

ASSEMBLY, No. 1353

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman NICHOLAS CHIARAVALLOTI

District 31 (Hudson)

Co-Sponsored by:

Assemblywoman McKnight

SYNOPSIS

Requires drivers to stop at railroad crossing when on-track equipment is approaching railroad crossing.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning driver responsibilities when approaching
2 railroad crossings and amending various parts of the statutory
3 law.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 68 of P.L.1951, c.23 (C.39:4-127.1) is amended to
9 read as follows:

10 (a) Whenever any person driving a vehicle approaches a railroad
11 grade crossing under any of the circumstances stated in this section,
12 the driver of such vehicle shall stop within **[fifty]** 50 feet but not
13 less than **[fifteen]** 15 feet from the nearest rail of such railroad, and
14 shall not proceed until **[he]** the driver can do so safely. The
15 foregoing requirements shall apply when:

16 1. A clearly visible electric or mechanical signal device gives
17 warning of the immediate approach of a railroad train or other on-
18 track equipment;

19 2. A crossing gate is lowered or when a human flagman gives
20 or continues to give a signal of the approach or passage of a railroad
21 train or other on-track equipment;

22 3. A railroad train or other on-track equipment approaching
23 within approximately **[one thousand five hundred]** 1500 feet of the
24 highway crossing emits a signal audible from such distance and
25 such railroad train or other on-track equipment, by reason of its
26 speed or nearness to such crossing, is an immediate hazard;

27 4. An approaching railroad train or other on-track equipment is
28 plainly visible and is in hazardous proximity to such crossing.

29 (b) No person shall drive any vehicle through, around, or under
30 any crossing gate or barrier at a railroad crossing while such gate or
31 barrier is closed or is being opened or closed.

32 (cf: P.L.1951, c.23, s.68)
33

34 2. R.S.39:4-128 is amended to read as follows:

35 39:4-128. (a) The driver of any omnibus, designed for carrying
36 more than six passengers, or of any school bus carrying any school
37 child or children, or of any vehicle carrying explosive substance or
38 flammable liquids as a cargo or part of a cargo, or of any
39 commercial motor vehicle specified in 49 C.F.R. s.392.10(a) (1)
40 through (6), before crossing at grade any track or tracks of a
41 railroad shall stop such vehicle within 50 feet but not less than 15
42 feet from the nearest rail of such railroad and while so stopped
43 listen and look in both directions along such track or tracks, for any
44 approaching train or other on-track equipment, and for signals
45 indicating the approach of a train or other on-track equipment.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 After stopping as required herein and upon proceeding when it is
2 safe to do so, the driver of any said vehicle shall cross only in such
3 gear of the vehicle that there will be no necessity for changing gears
4 while traversing such crossing and the driver shall not shift gears
5 while crossing the track or tracks. This section shall not apply to
6 grade crossings which are no longer used for railroad traffic and
7 which have been abandoned by the railroad company provided that
8 appropriate signs have been posted to indicate that such grade
9 crossing has been abandoned or is no longer used for any railroad
10 traffic. This section shall not apply to grade crossings where the
11 railroad track has been removed or paved over and the warning
12 signs erected by the railroad in accordance with R.S.48:12-58 have
13 been removed, provided that in such case written notice is given to
14 the Commissioner of Transportation and to the appropriate State or
15 local authority having jurisdiction over the highway, road, or street
16 prior to the undertaking of such removal or paving of railroad track.
17 This section shall also not apply to grade crossings marked with a
18 sign reading "Exempt Crossing."

19 The Commissioner of Transportation is hereby vested with the
20 exclusive authority to designate and mark any railroad grade
21 crossings across any street or highway in this State with a sign
22 "Exempt Crossing." The commissioner shall hold a public hearing
23 before designating any crossing as exempt with notice of such
24 hearing to be served in accordance with regulations promulgated by
25 the commissioner.

26 The commissioner shall designate a grade crossing an exempt
27 crossing when the potential for damage and injury from accidents
28 between motor vehicles required to stop at grade crossings and
29 other motor vehicles traveling in the same direction exceeds that
30 between a train and the vehicles required to stop by law. Crossings
31 designated as exempt crossings may include, but shall not be
32 limited to, industrial, spurline and secondary crossings. The
33 commissioner shall promulgate such regulations as are necessary to
34 effectuate the purpose of the establishment of exempt crossings.

35 (b) No person shall operate or move any crawler-type tractor,
36 wheel tractor, tractor engine with or without trailer or trailers
37 attached, steam shovel, derrick, roller, self-propelled concrete
38 mixer, or any self-propelled vehicle, commercial motor vehicle,
39 equipment, machinery, apparatus or structure having a normal
40 operating speed of 10 or less miles per hour or a vertical body or
41 load clearance of less than 1/2 inch per foot of the distance between
42 any two adjacent axles or in any event of less than **[9]** nine inches,
43 measured above the level surface of a roadway, upon or across any
44 track or tracks at a railroad grade crossing without first complying
45 with the following requirements.

46 Notice of any such intended crossing shall be given to the nearest
47 superintendent or trainmaster of such railroad. Such notice shall
48 specify the approximate time of crossing and a reasonable time

1 shall be given to such railroad to provide proper protection at such
2 crossing.

3 After concluding satisfactory arrangements with the proper
4 officer of the railroad and before making any such crossing, the
5 person operating or moving any such vehicle or equipment shall
6 first stop the same not less than 15 feet nor more than 50 feet from
7 the nearest rail of such railroad, and while so stopped shall listen
8 and look in both directions along such track or tracks for any
9 approaching train or other on-track equipment and for signals
10 indicating the approach of a train or other on-track equipment, and
11 shall not proceed until the crossing can be made safely.

12 No such crossing shall be made when warning is given by
13 automatic signal or crossing gates or a flagman or otherwise of the
14 immediate approach of a railroad train or car or other on-track
15 equipment. If the flagman is provided by the railroad, movement
16 over the crossing shall be made under his jurisdiction.

17 (c) Any person violating the provisions of this section shall be
18 punished by a fine of not more than ~~【\$50.00】~~ \$50 for the first
19 offense and for the second offense a fine of not more than
20 ~~【\$100.00】~~ \$100, or by imprisonment for not more than 30 days, or
21 by both such fine and imprisonment.

22 (d) This section shall not be construed as limiting the authority
23 of any municipality to adopt police regulations governing the
24 operation of omnibuses and to provide penalties for their violation,
25 or to relieve the owner or operator of such omnibus subject to the
26 jurisdiction of the Board of Public Utilities from any penalty
27 prescribed by the laws of this State for violation of orders of such
28 board.

29 (cf: P.L.2005, c.147, s.9)

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31 3. Section 10 of P.L.2005, c.147 (C.39:4-128.11) is amended to
32 read as follows:

33 10. a. A driver of a commercial motor vehicle, other than a
34 commercial motor vehicle that is required to stop at a railroad
35 crossing in accordance with R.S.39:4-128, shall, upon approaching
36 a railroad grade crossing, drive at a rate of speed that will permit
37 the commercial motor vehicle to be stopped before reaching the
38 nearest rail of the crossing. A driver shall not drive a commercial
39 motor vehicle upon or over a railroad crossing until ~~【he】~~ the driver
40 has exercised due caution to ascertain that a train or other on-track
41 equipment is not approaching the crossing.

42 b. A driver of a commercial motor vehicle, other than a
43 commercial motor vehicle that is required to stop at a railroad
44 crossing in accordance with R.S.39:4-128, shall stop that
45 commercial motor vehicle before reaching the nearest rail of the
46 crossing, if the tracks of the crossing are not clear of other vehicles
47 or if there is insufficient space to drive the commercial motor

1 vehicle completely through the crossing without stopping the
2 commercial motor vehicle.

3 c. An employer shall not knowingly allow, require, permit or
4 authorize a driver to operate a commercial motor vehicle in
5 violation of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-
6 127.1), or this section. An employer who is convicted of any such
7 violation shall be fined not more than \$10,000.
8 (cf: P.L.2005, c.147, s.10)
9

10 4. This act shall take effect immediately.
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13 STATEMENT
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15 This bill requires drivers to stop at railroad crossings, in the
16 same manner that drivers are required by law to stop for trains,
17 when on-track equipment is being operated on the tracks and is
18 approaching or passing the railroad crossing. Under current New
19 Jersey law, drivers are only required to stop for approaching or
20 passing trains.

WITHDRAWN