,000 foot-pounds and ~~shall~~ must comply  
2 with Association of American Railroads Standard M-901 or its equivalent.

3 (b) Electric lighting of at least 40 foot-candles ~~shall~~ must be provided for direct illumination of the  
4 caboose desk, reading areas, and lavatory facilities.

5 (c) A spotlight ~~shall~~ must be provided on the rear of the caboose with sufficient candlepower to  
6 illuminate the track for a distance of at least 300 feet to the rear of the caboose during the hours of  
7 darkness.

8 (d) The caboose marker or markers ~~shall~~ must be either reflectorized or capable of illumination  
9 when required.

10 (e) Only glass of the safety-glass type ~~shall~~ may be used in partitions, doors, windows, or wind  
11 deflectors.

12 (f) All seats and seat backs ~~shall~~ must conform to the safety standards designated by the United  
13 States department of transportation in its "~~Federal~~ Federal Motor Vehicle Safety ~~Standards~~" Standards,  
14 Motor Vehicle Safety Standard No. 201. All edges and protrusions on seats and seat backs ~~shall~~ must be  
15 rounded to prevent injury to employees.

16 ~~(3)(2)~~ Any person, corporation, or company, operating any railroad or railway in this state, violating  
17 any of the provisions of this section and 69-14-233 is guilty of a misdemeanor and upon conviction ~~thereof~~  
18 shall be fined not less than \$500 or more than \$1,000 for each offense."  
19

20 **Section 10.** Section 69-14-401, MCA, is amended to read:

21 "**69-14-401. Court review of commission actions.** ~~(1) Actions~~ An action to review the  
22 determination of the commission ~~fixing adopting any classification, rate, toll, charge, regulation, rule or~~  
23 order or the refusal of ~~said the~~ commission to ~~make, fix, or establish any classification, rate, toll, charge,~~  
24 ~~regulation, adopt a rule~~ or order ~~shall~~ must be commenced, in the district court of the county having  
25 jurisdiction ~~thereof, by the filing of a complaint, duly verified as provided for the verification of pleadings~~  
26 ~~in civil actions. Notice may be served upon the party defendant either by summons issued and served as~~  
27 ~~provided for in this code in civil actions or the court may issue an order directed to the defendant requiring~~  
28 ~~him to answer the complaint at such time as the court may deem reasonable; provided, however, that such~~  
29 ~~time shall not be less than 5 days from the time of the service of such order. Upon the appearance of the~~  
30 ~~defendant, he may deny or admit the facts set forth in said complaint, by answer, which shall be verified~~

1 as the pleadings in other civil actions:

2 ~~(2) If, upon the hearing, the court shall find that the rates fixed or the classifications made are~~  
 3 ~~unjust and unreasonable, it shall thereupon be the duty of said commission to make new rates or a~~  
 4 ~~reclassification, as the case may be. All orders or notices required under the provisions of this section may~~  
 5 ~~be issued by the court or by the judge thereof at chambers."~~

6

7 **Section 11.** Section 69-14-604, MCA, is amended to read:

8 **"69-14-604. Procedure to order construction of crossing.** ~~Whenever any~~ If a board of county  
 9 commissioners ~~shall order~~ orders the construction of ~~any a~~ a railroad crossing, ~~said the~~ the board shall enter an  
 10 order upon its minutes, specifying the place of ~~such the~~ the crossing. A copy of ~~said the~~ the order ~~shall~~ must be  
 11 served upon the railroad company, and a copy ~~shall also~~ must be immediately mailed to the public service  
 12 commission. ~~Service of said order may be made upon the railroad company by delivering such copy to any~~  
 13 ~~station agent employed in connection with the operation of said railroad in said county."~~

14

15 **Section 12.** Section 69-14-708, MCA, is amended to read:

16 **"69-14-708. Records of accidents involving animals livestock.** ~~(1) It shall be the duty of any~~  
 17 ~~corporation, association, company, or person owning, controlling, or operating any~~ A railroad ~~company or~~  
 18 ~~branch thereof in this state to designate some station on the line of the same, in each county through~~  
 19 ~~which it passes, at which it shall keep a suitable book and within 30 days after the killing or injuring of any~~  
 20 ~~animal, to cause to be entered therein the date when and the place where the same was~~ must report to the  
 21 department of livestock any livestock killed or injured, ~~as near as may be, together with a description~~  
 22 ~~thereof, including the age, color, and sex of the same and marks and brands upon the same as near as the~~  
 23 ~~same can be done. When such~~ by a train or railroad equipment on the railroad or branch thereof shall run  
 24 ~~to or through any town or station at which is located the county seat of any county, then such book shall~~  
 25 ~~be kept at such town or station at which said county seat is located, and the written demand provided for~~  
 26 ~~in 69-14-708 may be served on the agent of such station~~ right-of-way.

27 ~~(2) This book shall be kept for the inspection of any person claiming to be interested in the~~  
 28 ~~inspection thereof.~~

29 ~~(3) Notice of the station designated pursuant to subsection (1) shall be filed with the county clerk~~  
 30 ~~of the county in which said station is situated.~~

1           ~~(4) Any corporation, association, or person so owning, controlling, or operating such railroad or~~  
 2 ~~branch thereof failing to designate said station, file said notice, keep said book, and make the entries as~~  
 3 ~~provided in this section shall be liable to the owner of the animal so killed or injured, whether negligently~~  
 4 ~~done or not, and the court or jury before whom any action is tried for the recovery of damages on account~~  
 5 ~~thereof may in its discretion render verdict and judgment for the amount of the value of any such animal~~  
 6 ~~so killed or the amount of damages sustained by reason of any injury thereto."~~

7  
 8           **Section 13.** Section 69-14-713, MCA, is amended to read:

9           **"69-14-713. Violation of provisions dealing with injury to livestock.** (1) Except as otherwise  
 10 provided ~~in this chapter, every~~ a person who violates any of the provisions of 69-14-701 through  
 11 ~~69-14-712~~ 69-14-711 relating to livestock killed or injured by railroads is guilty of a misdemeanor.

12           (2) ~~Any~~ A person violating any of the provisions of 69-14-711 ~~or 69-14-712~~ shall upon conviction  
 13 ~~thereof~~ be punished by a fine of not less than \$10 or more than \$300, ~~or~~ by imprisonment in the county  
 14 jail for a period of not less than 10 days or more than 60 days, ~~or by both such fine and imprisonment."~~

15  
 16           **Section 14.** Section 69-14-801, MCA, is amended to read:

17           **"69-14-801. Maintenance of loading platform by railroad.** (1) ~~Every~~ A railroad company doing  
 18 business in this state shall, within 60 days after notice from the commission, erect one or more safe  
 19 platforms for the transfer of ~~livestock, grain, and other~~ commodities ~~from wagons or otherwise~~ to cars at  
 20 ~~each and every station or siding designated in such notice, such~~ . The platforms to must be erected ~~so as~~  
 21 ~~not to~~ not endanger life and property.

22           (2) If ~~any~~ a railroad company, after receiving notice as provided for in this section, ~~shall fail~~ fails,  
 23 ~~refuse~~ refuses, or ~~neglect~~ neglects to erect platforms as required by this section within ~~the required~~ 60  
 24 days, the commission ~~is authorized and empowered and it is made its duty to~~ shall notify ~~such~~ the railroad  
 25 company to appear before it at a certain time and place and show cause, ~~if there is any, why~~ such the  
 26 commission should not issue an order requiring ~~such~~ the railroad company to comply with the requirements  
 27 of this section. The commission ~~shall have power~~ may, after ~~such~~ the hearing, ~~to~~ issue an order ~~upon said~~  
 28 commanding the railroad company ~~commanding it to erect~~ such the platform ~~if the commission shall upon~~  
 29 ~~such examination and hearing deem such platform necessary.~~

30           (3) ~~Any~~ A notice required to be served upon ~~any~~ a railroad company to carry out any of the



1 provisions of this section or similar provisions relating to the enlarging of ~~such~~ platforms may be served  
 2 upon any agent of ~~said~~ the railroad company within the state."

3  
 4 **Section 15.** Section 69-14-921, MCA, is amended to read:

5 **"69-14-921. Suitable cars to be furnished for shipment of grain and other commodities in bulk.**

6 (1) All ~~boxcars~~ cars furnished by railroad or railway companies for the transportation of grain or other  
 7 commodities in bulk ~~shall~~ must be ~~of such construction and in such order as~~ constructed to prevent leakage  
 8 when such commodities are placed or hauled ~~therein~~ in the cars. It is ~~hereby made~~ the duty of all railroad  
 9 or railway companies to furnish ~~such~~ cars in ~~such~~ the required condition.

10 (2) Whenever ~~boxcars~~ cars placed for loading grain or other commodities in bulk are found to be  
 11 in ~~such a~~ condition that ~~they~~ will not afford safe transportation for ~~such~~ commodities, the railroad or railway  
 12 company shall, upon written complaint to the agent or other person in authority by the shipper or ~~his~~ the  
 13 shipper's representative who proposes to load ~~said~~ the car or cars and within 24 hours, cause ~~said~~ the car  
 14 or cars to be properly cleaned ~~and cooped~~ and put in ~~such~~ repair ~~as will afford~~ to allow safe transportation  
 15 for the commodity to be shipped."

16  
 17 **Section 16.** Section 69-14-922, MCA, is amended to read:

18 **"69-14-922. Action by shipper to render cars suitable.** (1) ~~In case such~~ If a railroad or railway  
 19 company ~~shall fail~~ fails within 24 hours after written complaint has been made by the shipper or ~~his~~ the  
 20 shipper's representative to clean and ~~safely coope~~ repair a car or cars, then ~~such~~ the shipper or ~~his~~  
 21 the shipper's representative ~~shall have authority to~~ may enter upon such car or cars and properly and safely  
 22 ~~cooper and clean the same and repair the car or cars.~~ Said The railroad or railway company shall pay for  
 23 the labor expended in ~~such~~ the repairs at the rate of \$3 per 8-hour day and the actual cost of material used,  
 24 providing that ~~such~~ the charge ~~shall in no case~~ may not exceed \$5 for each car ~~so cooped~~ cleaned and  
 25 repaired.

26 (2) ~~In case any~~ If a car or cars are placed at a station or siding where there is no representative  
 27 of ~~said~~ the railroad or railway company upon whom complaint may be served, then ~~and in such case~~ the  
 28 shipper or ~~his~~ the shipper's representative may at once ~~enter upon the said car or cars and~~ clean and ~~make~~  
 29 ~~such repairs~~ repair the cars as are necessary and ~~shall~~ must be paid for the labor and material expended,  
 30 as provided in subsection (1)."

1           **Section 17.** Section 69-14-1004, MCA, is amended to read:

2           **"69-14-1004. Penalty for ~~intoxication~~ being under the influence while engaged in train operations.**  
3 ~~Every~~ A person who is ~~intoxicated~~ under the influence, as provided in 49 CFR 383.51, of alcohol or a drug  
4 while in charge of a locomotive engine while as conductor or driver upon any railroad car or train, ~~whether~~  
5 ~~propelled by steam or otherwise,~~ or while acting as train dispatcher or as telegraph operator receiving or  
6 transmitting dispatches in relation to the movement of trains is guilty of a misdemeanor."

7

8           NEW SECTION. **Section 18. Repealer.** Sections 69-14-119, 69-14-216, 69-14-301, 69-14-302,  
9 69-14-303, 69-14-304, 69-14-305, 69-14-306, 69-14-307, 69-14-308, 69-14-309, 69-14-310,  
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11

-END-

## SENATE BILL NO. 182

INTRODUCED BY HERTEL, MASOLO, ROSE, REHBEIN, GRADY, DEBRUYCKER, CRISMORE, DEVLIN,  
BENEDICT, BARNETT, SIMON, SLITER

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 15 and make inquiry into every accident, as defined in 49 CFR 225.5, occurring in the operation of any railroad  
 16 in this state ~~resulting in death, injury to any person of such gravity as to require the attention of a physician~~  
 17 ~~or surgeon, or the destruction of property greater in value than \$2,000.~~ The testimony taken ~~on any such~~  
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1 commission shall:

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3 States and of Montana intended to safeguard ~~the lives of the railroad~~ employees ~~of persons or corporations~~  
4 ~~engaged in operating the same;~~

5 (b) ~~lay file a~~ complaint before the proper state or federal officer, ~~of any~~ for an infraction of any of  
6 ~~such~~ the safety laws referred to in subsection (1)(a); and

7 (c) prosecute before the proper court or tribunal any person guilty of violation of the ~~penal~~  
8 ~~provisions thereof~~ safety laws referred to in subsection (1)(a).

9 (2) The commission shall ~~in prepare~~ an annual report ~~set out what~~ specifying the effort it has made  
10 to carry out the provisions of this section, ~~with the result thereof~~ the results of the efforts, and in detail  
11 what steps it has taken to prosecute any violations of ~~any such acts~~ the safety laws of which it has secured  
12 information. ~~A copy of this annual report shall be mailed to the secretary of the department of~~  
13 ~~transportation."~~

14

15 **Section 5.** Section 69-14-116, MCA, is amended to read:

16 **"69-14-116. General protection of health and safety on railroads -- rear-end telemetry systems**  
17 **-- exemption for a caboose-equipped train.** (1) The commission has full authority:

18 (a) after notice and hearing, to ~~make~~ adopt and enforce rules providing for the installation on and  
19 equipment of trains, cars, or engines with safety appliances and providing for sanitation and adequate  
20 shelter as it affects the health of all railroad employees; and

21 (b) to ~~inspect the safety appliances, sanitation facilities, and shelters and enforce regulations with~~  
22 ~~regard to the provisions of~~ conduct inspections to implement subsection (1)(a).

23 (2) (a) Except as provided in subsection (4), the commission shall, to the extent permitted by  
24 federal law, require a railroad operating trains in Montana to install a rear-end train telemetry system on all  
25 trains operating within mountain grade territory as geographically defined and designated by mile posts in  
26 the railroad's official timetable and operating rules on file with the commission.

27 (b) As used in this section, "telemetry system" means a radio transmitter and receiver system with  
28 one device placed on the last car of a train and a second device placed in the cab of the controlling  
29 locomotive. The second device must be visible to the locomotive engineer and capable of indicating through  
30 electronic communication with the device located on the last car of the train the following:

- 1 (i) brake pipe pressure at the rear of the train, in increments of 1 pound per square inch;  
 2 (ii) rear car movement;  
 3 (iii) operation or nonoperation of the rear marker light;  
 4 (iv) remaining battery life powering the telemetry system;  
 5 (v) interruption of the communication link between the device located on the last car of the train  
 6 and the device located in the cab of the controlling locomotive; and  
 7 (vi) total distance travelled in feet by the locomotive to which the device is attached.

8 (c) A train operating in the area defined under this subsection (2) may not depart a crew change  
 9 point or its local point of origin unless the train is equipped with the telemetry system required under the  
 10 rules established pursuant to this section.

11 (d) Telemetry systems installed on a train in conformity with rules made under this section must  
 12 be equipped so that an emergency application of brakes of the train can be initiated by activation of the  
 13 device placed on the last car at the rear end of the train.

14 (e) Disciplinary action or other adverse administrative or employment action may not be instituted  
 15 against a person who reports a violation of this subsection (2) or who acts to enforce the provisions of this  
 16 subsection (2).

17 (3) ~~The inspection, inspections and rules, and regulations~~ required under subsections (1) and (2)  
 18 must be compatible with any federal provisions and may not create an undue burden on interstate  
 19 commerce.

20 (4) The commission may not require the installation and use of a telemetry system as described  
 21 in this section on a train equipped with a caboose that:

- 22 (a) meets the requirements of Montana law;  
 23 (b) is placed as the last car of the train; and  
 24 (c) is occupied by a member of the train crew."

25

26 **Section 6.** Section 69-14-120, MCA, is amended to read:

27 **"69-14-120. Violations of provisions relating to rails coming together.** ~~Any~~ A railroad or railway  
 28 company and its officers or agents who ~~shall~~ refuse or fail to comply with the provisions of 69-14-118 ~~or~~  
 29 ~~69-14-119~~ or any order or rule ~~relative thereto~~ made by the commission ~~shall be under 69-14-118~~ is subject  
 30 to a fine of not less than \$25 or more than \$50. Each day of ~~such~~ refusal or failure ~~shall be deemed is~~

1 ~~considered~~ a separate offense and ~~shall be~~ is subject to the penalty ~~herein prescribed, in this section, such~~  
 2 The fine ~~to~~ must be recovered in a civil action filed upon complaint of the commission in any court of  
 3 competent jurisdiction."

4  
 5 **Section 7.** Section 69-14-133, MCA, is amended to read:

6 **"69-14-133. Collection and disposition of penalties and forfeitures.** Unless otherwise provided in  
 7 this chapter, all penalties and forfeitures ~~incurred, levied, and made~~ under the provisions of this chapter  
 8 ~~shall~~ must be collected by the commission, ~~and paid over to the state, treasurer~~ and credited to the general  
 9 fund. ~~Should~~ If the commission ~~fail~~ fails or ~~refuse~~ refuses to institute appropriate action for the recovery  
 10 of any penalty or forfeiture provided for ~~herein in this chapter~~ for ~~the space of~~ 60 days after notice of the  
 11 cause of complaint by an aggrieved person or shipper, ~~such~~ the person or shipper may institute and  
 12 prosecute ~~such an~~ action in the name of the state against ~~such~~ the railroad, in the same manner as ~~could~~  
 13 the commission."

14  
 15 **Section 8.** Section 69-14-232, MCA, is amended to read:

16 **"69-14-232. Caboose required to be rear train car -- size and equipment of caboose.** (1) ~~Every~~  
 17 ~~railroad must place, as the last car on any freight train required by federal railroad administration rules to~~  
 18 ~~have its air system and cars inspected by qualified inspecting employees at any designated inspection point~~  
 19 ~~and between said inspection points and operating within the state, a caboose occupied by at least one~~  
 20 ~~employee of the railroad. A caboose is required on all through freight, local, and work trains. Provided~~  
 21 ~~however, a caboose is not required on a train operating within railroad yard or switch limits as presently~~  
 22 ~~established, or on a through freight if not more than 2,000 feet in overall length operating within an~~  
 23 ~~automatic block signal system or within centralized traffic control limits.~~

24 ~~(2) Caboose shall~~ Occupied cabooses must be at least 24 feet in length, exclusive of platforms,  
 25 and ~~shall~~ must be provided with a door in each end and with cupolas or bay windows, platforms, guardrails,  
 26 grabirons, and steps for the safety of persons in alighting or getting on cabooses. Cabooses ~~shall~~ must be  
 27 of metal frame construction and must be sufficiently insulated to eliminate track and other related noise  
 28 above 85 decibels in any octave in the speech range. Other requirements for cabooses are as follows:

29 (a) The trucks shall provide riding qualities at least equal to those of freight type trucks modified  
 30 with elliptical or additional coil springs or other means of equal or greater efficiency and ~~shall~~ must have

1 at least two four-wheel trucks with standard steel wheels or their equivalent. Draft gears ~~shall~~ must have  
 2 a minimum travel of 2 1/2 inches and a minimum capacity of 18,000 foot-pounds and ~~shall~~ must comply  
 3 with Association of American Railroads Standard M-901 or its equivalent.

4 (b) Electric lighting of at least 40 foot-candles ~~shall~~ must be provided for direct illumination of the  
 5 caboose desk, reading areas, and lavatory facilities.

6 (c) A spotlight ~~shall~~ must be provided on the rear of the caboose with sufficient candlepower to  
 7 illuminate the track for a distance of at least 300 feet to the rear of the caboose during the hours of  
 8 darkness.

9 (d) The caboose marker or markers ~~shall~~ must be either reflectorized or capable of illumination  
 10 when required.

11 (e) Only glass of the safety-glass type ~~shall~~ may be used in partitions, doors, windows, or wind  
 12 deflectors.

13 (f) All seats and seat backs ~~shall~~ must conform to the safety standards designated by the United  
 14 States department of transportation in its "~~Federal~~ Federal Motor Vehicle Safety ~~Standards~~" Standards,  
 15 Motor Vehicle Safety Standard No. 201. All edges and protrusions on seats and seat backs ~~shall~~ must be  
 16 rounded to prevent injury to employees.

17 ~~(3)(2)~~ Any person, corporation, or company, operating any railroad or railway in this state, violating  
 18 any of the provisions of this section and 69-14-233 is guilty of a misdemeanor and upon conviction thereof  
 19 shall be fined not less than \$500 or more than \$1,000 for each offense."  
 20

21 **Section 9.** Section 69-14-401, MCA, is amended to read:

22 "**69-14-401. Court review of commission actions.** ~~(1) Actions~~ An action to review the  
 23 determination of the commission ~~fixing~~ adopting any ~~classification, rate, toll, charge, regulation, rule~~ or  
 24 order or the refusal of ~~said~~ the commission to ~~make, fix, or establish any classification, rate, toll, charge,~~  
 25 ~~regulation,~~ adopt a rule or order ~~shall~~ must be commenced, in the district court of the county having  
 26 jurisdiction ~~thereof, by the filing of a complaint, duly verified as provided for the verification of pleadings~~  
 27 ~~in civil actions. Notice may be served upon the party defendant either by summons issued and served as~~  
 28 ~~provided for in this code in civil actions or the court may issue an order directed to the defendant requiring~~  
 29 ~~him to answer the complaint at such time as the court may deem reasonable; provided, however, that such~~  
 30 ~~time shall not be less than 5 days from the time of the service of such order. Upon the appearance of the~~



1 ~~defendant, he may deny or admit the facts set forth in said complaint, by answer, which shall be verified~~  
 2 ~~as the pleadings in other civil actions.~~

3 ~~(2) If, upon the hearing, the court shall find that the rates fixed or the classifications made are~~  
 4 ~~unjust and unreasonable, it shall thereupon be the duty of said commission to make new rates or a~~  
 5 ~~reclassification, as the case may be. All orders or notices required under the provisions of this section may~~  
 6 ~~be issued by the court or by the judge thereof at chambers."~~

7

8 **Section 10.** Section 69-14-604, MCA, is amended to read:

9 **"69-14-604. Procedure to order construction of crossing.** ~~Whenever any~~ If a board of county  
 10 commissioners ~~shall order~~ orders the construction of ~~any a~~ a railroad crossing, ~~said the~~ the board shall enter an  
 11 order upon its minutes, specifying the place of ~~such the~~ the crossing. A copy of ~~said the~~ the order ~~shall~~ must be  
 12 served upon the railroad company, and a copy ~~shall also~~ must be immediately mailed to the public service  
 13 commission. ~~Service of said order may be made upon the railroad company by delivering such copy to any~~  
 14 ~~station agent employed in connection with the operation of said railroad in said county."~~

15

16 **Section 11.** Section 69-14-708, MCA, is amended to read:

17 **"69-14-708. Records of accidents involving animals livestock.** ~~(1) (1) It shall be the duty of any~~  
 18 ~~corporation, association, company, or person owning, controlling, or operating any~~ A railroad company or  
 19 ~~branch thereof in this state to designate some station on the line of the same, in each county through~~  
 20 ~~which it passes, at which it shall keep a suitable book and within 30 days after the killing or injuring of any~~  
 21 ~~animal, to cause to be entered therein the date when and the place where the same was~~ must report to the  
 22 department of livestock any livestock killed or injured, ~~as near as may be, together with a description~~  
 23 ~~thereof, including the age, color, and sex of the same and marks and brands upon the same as near as the~~  
 24 ~~same can be done. When such~~ by a train or railroad equipment on the railroad or branch thereof shall run  
 25 ~~to or through any town or station at which is located the county seat of any county, then such book shall~~  
 26 ~~be kept at such town or station at which said county seat is located, and the written demand provided for~~  
 27 ~~in 69-14-709 may be served on the agent of such station~~ right-of-way WITHIN 30 DAYS AFTER THE  
 28 KILLING OR INJURING OF ANY LIVESTOCK.

29 (2) A RAILROAD COMPANY FAILING TO PROVIDE THE NOTICE PROVIDED FOR IN SUBSECTION  
 30 (1) IS LIABLE TO THE OWNER OF THE ANIMAL KILLED OR INJURED, WHETHER NEGLIGENTLY DONE OR

1 NOT. THE COURT OR JURY BEFORE WHOM AN ACTION IS TRIED FOR THE RECOVERY OF DAMAGES  
 2 MAY IN ITS DISCRETION RENDER A VERDICT AND JUDGMENT FOR THE AMOUNT OF THE VALUE OF  
 3 THE LIVESTOCK KILLED OR THE AMOUNT OF DAMAGES SUSTAINED BY REASON OF INJURY.

4 ~~(2) This book shall be kept for the inspection of any person claiming to be interested in the~~  
 5 ~~inspection thereof.~~

6 ~~(3) Notice of the station designated pursuant to subsection (1) shall be filed with the county clerk~~  
 7 ~~of the county in which said station is situated.~~

8 ~~(4) Any corporation, association, or person so owning, controlling, or operating such railroad or~~  
 9 ~~branch thereof failing to designate said station, file said notice, keep said book, and make the entries as~~  
 10 ~~provided in this section shall be liable to the owner of the animal so killed or injured, whether negligently~~  
 11 ~~done or not, and the court or jury before whom any action is tried for the recovery of damages on account~~  
 12 ~~thereof may in its discretion render verdict and judgment for the amount of the value of any such animal~~  
 13 ~~so killed or the amount of damages sustained by reason of any injury thereto."~~

14  
 15 **Section 12.** Section 69-14-713, MCA, is amended to read:

16 **"69-14-713. Violation of provisions dealing with injury to livestock.** (1) Except as otherwise  
 17 provided in this chapter, ~~every~~ a person who violates any of the provisions of 69-14-701 through  
 18 ~~69-14-712~~ 69-14-711 relating to livestock killed or injured by railroads is guilty of a misdemeanor.

19 (2) ~~Any~~ A person violating any of the provisions of 69-14-711 ~~or 69-14-712~~ shall upon conviction  
 20 ~~thereof~~ be punished by a fine of not less than \$10 or more than \$300, ~~or~~ by imprisonment in the county  
 21 jail for a period of not less than 10 days or more than 60 days, ~~or by both such fine and imprisonment."~~

22  
 23 **Section 13.** Section 69-14-801, MCA, is amended to read:

24 **"69-14-801. Maintenance of loading platform by railroad.** (1) ~~Every~~ A railroad company doing  
 25 business in this state shall, within 60 days after notice from the commission, erect one or more safe  
 26 platforms for the transfer of ~~livestock, grain, and other~~ commodities ~~from wagons or otherwise~~ to cars at  
 27 ~~each and every station or siding designated in such notice, such~~ . The platforms to must be erected ~~so as~~  
 28 ~~not to~~ not endanger life and property.

29 (2) If ~~any~~ a railroad company, after receiving notice as provided for in this section, ~~shall fail~~ fails,  
 30 ~~refuse~~ refuses, or ~~neglect~~ neglects to erect platforms as required by this section within ~~the required~~ 60

1 days, the commission is ~~authorized and empowered and it is made its duty to~~ shall notify ~~such the~~ the railroad  
 2 company to appear before it at a certain time and place and show cause, ~~if there is any,~~ why ~~such the~~ the  
 3 commission should not issue an order requiring ~~such the~~ the railroad company to comply with the requirements  
 4 of this section. The commission ~~shall have power~~ may, after ~~such the~~ the hearing, ~~to~~ issue an order ~~upon said~~  
 5 commanding the railroad company ~~commanding it to erect such the platform if the commission shall upon~~  
 6 ~~such examination and hearing deem such platform necessary.~~

7 (3) ~~Any A~~ notice required to be served upon ~~any a~~ a railroad company to carry out any of the  
 8 provisions of this section or similar provisions relating to the enlarging of ~~such~~ platforms may be served  
 9 upon any agent of ~~said the railroad~~ the railroad company within the state."

10  
 11 **Section 14.** Section 69-14-921, MCA, is amended to read:

12 **"69-14-921. Suitable cars to be furnished for shipment of grain and other commodities in bulk.**

13 (1) All ~~boxcars cars~~ cars furnished by railroad or railway companies for the transportation of grain or other  
 14 commodities in bulk ~~shall must~~ must be ~~of such construction and in such order as constructed~~ constructed to prevent leakage  
 15 when such commodities are placed or hauled ~~therein in the cars.~~ in the cars. It is ~~hereby made~~ the duty of all railroad  
 16 or railway companies to furnish ~~such~~ the cars in ~~such the~~ the required condition.

17 (2) Whenever ~~boxcars cars~~ cars placed for loading grain or other commodities in bulk are found to be  
 18 in ~~such a~~ a condition that ~~they~~ will not afford safe transportation for ~~such~~ commodities, the railroad or railway  
 19 company shall, upon written complaint to the agent or other person in authority by the shipper or ~~his the~~ the  
 20 shipper's representative who proposes to load ~~said the~~ the car or cars and within 24 hours, cause ~~said the~~ the car  
 21 or cars to be properly cleaned ~~and coopered~~ and put in ~~such repair as will afford to allow~~ repair safe transportation  
 22 for the commodity to be shipped."

23  
 24 **Section 15.** Section 69-14-922, MCA, is amended to read:

25 **"69-14-922. Action by shipper to render cars suitable.** (1) ~~In case such~~ If a railroad or railway  
 26 company ~~shall fail~~ fails within 24 hours after written complaint has been made by the shipper or ~~his the~~ the  
 27 shipper's representative to clean and ~~safely cooper such repair~~ PREPARE a car or cars, then ~~such the~~ the  
 28 shipper or ~~his the~~ the shipper's representative ~~shall have authority to~~ may enter upon such car or cars and  
 29 properly and safely ~~cooper and clean the same and repair~~ PREPARE the car or cars. PREPARING A CAR OR  
 30 CARS MAY NOT INCLUDE REPAIRS COVERED IN 49 CFR, PARTS 200 THROUGH 399. ~~Said The~~ The railroad

1 or railway company shall pay for the labor expended in such ~~the repairs at the rate of \$3 per 8-hour day~~  
 2 CLEANING OR PREPARATION and the actual cost of material used, ~~providing that such the charge shall~~  
 3 ~~in no case may not exceed \$5 for each car so coopered cleaned and repaired.~~

4 (2) ~~In case any~~ If a car or cars are placed at a station or siding where there is no representative  
 5 of ~~said the~~ railroad or railway company upon whom complaint may be served, then ~~and in such case the~~  
 6 shipper or ~~his the~~ shipper's representative may at once ~~enter upon the said car or cars and~~ clean and make  
 7 ~~such repairs~~ repair the cars as are necessary and ~~shall~~ must be paid for the labor and material expended,  
 8 as provided in subsection (1)."

9

10 Section 16. Section 69-14-1004, MCA, is amended to read:

11 "69-14-1004. Penalty for ~~intoxication~~ being under the influence while engaged in train operations.  
 12 Every A person who is ~~intoxicated~~ under the influence, as provided in 49 CFR 383.51, of alcohol or a drug  
 13 while in charge of a locomotive engine while as conductor or driver upon any railroad car or train, ~~whether~~  
 14 ~~propelled by steam or otherwise,~~ or while acting as train dispatcher or as telegraph operator receiving or  
 15 transmitting dispatches in relation to the movement of trains is guilty of a misdemeanor."

16

17 NEW SECTION. Section 17. Repealer. Sections 69-14-119, ~~69-14-216~~, 69-14-301, 69-14-302,  
 18 69-14-303, 69-14-304, 69-14-305, 69-14-306, 69-14-307, 69-14-308, 69-14-309, 69-14-310,  
 19 69-14-311, 69-14-312, and 69-14-712, MCA, are repealed.

20

-END-

## 1 SENATE BILL NO. 182

2 INTRODUCED BY HERTEL, MASOLO, ROSE, REHBEIN, GRADY, DEBRUYCKER, CRISMORE, DEVLIN,  
3 BENEDICT, BARNETT, SIMON, SLITER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING LAWS RELATING TO  
6 RAILROADS; DELETING AND ELIMINATING ARCHAIC REQUIREMENTS FOR RAILROADS; AMENDING  
7 SECTIONS ~~30-1-111~~, 69-14-111, 69-14-112, 69-14-114, 69-14-115, 69-14-116, 69-14-120, 69-14-133,  
8 69-14-232, 69-14-401, 69-14-604, 69-14-708, 69-14-713, 69-14-801, 69-14-921, 69-14-922, AND  
9 69-14-1004, MCA; AND REPEALING SECTIONS 69-14-119, ~~69-14-216~~, 69-14-301, 69-14-302,  
10 69-14-303, 69-14-304, 69-14-305, 69-14-306, 69-14-307, 69-14-308, 69-14-309, 69-14-310,  
11 69-14-311, 69-14-312, AND 69-14-712, MCA."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

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9 69-14-1004, MCA; AND REPEALING SECTIONS 69-14-119, ~~69-14-216~~, 69-14-301, 69-14-302,  
10 69-14-303, 69-14-304, 69-14-305, 69-14-306, 69-14-307, 69-14-308, 69-14-309, 69-14-310,  
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## SENATE BILL NO. 182

INTRODUCED BY HERTEL, MASOLO, ROSE, REHBEIN, GRADY, DEBRUYCKER, CRISMORE, DEVLIN,  
BENEDICT, BARNETT, SIMON, SLITER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING LAWS RELATING TO  
RAILROADS; DELETING AND ELIMINATING ARCHAIC REQUIREMENTS FOR RAILROADS; AMENDING  
SECTIONS ~~30-1-111~~, 69-14-111, 69-14-112, 69-14-114, 69-14-115, 69-14-116, 69-14-120, 69-14-133,  
69-14-232, 69-14-401, 69-14-604, 69-14-708, 69-14-713, 69-14-801, 69-14-921, 69-14-922, AND  
69-14-1004, MCA; AND REPEALING SECTIONS 69-14-119, ~~69-14-216~~, 69-14-301, 69-14-302,  
69-14-303, 69-14-304, 69-14-305, 69-14-306, 69-14-307, 69-14-308, 69-14-309, 69-14-310,  
69-14-311, 69-14-312, AND 69-14-712, MCA."

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

~~Section 1. Section 30-1-111, MCA, is amended to read:~~

~~"30-1-111. Laws not repealed. The Chapter on Documents of Title (Chapter 7) does not repeal  
or modify any laws prescribing the form or contents of documents of title or the services or facilities to be  
afforded by bailees, or otherwise regulating bailees' businesses in respects not specifically dealt with herein  
in chapters 1 through 9; but the fact that such document of title laws or laws regulating bailees are violated  
does not affect the status of a document of title which otherwise complies with the definition of a  
document of title (30-1-201).~~

~~References to a "branch" or "separate office" of a bank in this code are included to preserve  
uniformity in a Uniform Act and are not to be construed as affecting or amending in any way the laws of  
this state relative to the operation of branches or separate offices of a bank.~~

~~This code does not repeal or modify any of the following provisions: 30-11-504, relating to  
auctioneer's memorandum of sale; 69-14-216, relating to claims against carriers for damage to livestock;  
or Title 18, chapter 1, part 4, inclusive, relating to contract actions against the state."~~

Section 1. Section 69-14-111, MCA, is amended to read:

"69-14-111. General supervision of railroads. The commission shall have the general supervision

1 of all railroads, ~~express companies, car companies, sleeping car companies, and freight and freight line~~  
 2 ~~companies and any common carrier engaged in the transportation of passengers or property in this state,~~  
 3 in all matters ~~appertaining to the duty of said commission and within its power and authority under~~ subject  
 4 to the provisions of this chapter."

5

6 **Section 2.** Section 69-14-112, MCA, is amended to read:

7 **"69-14-112. Investigatory authority.** (1) The commission shall investigate any alleged neglect or  
 8 violation of the laws of the state by any railroad ~~or other company above specified~~ doing business therein  
 9 ~~or by the officers, agents, or employees thereof~~ in this state. The commission shall examine and inspect  
 10 or cause to be examined and inspected all books, records, files, and papers ~~of the persons and companies~~  
 11 ~~specified above, insofar as the same may be pertinent~~ referred to in 69-14-111 that pertain to any matter  
 12 under investigation before the commission, and shall hear and take testimony in the progress of any inquiry  
 13 or investigation authorized by this chapter.

14 (2) The commission, ~~or some members thereof to be deputed by it,~~ upon request, investigate  
 15 and make inquiry into every accident, as defined in 49 CFR 225.5, occurring in the operation of any railroad  
 16 in this state ~~resulting in death, injury to any person of such gravity as to require the attention of a physician~~  
 17 ~~or surgeon, or the destruction of property greater in value than \$2,000.~~ The testimony taken ~~on any such~~  
 18 ~~hearing shall~~ must be transcribed and filed in the office of the commission."

19

20 **Section 3.** Section 69-14-114, MCA, is amended to read:

21 **"69-14-114. Investigation of existing rates, classifications, and rules.** The commission may, on  
 22 its own motion or on the complaint by a shipper or other interested person, investigate any ~~rate,~~  
 23 ~~classification, or rule~~ approved and in effect for transportation of freight by any railroad within the state.  
 24 The commission ~~must~~ shall, within 60 days after the commencement of an investigation on the  
 25 commission's initiative or after the filing with ~~such~~ the commission of a complaint by a shipper or other  
 26 interested person, proceed to investigate and determine the justness and reasonableness of any  
 27 ~~classification, rate, charge, toll, regulation, rule~~ or order made by ~~said~~ the commission."

28

29 **Section 4.** Section 69-14-115, MCA, is amended to read:

30 **"69-14-115. Investigation, enforcement, and report concerning railroad safety laws.** (1) The



1 commission shall:

2 (a) make inquiry into the observance by all railroads within this state of the laws of the United  
3 States and of Montana intended to safeguard ~~the lives of the railroad employees of persons or corporations~~  
4 ~~engaged in operating the same;~~

5 (b) ~~lay file a~~ complaint before the proper state or federal officer, ~~of any~~ for an infraction of any of  
6 ~~such~~ the safety laws referred to in subsection (1)(a); and

7 (c) prosecute before the proper court or tribunal any person guilty of violation of the ~~penal~~  
8 ~~provisions thereof~~ safety laws referred to in subsection (1)(a).

9 (2) The commission shall ~~in prepare~~ an annual report ~~set out what~~ specifying the effort it has made  
10 to carry out the provisions of this section, ~~with the result thereof~~ the results of the efforts, and in detail  
11 what steps it has taken to prosecute any violations of ~~any such acts~~ the safety laws of which it has secured  
12 information. ~~A copy of this annual report shall be mailed to the secretary of the department of~~  
13 ~~transportation."~~

14

15 **Section 5.** Section 69-14-116, MCA, is amended to read:

16 **"69-14-116. General protection of health and safety on railroads -- rear-end telemetry systems**  
17 **-- exemption for a caboose-equipped train.** (1) The commission has full authority:

18 (a) after notice and hearing, to ~~make~~ adopt and enforce rules providing for the installation on and  
19 equipment of trains, cars, or engines with safety appliances and providing for sanitation and adequate  
20 shelter as it affects the health of all railroad employees; and

21 (b) to ~~inspect the safety appliances, sanitation facilities, and shelters and enforce regulations with~~  
22 ~~regard to the provisions of~~ conduct inspections to implement subsection (1)(a).

23 (2) (a) Except as provided in subsection (4), the commission shall, to the extent permitted by  
24 federal law, require a railroad operating trains in Montana to install a rear-end train telemetry system on all  
25 trains operating within mountain grade territory as geographically defined and designated by mile posts in  
26 the railroad's official timetable and operating rules on file with the commission.

27 (b) As used in this section, "telemetry system" means a radio transmitter and receiver system with  
28 one device placed on the last car of a train and a second device placed in the cab of the controlling  
29 locomotive. The second device must be visible to the locomotive engineer and capable of indicating through  
30 electronic communication with the device located on the last car of the train the following:

- 1 (i) brake pipe pressure at the rear of the train, in increments of 1 pound per square inch;  
 2 (ii) rear car movement;  
 3 (iii) operation or nonoperation of the rear marker light;  
 4 (iv) remaining battery life powering the telemetry system;  
 5 (v) interruption of the communication link between the device located on the last car of the train  
 6 and the device located in the cab of the controlling locomotive; and  
 7 (vi) total distance travelled in feet by the locomotive to which the device is attached.

8 (c) A train operating in the area defined under this subsection (2) may not depart a crew change  
 9 point or its local point of origin unless the train is equipped with the telemetry system required under the  
 10 rules established pursuant to this section.

11 (d) Telemetry systems installed on a train in conformity with rules made under this section must  
 12 be equipped so that an emergency application of brakes of the train can be initiated by activation of the  
 13 device placed on the last car at the rear end of the train.

14 (e) Disciplinary action or other adverse administrative or employment action may not be instituted  
 15 against a person who reports a violation of this subsection (2) or who acts to enforce the provisions of this  
 16 subsection (2).

17 (3) ~~The inspection, inspections and rules, and regulations~~ required under subsections (1) and (2)  
 18 must be compatible with any federal provisions and may not create an undue burden on interstate  
 19 commerce.

20 (4) The commission may not require the installation and use of a telemetry system as described  
 21 in this section on a train equipped with a caboose that:

- 22 (a) meets the requirements of Montana law;  
 23 (b) is placed as the last car of the train; and  
 24 (c) is occupied by a member of the train crew."  
 25

26 **Section 6.** Section 69-14-120, MCA, is amended to read:

27 "**69-14-120. Violations of provisions relating to rails coming together.** ~~Any A~~ railroad or railway  
 28 company and its officers or agents who ~~shall~~ refuse or fail to comply with the provisions of 69-14-118 ~~or~~  
 29 ~~69-14-119~~ or any order or rule ~~relative thereto~~ made by the commission ~~shall be under 69-14-118 is~~ subject  
 30 to a fine of not less than \$25 or more than \$50. Each day of ~~such~~ refusal or failure ~~shall be deemed is~~

1 ~~considered~~ a separate offense and ~~shall be~~ is subject to the penalty ~~herein prescribed, in this section.~~ such  
 2 The fine to must be recovered in a civil action filed upon complaint of the commission in any court of  
 3 competent jurisdiction."

4

5 **Section 7.** Section 69-14-133, MCA, is amended to read:

6 **"69-14-133. Collection and disposition of penalties and forfeitures.** Unless otherwise provided in  
 7 this chapter, all penalties and forfeitures ~~incurred, levied, and made~~ under the provisions of this chapter  
 8 ~~shall~~ must be collected by the commission, ~~and paid over to the state, treasurer~~ and credited to the general  
 9 fund. ~~Should~~ If the commission ~~fail~~ fails or ~~refuse~~ refuses to institute appropriate action for the recovery  
 10 of any penalty or forfeiture provided for ~~herein in this chapter~~ for the space of 60 days after notice of the  
 11 cause of complaint by an aggrieved person or shipper, ~~such~~ the person or shipper may institute and  
 12 prosecute ~~such an~~ an action in the name of the state against ~~such the~~ the railroad, in the same manner as ~~could~~  
 13 the commission."

14

15 **Section 8.** Section 69-14-232, MCA, is amended to read:

16 **"69-14-232. Caboose required to be rear train car -- size and equipment of caboose.** (1) ~~Every~~  
 17 ~~railroad must place, as the last car on any freight train required by federal railroad administration rules to~~  
 18 ~~have its air system and cars inspected by qualified inspecting employees at any designated inspection point~~  
 19 ~~and between said inspection points and operating within the state, a caboose occupied by at least one~~  
 20 ~~employee of the railroad. A caboose is required on all through freight, local, and work trains. Provided~~  
 21 ~~however, a caboose is not required on a train operating within railroad yard or switch limits as presently~~  
 22 ~~established, or on a through freight if not more than 2,000 feet in overall length operating within an~~  
 23 ~~automatic block signal system or within centralized traffic control limits.~~

24 ~~(2) Caboose shall~~ Occupied cabooses must be at least 24 feet in length, exclusive of platforms,  
 25 and ~~shall~~ must be provided with a door in each end and with cupolas or bay windows, platforms, guardrails,  
 26 grabirons, and steps for the safety of persons in alighting or getting on cabooses. Cabooses ~~shall~~ must be  
 27 of metal frame construction and must be sufficiently insulated to eliminate track and other related noise  
 28 above 85 decibels in any octave in the speech range. Other requirements for cabooses are as follows:

29 (a) The trucks shall provide riding qualities at least equal to those of freight type trucks modified  
 30 with elliptical or additional coil springs or other means of equal or greater efficiency and ~~shall~~ must have

1 at least two four-wheel trucks with standard steel wheels or their equivalent. Draft gears ~~shall~~ must have  
 2 a minimum travel of 2 1/2 inches and a minimum capacity of 18,000 foot-pounds and ~~shall~~ must comply  
 3 with Association of American Railroads Standard M-901 or its equivalent.

4 (b) Electric lighting of at least 40 foot-candles ~~shall~~ must be provided for direct illumination of the  
 5 caboose desk, reading areas, and lavatory facilities.

6 (c) A spotlight ~~shall~~ must be provided on the rear of the caboose with sufficient candlepower to  
 7 illuminate the track for a distance of at least 300 feet to the rear of the caboose during the hours of  
 8 darkness.

9 (d) The caboose marker or markers ~~shall~~ must be either reflectorized or capable of illumination  
 10 when required.

11 (e) Only glass of the safety-glass type ~~shall~~ may be used in partitions, doors, windows, or wind  
 12 deflectors.

13 (f) All seats and seat backs ~~shall~~ must conform to the safety standards designated by the United  
 14 States department of transportation in its "~~Federal~~ Federal Motor Vehicle Safety ~~Standards~~" Standards,  
 15 Motor Vehicle Safety Standard No. 201. All edges and protrusions on seats and seat backs ~~shall~~ must be  
 16 rounded to prevent injury to employees.

17 ~~(3)(2)~~ Any person, corporation, or company, operating any railroad or railway in this state, violating  
 18 any of the provisions of this section and 69-14-233 is guilty of a misdemeanor and upon conviction thereof  
 19 shall be fined not less than \$500 or more than \$1,000 for each offense."

20  
 21 **Section 9.** Section 69-14-401, MCA, is amended to read:

22 "**69-14-401. Court review of commission actions.** ~~(1) Actions~~ An action to review the  
 23 determination of the commission ~~fixing~~ adopting any classification, rate, toll, charge, regulation, rule or  
 24 order or the refusal of ~~said~~ the commission to ~~make, fix, or establish~~ any classification, rate, toll, charge,  
 25 ~~regulation,~~ adopt a rule or order ~~shall~~ must be commenced, in the district court of the county having  
 26 jurisdiction ~~thereof, by the filing of a complaint, duly verified as provided for the verification of pleadings~~  
 27 ~~in civil actions. Notice may be served upon the party defendant either by summons issued and served as~~  
 28 ~~provided for in this code in civil actions or the court may issue an order directed to the defendant requiring~~  
 29 ~~him to answer the complaint at such time as the court may deem reasonable; provided, however, that such~~  
 30 ~~time shall not be less than 5 days from the time of the service of such order. Upon the appearance of the~~

1 defendant, he may deny or admit the facts set forth in said complaint, by answer, which shall be verified  
2 as the pleadings in other civil actions.

3 ~~(2) If, upon the hearing, the court shall find that the rates fixed or the classifications made are~~  
4 ~~unjust and unreasonable, it shall thereupon be the duty of said commission to make new rates or a~~  
5 ~~reclassification, as the case may be. All orders or notices required under the provisions of this section may~~  
6 ~~be issued by the court or by the judge thereof at chambers."~~

7  
8 **Section 10.** Section 69-14-604, MCA, is amended to read:

9 **"69-14-604. Procedure to order construction of crossing.** ~~Whenever any~~ If a board of county  
10 commissioners ~~shall order~~ orders the construction of ~~any a~~ a railroad crossing, ~~said the~~ board shall enter an  
11 order upon its minutes, specifying the place of ~~such the~~ the crossing. A copy of ~~said the~~ order ~~shall~~ must be  
12 served upon the railroad company, and a copy ~~shall also~~ must be immediately mailed to the public service  
13 commission. ~~Service of said order may be made upon the railroad company by delivering such copy to any~~  
14 ~~station agent employed in connection with the operation of said railroad in said county."~~

15  
16 **Section 11.** Section 69-14-708, MCA, is amended to read:

17 **"69-14-708. Records of accidents involving animals livestock.** ~~(1) (1) It shall be the duty of any~~  
18 ~~corporation, association, company, or person owning, controlling, or operating any~~ A railroad company or  
19 ~~branch thereof in this state to designate some station on the line of the same, in each county through~~  
20 ~~which it passes, at which it shall keep a suitable book and within 30 days after the killing or injuring of any~~  
21 ~~animal, to cause to be entered therein the date when and the place where the same was~~ must report to the  
22 department of livestock any livestock killed or injured, as near as may be, together with a description  
23 thereof, including the age, color, and sex of the same and marks and brands upon the same as near as the  
24 same can be done. When such by a train or railroad equipment on the railroad or branch thereof shall run  
25 to or through any town or station at which is located the county seat of any county, then such book shall  
26 be kept at such town or station at which said county seat is located, and the written demand provided for  
27 in 69-14-708 may be served on the agent of such station right-of-way WITHIN 30 DAYS AFTER THE  
28 KILLING OR INJURING OF ANY LIVESTOCK.

29 (2) A RAILROAD COMPANY FAILING TO PROVIDE THE NOTICE PROVIDED FOR IN SUBSECTION  
30 (1) IS LIABLE TO THE OWNER OF THE ANIMAL KILLED OR INJURED, WHETHER NEGLIGENTLY DONE OR

1 NOT. THE COURT OR JURY BEFORE WHOM AN ACTION IS TRIED FOR THE RECOVERY OF DAMAGES  
 2 MAY IN ITS DISCRETION RENDER A VERDICT AND JUDGMENT FOR THE AMOUNT OF THE VALUE OF  
 3 THE LIVESTOCK KILLED OR THE AMOUNT OF DAMAGES SUSTAINED BY REASON OF INJURY.

4 ~~(2) This book shall be kept for the inspection of any person claiming to be interested in the~~  
 5 ~~inspection thereof.~~

6 ~~(3) Notice of the station designated pursuant to subsection (1) shall be filed with the county clerk~~  
 7 ~~of the county in which said station is situated.~~

8 ~~(4) Any corporation, association, or person so owning, controlling, or operating such railroad or~~  
 9 ~~branch thereof failing to designate said station, file said notice, keep said book, and make the entries as~~  
 10 ~~provided in this section shall be liable to the owner of the animal so killed or injured, whether negligently~~  
 11 ~~done or not, and the court or jury before whom any action is tried for the recovery of damages on account~~  
 12 ~~thereof may in its discretion render verdict and judgment for the amount of the value of any such animal~~  
 13 ~~so killed or the amount of damages sustained by reason of any injury thereto."~~

14  
 15 **Section 12.** Section 69-14-713, MCA, is amended to read:

16 **"69-14-713. Violation of provisions dealing with injury to livestock.** (1) Except as otherwise  
 17 provided in this chapter, ~~every~~ a person who violates any of the provisions of 69-14-701 through  
 18 ~~69-14-712~~ 69-14-711 relating to livestock killed or injured by railroads is guilty of a misdemeanor.

19 (2) Any A person violating any of the provisions of 69-14-711 ~~or 69-14-712~~ shall upon conviction  
 20 ~~thereof~~ be punished by a fine of not less than \$10 or more than \$300, ~~or~~ by imprisonment in the county  
 21 jail for a period of not less than 10 days or more than 60 days, ~~or by both such fine and imprisonment."~~

22  
 23 **Section 13.** Section 69-14-801, MCA, is amended to read:

24 **"69-14-801. Maintenance of loading platform by railroad.** (1) Every A railroad company doing  
 25 business in this state shall, within 60 days after notice from the commission, erect one or more safe  
 26 platforms for the transfer of ~~livestock, grain, and other~~ commodities ~~from wagons or otherwise~~ to cars at  
 27 ~~each and every station or siding designated in such notice, such~~ . The platforms ~~to~~ must be erected ~~so as~~  
 28 ~~not~~ to not endanger life and property.

29 (2) If any a railroad company, after receiving notice as provided for in this section, ~~shall fail~~ fails,  
 30 ~~refuse~~ refuses, or ~~neglect~~ neglects to erect platforms as required by this section within ~~the required~~ 60

1 days, the commission ~~is authorized and empowered and it is made its duty to~~ shall notify ~~such the~~ the railroad  
 2 company to appear before it at a certain time and place and show cause, ~~if there is any,~~ why ~~such the~~ the  
 3 commission should not issue an order requiring ~~such the~~ the railroad company to comply with the requirements  
 4 of this section. The commission ~~shall have power~~ may, after ~~such the~~ the hearing, ~~to~~ issue an order ~~upon said~~  
 5 commanding the railroad company ~~commanding it to erect such the platform if the commission shall upon~~  
 6 ~~such examination and hearing deem such platform necessary.~~

7 (3) ~~Any~~ A notice required to be served upon ~~any a~~ a railroad company to carry out any of the  
 8 provisions of this section or similar provisions relating to the enlarging of ~~such~~ the platforms may be served  
 9 upon any agent of ~~said the railroad~~ the railroad company within the state."

10  
 11 **Section 14.** Section 69-14-921, MCA, is amended to read:

12 **"69-14-921. Suitable cars to be furnished for shipment of grain and other commodities in bulk.**

13 (1) All ~~boxcars cars~~ cars furnished by railroad or railway companies for the transportation of grain or other  
 14 commodities in bulk ~~shall must be of such construction and in such order as constructed~~ constructed to prevent leakage  
 15 when such commodities are placed or hauled ~~therein in the cars.~~ in the cars. It is ~~hereby made~~ the duty of all railroad  
 16 or railway companies to furnish ~~such~~ the cars in ~~such the required~~ the required condition.

17 (2) Whenever ~~boxcars cars~~ cars placed for loading grain or other commodities in bulk are found to be  
 18 in ~~such a~~ a condition that ~~they~~ will not afford safe transportation for ~~such~~ the commodities, the railroad or railway  
 19 company shall, upon written complaint to the agent or other person in authority by the shipper or ~~his the~~ the  
 20 shipper's representative who proposes to load ~~said the~~ the car or cars and within 24 hours, cause ~~said the~~ the car  
 21 or cars to be properly cleaned ~~and eeepered~~ and put in ~~such repair as will afford to allow~~ repair safe transportation  
 22 for the commodity to be shipped."

23  
 24 **Section 15.** Section 69-14-922, MCA, is amended to read:

25 **"69-14-922. Action by shipper to render cars suitable.** (1) ~~in case such~~ if a railroad or railway  
 26 company ~~shall fail~~ fails within 24 hours after written complaint has been made by the shipper or ~~his the~~ the  
 27 shipper's representative to clean and ~~safely eeeper such repair~~ repair PREPARE a car or cars, then ~~such the~~ the  
 28 shipper or ~~his the shipper's~~ the shipper's representative ~~shall have authority to may enter upon such car or cars and~~  
 29 properly and safely ~~eeeper and clean the same and repair~~ repair PREPARE the car or cars. PREPARING A CAR OR  
 30 CARS MAY NOT INCLUDE REPAIRS COVERED IN 49 CFR, PARTS 200 THROUGH 399. ~~Said The~~ The railroad

1 or railway company shall pay for the labor expended in such ~~the repairs at the rate of \$3 per 8-hour day~~  
 2 CLEANING OR PREPARATION and the actual cost of material used, ~~providing that such the charge shall~~  
 3 ~~in no case may not exceed \$5 for each car so coopered cleaned and repaired.~~

4 (2) ~~In case any~~ If a car or cars are placed at a station or siding where there is no representative  
 5 of said ~~the~~ railroad or railway company upon whom complaint may be served, then ~~and in such case~~ the  
 6 shipper or ~~his~~ the shipper's representative may at once ~~enter upon the said car or cars and~~ clean and make  
 7 ~~such repairs~~ repair the cars as are necessary and shall must be paid for the labor and material expended,  
 8 as provided in subsection (1)."

9

10 **Section 16.** Section 69-14-1004, MCA, is amended to read:

11 **"69-14-1004. Penalty for intoxication being under the influence while engaged in train operations.**  
 12 **Every A person who is intoxicated under the influence, as provided in 49 CFR 383.51, of alcohol or a drug**  
 13 **while in charge of a locomotive engine while as conductor or driver upon any railroad car or train, ~~whether~~**  
 14 **~~propelled by steam or otherwise,~~ or while acting as train dispatcher or as telegraph operator receiving or**  
 15 **transmitting dispatches in relation to the movement of trains is guilty of a misdemeanor."**

16

17 **NEW SECTION. Section 17. Repealer.** Sections 69-14-119, ~~69-14-216,~~ 69-14-301, 69-14-302,  
 18 69-14-303, 69-14-304, 69-14-305, 69-14-306, 69-14-307, 69-14-308, 69-14-309, 69-14-310,  
 19 69-14-311, 69-14-312, and 69-14-712, MCA, are repealed.

20

-END-