

Enrolled
House Bill 3389

Sponsored by Representative WITT

CHAPTER

AN ACT

Relating to conduct of drivers near rail crossings; creating new provisions; and amending ORS 809.535, 811.455, 811.460, 811.462, 811.465, 811.470 and 811.475.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 811.455 is amended to read:

811.455. (1) A person commits the offense of failure to stop for a railroad signal if the person fails to comply with any of the following requirements:

(a) A person who is driving a vehicle must stop the vehicle at a clearly marked stop line on the near side of a railroad crossing or, if there is no clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the crossing under any of the following circumstances:

(A) When a clearly visible electric or mechanical signal is given by a device that warns of the immediate approach of a railroad train **or other on-track equipment**.

(B) Upon the lowering of a crossing gate.

(C) When a signal given by a flagger or police officer indicates the approach or passage of a railroad train **or other on-track equipment**.

(D) When an approaching train **or other on-track equipment** is clearly visible and because of its nearness to the crossing is an immediate hazard.

(E) When an audible signal is given by an approaching railroad train **or other on-track equipment** because its speed or nearness to the crossing is an immediate hazard.

(b) A driver who has stopped for the passing of a train **or other on-track equipment** at a railroad grade crossing in accordance with the provisions of this section [*shall*] **may** not proceed across the railroad tracks until the driver can do so safely.

(c) A person [*shall*] **may** not drive any vehicle through, around or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(2) The offense described in this section, failure to stop for a railroad signal, is a Class B traffic violation.

SECTION 2. ORS 811.460 is amended to read:

811.460. (1) A person commits the offense of failure to follow rail crossing procedures for high-risk vehicles if the person takes any vehicle described in this section across any railroad or rail fixed guideway system tracks at grade without doing all of the following:

(a) Stopping the vehicle at a clearly marked stop line or, if there is not a clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the railroad or rail fixed guideway system.

(b) While so stopped, listening and looking in both directions along the tracks for approaching trains, **other on-track equipment** or rail fixed guideway system vehicles and for signals indicating approaching trains, **other on-track equipment** or rail fixed guideway system vehicles.

(c) Proceeding across the tracks after stopping only when such movement can be performed safely in the gear of the motor vehicle that does not require manually changing gears while proceeding.

(d) Proceeding across the tracks without manually changing gears.

(2) This section applies to the following vehicles when moved across railroad or rail fixed guideway system tracks:

(a) A school bus.

(b) A school activity vehicle with a loaded weight of 10,000 pounds or more.

(c) A worker transport bus.

(d) Any bus operated for transporting children to and from church or an activity or function authorized by a church.

(e) Any vehicle used in the transportation of persons for hire by a nonprofit entity.

(f) A commercial bus.

(g) A motor vehicle carrying as a cargo or part of a cargo any explosive substance, inflammable liquids, corrosives or similar substances or any cargo that the Department of Transportation determines to be hazardous. For purposes of this paragraph, the department may only determine a substance to be hazardous by rule. Any rules adopted by the department to determine hazardous substances must be consistent with substances classified as hazardous by the United States Secretary of Transportation.

(h) A tank vehicle, whether loaded or empty, used for the transportation of any hazardous material.

(3) Exemptions to this section are provided under ORS 811.465.

(4) The offense described in this section, failure to follow rail crossing procedures for high-risk vehicles, is a Class B traffic violation.

SECTION 3. ORS 811.462 is amended to read:

811.462. (1) A person commits the offense of failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train **or other on-track equipment** if the person:

(a) Is operating a commercial motor vehicle that is not required by ORS 811.460 to stop before reaching a rail crossing;

(b) Is approaching a rail crossing at grade; and

(c) Fails to slow down and check that the tracks are clear of an approaching train **or other on-track equipment** before proceeding across the railroad tracks.

(2) The offense described in this section, failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train **or other on-track equipment**, is a Class B traffic violation.

SECTION 4. ORS 811.465 is amended to read:

811.465. This section establishes exemptions from the special crossing procedures established for high-risk vehicles under ORS 811.460. The exemptions are partial or complete as described in the following:

(1) The vehicles are not required to comply with the procedures at a crossing of a street or highway and rail fixed guideway system tracks if:

(a) The rail fixed guideway system vehicles operate within and parallel to the right of way of a street or highway; and

(b) All vehicle movements are controlled by traffic control devices.

(2) The vehicles are not required to comply with the procedures when crossing any railway tracks upon which operation has been abandoned and for which the Department of Transportation has plainly marked that no stop need be made.

(3) The vehicles are not required to comply with the procedures when crossing industry track crossings across which train operations are required by law to be conducted under flag protection.

(4) The vehicles are not required to comply with the procedures when crossing industry track crossings within business districts.

(5) Vehicles are not required to comply with the procedures when crossing any crossing where an officer directs traffic to proceed or where an operating traffic control signal indicates that other traffic may proceed.

(6) Vehicles are not required to comply with the procedures when crossing any crossing protected by crossing gates. The exemption under this subsection does not apply to:

(a) School buses or school activity vehicles that are required to stop at crossings with crossing gates under ORS 811.460;

(b) Tank vehicles, whether loaded or empty, used to transport hazardous materials;

(c) Vehicles transporting any hazardous material requiring the vehicle to be placarded; or

(d) High-risk vehicles described in ORS 811.460 that are not otherwise described in this subsection, when operating in interstate commerce.

(7) Except when a train, **other on-track equipment** or rail fixed guideway system vehicle is approaching, the driver of a commercial bus is not required to stop at crossings where the Department of Transportation has determined and plainly marked that no stop need be made.

SECTION 5. ORS 811.470 is amended to read:

811.470. (1) A person commits the offense of improper movement of heavy equipment across a rail crossing if the person operates or moves any equipment described in this section upon or across any tracks at a railroad or rail fixed guideway system grade crossing without complying with any of the following:

(a) Before moving across the tracks, the person must give notice of an intended crossing to a responsible officer of the railroad or rail fixed guideway system in time for protection to be given.

(b) Where the railroad or rail fixed guideway system has provided a flagger, the person operating or moving such equipment shall obey the direction of the flagger.

(c) The person operating or moving such equipment must do all of the following:

(A) The person must stop before making the crossing at a clearly marked line or, if there is no clearly marked line, not less than 15 feet nor more than 50 feet from the nearest rail.

(B) While so stopped, the person must look and listen in both directions along the tracks for approaching trains **or other on-track equipment**.

(C) The person *[shall]* **may** not proceed across the tracks unless the crossing can be made safely.

(2) This section applies to the operation of movement across railroad or rail fixed guideway system tracks of any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 miles per hour or less or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway.

(3) The offense described in this section, improper movement of heavy equipment across a rail crossing, is a Class B traffic violation.

SECTION 6. ORS 809.535 is amended to read:

809.535. (1) The driver of a commercial motor vehicle is subject to suspension of the driver's commercial driving privileges upon conviction of any of the following offenses:

(a) Failure to stop for a railroad signal in violation of ORS 811.455.

(b) Failure to follow rail crossing procedures for high-risk vehicles in violation of ORS 811.460.

(c) Obstructing a rail crossing in violation of ORS 811.475.

(d) Failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train **or other on-track equipment** in violation of ORS 811.462.

(2) Upon receipt of a record of conviction for an offense described in subsection (1) of this section, the Department of Transportation shall suspend the convicted person's commercial driving privileges for the following periods of time:

(a) Sixty days if:

(A) The conviction is the person's first conviction of an offense described in subsection (1) of this section; or

(B) The date the person committed an offense described in subsection (1) of this section is not within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction.

(b) One hundred and twenty days if:

(A) The conviction is the person's second conviction of an offense described in subsection (1) of this section;

(B) The date the person committed the second offense is within three years of the date the person committed another offense, as described in subsection (1) of this section and for which there was a conviction; and

(C) The convictions arose out of separate incidents.

(c) One year if:

(A) The conviction is the person's third or subsequent conviction for an offense described in subsection (1) of this section;

(B) The date the person committed the latest offense is within three years of the dates the person committed two or more other offenses, as described in subsection (1) of this section and for which there were convictions; and

(C) The convictions arose out of separate incidents.

(3) A person is entitled to administrative review under ORS 809.440 of a suspension under this section.

(4) A report of a conviction in another jurisdiction of an offense described in subsection (1) of this section has the same effect as if the conviction had occurred in this state.

(5) A suspension imposed under this section is consecutive to any other suspension imposed under this section or ORS 809.510, 809.525 or 809.530 if the suspensions do not arise out of the same incident.

SECTION 7. ORS 811.475 is amended to read:

811.475. (1) A person commits the offense of obstructing a rail crossing if the person is operating a vehicle and the person does either of the following:

(a) Drives onto any railroad or rail fixed guideway system grade crossing when there is not sufficient space on the other side of the railroad or rail fixed guideway system grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, railroad trains, **other on-track equipment** or rail fixed guideway system vehicles; or

(b) While driving a commercial motor vehicle, fails to negotiate the rail crossing because of insufficient undercarriage clearance.

(2) The offense described in this section is applicable whether or not a traffic control device indicates to proceed.

(3) The offense described in this section, obstructing rail crossings, is a Class B traffic violation.

SECTION 8. The amendments to ORS 809.535, 811.455, 811.460, 811.462, 811.465, 811.470 and 811.475 by sections 1 to 7 of this 2017 Act apply to conduct occurring on or after the effective date of this 2017 Act.

Passed by House April 24, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 17, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

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Dennis Richardson, Secretary of State