

House File 2263 - Introduced

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BY M. SMITH, MURPHY, HALL,
KEARNS, COHOON, T. TAYLOR,
and HUNTER

A BILL FOR

1 An Act concerning requirements for motorists at highway-rail
2 grade crossings, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.341, Code 2011, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 **321.341 Highway-rail grade crossing violations.**

5 1. *Short title.* This section shall be known and may be
6 cited as the "*Highway-Rail Grade Crossing Safety Act*".

7 2. *Purpose.* The purpose of this section is to prevent
8 collisions and casualties to motorists and their passengers at
9 public highway-rail grade crossings and to otherwise enhance
10 the safety of transportation by railroad and highway.

11 3. *Definitions.* For purposes of this section, unless
12 the context otherwise requires, the following terms have the
13 following meaning:

14 a. "*Active warning device*" means a traffic control device
15 activated by the approach of a train, such as a flashing
16 light signal, automatic gate, or similar device or a manually
17 operated device or crossing watchman, any of which displays to
18 motorists a positive warning of the approach or presence of a
19 train.

20 b. "*Appropriately equipped flagger*" means a person who is
21 authorized to temporarily control traffic at a highway-rail
22 grade crossing and who is equipped with a vest, shirt, or
23 jacket of a color appropriate for daytime flagging, such as
24 orange, yellow, strong yellow green, or fluorescent versions
25 of these colors or other generally accepted high visibility
26 colors. For nighttime flagging, similar outside garments
27 shall be retroreflective. Acceptable hand signal devices for
28 daytime flagging include "STOP/SLOW" paddles or red flags. For
29 nighttime flagging, a flashlight, lantern, or other lighted
30 signal shall be used. To the extent that the manual on uniform
31 traffic control devices adopted pursuant to section 321.252
32 addresses standards and guides for flaggers and flagging
33 equipment for highway traffic control, a flagger's employer
34 should be aware of the standards and comply with them to the
35 greatest extent possible.

1 *c. "Bodily injury"* means a cut, abrasion, bruise, burn,
2 or disfigurement; physical pain; illness; impairment of the
3 function of a bodily member, organ, or mental faculty; or any
4 other injury to the body, no matter how temporary.

5 *d. "Highway-rail grade crossing" or "crossing"* means an
6 intersection of one or more railroad tracks and a public
7 highway, road, or street, including associated sidewalks and
8 pathways, that occurs at grade level.

9 *e. "Motorist"* means the operator of a motor vehicle.

10 *f. "Serious bodily injury"* means bodily injury that involves
11 substantial risk of death, extreme physical pain, protracted
12 and obvious disfigurement, or protracted loss or impairment of
13 the function of a bodily member, organ, or mental faculty.

14 *g. "Train"* means one or more locomotives, or any equivalent
15 equipment including but not limited to a rail car without
16 propelling motors but equipped with one or more control stands
17 that is the controlling unit in an urban rapid transit train
18 movement, with or without rail cars or other rolling on-track
19 railroad equipment.

20 4. *Approaching and stopping at highway-rail grade crossing.*

21 *a. Stopping on crossing prohibited.* A motorist shall not
22 stop a vehicle on a highway-rail grade crossing.

23 *b. Crossings governed by a stop sign.* When a motorist
24 approaches a highway-rail grade crossing that has a stop sign
25 located within fifty feet of the approach side of the crossing,
26 as measured from the rail nearest to the sign, the motorist
27 shall stop at the stop sign or at its corresponding stop line,
28 stopping within fifty feet but not less than fifteen feet from
29 the nearest rail of the crossing, as measured from the rail
30 nearest to the motorist's vehicle, and shall not proceed onto
31 or through the crossing in any one or more of the following
32 circumstances, regardless of any indication from an official
33 traffic control device to proceed:

34 (1) When an appropriately equipped flagger or a law
35 enforcement officer signals the approach of a train to the

1 crossing.

2 (2) When an approaching train is within one thousand five
3 hundred feet of the crossing and is emitting an audible signal.

4 (3) When an approaching train is plainly visible and is in
5 hazardous proximity to the crossing.

6 (4) When there is not adequate space on the other side of
7 the crossing to accommodate the motorist's vehicle without
8 obstructing the passage of another motor vehicle or train.

9 (5) When it is otherwise unsafe to proceed.

10 c. Crossings governed by a yield sign or crossbuck
11 sign. When a motorist is approaching a highway-rail grade
12 crossing that has a yield sign or a railroad crossbuck sign
13 located within fifty feet of the approach side of the crossing,
14 as measured from the rail nearest to the sign, the motorist
15 shall prepare to stop and yield the right-of-way to a train
16 and, in any one or more of the following circumstances, shall
17 stop at the yield sign or crossbuck sign or at a corresponding
18 yield or stop line, stopping within fifty feet but not less
19 than fifteen feet from the nearest rail of the crossing, as
20 measured from the rail nearest to the motorist's vehicle, and
21 shall not proceed onto or through the crossing, regardless
22 of any indication from an official traffic control device to
23 proceed:

24 (1) When an appropriately equipped flagger or a law
25 enforcement officer signals the approach of a train to the
26 crossing.

27 (2) When an approaching train is within one thousand five
28 hundred feet of the crossing and is emitting an audible signal.

29 (3) When an approaching train is plainly visible and is in
30 hazardous proximity to the crossing.

31 (4) When there is not adequate space on the other side of
32 the crossing to accommodate the motorist's vehicle without
33 obstructing the passage of another vehicle or train.

34 (5) When it is otherwise unsafe to proceed.

35 d. Crossings equipped with an active warning device. When

1 a motorist is approaching a highway-rail grade crossing
2 equipped with an active warning device, in any one or more of
3 the following circumstances, the motorist shall stop within
4 fifty feet but not less than fifteen feet from the nearest
5 rail of the crossing, as measured from the rail nearest to the
6 motorist's vehicle, and shall not proceed onto or through the
7 crossing, regardless of any indication from an official traffic
8 control device to proceed:

9 (1) When an audible or clearly visible active warning
10 device gives warning of the immediate approach of a train to
11 the crossing.

12 (2) When a crossing gate or barrier is closed or is
13 being opened or closed, unless directed to proceed by an
14 appropriately equipped flagger or a law enforcement officer.

15 (3) When an appropriately equipped flagger or a law
16 enforcement officer signals the approach of a train to the
17 crossing.

18 (4) When an approaching train is within one thousand five
19 hundred feet of the crossing and is emitting an audible signal.

20 (5) When an approaching train is plainly visible and is in
21 hazardous proximity to the crossing.

22 (6) When there is not adequate space on the other side of
23 the crossing to accommodate the motorist's vehicle without
24 obstructing the passage of another vehicle or train.

25 (7) When it is otherwise unsafe to proceed.

26 5. *Driving through, around, or under a crossing gate.* A
27 motorist shall not drive a vehicle through, around, or under
28 a gate or barrier at a highway-rail grade crossing while the
29 gate or barrier is closed or is being opened or closed, unless
30 directed to do so by an appropriately equipped flagger or a law
31 enforcement officer.

32 6. *Proceeding safely onto or through a crossing.*

33 a. General. A motorist shall control the speed of a vehicle
34 and be prepared to stop when approaching a highway-rail grade
35 crossing and shall not proceed onto or through the crossing

1 until the motorist can do so safely.

2 *b. Keeping to the right.* A motorist shall keep to the right
3 side of the highway when approaching within one hundred feet
4 of the nearest rail of a highway-rail grade crossing and while
5 traversing a crossing, unless the right side of the highway is
6 obstructed or impassable, or where there is a one-way traffic
7 pattern at the crossing.

8 *7. Parking at a crossing.* A motorist shall not park a
9 vehicle within fifty feet of the nearest rail of a crossing,
10 except when it is necessary to avoid conflict with other
11 traffic.

12 *8. Penalties.*

13 *a. Basic penalties.*

14 (1) A person who commits a violation of subsection 4 or 5 is
15 guilty of a simple misdemeanor.

16 (2) A person who commits a violation of subsection 6 or 7
17 is guilty of a simple misdemeanor punishable as a scheduled
18 violation under section 805.8A, subsection 14, paragraph "h".

19 *b. Enhanced penalties.*

20 (1) Notwithstanding paragraph "a", a person who commits a
21 violation of subsection 4, 5, 6, or 7 resulting in a collision
22 that causes bodily injury to another person is guilty of a
23 serious misdemeanor.

24 (2) Notwithstanding paragraph "a", a person who commits a
25 violation of subsection 4, 5, 6, or 7 resulting in a collision
26 that causes serious bodily injury to or death of another person
27 is guilty of a class "D" felony.

28 *9. Construction with other violations, crimes, or other*
29 *offenses.* Nothing in this section shall be construed to
30 prohibit or limit the prosecution of a violation, crime, or
31 other offense otherwise required or permitted by law.

32 Sec. 2. Section 321.342, subsection 1, Code 2011, is amended
33 by striking the subsection.

34 Sec. 3. Section 321.344A, subsection 1, Code 2011, is
35 amended to read as follows:

1 1. The employee of a railroad who observes a violation of
2 section 321.341, ~~321.342~~, 321.343, or 321.344 may prepare a
3 written report on a form provided by the department of public
4 safety indicating that a violation has occurred. The railroad
5 employee may deliver the report not more than seventy-two hours
6 after the violation occurred to a peace officer of the state
7 or a peace officer of the county or municipality in which the
8 violation occurred. The report shall state the time and the
9 location at which the violation occurred and shall include the
10 registration plate number and a description of the vehicle
11 involved in the violation.

12 Sec. 4. Section 321.344A, subsection 2, paragraph b, Code
13 2011, is amended to read as follows:

14 b. If, from the investigation, the peace officer has
15 reasonable cause to believe that a violation occurred but is
16 unable to identify the driver, the peace officer shall serve a
17 uniform traffic citation for the violation on the owner of the
18 motor vehicle or, in the case of a commercial motor vehicle, on
19 the employer of the driver. Notwithstanding section 321.484,
20 in a proceeding where the peace officer who conducted the
21 investigation was not able to identify the driver of the motor
22 vehicle, proof that the motor vehicle described in the uniform
23 traffic citation was used to commit the violation of section
24 321.341, ~~321.342~~, 321.343, or 321.344, together with proof
25 that the defendant named in the citation was the owner of the
26 motor vehicle or, in the case of a commercial motor vehicle,
27 the employer of the driver, at the time the violation occurred,
28 constitutes a permissible inference that the owner or employer
29 was the person who committed the violation.

30 Sec. 5. Section 321.484, subsection 3, Code 2011, is amended
31 to read as follows:

32 3. If a peace officer as defined in section 801.4 has
33 reasonable cause to believe the driver of a motor vehicle has
34 violated section 321.261, 321.262, 321.264, 321.341, ~~321.342~~,
35 321.343, 321.344, or 321.372, the officer may request any

1 owner of the motor vehicle to supply information identifying
2 the driver. When requested, the owner of the vehicle shall
3 identify the driver to the best of the owner's ability.
4 However, the owner of the vehicle is not required to supply
5 identification information to the officer if the owner believes
6 the information is self-incriminating.

7 Sec. 6. Section 805.8A, subsection 14, paragraph h, Code
8 Supplement 2011, is amended to read as follows:

9 *h. Railroad crossing violations.*

10 (1) For a violation under section 321.341, subsection 6 or
11 7, the scheduled fine is two hundred dollars. However, the
12 fine shall be three hundred dollars for a second or subsequent
13 violation under section 321.341, subsection 6 or 7, committed
14 within a period of eighteen months.

15 (2) For violations under sections 321.341, ~~321.342,~~
16 321.343, and 321.344, and ~~321.344B,~~ the scheduled fine is two
17 hundred dollars.

18 Sec. 7. REPEAL. Section 321.344B, Code 2011, is repealed.

19 EXPLANATION

20 This bill replaces current Code provisions relating to
21 the requirements for motor vehicle operators approaching and
22 stopping at railroad grade crossings with the "Highway-Rail
23 Grade Crossing Safety Act", which is proposed in model
24 legislation developed by the United States department of
25 transportation, federal railroad administration, office of
26 railroad safety, and contained in the publication, "Model
27 State Legislation on Highway-Rail Grade Crossing Violations by
28 Motorists, September 2011".

29 The bill states that the purpose of the new provisions is to
30 prevent collisions and casualties to motorists and passengers
31 at public highway-rail grade crossings and to enhance the
32 safety of transportation by railroad and highway.

33 The bill provides definitions for key terms, including
34 "active warning device", "appropriately equipped flagger",
35 "bodily injury", "highway-rail grade crossing", "motorist",

1 "serious bodily injury", and "train".

2 The bill prohibits a motorist from stopping a vehicle on
3 a highway-rail grade crossing. The bill requires a motorist
4 to stop at a highway-rail grade crossing that has a stop sign
5 and provides detailed requirements for making the stop and
6 for determining when it is safe to proceed. The bill directs
7 that, when approaching a crossing marked with a yield or
8 crossbuck sign, a motorist shall prepare to stop and yield the
9 right-of-way to a train and shall stop when an appropriately
10 equipped flagger or a law enforcement officer signals the
11 approach of a train, when an approaching train is within 1,500
12 feet of the crossing and is sounding an audible signal, when an
13 approaching train is plainly visible and in hazardous proximity
14 to the crossing, when there is not enough space on the other
15 side of the crossing to accommodate the motorist's vehicle,
16 or when it is otherwise unsafe to proceed. The bill provides
17 similar directions for motorists approaching a highway-rail
18 grade crossing with an active warning device and prohibits
19 a motorist from driving through, around, or under a gate or
20 barrier at a crossing while the gate or barrier is closed or is
21 being opened or closed except as directed by a flagger or law
22 enforcement officer.

23 The bill provides general guidelines for proceeding safely
24 through a highway-rail grade crossing by controlling the
25 speed of a vehicle, being prepared to stop when approaching a
26 crossing, and keeping to the right side of the highway when
27 approaching a crossing except in one-way traffic. The bill
28 prohibits parking at a distance of less than 50 feet from a
29 crossing except when necessary to avoid conflict with other
30 traffic.

31 The bill establishes the following penalties for
32 highway-rail grade crossing violations by motorists:

33 A violation of requirements at crossings marked with stop
34 signs, yield or crossbuck signs, or active warning devices is
35 a simple misdemeanor. A simple misdemeanor is punishable by

1 confinement for no more than 30 days or a fine of at least \$65
2 but not more than \$625 or by both. A violation of requirements
3 for proceeding safely through a crossing or parking near a
4 crossing is a simple misdemeanor punishable by a scheduled
5 fine of \$200 for a first violation and \$300 for a second or
6 subsequent violation committed within an 18-month period.
7 Any violation by a motorist of highway-rail grade crossing
8 requirements that results in a collision causing bodily
9 injury to another person is a serious misdemeanor. A serious
10 misdemeanor is punishable by confinement for no more than one
11 year and a fine of at least \$315 but not more than \$1,875. A
12 violation that results in a collision causing serious bodily
13 injury to or death of another person is a class "D" felony. A
14 class "D" felony is punishable by confinement for no more than
15 five years and a fine of at least \$750 but not more than \$7,500.

16 The bill strikes a current provision in Code section 321.342
17 relating to stops at a posted railroad grade crossing, which is
18 now addressed in Code section 321.341 under the bill.

19 The bill repeals Code section 321.344B, which provides
20 a penalty for railroad crossing violations that create an
21 immediate threat to the safety of a person or property. The
22 section is no longer operative because the penalty provided is
23 the same as the minimum fine under current law for any railroad
24 crossing violation.