

Sixty-first
Legislative Assembly
of North Dakota

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, including
16 associated sidewalks or pathways, which is open for public travel, crosses one or
17 more railroad tracks at grade and a governmental authority regularly maintains the
18 highway on both sides of the crossing.

19 2. "Private railroad crossing" means any railroad grade crossing that is not a public
20 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 must be sounded
2 ~~at a distance of at least eighty rods [402.34 meters] from the place where the~~
3 ~~railroad crosses any other road or street~~ when approaching a public railroad
4 crossing, and must continue to be sounded until ~~it has crossed the road or street~~
5 locomotive enters the public railroad crossing.
- 6 2. The warning device may not be routinely sounded at a private railroad crossing
7 unless the property owner submits to the railroad corporation a written request for
8 the warning device to be sounded.
- 9 3. The governing body of a city may adopt a quiet zone ordinance, as allowed by
10 federal law and implemented under the federal railroad administration's
11 supplemental safety measures for at-grade crossings, prohibiting a locomotive
12 engine from sounding a warning device at crossings within the quiet zone under
13 regular crossing conditions.
- 14 4. A crew member may sound a warning device at any crossing as determined
15 appropriate by that crew member.

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

18 **49-11-22. Liability for failure of locomotive to sound bell, horn, or whistle at**
19 **crossing.**

- 20 1. A person that owns ~~or has a leasehold interest in~~ a locomotive that fails to sound
21 its warning device at any ~~road or street~~ crossing as required by section 49-11-21 is
22 guilty of an infraction and is liable for all damages that are sustained by any person
23 by reason of the neglect.
- 24 2. If a crew member of a locomotive does not sound a warning device at a crossing
25 for which the sounding of a warning device is ~~prohibited under a city ordinance~~ not
26 required, any crew member or person with any interest in the locomotive is not
27 liable for any damages sustained by a person by reason of the failure to sound a
28 warning device.
- 29 3. This section does not exempt a railroad corporation from any liability created under
30 chapter 49-16 or the Federal Employers' Liability Act [45 U.S.C. 51 et seq.] for
31 injuries to its employees or agents.