

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 175

Short Title: Operation Lifesaver 1991.

(Public)

Sponsors: Representatives Dawkins; Abernethy, Beall, Beard, Bowman, Fussell, Hardaway, Hightower, Jordan, Ligon, Luebke, McLawhorn, Mavretic, Mercer, Miller, and Stamey.

Referred to: Judiciary II.

February 27, 1991

A BILL TO BE ENTITLED

AN ACT TO CONSOLIDATE, CLARIFY, AND IMPROVE THE STATUTES RELATING TO RAILROAD/MOTOR VEHICLE SAFETY.

The General Assembly of North Carolina enacts:

Section 1. Part 10 of Article 3 of Chapter 20 of the General Statutes is amended by adding five sections to read:

**"§ 20-142.1. Obedience to railroad signal.**

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

- (1) A clearly visible electrical or mechanical signal device gives warning of the immediate approach of a railroad train;
- (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;
- (3) A railroad train approaching within approximately 1500 feet of the highway crossing emits a signal audible from that distance, and the railroad train is an immediate hazard because of its speed or nearness to the crossing; or
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

1           (b) No person shall drive any vehicle through, around, or under any crossing  
2 gate or barrier at a railroad crossing while the gate or barrier is closed or is being  
3 opened or closed, nor shall any pedestrian pass through, around, over, or under any  
4 crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is  
5 being opened or closed.

6           (c) When stopping as required at a railroad crossing, the driver shall keep as far  
7 to the right of the highway as possible and shall not form two lanes of traffic unless the  
8 roadway is marked for four or more lanes of traffic.

9           (d) Any person who violates any provisions of this section is guilty of an  
10 infraction. Violation of this section shall not constitute negligence **per se**.

11 **"§ 20-142.2. Vehicles stop at certain grade crossing.**

12           The Department of Transportation may designate particularly dangerous highway  
13 crossings of railroads and erect stop signs at those crossings. When a stop sign is  
14 erected at a highway crossing of a railroad, the driver of any vehicle shall stop within 50  
15 feet but not less than 15 feet from the nearest rail of such grade crossing and shall  
16 proceed only upon exercising due care. Any person who violates this section is guilty  
17 of an infraction. Violation of this section shall not constitute negligence **per se**.

18 **"§ 20-142.3. Certain vehicles must stop at railroad grade crossing.**

19           (a) The driver of every school bus, every motor vehicle carrying passengers for  
20 compensation and every property-hauling motor vehicle licensed in excess of 10,000  
21 pounds which is carrying explosives or any dangerous article as a cargo or part of a  
22 cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle  
23 within 50 feet but not less than 15 feet from the nearest rail of such railroad and while  
24 so stopped shall listen and look in both directions along such track for any approaching  
25 train and for any signals indicating the approach of a train, except as hereinafter  
26 provided, and shall not proceed until he can do so safely. Upon proceeding, the driver of  
27 such vehicle shall cross only in such gear of the vehicle that there shall be no necessity  
28 for changing gears and the driver shall not change gears while crossing the track or  
29 tracks.

30           (b) Except for school buses, the provisions of this section shall not require  
31 the driver of a vehicle to stop:

32           (1) At railroad tracks used exclusively for industrial switching  
33 purposes within a business district.

34           (2) At a railroad grade crossing which a police officer or crossing  
35 flagman directs traffic to proceed.

36           (3) At a railroad grade crossing protected by a gate or flashing  
37 signal designed to stop traffic upon the approach of a train,  
38 when such gate or flashing signal does not indicate the  
39 approach of a train.

40           (4) At an abandoned railroad grade crossing which is marked with  
41 a sign indicating that the rail line is abandoned.

42           (5) At an industrial or spur line railroad grade crossing marked with  
43 a sign reading 'Exempt' which sign has been erected by or with  
44 the consent of the appropriate State or local authority.

1           (c) 'Dangerous article' shall mean any flammable liquids, flammable solids,  
2 oxidizing materials, corrosive liquids, compressed gases, poisonous substances or  
3 radioactive materials as hereinafter defined:

4           (1) 'Flammable liquids' shall mean any liquid having a flash point  
5 below 100° F. as determined by Tag Closed Tester method.

6           (2) 'Flammable solids' shall mean any solid substance which is  
7 liable, under conditions incident to transportation, to cause fires  
8 through friction, through absorption of moisture, through  
9 spontaneous chemical changes, or as a result of retained heat  
10 from its manufacturing or processing.

11           (3) 'Oxidizing materials' shall mean any substance such as chlorate,  
12 permanganate, peroxide, or a nitrate, that yields oxygen readily  
13 to stimulate the combustion of organic matter.

14           (4) 'Corrosive liquids' shall mean those acids, alkaline caustic  
15 liquids and other corrosive liquids which, when in contact with  
16 living tissue, will cause severe damage of such tissue by  
17 chemical action, or in case of leakage, will materially damage  
18 or destroy other freight by chemical action, or are liable to  
19 cause fire when in contact with organic matter or with certain  
20 chemicals.

21           (5) 'Compressed gas' shall mean any material or mixture having in  
22 the container either an absolute pressure exceeding 40 pounds  
23 per square inch at 70 degrees F., or an absolute pressure  
24 exceeding 104 pounds per square inch at 130 degrees F., or  
25 both, or any liquid flammable material having a Reid vapor  
26 pressure exceeding 40 pounds per square inch absolute at 100  
27 degrees F.

28           (6) 'Poisonous substances' shall mean liquids and gases of such  
29 nature that a very small amount of the gas or vapor of the liquid  
30 mixed with air is dangerous to life, or such liquid or solid  
31 substance as, upon contact with fire or when exposed to air,  
32 gives off dangerous or intensely irritating fumes or substances,  
33 which are chiefly dangerous by external contact with the body  
34 or by being taken internally.

35           (7) 'Radioactive materials' shall mean any material or combination  
36 of materials that spontaneously emits ionizing radiation.

37           (d) It shall be unlawful to transport by motor vehicle upon the highways of this  
38 State any dangerous article without conspicuously marking or placarding such motor  
39 vehicle on each side and on the rear thereof with the word 'DANGEROUS' or the  
40 common or generic name of the article transported or its principal hazard. Additionally,  
41 the rear of every such vehicle shall be conspicuously marked with the words 'THIS  
42 VEHICLE STOPS AT RAILROAD CROSSINGS' or 'WE STOP AT RR  
43 CROSSINGS.' A person violating the provisions of this subsection shall be guilty of a

1 misdemeanor and punished in accordance with G.S. 20-176. Violation of this section  
2 shall not constitute negligence **per se**.

3 (e) The provisions of this section shall not apply to taxicabs or to vehicles subject  
4 to the rules and regulations adopted by the Division of Motor Vehicles and the United  
5 States Department of Transportation.

6 **"§ 20-142.4. Moving heavy equipment at railroad grade crossing.**

7 (a) No person shall operate or move any crawler-type tractor, steam shovel,  
8 derrick, or roller or any equipment or structure having a normal operating speed of 10 or  
9 less miles per hour or a vertical body or load clearance of less than nine inches above  
10 the level surface of a roadway upon or across any tracks at a railroad crossing without  
11 first complying with this section.

12 (b) Notice of any intended crossing described in subsection (a) of this section  
13 shall be given to a superintendent of the railroad and a reasonable time be given to the  
14 railroad to provide protection at the crossing.

15 (c) Before making any crossing described in subsection (a) of this section, the  
16 person operating or moving the vehicle or equipment shall:

17 (1) Stop the vehicle or equipment not less than 15 feet nor more  
18 than 50 feet from the nearest rail of the railroad;

19 (2) While stopped, shall listen and look both directions along the  
20 track for any approaching train and for signals indicating the  
21 approach of a train; and

22 (3) Shall not proceed until the crossing can be made safely.

23 (d) No crossing described in subsection (a) of this section shall be made when  
24 warning is given by automatic signal or crossing gates or a flagman or otherwise of the  
25 immediate approach of a railroad train or car.

26 (e) Subsection (c) of this section shall not apply at any railroad crossing where  
27 State or local authorities have determined that trains are not operating during certain  
28 periods or seasons of the year and have erected an official sign carrying the legend  
29 'Exempt' which shall give notice when so posted that such crossing is exempt from the  
30 stopping requirement provided in this section.

31 (f) Any person who violates any provision of this section is guilty of an  
32 infraction. Violation of this section shall not constitute negligence **per se**.

33 **"§ 20-142.5. Stop when traffic obstructed.**

34 No driver shall enter an intersection or a marked crosswalk or drive onto any  
35 railroad grade crossing unless there is sufficient space on the other side of the  
36 intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is  
37 operating without obstructing the passage of other vehicles, pedestrians, or railroad  
38 trains, notwithstanding the indication of any traffic control signal to proceed. Any  
39 person who violates any provision of this section is guilty of an infraction. Violation of  
40 this section shall not constitute negligence **per se**."

41 Sec. 2. G.S. 20-142, 20-143, and 20-143.1 are repealed. Prosecutions for  
42 offenses occurring before the effective date of this act are not abated or affected by this  
43 act, and the statutes that would be applicable but for this act remain applicable to those  
44 prosecutions.

1           Sec. 3. This act becomes effective October 1, 1991.