

RAILROAD CODE OF 1993 (EXCERPT)
Act 354 of 1993

462.402 Definitions; unreasonable endangerment of employee; complaint by employee or union; inspection by department; notice; order; hearing; appeal; enforcement.

Sec. 402.

(1) As used in this section:

(a) "Legal control" means legal control in whole or in part of any safe space.

(b) "Person" means, in addition to a railroad, an individual, partnership, association, or corporation, and their respective trustees or receivers appointed by a court, that owns, leases, or otherwise has under his or their control land on which, or adjacent to which, is located and operated a railroad track or sidetrack that is part of or in any way connected with a railroad.

(c) "Safe space" means that space whose height extends from the actual grade level to a distance 22 feet 6 inches above the top of the rails and whose width, along any railroad track or sidetrack with a radius of not less than 400 feet lateral curvature, extends 8 feet 6 inches on both sides of a perpendicular from the center line of the track, or, along any railroad track or sidetrack with a radius of less than 400 feet lateral curvature, extends 9 feet on both sides of a perpendicular from the center line of the track.

(d) "Union" means any labor organization that has a contract with an employer who is a common carrier.

(2) A person shall not knowingly permit scrap iron, lumber, debris, vegetation exceeding a height of 4 inches, marked unevenness of terrain, or any material or condition whatsoever, which unreasonably endangers an employee, to remain or continue in the safe space over which the person has legal control.

(3) The department shall make an inspection within 30 days upon written complaint by an employee or union whose members are affected by a violation of this section, or upon written complaint by any person, including a common carrier, affected by the violation. Each party of interest shall be given a 15-day notice of the date of the inspection. The department may dispose of a complaint by denial for lack of merit in fact or in law. The department shall issue a proposed order to all parties of interest after the complaint is inspected.

(4) If no written objection to the proposed order is filed with the department within 30 days after the date the proposed order is transmitted, it shall become the order of the department.

(5) If after receipt of the proposed order of the inspection, a party who is opposed to the proposed order may file a written request for hearing and the department, after notice, shall hold a hearing and shall issue its order.

(6) If an order issued pursuant to subsection (4) or (5) is not complied with, the department or any person feeling aggrieved by the violation of the order, including a common carrier or union any of whose members feel aggrieved by the violation of the order, may apply to the circuit court for the county of Ingham or to the circuit court of any county in which the department has found there is a violation of this section, for a court order to enforce the department's order. A copy of the application for the court order shall be sent by registered or certified mail to the department and to any party to whom the department order applies. The circuit court, on its own motion, may join the department as a party to an application made to the court for enforcement of the order.

(7) The prosecuting attorney of the county in which the violation occurs shall enforce this section.

History: 1993, Act 354, Imd. Eff. Jan. 14, 1994