

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2133
(Senators O. Larsen, Bekkedahl)
(Representatives Hoverson, McWilliams, Paulson)

AN ACT to amend and reenact sections 39-10-41 and 39-10-43 of the North Dakota Century Code, relating to railroad grade crossings; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. ~~Whenever any person driving~~When a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of ~~such~~the vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad, and may not proceed until the driver can do so safely. ~~The foregoing~~These requirements apply when:
 - a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;
 - b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;
 - c. A railroad train or other on-track equipment approaching within approximately one thousand three hundred twenty feet [402.34 meters] of the highway crossing emits a signal audible from such distance and such railroad train or other on-track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard; or
 - d. An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to such crossing.
2. ~~No~~A person may not drive ~~any~~a vehicle through, around, or under any crossing gate or barrier at a railroad crossing while ~~such~~the gate or barrier is closed or is being opened or closed. ~~No~~A person may not drive ~~any~~a vehicle past ~~any~~a human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.

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

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

1. The driver of a bus carrying passengers, or of ~~any~~a schoolbus, or of ~~any~~a vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit [93.33 degrees Celsius], cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards: "explosives", "poison", "flammable oxidizers", "compressed gas", "corrosives", "flammable gas", "radioactive", or "dangerous", before crossing at grade any track ~~or tracks~~ of a railroad, shall stop ~~such~~the vehicle within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of ~~such~~the railroad and while se-

stopped shall listen and look in both directions along ~~such~~the track for any approaching train or other on-track equipment, and for signals indicating the approach of a train or other on-track equipment and may not proceed until the driver can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of ~~any said~~the vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing ~~such~~the crossing and the driver may not ~~manually~~ shift gears manually while crossing the track ~~or tracks~~.

2. ~~No~~A stop need be made ~~is not required~~ at any ~~such~~a crossing at which ~~if~~ traffic is controlled by a police officer. For the purposes of this section, a United States marshal ~~must be~~is considered a police officer.
3. ~~No~~A stop need be made ~~is not required~~ at a crossing that the director has designated as an out-of-service crossing and which is clearly marked by signs bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each side of the crossing.
4. The designation must be limited to use at ~~crossings~~a crossing where track has been abandoned or its use discontinued.
5. The director shall notify the road authority and any railway company of a crossing under the jurisdiction of that railway company which the director has designated as an out-of-service crossing under this section and the road authority shall erect signs bearing the words "Tracks out of service" or "Exempt" in conspicuous places on each side of the crossing.
6. All signs must conform to the manual on uniform traffic-control devices as provided under section 39-13-06.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2133.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 87 Nays 4 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State