

**As Reported by the Senate Transportation Committee**

**135th General Assembly**

**Regular Session**

**2023-2024**

**S. B. No. 233**

**Senators DeMora, Kunze**

**Cosponsors: Senators Antonio, Craig, Smith, Sykes, Brenner**



**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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liability offenses and section 2901.20 of the Revised Code does 209  
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