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S.B. 233  
135<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the Senate

**Primary Sponsors:** Sens. DeMora and Kunze

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### SUMMARY

- Requires a vehicle operator to stop for on-track equipment that may be approaching a railroad crossing.
- Requires school vehicle operators, hazardous materials transporters, and certain construction equipment operators to stop, watch, and listen for on-track equipment that may be approaching a railroad crossing in the same manner as for trains.
- Applies existing penalties to the requirements specified above.
- Generally authorizes a court to order an offender to attend and successfully complete a remedial safety training or presentation regarding rail safety in lieu of a fine or jail term for failing to stop appropriately at a railroad crossing.

### DETAILED ANALYSIS

#### Stopping for on-track equipment at a railroad crossing

The bill requires vehicle<sup>1</sup> operators to stop for on-track equipment at rail crossings in the same manner that operators are required to stop for trains. Thus, under the bill, a vehicle operator must stop between 15 and 50 feet away from the tracks of a railroad crossing under any of the following circumstances:

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<sup>1</sup> "Vehicle" means every device, including a motorized bicycle and an electric bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any low-speed micromobility device, any personal delivery device, any device that is moved by power collected from overhead electric trolley wires or that is used exclusively upon stationary rails or tracks, or any device, other than a bicycle, that is moved by human power. R.C. 4511.01(A), not in the bill.

1. A clearly visible electric or mechanical signal device gives off its warning for approaching or passing on-track equipment;
2. A flag person gives off a warning for approaching on-track equipment;
3. There is insufficient space on the other side of the railroad crossing so that the vehicle would block the tracks and obstruct on-track equipment from passing; and
4. Approaching on-track equipment is emitting an audible signal or is plainly visible, thus, making it hazardous to cross.<sup>2</sup>

Regarding (3) and (4) above, the vehicle operator must recklessly fail to stop under the given circumstances in order to be guilty of having violated the prohibition. The bill does not specify a separate mens rea for (1) and (2) above. Presumably, these offenses would be strict liability offenses, as under current law.<sup>3</sup>

On-track equipment generally includes the large and heavy construction, repair, and cleaning equipment used on railroads. This type of equipment is used for tasks such as repairing the tracks, clearing snow, additional construction, and other activities needed to keep railroad tracks clean, clear, and safe for trains. The equipment is often as big as a locomotive and, thus, can be as dangerous around railroad crossings as a train.

### **Vehicles required to stop every time**

Under current law, certain motor vehicle operators are required to stop, watch, and listen for trains at railroad crossings every time they approach such a crossing, including an operator of a school bus, school vehicle, vehicle transporting hazardous material regulated under federal law, and a specified construction vehicle. Under the bill, such operators also are required to stop, watch, and listen for on-track equipment.<sup>4</sup>

### **Penalties**

The bill applies the penalties for failure to stop, watch, and listen for a train to the failure to stop, watch, and listen for on-track equipment. Those penalties are as follows:

1. Failure to stop under any of the circumstances listed in (1) to (4) above: fourth degree misdemeanor;
2. An operator of a school bus, school vehicle, or vehicle carrying hazardous material that is required to stop, watch, and listen *every* time that operator approaches a railroad

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<sup>2</sup> R.C. 4511.62(A)(1). The bill retains current law requirements that vehicle operators stop when a crossing gate is lowered and when there is insufficient undercarriage clearance on a vehicle to safely negotiate the crossing.

<sup>3</sup> R.C. 4511.62(A)(2)(b).

<sup>4</sup> R.C. 4511.63 and 4511.64(A); 49 Code of Federal Regulations Parts 100-185. Examples of construction vehicles include a crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway.

crossing: minor misdemeanor for first offense and fourth degree misdemeanor if it is the second offense or the offender previously was convicted of or pled guilty to another specified school bus-related offense; and

3. An operator of a construction vehicle that is required to stop, watch, and listen *every* time that operator approaches a railroad crossing: minor misdemeanor/predicate motor vehicle offense on a first offense and a fourth degree misdemeanor if the offender has committed a predicate motor vehicle offense within one year.<sup>5</sup>

### **Alternative rail safety course**

The bill authorizes a court, in lieu of imposing a fine or a jail term on an vehicle operator who failed to stop for a train or on-track equipment (penalty (1) above), to require instead that the offender attend and successfully complete a remedial safety training or presentation regarding rail safety. The training or presentation must be offered by an authorized and qualified organization that is selected by the court and must be completed within 180 days (or less, if specified by the court). The offender must notify the court when the training or presentation is completed. The court then must waive the fine or jail term that it otherwise would have imposed.<sup>6</sup>

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## **HISTORY**

Action	Date
Introduced	03-05-24
Reported, S. Transportation	05-22-24
Re-referred, S. Rules & Reference	11-12-24
Re-reported, S. Judiciary	11-13-24
Passed Senate (31-0)	11-13-24

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<sup>5</sup> R.C. 4511.62(C), 4511.63(D), and 4511.64(C). A predicate motor vehicle offense is a specified group of traffic offenses in which an offender is guilty of a minor misdemeanor for the first violation of any of the offenses within one year, a fourth degree misdemeanor for the second violation of any of the offenses within one year, and a third degree misdemeanor for a third or subsequent violation of any of the offenses within one year. R.C. 4511.01(III), not in the bill.

<sup>6</sup> R.C. 4511.62(C)(2).