

By Senator Mayfield

17-00417B-18

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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           Florida Department of Transportation; authorizing the  
9           department to regulate railroads where that authority  
10          is not federally preempted; authorizing the department  
11          to collect information from relevant parties;  
12          requiring the department to keep certain records;  
13          requiring the department to adopt rules; creating s.  
14          341.606, F.S.; requiring the Florida Division of  
15          Emergency Management to offer, under certain  
16          circumstances, the local communities and local  
17          emergency services located along the rail corridor  
18          training specifically designed to help them respond to  
19          an accident involving rail passengers or hazardous  
20          materials; creating s. 341.607, F.S.; providing  
21          reporting requirements for certain railroad companies;  
22          requiring the department to publish certain  
23          information on its website; requiring the department,  
24          in coordination with the Federal Railroad  
25          Administration and other necessary entities, to  
26          develop certain rules; specifying that reporting  
27          requirements are for informational purposes only and  
28          are not to be used to economically regulate a railroad  
29          company; creating s. 341.608, F.S.; specifying minimum

17-00417B-18

2018572\_\_

30 safety standards for a high-speed passenger rail  
31 system; requiring certain railroad companies to comply  
32 with certain federal laws and regulations; specifying  
33 safety equipment and technology requirements for  
34 certain railroad companies; requiring certain railroad  
35 companies to meet specified requirements before  
36 operating a high-speed passenger rail system; creating  
37 s. 341.609, F.S.; requiring construction, maintenance,  
38 and repair of certain infrastructure by certain  
39 railroad companies; specifying requirements for  
40 certain roadbed modifications; providing for  
41 construction; creating s. 341.6101, F.S.; requiring  
42 the department's railroad inspectors, in accordance  
43 with a specified program, to meet certain  
44 certification requirements and to coordinate their  
45 activities with those of federal inspectors in the  
46 state in compliance with certain federal regulations;  
47 requiring the inspectors to report the results of  
48 their inspections, subject to certain requirements;  
49 requiring the reports to be made available on the  
50 department's website unless they are deemed  
51 confidential; creating s. 341.611, F.S.; requiring the  
52 department to adopt rules that identify standards for  
53 it to conduct field surveys of certain rail corridors;  
54 providing requirements for the field surveys;  
55 requiring the department to hold certain public  
56 meetings; requiring certain railroad companies to  
57 construct and maintain fences under certain  
58 circumstances; providing fencing requirements;

17-00417B-18

2018572\_\_

59 providing that a railroad company operating a high-  
 60 speed passenger rail system is liable for all damages  
 61 arising from its failure to construct or maintain the  
 62 fence, under certain circumstances; creating s.  
 63 341.612, F.S.; requiring a railroad company operating  
 64 a high-speed passenger rail system to be solely  
 65 responsible for certain maintenance, improvement, and  
 66 upgrade costs; specifying that a governmental entity  
 67 is not responsible for any costs associated with the  
 68 maintenance and improvements necessary to operate a  
 69 high-speed passenger rail system unless the  
 70 governmental entity expressly consents in writing;  
 71 providing construction; creating s. 341.613, F.S.;  
 72 establishing jurisdiction for the state to enforce  
 73 specified provisions; requiring penalties for  
 74 violations of specified provisions to be imposed upon  
 75 the railroad company that commits such violations;  
 76 creating s. 341.614, F.S.; providing severability;  
 77 providing an effective date.

78

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

80

81 Section 1. Section 341.601, Florida Statutes, is created to  
 82 read:

83 341.601 Short title.—Sections 341.601-341.614 shall be  
 84 known as the "Florida High-Speed Passenger Rail Safety Act."

85 Section 2. Section 341.602, Florida Statutes, is created to  
 86 read:

87 341.602 Definitions.—As used in ss. 341.601-341.614, the

17-00417B-18

2018572\_\_

88 term:

89 (1) "Department" means the Florida Department of  
90 Transportation.

91 (2) "Freight railroad carrier" means any person, railroad  
92 corporation, or other legal entity in the business of providing  
93 freight rail transportation.

94 (3) "Governmental entity" means the state, any of its  
95 agencies, or any of its political subdivisions.

96 (4) "Hazardous materials" includes all materials and  
97 substances that are now designated or defined as hazardous by 49  
98 C.F.R. parts 100-199 and its implementing regulations, by 49  
99 U.S.C. s. 9601, and in any state law, rule, or program that  
100 regulates handling or transporting of such materials, wastes, or  
101 substances.

102 (5) "High-speed passenger rail system" means any new  
103 intrastate passenger rail system that operates or proposes to  
104 operate its passenger trains at a maximum speed in excess of 80  
105 miles per hour and which was not carrying passengers before  
106 January 1, 2017.

107 (6) "Pedestrian grade crossing" means a separate sidewalk  
108 or pathway where pedestrians, but not vehicles, cross railroad  
109 tracks.

110 (7) "Public railroad-highway grade crossing" means a  
111 location at which a railroad track is crossed at grade by a  
112 public road.

113 (8) "Rail corridor" means a linear, continuous strip of  
114 real property that is used for rail service. The term includes  
115 the corridor and structures essential to railroad operations,  
116 including the land, buildings, improvements, rights-of-way,

17-00417B-18

2018572\_\_

117 easements, rail lines, rail beds, guideway structures, switches,  
118 yards, parking facilities, power relays, switching houses, rail  
119 stations, any ancillary development, and any other facilities or  
120 equipment used for the purposes of construction, operation, or  
121 maintenance of a railroad that provides rail service.

122 (9) "Railroad company" means any individual, partnership,  
123 association, corporation, or company and its respective lessees,  
124 trustees, or receivers, appointed by a court, which develops or  
125 provides ground transportation that runs on rails, including,  
126 but not limited to, any of the following:

127 (a) A high-speed passenger rail system.

128 (b) A freight railroad carrier.

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

130 Section 3. Section 341.603, Florida Statutes, is created to  
131 read:

132 341.603 Public purpose and intent.—It is the intent of the  
133 Legislature to:

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

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

140 Section 4. Section 341.604, Florida Statutes, is created to  
141 read:

142 341.604 Applicability.—This act applies to any railroad  
143 company operating a high-speed passenger rail system and any  
144 railroad company that allows a high-speed passenger rail system  
145 to operate on or within its rail corridor.

17-00417B-18

2018572\_\_

146 Section 5. Section 341.605, Florida Statutes, is created to  
147 read:

148 341.605 Powers and duties of the department; rules.-

149 (1) The department may regulate railroad companies in this  
150 state insofar as such authority is not preempted by federal laws  
151 or regulations.

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

155 (3) The department shall keep a record of all its findings,  
156 decisions, determinations, and investigations carried out under  
157 this act.

158 (4) The department shall adopt rules, pursuant to the  
159 requirements of chapter 120, to administer this act.

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

162 341.606 Training for local emergency services.-If a high-  
163 speed passenger rail system operates within the same rail  
164 corridor or on the same set of tracks as another railroad  
165 company that transports hazardous materials, the Florida  
166 Division of Emergency Management must offer the local  
167 communities and local emergency services located along the rail  
168 corridor training specifically designed to help them respond to  
169 an accident involving rail passengers or hazardous materials.

170 Section 7. Section 341.607, Florida Statutes, is created to  
171 read:

172 341.607 Reporting requirements.-

173 (1) A railroad company operating a high-speed passenger  
174 rail system shall furnish to the department a copy of the

17-00417B-18

2018572\_\_

175 accident reports filed with the Federal Railroad Administration  
176 for each train accident that occurs within the rail corridor.

177 (2) The department shall annually publish on its official  
178 website a compendium of the reports that include any fatalities,  
179 injuries, and accidents during the reporting timeframe which  
180 have occurred within a rail corridor where a high-speed  
181 passenger rail system operates.

182 (3) A railroad company that transports liquefied natural  
183 gas on the same tracks or within the same rail corridor used by  
184 a high-speed passenger rail system within the state must submit  
185 an annual report to the department containing:

186 (a) All insurance carried by the railroad company which  
187 covers any losses resulting from a reasonable worst-case  
188 unplanned release of liquefied natural gas.

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

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

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

17-00417B-18

2018572\_\_

204 natural gas.

205 (4) All reporting requirements are for informational  
206 purposes only and may not be used to economically regulate the  
207 railroad company.

208 Section 8. Section 341.608, Florida Statutes, is created to  
209 read:

210 341.608 Minimum safety standards for high-speed passenger  
211 rail.-

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

215 (2) A railroad company operating a high-speed passenger  
216 rail system must install safety equipment that has been approved  
217 by the Federal Railroad Administration. Safety technology at a  
218 minimum shall include positive train control pursuant to 49  
219 C.F.R. part 229.

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

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

229 (b) Equip all automatic public railroad-highway grade  
230 crossing warning systems with remote health monitoring  
231 technology capable of constantly monitoring the highway-railroad  
232 crossing to:

17-00417B-18

2018572\_\_

233 1. Detect false activations;

234 2. Detect other crossing signal malfunctions; and

235 3. Notify the train dispatcher and railroad maintenance  
236 personnel whenever such a malfunction is detected.

237 (c) Construct and maintain fencing in accordance with s.  
238 341.611.

239 Section 9. Section 341.609, Florida Statutes, is created to  
240 read:

241 341.609 Maintenance and repair of roadbeds, tracks,  
242 culverts, and certain streets and sidewalks.—

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

252 (2) If the railroad company that constructs or operates a  
253 high-speed passenger rail system is required to install safety  
254 improvements that modify the width of a roadbed, the company is  
255 responsible for ensuring that the impacted roadbed meets the  
256 department's transition requirements as set forth in the most  
257 recent edition of the department's Design Standards and the  
258 Manual of Uniform Minimum Standards for Design, Construction and  
259 Maintenance for Streets and Highways.

260 (3) This section does not impair any existing contractual  
261 agreements between the railroad company operating the high-speed

17-00417B-18

2018572\_\_

262 passenger rail system and a governmental entity within the  
263 state.

264 Section 10. Section 341.6101, Florida Statutes, is created  
265 to read:

266 341.6101 Safety inspections and inspectors.-

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

275 (2) Unless the results are otherwise confidential under  
276 state or federal law, the department's railroad inspectors shall  
277 report in writing the results of their inspections in the manner  
278 and on forms prescribed by the department. These reports shall  
279 be made available on the department's website for the public to  
280 access.

281 Section 11. 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 it to conduct 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

17-00417B-18

2018572\_\_

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 in a manner sufficient to prevent  
302 intrusion.

303 (4) The fencing must be placed 1 foot inside the edge of  
304 the railroad company's right-of-way.

305 (5) The fencing must be maintained by the railroad company  
306 operating a high-speed passenger rail system, unless a  
307 governmental entity has contractually consented to undertaking  
308 the responsibility for maintaining the fence within its  
309 jurisdiction.

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

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

318 Section 12. Section 341.612, Florida Statutes, is created  
319 to read:

17-00417B-18

2018572\_\_

320 341.612 Safety improvements associated with the operation  
321 of a high-speed passenger rail system.-

322 (1) A railroad company operating a high-speed passenger  
323 rail system shall be solely responsible for all maintenance  
324 costs associated with the safety equipment installed at public  
325 railroad-highway grade crossings and at pedestrian grade  
326 crossings which are related to the system's operation and  
327 safety. A governmental entity is not responsible for any costs  
328 associated with the maintenance necessary to operate a high-  
329 speed passenger rail system unless the governmental entity  
330 expressly consents in writing.

331 (2) A railroad company operating a high-speed passenger  
332 rail system shall be solely responsible for all costs associated  
333 with the improvements and upgrades at all public railroad-  
334 highway grade crossings on which the state does not use federal  
335 funds to eliminate hazards, and at pedestrian grade crossings  
336 relating to the system's operation and safety. A governmental  
337 entity is not responsible for any costs associated with the  
338 improvements necessary to operate a high-speed passenger rail  
339 system unless the governmental entity expressly consents in  
340 writing.

341 (3) This section does not impair any existing contractual  
342 agreements between a railroad company and a governmental entity  
343 within the state.

344 (4) This section does not require a railroad company to  
345 share in the cost of work for the elimination of hazards at  
346 public railroad-highway grade crossings on which the state uses  
347 federal funds to eliminate hazards.

348 Section 13. Section 341.613, Florida Statutes, is created

17-00417B-18

2018572\_\_

349 to read:

350 341.613 Enforcement.—Jurisdiction to enforce ss. 341.601-  
351 341.614 shall be as provided by s. 316.640, and any penalty for  
352 a violation of ss. 341.601-341.614 shall be imposed upon the  
353 railroad company that commits such violation.

354 Section 14. Section 341.614, Florida Statutes, is created  
355 to read:

356 341.614 Severability.—If any provision of this act or its  
357 application to any person or circumstance is held invalid, the  
358 invalidity does not affect other provisions or applications of  
359 this act which can be given effect without the invalid provision  
360 or application, and to this end the provisions of this act are  
361 severable.

362 Section 15. This act shall take effect July 1, 2018.