

By Senator Bean

4-00981A-19

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1 A bill to be entitled
2 An act relating to railroad-highway grade crossings;
3 amending s. 351.03, F.S.; prohibiting a railroad train
4 from blocking a public highway, street, or road at a
5 railroad-highway grade crossing for more than a
6 specified time; providing exceptions; providing civil
7 penalties; exempting certain persons from liability
8 for violations under certain circumstances; providing
9 construction; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 351.03, Florida Statutes, is amended to
14 read:

15 351.03 Railroad-highway grade-crossing warning signs and
16 signals; audible warnings; exercise of reasonable care; blocking
17 highways, roads, and streets ~~during darkness.~~

18 (1) Every railroad company shall exercise reasonable care
19 for the safety of motorists whenever its track crosses a highway
20 and shall be responsible for erecting and maintaining crossbuck
21 grade-crossing warning signs in accordance with the uniform
22 system of traffic control devices adopted pursuant to s.
23 316.0745. Such crossbuck signs shall be erected and maintained
24 at all public or private railroad-highway grade crossings.

25 (2) Advance railroad warning signs and pavement markings
26 shall be installed and maintained at public railroad-highway
27 grade crossings in accordance with the uniform system of traffic
28 control devices by the governmental entity having jurisdiction
29 over or maintenance responsibility for the highway or street.

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30 All persons approaching a railroad-highway grade crossing shall
31 exercise reasonable care for their own safety and for the safety
32 of railroad train crews as well as for the safety of train or
33 vehicle passengers.

34 (3) Except as provided in subsection (4), any railroad
35 train approaching within 1,500 feet of a public railroad-highway
36 grade crossing shall emit a signal audible for such distance.

37 (4) (a) The Department of Transportation and the Federal
38 Railroad Administration may authorize a municipality or county
39 to implement a whistle ban provided the following conditions are
40 met:

41 1. A traffic operations system is implemented to secure
42 railroad-highway grade crossings for the purpose of preventing
43 vehicles from going around, under, or through lowered railroad
44 gates.

45 2. The municipality or county has in effect an ordinance
46 that unconditionally prohibits the sounding of railroad train
47 horns and whistles during the hours of 10 p.m. and 6 a.m. at all
48 public railroad-highway grade crossings within the municipality
49 or county and where the municipality, county, or state has
50 erected signs at the crossing announcing that railroad train
51 horns and whistles may not be sounded during such hours. Signs
52 so erected shall be in conformance with the uniform system of
53 traffic control devices as specified in s. 316.0745.

54 (b) Upon final approval and verification by the department
55 and the Federal Railroad Administration that such traffic
56 operations system meets all state and federal safety and traffic
57 regulations and that such railroad-highway grade crossings can
58 be secured, the municipality or county may pass an ordinance

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59 prohibiting the sounding of audible warning devices by trains
60 upon approaching such railroad-highway grade crossings between
61 the hours of 10 p.m. and 6 a.m.

62 (c) Nothing in this subsection shall be construed to
63 nullify the liability provisions of s. 768.28.

64 (5) (a) Whenever a railroad train engages in a switching
65 operation or stops so as to block a public highway, street, or
66 road at any time from one-half hour after sunset to one-half
67 hour before sunrise, the crew of the railroad train shall cause
68 to be placed a lighted fusee or other visual warning device in
69 both directions from the railroad train upon or at the edge of
70 the pavement of the highway, street, or road to warn approaching
71 motorists of the railroad train blocking the highway, street, or
72 road. However, this subsection does not apply to railroad-
73 highway grade crossings at which there are automatic warning
74 devices properly functioning or at which there is adequate
75 lighting.

76 (b) A person who violates any provision of paragraph (a) is
77 guilty of a misdemeanor of the second degree, punishable as
78 provided in s. 775.082 or s. 775.083.

79 (6) (a) A railroad train that has come to a complete stop
80 and is blocking a public highway, street, or road at a railroad-
81 highway grade crossing may not remain stopped for more than 15
82 minutes unless such stoppage is due to a safety-related
83 emergency or a mechanical failure that renders movement of the
84 train impossible.

85 (b) A law enforcement officer, as defined in s. 943.10,
86 shall issue a citation to the owner or operator of a railroad
87 train that violates paragraph (a). The owner or operator is

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88 subject to the following fines, payable to the clerk of court:

89 1. If the crossing is blocked for more than 15 minutes but
90 less than 20 minutes, \$200.

91 2. If the crossing is blocked for 20 minutes or more but
92 less than 30 minutes, \$300.

93 3. If the crossing is blocked for 30 minutes or more but
94 less than 1 hour, \$600.

95 4. If the crossing is blocked for 1 hour, \$1,200, plus
96 \$1,000 for each additional 15 minutes after the first hour.

97 (c) A person who is a member of a railroad train crew, yard
98 crew, or engine crew may not be held personally liable for the
99 violation of any state law or municipal or county ordinance that
100 regulates or intends to regulate the occupying or blocking of a
101 public highway, street, or road at a railroad-highway grade
102 crossing by a railroad train, whether passenger or freight, upon
103 reasonable proof that the person's action was necessary due to
104 circumstances beyond his or her control or in order to comply
105 with written or verbal orders or instructions from his or her
106 employer or employer's agent. This paragraph does not relieve
107 the employer or railroad company of any responsibility of the
108 employer or railroad company pursuant to such state law or
109 municipal or county ordinance.

110 Section 2. This act shall take effect July 1, 2019.