

# INITIATED MEASURES, DISAPPROVED

## CHAPTER 471

### FULL TRAIN CREWS FOR FREIGHT AND MIXED TRAINS

An Act for the initiation of a measure to promote the safe operation of trains over main line tracks and grade crossings; establishing the number of men required to man freight trains over one-half of a mile in length; providing for the number of men required to conduct switching operations across public crossings within municipalities of this state; providing for the effect of invalidity of parts of this Act; and prescribing penalties for violation of the provisions thereof.

*Be It Enacted by the People of the State of North Dakota:*

**§ 1. Safety Protection for Railroad Trains, Engines, Cars and Machines on Main Track by Flagmen Required.)** All railroad corporations operating railroads in the state of North Dakota, are hereby required to protect, engines, trains, equipment, cars and self-propelled engines or machines not used for the transportation of passengers, which at any time obstruct main tracks over which scheduled trains or trains under special or other orders are or may be operated or run, by stationing a reliable and competent flagman in such a position as to stop approaching trains from either direction, regardless of the use of any manual or automatically controlled block system or signal or any yard board. Said flagmen to be equipped with both visible and audible signals for warning any approaching train. The term "main track" means any continuous track over which trains operate through and between stations.

**§ 2. Freight Trains Over One-Half of a Mile in Length—How Manned.)** No railroad corporation doing business in this state shall operate over any of its lines, or any part thereof including a branch line outside of the yard limits any freight or mixed train which measures over one-half of a statute mile in length measured lengthwise from the front end of the engine to the rear of the last car attached thereto with less than a full train crew consisting of at least five competent employees, namely: an engineer, an engineman-helper, a conductor, a brakeman and a flagman. Whenever it is necessary to stop or back such train for any reason the flagman shall be stationed to the rear of the train and the brakeman and conductor shall be stationed on either side of the train in a position so as to be able to relay signals and warnings between the front and rear of said train.

**§ 3. Switch Crews in Municipalities—Requisite Members.)**

No railroad corporation doing business in this state owning or operating any yard or terminal in any city or village, where switching, pushing or transferring of cars are made across any public crossing within the corporate limits of such city or village shall operate its switch crew with less than five competent employees, namely: an engineer, an engineman-helper who shall be stationed in the switching engine and a foreman and two helpers who shall be stationed and equipped to provide flag protection to motor vehicles and pedestrians at such crossings.

**§ 4. Definition.)** The term competent employee as used in this Act shall mean one who is able to read, speak, write, hear, and understand the English language and the time tables of the corporation by whom he is employed, and who is able to see, distinguish and understand the signals required by the book of rules of the corporation governing the operation of its trains and engines and, when required shall have passed, the regular examination prescribed by the corporation concerning rules and regulations governing the position of his class of employment.

**§ 5. Crew Safety Requirements for Freight and Mixed Trains Operating Over Certain Railroad Crossings.)**

Notwithstanding the provisions of any arbitration award or collective bargaining agreement to the contrary, no railroad corporation doing business in the state of North Dakota shall operate or permit to be operated over any of its lines or any part thereof including a branch line, any freight or mixed train consisting of more than three cars across any railroad grade crossing over any public highway or street in this state which is not protected by electrical or mechanical warning devices with less than a full train crew consisting of five competent employees, namely: an engineer, who shall operate the engine, perform related work and keep a lookout for approaching motor vehicles, and an engineman (helper), who shall assist the engineer in the performance of his duties and be stationed in the engine so as to best view any motor vehicle moving on the highway which may be approaching from either direction, whether the train is moving forward or backing toward such crossing, and by a conductor who shall have charge of the operation of the train enroute, at stations and between stations, and by a brakeman who shall assist the conductor in the operation and protection of the train, and assist the flagman in providing flag protection and by a flagman, who together with the brakeman shall be stationed at the rear of the train to furnish flag protection to the train and highway traffic.

**§ 6. Effect of Act.)** Notwithstanding any law of this state to the contrary nothing herein shall be construed to relieve any railroad from complying with the crew consist and job protection requirements afforded under the provisions of chapter 402 of the Session Laws of 1961, commonly referred to as section 49-13-09 of the North Dakota Century Code, as amended, on the date such chapter became effective.

**§ 7. Penalty for Violation of Safety Regulations.)** Any railroad corporation violating any of the provisions of this Act shall be punished for each offense by a fine of not less than one hundred dollars nor more than five hundred dollars for each such violation, and each freight train or each switch car so illegally operated shall constitute a separate offense.

**§ 8. Effect of Invalidity of Part of This Act.)** If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

Disapproved November 3, 1964.

85,931 to 147,785

**Note:** This was measure No. 4 on the general election ballot.

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## CHAPTER 472

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### REQUIRED SERVICE OF MIXED FREIGHT AND PASSENGER TRAINS

An Act for the initiation of a measure declaring the public policy of the state of North Dakota with respect to and requiring minimum freight and passenger service by railroads within this state; providing exceptions thereto and penalties for failure to trains as required, declaring the Act to be self executing and the effect of the invaliding of a part of the Act.

*Be It Enacted by the People of the State of North Dakota:*

**§ 1. Intent of Act.)** The state of North Dakota, exercising its sovereign powers, declares that the prosperity of this state depends in a large measure upon good transportation service for its people, shippers and communities, so as to develop and continue the economic growth of all regions of the state; and that every railroad corporation should run its trains at regular times and furnish sufficient accommodations for passengers and property in a manner and at the times consistent with needs and conveniences of the people and shippers along

such lines, and the financial earnings of such corporations from the operations of such corporations.

**§ 2. Daily Local Mixed Passenger and Freight Trains by Railroad Corporations Required—Exceptions.)** Every railroad corporation operating a line of railroad within the state of North Dakota, including branch lines, whether such line is wholly within this state or partly within this state and partly within another state or foreign country, shall move over each of its lines of road, including its branch lines, within this state, each way on every business day of the year, at least one scheduled local mixed freight and passenger train. Such mixed train in addition to freight cars shall be supplied with not less than one combination baggage and passenger coach for the accommodation of passengers, provided that if said corporation is providing separate passenger service along any line it shall not be required to provide a combination baggage and passenger coach on the scheduled train required herein. If any railroad corporation after due application therefor and hearing held thereon, held pursuant to due notice given in substantially the manner required by chapter 28-32 of the North Dakota Century Code, shall make it appear to the public service commission that the total business from all sources on any such line of its road during the three year period immediately preceding the date of its application, was operated at a loss and will not justify the daily operation of such train as herein provided for and said commission shall so order, such corporation may operate such mixed train over the line on such days for such time as the evidence may justify and as said commission shall direct, provided, however, that nothing in this Act shall be construed to prevent any railroad corporation from providing additional train service on any line, or, the commission after due hearing and investigation from ordering additional train service on any line where the evidence appears to require such additional service.

**§ 3. Penalty for Failure to Run.)** Any railroad corporation which violates or fails to comply with any provision of this Act or fails, omits or neglects to comply with any order or requirement of said commission or any part or provision thereof shall be punished by a fine of not less than five hundred dollars and every violation of any provision of this Act, or any order or requirement of said commission by any such corporation is a separate offense, and in case of a continuing violation, each days continuance thereof shall be deemed to be a separate and distinct offense.

**§ 4. Effect of Invalidity of Part of This Act.)** If a court of competent jurisdiction shall adjudge to be invalid or uncon-

stitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

**§ 5. Act Self Executing—Exception.)** This Act is declared to be self executing and within ninety days after its effective date without any order from the public service commission every railroad corporation operating in this state will inaugurate mixed train service on each of its lines in this state in accordance with the provisions hereof, provided, however, if upon due application therefor filed prior to the end of said ninety day period, it shall be made to appear to the commission that for the thirty day period immediately prior to the 1st day of July, 1964 such railroad corporation was operating any freight or mixed train on any such line on a schedule of less than every business day of such period the commission may order it to continue to operate such train on said schedule as a mixed train for the six months period immediately following the effective date of such order, unless such period shall be shortened by order of the commission. Upon receipt of the such application the commission shall set the matter for hearing and if upon such hearing after due notice it shall be made to appear to the commission that under the provisions of section 2 of this Act daily train service should not be required on such line, the commission shall order mixed train service on such line on such days as the evidence may appear to justify.

Disapproved November 3, 1964.

81,321 to 148,568

**Note:** This was measure No. 5 on the general election ballot.