

**SENATE BILL REPORT**

**SSB 6507**

**AS PASSED SENATE, FEBRUARY 14, 1994**

**Brief Description:** Eliminating a reference to public highways regarding railroad crossings.

**SPONSORS:** Senate Committee on Transportation (originally sponsored by Senators Vognild, Prince, Morton, Loveland, M. Rasmussen and Winsley)

**SENATE COMMITTEE ON TRANSPORTATION**

**Majority Report:** That Substitute Senate Bill No. 6507 be substituted therefor, and the substitute bill do pass.

Signed by Senators Vognild, Chairman; Morton, Nelson, Oke, Prince, M. Rasmussen, Schow, Sheldon and Winsley.

**Minority Report:** Do not pass.

Signed by Senators Loveland, Vice Chairman; Haugen and Prentice.

**Staff:** Jeff Doyle (786-7322)

**Hearing Dates:** February 2, 1994; February 7, 1994

**BACKGROUND:**

Federal Railroad Administration data indicates that there are 3,225 private railroad crossings in Washington State. Unlike public crossings which are regulated by UTC, private crossings are not subject to state regulation, and typically exist only by agreement between the railroad and the landowner.

Recently, Burlington-Northern Railroad (BN) has begun requiring permits from landowners for continued use of private crossings. In order to be issued a permit from BN, the landowner must (1) pay an application fee of \$100; (2) pay BN for materials to construct the crossing (BN supplies the labor); (3) pay BN maintenance costs; and (4) obtain liability insurance for the crossing.

Under current law, BN is required to provide maintenance on those crossings outside of city limits where the railroad crosses a public road or highway. The law does not require BN to provide maintenance where the railroad crosses private roads.

**SUMMARY:**

Railroads may not require property owners to carry insurance indemnifying the railroad for damages that result from the railroads' own negligence at private crossings. The railroad may, however, require the property owner to carry insurance

for accidents that occur at the private crossing that are caused by the landowners' negligence.

Railroads may file a petition with the Utilities and Transportation Commission (UTC) to close an existing private crossing. After appropriate notice to all affected persons, the UTC shall consider, in addition to any factors it deems appropriate, the following factors: the necessity of the crossing to the landowner; the reasonableness of any agreement between the landowner and railroad providing for maintenance of the crossing; alternative methods of ingress or egress; and the burden to the landowner if the crossing is closed.

Railroad crossings include any point or place where a private roadway or pedestrian walkway crosses a railroad.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Currently, certain railroads have required landowners to pay fees and provide insurance at private crossings. If a landowner fails to comply, the railroad tears up the crossing. This bill would prevent railroads from requiring property owners to carry insurance on private crossings for those situations where the railroad was negligent. The railroad could still require the landowner to provide insurance for accidents caused by his own negligence.

**TESTIMONY AGAINST:**

The railroad requires insurance at private crossings for the protection of the landowner as well as the railroad. Private crossings are dangerous and the state should not adopt policies which encourage or condone private crossings.

**TESTIFIED:** PRO: Mike Paul, landowner; Don Phillips, landowner; Jay Garber, landowner; Craton Guhlke, landowner; Mike Paulsen, WA State Farm Bureau; Joe Powers, Country Companies; CON: Bob Walkley, BN Railroad; Dennis Heatherington, Steve Alvas