

**SENATE BILL NO. 2133**

Introduced by

Senators O. Larsen, Bekkedahl

Representatives Hoverson, McWilliams, Paulson

1 A BILL for an Act to amend and reenact sections 39-10-41 and 39-10-43 of the North Dakota  
2 Century Code, relating to railroad grade crossings; and to provide a penalty.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 39-10-41 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **39-10-41. Obedience to signal indicating approach of train or other on-track**  
7 **equipment.**

8 1. ~~Whenever any person driving~~When a vehicle approaches a railroad grade crossing  
9 under any of the circumstances stated in this section, the driver of ~~such~~the vehicle  
10 shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters]  
11 from the nearest rail of such railroad, and may not proceed until the driver can do so  
12 safely. ~~The foregoing~~These requirements apply when:

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

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

17 c. A railroad train or other on-track equipment approaching within approximately  
18 one thousand three hundred twenty feet [402.34 meters] of the highway crossing  
19 emits a signal audible from such distance and such railroad train or other  
20 on-track equipment, by reason of its speed or nearness to such crossing, is an  
21 immediate hazard; or

22 d. An approaching railroad train or other on-track equipment is plainly visible and is  
23 in hazardous proximity to such crossing.

1           2.   ~~No~~A person may not drive ~~anya~~ vehicle through, around, or under any crossing gate or  
2                    barrier at a railroad crossing while ~~such~~the gate or barrier is closed or is being opened  
3                    or closed. ~~No~~A person may not drive ~~anya~~ vehicle past ~~anya~~ human flagman at a  
4                    railroad crossing until the flagman signals that the way is clear to proceed.

5           **SECTION 2. AMENDMENT.** Section 39-10-43 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7           **39-10-43. Certain vehicles must stop at all railroad grade crossings.**

8           1.   The driver of a bus carrying passengers, or of ~~anya~~ schoolbus, or of ~~anya~~ vehicle  
9                    carrying ~~any~~ chlorine, empty or loaded cargo tank vehicles used to transport  
10                  dangerous articles or any liquid having a flashpoint below two hundred degrees  
11                  Fahrenheit [93.33 degrees Celsius], cargo tank vehicles transporting a commodity  
12                  having a temperature above its flashpoint at the time of loading, certain cargo tank  
13                  vehicles transporting commodities under special permits issued by the hazardous  
14                  materials regulations board, and every motor vehicle which must have the following  
15                  placards: "explosives", "poison", "flammable oxidizers", "compressed gas",  
16                  "corrosives", "flammable gas", "radioactive", or "dangerous", before crossing at grade  
17                  any track ~~or tracks~~ of a railroad, shall stop ~~such~~the vehicle within fifty feet [15.24  
18                  meters] but not less than fifteen feet [4.57 meters] from the nearest rail of ~~such~~the  
19                  railroad and while ~~so~~ stopped shall listen and look in both directions along ~~such~~the  
20                  track for any approaching train or other on-track equipment, and for signals indicating  
21                  the approach of a train or other on-track equipment and may not proceed until the  
22                  driver can do so safely. After stopping as required ~~herein~~ and upon proceeding when it  
23                  is safe to do so, the driver of ~~any said~~the vehicle shall cross only in such gear of the  
24                  vehicle that there will be no necessity for manually changing gears while traversing  
25                  ~~such~~the crossing and the driver may not manually shift gears manually while crossing  
26                  the track ~~or tracks~~.  
27           2.   ~~No~~A stop ~~need be made~~ is not required at any ~~such~~a crossing at which ~~if~~  
28                  traffic is controlled by a police officer. For the purposes of this section, a United States marshal  
29                  ~~must be~~is considered a police officer.  
30           3.   ~~No~~A stop ~~need be made~~ is not required at a crossing that the director has designated  
31                  as an out-of-service crossing and which is clearly marked by signs bearing the words

- 1 "Tracks out of service" or "Exempt" in conspicuous places on each side of the  
2 crossing.
- 3 4. The designation must be limited to use at ~~crossings~~a crossing where track has been  
4 abandoned or its use discontinued.
- 5 5. The director shall notify the road authority and any railway company of a crossing  
6 under the jurisdiction of that railway company which the director has designated as an  
7 out-of-service crossing under this section and the road authority shall erect signs  
8 bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each  
9 side of the crossing.
- 10 6. All signs must conform to the manual on uniform traffic-control devices as provided  
11 under section 39-13-06.