**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑15‑915 SO AS TO PROVIDE THAT DURING THE HOURS OF SEVEN A.M. TO NINE A.M., TWELVE O’CLOCK NOON UNTIL TWO P.M., AND FOUR P.M. UNTIL SIX P.M., IN ORDER NOT TO CAUSE A HAZARD TO PUBLIC VEHICULAR TRANSPORTATION, A TRAIN IN A MUNICIPALITY MAY NOT BLOCK FOUR LANE INTERSECTIONS FOR MORE THAN FIVE MINUTES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly finds that:

(1) the Supremacy Clause of Article VI of the United States Constitution provides that the laws of the United States shall be the supreme law of the land, anything in the constitution or laws of any state to the contrary notwithstanding, and invests in the Congress the power to preempt state law;

(2) preemption occurs when Congress, in enacting a federal statute, expresses a clear intent to preempt state law, when there is outright or actual conflict between federal and state law, where compliance with both federal and state law is in effect physically impossible, where there is implicit in federal law a barrier to state regulation, where Congress has legislated comprehensively, thus occupying an entire field of regulation and leaving no room for the states to supplement federal law, or where the state law stands as an obstacle to the accomplishment and execution for the full objectives of Congress;

(3) the critical question in any preemption analysis is always whether Congress intended that federal regulation supersede state law;

(4) the Congress has enacted the Federal Railway Safety Act (FRSA) regulating various railroad safety and transit matters;

(5) the FRSA contains a preemption clause which provides in part that laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable. A state may adopt or continue in force a law, regulation, or order related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the state requirement. A state may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety when the law, regulation, or order related to railroad safety:

(a) is necessary to eliminate or reduce an essentially local safety hazard;

(b) is not incompatible with a law, regulation, or order of the United States Government; and

(c) does not unreasonably burden interstate commerce;

(6) Congress expressly intended that the FRSA preempt all railroad safety legislation except state law governing an area in which the Secretary of Transportation has not issued a regulation or order and the state law is more strict than federal regulations when necessary to address local problems;

(7) there appears to be no federal provision to date under the Federal Railway Safety Act which provides for specific time limits on how long a train or locomotive may block congested street or highway intersections;

(8) the State of South Carolina in the interest of motor vehicle safety is therefore permitted to act until such time as federal law or regulations specific to this problem supersede state law.

SECTION 2. Article 9, Chapter 15, Title 58 of the 1976 Code is amended by adding:

“Section 58‑15‑915. During the hours of seven a.m. to nine a.m., twelve o’clock noon until two p.m., and four p.m. until six p.m., in order not to cause a hazard to public vehicular transportation, a train in a municipality may not block four lane intersections for more than five minutes. In the event the time limits contained in this section conflict with similar time limits under federal law or regulation, the federal time limits control.”

SECTION 3. This act takes effect upon approval by the Governor.

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