

TRANSPORTATION CODE

TITLE 5. RAILROADS

SUBTITLE C. RAILROADS GENERALLY

CHAPTER 112. POWERS AND DUTIES OF RAILROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.002. GENERAL RIGHTS OF RAILROADS. (a) A railroad company has the right to succession.

(b) A railroad company may:

(1) sue, be sued, plead, and be impleaded in its corporate name;

(2) have and use a seal and alter the seal at will;

(3) receive and convey persons and property on its railway by any mechanical power, including the use of steam;

(4) regulate the time and manner in which, and the compensation for which, passengers and property are transported, subject to the provisions of law;

(5) exercise the power of eminent domain for the purposes prescribed by this subtitle or Subtitle D;

(6) purchase, hold, and use all property as necessary for the construction and use of its railway, stations, and other accommodations necessary to accomplish company objectives, and convey that property when no longer required for railway use; and

(7) take, hold, and use property granted to the company to aid in the construction and use of its railway, and convey that property in a manner consistent with the terms of the grant when the property is no longer required for railway use.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03,

eff. April 1, 2011.

Sec. 112.003. DAMAGES. A railroad subject to this subtitle or Subtitle D is liable to a person, firm, or corporation injured for the damages resulting from:

(1) a prohibited or unlawful act or thing that the railroad does or causes or permits to be done; or

(2) failure of the railroad to perform an act the railroad is required to perform under this subtitle or Subtitle D.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER B. ACQUISITION AND USE OF PROPERTY BY RAILROAD OR OF
RAILROAD

Sec. 112.051. ENTRY ONTO PRIVATE PROPERTY. (a) A railroad company is entitled to make an examination and survey for the company's proposed railway, to be performed as necessary to select the most advantageous route for the proposed railway, and, subject to Subsection (c), may enter on the lands or waters of any person or corporation for that purpose.

(b) A railroad company is responsible for any damages arising from an examination or survey under this section.

(c) Except for the purposes of performing a lineal survey, a railroad company may not enter on private real property for the purpose of condemning the property or any material on the property for any purpose until the company agrees with and pays the owner of the property all damages that may be caused to the owner's property by the condemnation of the property and by the construction of the company's road.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.052. ACQUISITION OF PROPERTY FOR CHANGE, RELOCATION, OR ABANDONMENT OF RAILROAD LINE. (a) Subject to Subsection (b), a railroad company or a receiver of a railroad that changes, relocates, or abandons a line of railroad in this state may

acquire by condemnation or otherwise land for:

- (1) right-of-way;
- (2) depot grounds;
- (3) shops;
- (4) roundhouses;
- (5) water supply sites;
- (6) sidings;
- (7) switches;
- (8) spurs; or
- (9) any other purpose connected with or necessary to the building or operating of the line of railroad, as changed, relocated, or abandoned.

(b) Property acquired under this section must be declared for and charged with public use.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.053. CONDEMNATION OF PROPERTY: WHEN RAILROAD COMPANY AND OWNER DISAGREE. (a) A railroad company may acquire property by condemnation if the company cannot agree with the owner for the purchase of the property and the property is required for any of the following purposes:

- (1) the incorporation of the railroad;
- (2) the transaction of company business;
- (3) depots, station buildings, and machine and repair shops;
- (4) the construction of reservoirs for the water supply;
- (5) the right-of-way, or new or additional right-of-way;
- (6) a change or relocation;
- (7) a roadbed;
- (8) the shortening of a line;
- (9) the reduction of grades;
- (10) the double tracking of the railroad or the construction and operation of tracks; or
- (11) any other purpose connected with or necessary to

the building, operating, or running of the railroad.

(b) A railroad company may not, under this section, condemn property that is located more than two miles from the company's right-of-way.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.054. CONDEMNATION OF PROPERTY: CERTAIN TERMINAL SWITCHING RAILROADS. (a) This section applies only to the condemnation of property for a terminal switching railroad that:

(1) handles fewer than 10,000 but more than 3,000 carloads a year; and

(2) operates in a single county that:

(A) has a population of 110,000 or more;

(B) is not adjacent to the Texas border; and

(C) does not contain a portion of a national forest.

(b) The power to condemn property given to a railroad company under this subtitle or Subtitle D, including Section 112.052 or 112.053, does not apply to any property used for or designated under local zoning regulations for residential use unless the use of the condemned property is authorized under or in conformity with local zoning or development regulations.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.055. RIGHT-OF-WAY ACQUIRED BY CONDEMNATION. (a) A right-of-way that a railway company in this state acquires by condemnation does not include a fee simple estate in public or private land.

(b) A right-of-way that a railway company acquires by condemnation is not lost on forfeiture or expiration of the railway company's charter. The right-of-way remains subject to an extension of the charter or the grant of a new charter, and a new condemnation of the way is not required.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN ROADS.

(a) Subject to Subsection (b), a corporation created to build, maintain, and operate a line of railroads to a mine, gin, quarry, manufacturing plant, or mill may acquire by condemnation land necessary for the right-of-way for a road connecting the mine, gin, quarry, manufacturing plant, or mill to the nearest line of railroad.

(b) The corporation may condemn property under this section only if the corporation declares itself a common carrier and its railroads public highways, placing the road under the control of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.057. CONSTRUCTION ON OR NEAR CERTAIN WATERWAYS OR

ROADS. (a) A railroad company may construct the company's road across, along, or on any stream of water, water course, street, highway, turnpike, or canal where the route of the company's railway intersects or touches the stream, water course, street, highway, turnpike, or canal.

(b) The railroad company shall:

(1) restore the stream, water course, street, highway, turnpike, or canal to its former state or to a state in which its usefulness is not unnecessarily impaired; and

(2) keep the crossing in repair.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.058. INTERSECTION OF RAIL LINE AND ROAD OR STREET.

Sections 112.051, 112.053, 112.054, 112.055, 112.057, 112.059, and 112.061 do not affect a law that requires a railroad company to provide a proper crossing at each intersection of a road or street.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.059. CROSSINGS OF PUBLIC ROADS. (a) Each railroad

company in this state shall place and keep the portion of the company's roadbed and right-of-way over or across which a public county road runs in proper condition for the use of the traveling public.

(b) A railroad company is liable for a penalty of \$10 for each week the company does not comply with the requirements of this section if:

(1) the overseer of a public road gives written notice to the company's person responsible for maintaining the area where the work is needed; and

(2) the company fails to complete the work or repairs within 30 days after the date written notice is given under Subdivision (1).

(c) A county attorney, on the making of an affidavit of the facts by any person, shall immediately institute a suit against the railroad company to recover the penalty provided by this section. A county attorney's wilful failure or refusal to comply with this subsection is sufficient cause for the county attorney to be removed from office unless it is evident that the suit could not have been maintained.

(d) A proceeding under this section shall be conducted in the name of the county and in the same manner as a proceeding in a civil suit.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1141 , Sec. 4(3), eff. June 19, 2015.

(f) If the county is cast in the suit, the county may not be charged costs.

(g) A penalty collected under this section shall be deposited in the road and bridge fund of the county in which the suit is brought.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 2.03, eff. April 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1141 (S.B. [287](#)), Sec. 4(3), eff. June 19, 2015.

Sec. 112.060. CONVERSION OF PROPERTY IN CUSTODY OF RAILROAD

COMPANY. (a) A railroad company in this state or a receiver of a railroad company in this state may not confiscate or otherwise convert to the company's or receiver's own use, in whole or in substantial part, a carload shipment of any article or commodity of freight traffic received by the company or receiver for transportation and delivery without the express consent of the owner or consignee of the shipment.

(b) An act of an agent, officer, or employee of a railroad company or receiver under this section that is within the apparent scope of the agent's, officer's, or employee's duties or authority with respect to the confiscation or conversion is considered to be an act of the company or receiver.

(c) This section does not apply to a conversion of freight that has been damaged or intermingled with other freight in wrecks, or to refused or unclaimed freight, that the railroad is unable to deliver.

(d) In addition to all other remedies or penalties that may be provided by law, a railroad company or receiver that violates this section is subject to:

(1) a penalty in favor of the state of not less than \$125 or more than \$500; and

(2) an additional penalty in favor of the owner or consignee of the converted shipment equal to twice the amount of the purchase price of the converted shipment.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.061. SUIT INVOLVING RAILROAD COMPANY PROPERTY.

(a) If a railroad company is sued for property occupied by the company for railroad purposes or for damages to property occupied by the company for railroad purposes, the court in which the suit is pending may determine all matters in dispute between the parties, including the condemnation of the property, on petition or cross bill by the defendant requesting that remedy.

(b) A plea for condemnation under Subsection (a) is considered an admission of the plaintiff's title to the property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03,

eff. April 1, 2011.

Sec. 112.062. RAILROAD COMPANY PROPERTY SUBJECT TO EXECUTION; CHARACTERIZATION OF ROLLING STOCK. (a) All or any part of a railroad company's real and personal property is subject to execution and sale in the same manner as the property of individuals.

(b) No portion of a railroad company's real or personal property is exempt from execution and sale.

(c) The rolling stock and all other movable property belonging to a railroad company is considered personal property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER C. SAFETY

Sec. 112.101. CATTLE GUARDS. (a) A railroad company whose railroad passes through a field or enclosure shall construct and keep in good repair a good and sufficient cattle guard or stop at each location the railroad enters the field or enclosure.

(b) If a field or enclosure through which a railway passes is enlarged or extended, or the owner of any land over which a railway runs clears and opens a field so as to include the track of a railway, the railroad company shall construct and keep in repair good and sufficient cattle guards or stops at the borders of the extended enclosures or fields or the new fields.

(c) A cattle guard or stop required by this section shall be constructed and kept in repair to protect the fields and enclosures from the depredations of stock of any kind.

(d) If a railroad company fails to construct and keep in repair a cattle guard or stop required by this section, the owner of the enclosure or field may:

(1) have the required cattle guards or stops constructed at the proper places and kept in repair; and

(2) recover from the company the costs of constructing or repairing the required cattle guards or stops, unless it is shown that the enlargement or extension was made capriciously and with

intent to harass and molest the company.

(e) A railroad company that neglects to construct or keep in repair a proper cattle guard or stop as required by this section is liable to a party injured by the neglect for all damages that may result from the neglect. The injured party may seek to recover the damages by filing suit.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.102. LIABILITY FOR DEATH OR INJURY TO STOCK. (a) Subject to Subsection (b), a railroad company is liable to the owner for the value of all stock killed or injured by the company's locomotives and cars operating over the company's railways, regardless of whether the county or subdivision of a county in which the death or injury occurs has, under Subchapter B or D, Chapter 143, Agriculture Code, prohibited certain animals from running at large.

(b) A railroad company that fences its railway is liable only for injury to stock that results from a want of ordinary care. Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.103. DUTY TO STOP AND RENDER AID; OFFENSE. (a) In this section, "operator" means the person assigned by a railroad company to be responsible for the operation of a train.

(b) An operator who is involved, while operating a locomotive, in an accident resulting in injury to or death of a person or damage to a vehicle that is driven or attended by a person shall immediately stop the locomotive at the scene of the accident.

(c) The operator shall render to a person injured in the accident reasonable assistance, including transporting, or the making of arrangements for transporting, the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if the injured person requests transportation.

(d) A person who violates this section commits an offense. An offense under this subsection is a Class C

misdemeanor.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER D. LIABILITY FOR INJURIES TO EMPLOYEES

Sec. 112.151. APPLICABILITY OF SUBCHAPTER. Notwithstanding any other law, this subchapter does not apply to the portion of a person's, receiver's, or corporation's operations that:

(1) consists solely of the fabrication, manufacture, repair, or storage of rail rolling stock; or

(2) uses rail cars solely as a part of its own internal manufacturing or production process.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.152. LIABILITY GENERALLY FOR INJURY TO OR DEATH OF EMPLOYEE. (a) A corporation, receiver, or other person operating a railroad in this state is liable for damages to a person who, while employed by the railroad operator, is injured as a result of:

(1) the negligence of an officer, agent, or employee of the railroad operator; or

(2) any defect or insufficiency due to the railroad operator's negligence in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

(b) If an employee dies as a result of the negligence, defect, or insufficiency described by Subsection (a), the railroad operator is liable to the employee's personal representative for the benefit of the employee's surviving spouse and children and the employee's parents or, if the employee is not survived by a spouse, child, or parent, to the employee's next of kin who is dependent on the employee.

(c) Damages recovered under Subsection (b) are not liable for the debts of the deceased and shall be divided among the persons entitled to the benefit of the action who are living, in shares the fact finder considers proper.

(d) An action under Subsection (b) may be brought without

administration by all parties entitled to damages under that subsection, or by any one or more of those parties, for the benefit of all of those parties. If all parties entitled to recover are not before the court, the action may proceed for the benefit of the parties who are before the court.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.153. CONTRIBUTORY NEGLIGENCE. (a) In an action under Section 112.152, the employee's contributory negligence is not a bar to recovery but the fact finder shall reduce the employee's damages in proportion to the amount of contributory negligence attributable to the employee.

(b) An employee may not be found contributorily negligent in a case in which the railroad operator's violation of a statute enacted for the safety of employees contributed to the employee's injury or death.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.154. ASSUMED RISK. (a) The plea of assumed risk is not available as a bar to recovery of damages in a suit brought in a court in this state against a corporation, receiver, or other person operating a railroad, interurban railway, or street railway in this state for the recovery of damages for the death of or personal injury to an employee caused by the wrong or negligence of the railroad or railway operator. An employee assumes the ordinary risk incident to the employee's employment but does not assume the risk resulting from any negligence of the employee's employer, regardless of whether the negligence is known to the employee.

(b) If in a suit described by Subsection (a) it is alleged and proven that the deceased or injured employee was negligent in continuing in the service of the railroad or railway operator in view of the risk, dangers, and hazards of which the employee knew or must necessarily have known, in the ordinary performance of the employee's duties, that fact does not bar the employee's recovery, but is considered contributory negligence. If contributory

negligence described by this subsection proximately caused or contributed to the cause of the death or injury, the damages recoverable by the employee or the employee's heirs or representatives shall be reduced only in proportion to the amount of negligence attributable to the employee.

(c) An employee of a railway company who is injured while engaged in the operation of a train in this state that is propelled by two or more engines is not considered to have assumed the risk of that injury if the injury is a result of the operation of two or more engines on the train rather than one.

(d) In an action against a railroad operator under Section [112.152](#), an employee may not be held to have assumed the risk of the employee's employment in a case in which the railroad operator's violation of a statute enacted for the safety of employees contributed to the employee's injury or death.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 2.03, eff. April 1, 2011.

Sec. 112.155. CERTAIN PROVISIONS VOID. A provision of a contract, rule, or device the purpose of which is to exempt a railroad operator from liability under Section [112.152](#) is void to the extent of the purported exemption.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 2.03, eff. April 1, 2011.

Sec. 112.156. LIABILITY OFFSET. In an action against a railroad operator under Section [112.152](#), the railroad operator may offset the railroad operator's liability by the amount of the railroad operator's contribution or payment to any insurance, relief benefit, or indemnity from which benefits have been paid to the injured employee or another person entitled to the benefits as a result of the injury or death that is the subject of the action.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 2.03, eff. April 1, 2011.

Sec. 112.157. CONSTRUCTION OF CERTAIN SECTIONS. (a) Sections [112.152](#), [112.153](#), [112.154\(d\)](#), [112.155](#), and [112.156](#) do not:

(1) limit the duty or liability of a railroad operator or impair the rights of an employee under the Revised Statutes of 1925; or

(2) affect a right of action under another law of this state.

(b) Except as provided by Section [112.151](#), a section listed in Subsection (a) controls over any other provision of the Revised Statutes of 1925 with which it conflicts.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 2.03, eff. April 1, 2011.

Sec. 112.158. INJURY TO FELLOW SERVANT. (a) This section applies only to a corporation, receiver, or other person that controls or operates a railroad or street railway the line of which is located wholly or partly in this state.

(b) An entity described by Subsection (a) is liable for damages sustained by an employee of the entity while the employee is engaged in the work of operating the cars, locomotives, or trains of the entity as a result of the negligence of any other employee of the entity, regardless of whether the negligent employee and the employee who sustained the damages are considered fellow servants.

(c) Persons who are engaged in the common service of an entity described by Subsection (a) are considered fellow servants only if the persons are:

(1) employed in the same grade of employment;

(2) doing the same character of work or service; and

(3) working together at the same time and place and at the same piece of work for a common purpose.

(d) A person engaged in the service of an entity described by Subsection (a) is considered a vice principal of that entity if the person is entrusted by the entity with the authority of superintendence, control, or command of the other employees of the entity, with the authority to direct any other employee in the performance of any duty of the employee.

(e) A vice principal of an entity described by Subsection (a) is not considered a fellow servant with other employees of the entity.

(f) A contract between an employer and employee that limits the employer's liability under this section in the event of the death of or injury to the employee or setting damages that may be recovered under this section is not valid or binding.

(g) This section does not impair or diminish the defense of contributory negligence if the injury of the employee is proximately caused by the employee's own contributory negligence. Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER E. SECURITY FOR HIGH-SPEED RAIL OPERATED BY PRIVATE
ENTITY

Sec. 112.201. DEFINITION. In this subchapter, "high-speed rail" means passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour. Added by Acts 2017, 85th Leg., R.S., Ch. 1118 (S.B. 975), Sec. 1, eff. September 1, 2017.

Sec. 112.202. APPLICABILITY. This subchapter applies only to high-speed rail operated by a private entity. Added by Acts 2017, 85th Leg., R.S., Ch. 1118 (S.B. 975), Sec. 1, eff. September 1, 2017.

Sec. 112.203. DEPARTMENT OF PUBLIC SAFETY POWERS AND DUTIES. (a) To the extent not preempted by federal law, the Department of Public Safety:

(1) shall administer and enforce the provisions of this subchapter; and

(2) may adopt rules as necessary to administer this subchapter.

(b) In carrying out the powers and duties under this subchapter, the Department of Public Safety:

(1) has the same authority granted to the Texas Department of Transportation under Subchapter B, Chapter 111; and

(2) shall ensure that rules and standards adopted under this subchapter are consistent with applicable federal rules,

regulations, and standards.

(c) The Department of Public Safety shall provide the emergency management training course described by Section 418.005, Government Code, to employees of a high-speed rail operator designated under Section 112.204(c).

Added by Acts 2017, 85th Leg., R.S., Ch. 1118 (S.B. 975), Sec. 1, eff. September 1, 2017.

Sec. 112.204. SECURITY. (a) A high-speed rail operator shall:

(1) in the manner required by law for intercity passenger railroads, implement all security requirements of the Transportation Security Administration or its successor agency;

(2) conduct periodic risk-based threat and vulnerability assessments; and

(3) in consultation with the Transportation Security Administration, implement appropriate security measures in response to results of the assessments, which may include:

(A) establishing effective intrusion protection and access controls for railroad-owned facilities and the rail corridor;

(B) instituting active or passive passenger screening protocols; and

(C) providing appropriate levels of onboard security for all revenue service trains.

(b) A high-speed rail operator shall collect and investigate security threat reports submitted by members of the public.

(c) A high-speed rail operator shall:

(1) designate employees who are managers or supervisors and whose position description, job duties, or assignment includes emergency management responsibilities; and

(2) require those employees to complete the emergency management training described by Section 418.005, Government Code.

(d) A high-speed rail operator may not use the services of a peace officer employed by this state or a political subdivision of this state unless the operator compensates the state or political

subdivision, as applicable, for the officer's time.

Added by Acts 2017, 85th Leg., R.S., Ch. 1118 (S.B. 975), Sec. 1, eff. September 1, 2017.

Sec. 112.205. COORDINATION WITH OTHER ENTITIES. (a) A high-speed rail operator shall coordinate security activities and investigations with federal, state, and local law enforcement agencies, including by communicating about credible threats, major events, and vulnerable places along the rail line or on a train.

(b) A high-speed rail operator shall communicate as appropriate with the state Emergency Management Council and the Texas Division of Emergency Management about safety and security issues.

Added by Acts 2017, 85th Leg., R.S., Ch. 1118 (S.B. 975), Sec. 1, eff. September 1, 2017.