

CHAPTER 422

AN ACT concerning driver responsibilities when approaching railroad crossings and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

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

C.39:4-127.1 Railroad crossings; stopping.

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

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;
2. 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;
3. A railroad train or other on-track equipment approaching within approximately 1500 feet 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;
4. An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to such crossing.

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

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

Certain vehicles required to stop at railroad crossings; exempt crossings.

39:4-128. (a) The driver of any omnibus, designed for carrying more than six passengers, or of any school bus carrying any school child or children, or of any vehicle carrying explosive substance or flammable liquids as a cargo or part of a cargo, or of any commercial motor vehicle specified in 49 C.F.R. s.392.10(a) (1) through (6), before crossing at grade any track or tracks of a railroad shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped listen and look in both directions along such track or tracks, for any approaching train or other on-track equipment, and for signals indicating the approach of a train or other on-track equipment. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks. This section shall not apply to grade crossings which are no longer used for railroad traffic and which have been abandoned by the railroad company provided that appropriate signs have been posted to indicate that such grade crossing has been abandoned or is no longer used for any railroad traffic. This section shall not apply to grade crossings where the railroad track has been removed or paved over and the warning signs erected by the railroad in accordance with R.S.48:12-58 have been removed, provided that in such case written notice is given to the Commissioner of Transportation and to the appropriate State or local authority having jurisdiction over the highway, road, or street prior to the undertaking of

such removal or paving of railroad track. This section shall also not apply to grade crossings marked with a sign reading "Exempt Crossing."

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

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

(b) No person shall operate or move any crawler-type tractor, wheel tractor, tractor engine with or without trailer or trailers attached, steam shovel, derrick, roller, self-propelled concrete mixer, or any self-propelled vehicle, commercial motor vehicle, equipment, machinery, apparatus or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than 1/2 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, upon or across any track or tracks at a railroad grade crossing without first complying with the following requirements.

Notice of any such intended crossing shall be given to the nearest superintendent or trainmaster of such railroad. Such notice shall specify the approximate time of crossing and a reasonable time shall be given to such railroad to provide proper protection at such crossing.

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

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

(c) Any person violating the provisions of this section shall be punished by a fine of not more than \$50 for the first offense and for the second offense a fine of not more than \$100, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

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

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

C.39:4-128.11 Regulations relative to certain commercial vehicles stopping at railroad crossings.

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

b. A driver of a commercial motor vehicle, other than a commercial motor vehicle that is required to stop at a railroad crossing in accordance with R.S.39:4-128, shall stop that commercial motor vehicle before reaching the nearest rail of the crossing, if the tracks of the crossing are not clear of other vehicles or if there is insufficient space to drive the commercial motor vehicle completely through the crossing without stopping the commercial motor vehicle.

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

4. This act shall take effect immediately.

Approved January 21, 2020.