

(Reprinted with amendments adopted on April 22, 2019)

FIRST REPRINT

A.B. 337

ASSEMBLY BILL NO. 337— ASSEMBLYMEN
MARTINEZ, CARLTON; BACKUS AND CARRILLO

MARCH 18, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions governing railroads.
(BDR 58-957)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to railroads; specifying crew requirements for certain railroads transporting freight in this State; requiring vehicles to stop at railroad grade crossings for on-track equipment; providing civil penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides employment protections for certain railroad employees who were employed by any railroad in this State on April 1, 1963, or July 1, 1985, to address provisions concerning the size of a train crew that were removed from the Nevada Revised Statutes by the Legislature in 1963 and 1985, respectively. (NRS 705.390; chapter 176, Statutes of Nevada 1963, p. 281, chapter 358, Statutes of Nevada 1985, p. 1014) **Section 6** of this bill repeals that provision. **Section 1** of this bill requires any Class I freight railroad, Class I railroad or Class II railroad for transporting freight which operates a train or locomotive in this State, and any officer of such a railroad, to ensure that the train or locomotive contains a crew of not less than two persons, with certain exceptions. **Section 2** of this bill provides that a railroad or officer of a railroad who violates the provisions of **section 1** is liable to the Public Utilities Commission of Nevada for certain civil penalties. (NRS 705.420) **Sections 3-5** of this bill require vehicles to stop at railroad grade crossings when traffic control devices are operating or when on-track equipment is approaching.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 705 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, any Class I freight railroad, Class I railroad or Class II railroad for transporting freight which operates a train or locomotive in this State, and any officer of such a railroad, shall ensure that the train or locomotive contains a crew of not less than two persons.

2. The provisions of subsection 1 do not apply to a train or locomotive engaged in helper or hostling services.

3. As used in this section:

(a) "Class I freight railroad" has the meaning ascribed to it in 40 C.F.R. § 1033.901.

(b) "Class I railroad" has the meaning ascribed to it in 40 C.F.R. § 1033.901.

(c) "Class II railroad" has the meaning ascribed to it in 40 C.F.R. § 1033.901.

(d) "Helper services" includes connecting a locomotive to the front or back of a train to assist the train in ascending or descending a grade.

(e) "Hostling services" includes moving a train or locomotive a short distance in a railroad yard.

Sec. 2. NRS 705.420 is hereby amended to read as follows:

705.420 Any railroad ~~{company or receiver of any railroad company, and any person engaged in the business of common carrier doing business in the State of Nevada, which}~~ *or officer of a railroad who* violates ~~{any of}~~ the provisions of ~~{NRS 705.390}~~ *section 1 of this act* is liable to the Public Utilities Commission of Nevada for a *civil* penalty of ~~{ \$500 }~~ :

1. Not less than \$5,000 for ~~{each}~~ the first violation ~~{ }~~ ;

2. Not more than \$10,000 for the second violation within 3 years of the first violation; and

3. Not more than \$25,000 for a third and any subsequent violation within 3 years of the first violation.

Sec. 3. NRS 484B.553 is hereby amended to read as follows:

484B.553 1. Whenever any person driving a vehicle approaches a railroad grade crossing and a clearly visible official traffic-control or railroad device gives warning of the immediate approach of a train ~~{ }~~ *or other on-track equipment*, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest track of such railroad and shall not proceed until the driver can do so safely. The foregoing requirements shall apply when:



(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train **⚡ or other on-track equipment**.

(b) A crossing gate is lowered or when a flagger gives or continues to give a signal of the approach or passage of a railroad train **⚡ or other on-track equipment**.

(c) A railroad train **or other on-track equipment** approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train **⚡ or other on-track railroad equipment**, by reason of its speed or nearness to such crossing, is an immediate hazard.

(d) An approaching railroad train **or other on-track equipment** is plainly visible and is in hazardous proximity to such crossing.

2. A person shall not drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

Sec. 4. NRS 484B.560 is hereby amended to read as follows:

484B.560 1. Except as otherwise provided in subsection 4, the driver of a bus carrying passengers, or of any school bus carrying any school child, or of any vehicle carrying hazardous materials as that term is defined in 49 C.F.R. § 383.5, before crossing at grade any track or tracks of a railroad, shall stop that vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train **⚡ or other on-track equipment**, and for signals indicating the approach of a train **⚡ or other on-track equipment**, and shall not proceed until the driver can do so safely.

2. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in a gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.

3. When stopping is required at a railroad crossing the driver shall keep as far to the right of the highway as possible and shall not form two lanes of traffic unless the highway is marked for four or more lanes of traffic.

4. No such stop need be made at a railroad crossing:

(a) Where a police officer or official traffic-control device controls the movement of traffic.

(b) Which is marked with a device indicating that the crossing is abandoned.

(c) Which is a streetcar crossing or is used exclusively for industrial switching purposes within an area designated as a business district.



(d) Which is marked with a sign identifying it as an exempt crossing. Signs identifying a crossing as exempt may be erected only:

(1) If the tracks are an industrial or spur line;

(2) By or with the consent of the appropriate state or local authority which has jurisdiction over the road; and

(3) After the State or the local authority has held a public hearing to determine whether the crossing should be designated an exempt crossing.

5. It is unlawful for the driver of any vehicle, when crossing at grade any track or tracks of a railroad, to fail to completely cross the track or tracks without stopping due to insufficient:

(a) Space for the vehicle on the opposite side of the railroad crossing; or

(b) Undercarriage clearance of the vehicle.

6. As used in this section, "completely cross" means to travel across a railroad track or tracks in such a manner that the trailing end of the vehicle is 15 feet or more past the nearest rail of the railroad track or tracks.

Sec. 5. NRS 484B.563 is hereby amended to read as follows:

484B.563 1. It is unlawful for any person to operate or move any crawler-type tractor, power shovel, derrick, roller, or any vehicle, equipment or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than 9 inches, measured above the level surface of a highway, upon or across any tracks at a railroad grade crossing without first complying with this section.

2. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train *or other on-track equipment* and for signals indicating the approach of a train *or other on-track equipment*, and shall not proceed until the crossing can be made safely.

3. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car *or other on-track equipment*. If a flagger is provided by the railroad, movement over the crossing shall be under the direction of the flagger.

Sec. 6. NRS 705.390 is hereby repealed.



TEXT OF REPEALED SECTION

705.390 Protection of flagger and trainman employed on certain dates from discharge or loss of employment. No person employed as a flagger on any railroad in this State on April 1, 1963, may be discharged or lose such employment by reason of the provisions of chapter 176, Statutes of Nevada 1963. No person holding seniority as a trainman on any railroad in this State on July 1, 1985, may be discharged or lose such employment by reason of the provisions of chapter 358, Statutes of Nevada 1985. But if a flagger or a trainman retires, terminates or voluntarily leaves such employment, the railroad company need not replace the position so vacated.

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