



Ohio Revised Code Section 4959.02 Fences.

Effective: March 9, 1999

Legislation: Senate Bill 197 - 122nd General Assembly

(A) A company or person having control or management of any railroad except a scenic railway shall construct and maintain in good repair, or otherwise provide for, on each side of the railroad, along the line of the lands of the company owning or operating it, a fence sufficient to turn stock. If, pursuant to section 4907.08 of the Revised Code, the public utilities commission determines that the company or person having control or management of the railroad is in violation of this section, the commission may order the company or person to do any of the following:

- (1) Construct, replace, or repair the fence;
- (2) Provide the landowner with the required materials to construct, replace, or repair the fence;
- (3) Pay the cost of the materials required to construct, replace, or repair the fence.

When the commission directs the company or person having control or management of the railroad to provide the landowner with the required materials under division (A)(2) of this section or to pay the cost of the required materials under division (A)(3) of this section, the landowner is responsible for the labor necessary to construct, replace, or repair the fence. Any fence constructed, replaced, or repaired under this section shall be the same as or comparable to existing fence on the property.

(B) In determining what remedy to order under division (A) of this section, the commission shall consider all of the following:

- (1) The volume of train traffic;
- (2) Train types and speed;
- (3) The cost of fence repair or replacement;



(4) The accessibility to the railroad right-of-way through the property;

(5) Any other relevant factors.

(C) The commission may order an action or remedy under division (A) of this section only if comparable fencing exists along or within the abutting landowner's property boundaries perpendicular or parallel to the railroad's property line.

(D) If an owner of land abutting a scenic railway requests the company or person having control or management of the railway to construct and maintain in good repair such a fence along the abutting line of land of the railway, the company or person having control or management of the railway shall do so, and the cost of constructing and maintaining the fence shall be equally shared between the railway and owner of land.

(E) As used in this section, "scenic railway" means a railroad operated not for profit and exclusively as a tourist or historical attraction.