

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 233

**Senators DeMora, Kunze
Cosponsors: Senators Antonio, Craig, Smith, Sykes**



A BILL

To amend sections 4511.62, 4511.63, 4511.64, and 1
4511.712 of the Revised Code to require vehicle 2
operators to watch, listen, and stop for on- 3
track equipment that may be approaching a 4
railroad crossing. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4511.62, 4511.63, 4511.64, and 6
4511.712 of the Revised Code be amended to read as follows: 7

Sec. 4511.62. (A) (1) Whenever any person driving a vehicle 8
or trackless trolley approaches a railroad grade crossing, the 9
person shall stop within fifty feet, but not less than fifteen 10
feet from the nearest rail of the railroad if any of the 11
following circumstances exist at the crossing: 12

(a) A clearly visible electric or mechanical signal device 13
gives warning of the immediate approach of a train or other on- 14
track equipment. 15

(b) A crossing gate is lowered. 16

(c) A flagperson gives or continues to give a signal of 17

the approach or passage of a train or other on-track equipment. 18

(d) There is insufficient space on the other side of the 19
railroad grade crossing to accommodate the vehicle or trackless 20
trolley the person is operating without obstructing the passage 21
of other vehicles, trackless trolleys, pedestrians, ~~or~~ railroad 22
trains, or other on-track equipment, notwithstanding any traffic 23
control signal indication to proceed. 24

(e) An approaching train or other on-track equipment is 25
emitting an audible signal or is plainly visible and is in 26
hazardous proximity to the crossing. 27

(f) There is insufficient undercarriage clearance to 28
safely negotiate the crossing. 29

(2) A person who is driving a vehicle or trackless trolley 30
and who approaches a railroad grade crossing shall not proceed 31
as long as any of the circumstances described in divisions (A) 32
(1) (a) to (f) of this section exist at the crossing. 33

(B) No person shall drive any vehicle through, around, or 34
under any crossing gate or barrier at a railroad crossing while 35
the gate or barrier is closed or is being opened or closed 36
unless the person is signaled by a law enforcement officer or 37
flagperson that it is permissible to do so. 38

~~(C)~~ (C) (1) Whoever violates this section is guilty of a 39
misdemeanor of the fourth degree. 40

(2) In lieu of a fine or jail term for a violation of this 41
section, a court may instead order the offender to attend and 42
successfully complete a remedial safety training or presentation 43
regarding rail safety that is offered by an authorized and 44
qualified organization that is selected by the court. The 45
offender shall complete the presentation within a time frame 46

determined by the court, not to exceed one hundred eighty days 47
after the court issues the order. The offender shall notify the 48
court of the successful completion of the presentation. When the 49
offender notifies the court of the successful completion of the 50
presentation, the court shall waive any fine or jail term that 51
it otherwise would have imposed for a violation of this section. 52

(D) The offenses established under this section are strict 53
liability offenses and section 2901.20 of the Revised Code does 54
not apply. The designation of these offenses as strict liability 55
offenses shall not be construed to imply that any other offense, 56
for which there is no specified degree of culpability, is not a 57
strict liability offense. 58

Sec. 4511.63. (A) Except as provided in division (B) of 59
this section, the operator of any bus, any school vehicle, or 60
any vehicle transporting a material or materials required to be 61
placarded under 49 C.F.R. Parts 100-185, before crossing at 62
grade any track of a railroad, shall stop the vehicle and, while 63
so stopped, shall listen through an open door or open window and 64
look in both directions along the track for any approaching 65
train or other on-track equipment, and for signals indicating 66
the approach of a train or other on-track equipment, and shall 67
proceed only upon exercising due care after stopping, looking, 68
and listening as required by this section. Upon proceeding, the 69
operator of such a vehicle shall cross only in a gear that will 70
ensure there will be no necessity for changing gears while 71
traversing the crossing and shall not shift gears while crossing 72
the tracks. 73

(B) This section does not apply at grade crossings when 74
the public utilities commission has authorized and approved an 75
exempt crossing as provided in this division. 76

(1) Any local authority may file an application with the 77
commission requesting the approval of an exempt crossing. Upon 78
receipt of such a request, the commission shall authorize a 79
limited period for the filing of comments by any party regarding 80
the application and then shall conduct a public hearing in the 81
community seeking the exempt crossing designation. The 82
commission shall provide appropriate prior public notice of the 83
comment period and the public hearing. By registered mail, the 84
commission shall notify each railroad operating over the 85
crossing of the comment period. 86

(2) After considering any comments or other information 87
received, the commission may approve or reject the application. 88
By order, the commission may establish conditions for the exempt 89
crossing designation, including compliance with division (b) of 90
49 C.F.R. Part 392.10, when applicable. An exempt crossing 91
designation becomes effective only when appropriate signs giving 92
notice of the exempt designation are erected at the crossing as 93
ordered by the commission and any other conditions ordered by 94
the commission are satisfied. 95

(3) By order, the commission may rescind any exempt 96
crossing designation made under this section if the commission 97
finds that a condition at the exempt crossing has changed to 98
such an extent that the continuation of the exempt crossing 99
designation compromises public safety. The commission may 100
conduct a public hearing to investigate and determine whether to 101
rescind the exempt crossing designation. If the commission 102
rescinds the designation, it shall order the removal of any 103
exempt crossing signs and may make any other necessary order. 104

(C) As used in this section: 105

(1) "School vehicle" means any vehicle used for the 106

transportation of pupils to and from a school or school-related 107
function if the vehicle is owned or operated by, or operated 108
under contract with, a public or nonpublic school. 109

(2) "Bus" means any vehicle originally designed by its 110
manufacturer to transport sixteen or more passengers, including 111
the driver, or carries sixteen or more passengers, including the 112
driver. 113

(3) "Exempt crossing" means a highway rail grade crossing 114
authorized and approved by the public utilities commission under 115
division (B) of this section at which vehicles may cross without 116
making the stop otherwise required by this section. 117

(D) Except as otherwise provided in this division, whoever 118
violates this section is guilty of a minor misdemeanor. If the 119
offender previously has been convicted of or pleaded guilty to 120
one or more violations of this section or section 4511.76, 121
4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised 122
Code or a municipal ordinance that is substantially similar to 123
any of those sections, whoever violates this section is guilty 124
of a misdemeanor of the fourth degree. 125

(E) The offenses established under this section are strict 126
liability offenses and section 2901.20 of the Revised Code does 127
not apply. The designation of these offenses as strict liability 128
offenses shall not be construed to imply that any other offense, 129
for which there is no specified degree of culpability, is not a 130
strict liability offense. 131

Sec. 4511.64. (A) No person shall operate or move any 132
crawler-type tractor, steam shovel, derrick, roller, or any 133
equipment or structure having a normal operating speed of six or 134
less miles per hour or a vertical body or load clearance of less 135

than nine inches above the level surface of a roadway, upon or 136
across any tracks at a railroad grade crossing without first 137
complying with divisions (A) (1) and (2) of this section. 138

(1) Before making any such crossing, the person operating 139
or moving any such vehicle or equipment shall first stop the 140
same, and while stopped the person shall listen and look in both 141
directions along such track for any approaching train or other 142
on-track equipment and for signals indicating the approach of a 143
train or other on-track equipment, and shall proceed only upon 144
exercising due care. 145

(2) No such crossing shall be made when warning is given 146
by automatic signal or crossing gates or a flagperson or 147
otherwise of the immediate approach of a railroad train or car 148
or other on-track equipment. 149

(B) If the normal sustained speed of such vehicle, 150
equipment, or structure is not more than three miles per hour, 151
the person owning, operating, or moving the same shall also give 152
notice of such intended crossing to a station agent or 153
superintendent of the railroad, and a reasonable time shall be 154
given to such railroad to provide proper protection for such 155
crossing. Where such vehicles or equipment are being used in 156
constructing or repairing a section of highway lying on both 157
sides of a railroad grade crossing, and in such construction or 158
repair it is necessary to repeatedly move such vehicles or 159
equipment over such crossing, one daily notice specifying when 160
such work will start and stating the hours during which it will 161
be prosecuted is sufficient. 162

(C) Except as otherwise provided in this division, whoever 163
violates this section is guilty of a minor misdemeanor. If, 164
within one year of the offense, the offender previously has been 165

convicted of or pleaded guilty to one predicate motor vehicle or 166
traffic offense, whoever violates this section is guilty of a 167
misdemeanor of the fourth degree. If, within one year of the 168
offense, the offender previously has been convicted of two or 169
more predicate motor vehicle or traffic offenses, whoever 170
violates this section is guilty of a misdemeanor of the third 171
degree. 172

If the offender commits the offense while distracted and 173
the distracting activity is a contributing factor to the 174
commission of the offense, the offender is subject to the 175
additional fine established under section 4511.991 of the 176
Revised Code. 177

(D) The offenses established under this section are strict 178
liability offenses and section 2901.20 of the Revised Code does 179
not apply. The designation of these offenses as strict liability 180
offenses shall not be construed to imply that any other offense, 181
for which there is no specified degree of culpability, is not a 182
strict liability offense. 183

Sec. 4511.712. (A) No driver shall enter an intersection 184
or marked crosswalk or drive onto any railroad grade crossing 185
unless there is sufficient space on the other side of the 186
intersection, crosswalk, or grade crossing to accommodate the 187
vehicle, streetcar, or trackless trolley the driver is operating 188
without obstructing the passage of other vehicles, streetcars, 189
trackless trolleys, pedestrians, ~~or~~ railroad trains, or other 190
on-track equipment notwithstanding any traffic control signal 191
indication to proceed. 192

(B) Except as otherwise provided in this division, whoever 193
violates this section is guilty of a minor misdemeanor. If, 194
within one year of the offense, the offender previously has been 195

convicted of or pleaded guilty to one predicate motor vehicle or 196
traffic offense, whoever violates this section is guilty of a 197
misdemeanor of the fourth degree. If, within one year of the 198
offense, the offender previously has been convicted of two or 199
more predicate motor vehicle or traffic offenses, whoever 200
violates this section is guilty of a misdemeanor of the third 201
degree. 202

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not apply. The designation of these offenses as strict liability 210
offenses shall not be construed to imply that any other offense, 211
for which there is no specified degree of culpability, is not a 212
strict liability offense. 213

Section 2. That existing sections 4511.62, 4511.63, 214
4511.64, and 4511.712 of the Revised Code are hereby repealed. 215