

As Passed by the Senate

135th General Assembly

Regular Session

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Am. S. B. No. 233

Senators DeMora, Kunze

**Cosponsors: Senators Antonio, Craig, Smith, Sykes, Brenner, Manning, Cirino,
Gavarone, Hackett, Hicks-Hudson, Ingram, Johnson, Reineke, Roegner**

A BILL

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

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

Section 1. That sections 4511.62, 4511.63, and 4511.64 of 5
the Revised Code be amended to read as follows: 6

Sec. 4511.62. (A) (1) Whenever any person driving a vehicle 7
or trackless trolley approaches a railroad grade crossing, the 8
person shall stop within fifty feet, but not less than fifteen 9
feet from the nearest rail of the railroad if any of the 10
following circumstances exist at the crossing: 11

(a) A clearly visible electric or mechanical signal device 12
gives warning of the immediate approach of a train or other on- 13
track equipment. 14

(b) A crossing gate is lowered. 15

(c) A flagperson gives or continues to give a signal of 16

the approach or passage of a train or other on-track equipment. 17

(d) There is insufficient space on the other side of the 18
railroad grade crossing to accommodate the vehicle or trackless 19
trolley the person is operating without obstructing the passage 20
of other vehicles, trackless trolleys, pedestrians, or railroad 21
trains, notwithstanding any traffic control signal indication to 22
proceed. 23

(e) An approaching train is emitting an audible signal or 24
is plainly visible and is in hazardous proximity to the 25
crossing. 26

(f) There is insufficient undercarriage clearance to 27
safely negotiate the crossing. 28

(g) There is insufficient space on the other side of the 29
railroad grade crossing to accommodate the vehicle or trackless 30
trolley the person is operating without obstructing the passage 31
of other on-track equipment. 32

(h) Approaching on-track equipment is emitting an audible 33
signal or is plainly visible and is in hazardous proximity to 34
the crossing. 35

~~(2)~~ (a) A person who is driving a vehicle or trackless 36
trolley and who approaches a railroad grade crossing shall not 37
proceed as long as any of the circumstances described in 38
divisions (A) (1) (a) to (f) of this section exist at the 39
crossing. 40

(b) A person who is driving a vehicle or trackless trolley 41
and who approaches a railroad grade crossing shall not 42
recklessly proceed as long as any of the circumstances described 43
in division (A) (1) (g) or (h) of this section exist at the 44
crossing. 45

(B) No person shall drive any vehicle through, around, or 46
under any crossing gate or barrier at a railroad crossing while 47
the gate or barrier is closed or is being opened or closed 48
unless the person is signaled by a law enforcement officer or 49
flagperson that it is permissible to do so. 50

~~(C)~~(C) (1) Whoever violates this section is guilty of a 51
misdemeanor of the fourth degree. 52

(2) In lieu of a fine or jail term for a violation of this 53
section, a court may instead order the offender to attend and 54
successfully complete a remedial safety training or presentation 55
regarding rail safety that is offered by an authorized and 56
qualified organization that is selected by the court. The 57
offender shall complete the presentation within a time frame 58
determined by the court, not to exceed one hundred eighty days 59
after the court issues the order. The offender shall notify the 60
court of the successful completion of the presentation. When the 61
offender notifies the court of the successful completion of the 62
presentation, the court shall waive any fine or jail term that 63
it otherwise would have imposed for a violation of this section. 64

Sec. 4511.63. (A) Except as provided in division (B) of 65
this section, the operator of any bus, any school vehicle, or 66
any vehicle transporting a material or materials required to be 67
placarded under 49 C.F.R. Parts 100-185, before crossing at 68
grade any track of a railroad, shall stop the vehicle and, while 69
so stopped, shall listen through an open door or open window and 70
look in both directions along the track for any approaching 71
train or other on-track equipment, and for signals indicating 72
the approach of a train or other on-track equipment, and shall 73
proceed only upon exercising due care after stopping, looking, 74
and listening as required by this section. Upon proceeding, the 75

operator of such a vehicle shall cross only in a gear that will 76
ensure there will be no necessity for changing gears while 77
traversing the crossing and shall not shift gears while crossing 78
the tracks. 79

(B) This section does not apply at grade crossings when 80
the public utilities commission has authorized and approved an 81
exempt crossing as provided in this division. 82

(1) Any local authority may file an application with the 83
commission requesting the approval of an exempt crossing. Upon 84
receipt of such a request, the commission shall authorize a 85
limited period for the filing of comments by any party regarding 86
the application and then shall conduct a public hearing in the 87
community seeking the exempt crossing designation. The 88
commission shall provide appropriate prior public notice of the 89
comment period and the public hearing. By registered mail, the 90
commission shall notify each railroad operating over the 91
crossing of the comment period. 92

(2) After considering any comments or other information 93
received, the commission may approve or reject the application. 94
By order, the commission may establish conditions for the exempt 95
crossing designation, including compliance with division (b) of 96
49 C.F.R. Part 392.10, when applicable. An exempt crossing 97
designation becomes effective only when appropriate signs giving 98
notice of the exempt designation are erected at the crossing as 99
ordered by the commission and any other conditions ordered by 100
the commission are satisfied. 101

(3) By order, the commission may rescind any exempt 102
crossing designation made under this section if the commission 103
finds that a condition at the exempt crossing has changed to 104
such an extent that the continuation of the exempt crossing 105

designation compromises public safety. The commission may 106
conduct a public hearing to investigate and determine whether to 107
rescind the exempt crossing designation. If the commission 108
rescinds the designation, it shall order the removal of any 109
exempt crossing signs and may make any other necessary order. 110

(C) As used in this section: 111

(1) "School vehicle" means any vehicle used for the 112
transportation of pupils to and from a school or school-related 113
function if the vehicle is owned or operated by, or operated 114
under contract with, a public or nonpublic school. 115

(2) "Bus" means any vehicle originally designed by its 116
manufacturer to transport sixteen or more passengers, including 117
the driver, or carries sixteen or more passengers, including the 118
driver. 119

(3) "Exempt crossing" means a highway rail grade crossing 120
authorized and approved by the public utilities commission under 121
division (B) of this section at which vehicles may cross without 122
making the stop otherwise required by this section. 123

(D) Except as otherwise provided in this division, whoever 124
violates this section is guilty of a minor misdemeanor. If the 125
offender previously has been convicted of or pleaded guilty to 126
one or more violations of this section or section 4511.76, 127
4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised 128
Code or a municipal ordinance that is substantially similar to 129
any of those sections, whoever violates this section is guilty 130
of a misdemeanor of the fourth degree. 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

Section 2. That existing sections 4511.62, 4511.63, and 178
4511.64 of the Revised Code are hereby repealed. 179