

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1342

Introduced by

Representatives Weisz, DeKrey, Delmore, R. Kelsch

Senators Cook, Fiebiger

1 A BILL for an Act to create and enact a new section to chapters 49-10 and 49-11 of the North
2 Dakota Century Code, relating to public and private railroad crossings; and to amend and
3 reenact sections 49-11-21 and 49-11-22 of the North Dakota Century Code, relating to warning
4 devices at railroad crossings.

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

6 **SECTION 1.** A new section to chapter 49-10 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Railroad crossing determination.** If a dispute arises as to whether a railroad grade
9 crossing should be classified as public or private as defined in section 2 of this Act, the railroad
10 corporation, governmental entity, or private property owner may file with the commission a
11 petition and the commission shall determine whether the crossing is public or private.

12 **SECTION 2.** A new section to chapter 49-11 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Definitions.** In this chapter, unless the context otherwise requires:

15 1. "Public railroad crossing" means a location where a public highway, road, or street,
16 including associated sidewalks or pathways, crosses one or more railroad tracks at
17 grade. The term includes a crossing if a public authority maintains the roadway on
18 both sides of the crossing.

19 2. "Private railroad crossing" means any railroad at grade crossing of a roadway
20 which is not a public railroad crossing.

21 **SECTION 3. AMENDMENT.** Section 49-11-21 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **49-11-21. Warning device sounded at crossing by locomotive - ~~Exception~~**
24 **Exceptions.**

- 1 1. ~~A warning device must be placed on each locomotive engine and the device on the~~
2 ~~lead locomotive must be sounded at a distance of at least eighty rods [402.34~~
3 ~~meters] from the place where the railroad crosses any other road or street when~~
4 ~~approaching a public railroad crossing, and must continue to be sounded until it~~
5 ~~has crossed the road or street locomotive enters the public railroad crossing.~~
6 2. ~~The warning device may not be sounded at a private railroad crossing. However,~~
7 ~~a party may petition the commission to request that a horn be sounded at a private~~
8 ~~railroad crossing. The commission shall review the request and issue an order~~
9 ~~approving or denying the request based on the safety concerns of the public. A~~
10 ~~party may not be subject to any liability as a result of not making a request.~~
11 3. The governing body of a city may adopt a quiet zone ordinance, as allowed by
12 federal law and implemented under the federal railroad administration's
13 supplemental safety measures for at-grade crossings, prohibiting a locomotive
14 engine from sounding a warning device at crossings within the quiet zone under
15 regular crossing conditions.
16 4. ~~A crew member may sound a warning device as determined appropriate by that~~
17 ~~crew member~~ Notwithstanding any other provision of this section, a locomotive
18 ~~engineer may sound a locomotive horn at any crossing to provide a warning to~~
19 ~~animals, vehicle operators, pedestrians, trespassers, or crews on other trains in an~~
20 ~~emergency situation if in the locomotive engineer's judgment the action is~~
21 ~~appropriate to prevent imminent injury, death, or property damage.~~

22 **SECTION 4. AMENDMENT.** Section 49-11-22 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **49-11-22. Liability for failure of locomotive to sound bell, horn, or whistle at**
25 **crossing.**

- 26 1. ~~A person railroad that owns or has a leasehold interest in~~ has operational control
27 ~~of a locomotive that fails to sound its warning device at any road or street crossing~~
28 ~~as required by section 49-11-21 is guilty of an infraction and is liable for all~~
29 ~~damages that are sustained by any person by reason of the neglect.~~
30 2. If a crew member of a locomotive does not sound a warning device at a crossing
31 for which the sounding of a warning device is ~~prohibited under a city ordinance~~ not

1 required, any crew member or ~~person~~ railroad with ~~any interest in~~ operational
2 control of the locomotive ~~is~~ may not be liable for any damages sustained by a
3 person by reason of the failure to sound a warning device.

4 3. This section does not exempt a railroad corporation from any liability created under
5 chapter 49-16 or the Federal Employers' Liability Act [45 U.S.C. 51 et seq.] for
6 injuries to its employees or agents.