

## SENATE BILL NO. 399

INTRODUCED BY BOHLINGER, BOOKOUT-REINICKE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MUNICIPALITY OR COUNTY TO REQUEST THAT THE UNITED STATES DEPARTMENT OF TRANSPORTATION ESTABLISH RAILROAD CROSSING QUIET ZONES THROUGH WHICH LOCOMOTIVE HORNS AND BELLS ARE NOT ROUTINELY SOUNDED; REQUIRING THE MUNICIPALITY OR COUNTY TO DESCRIBE HOW REQUIRED SUPPLEMENTAL SAFETY MEASURES WILL BE IMPLEMENTED AT THOSE CROSSINGS; PROVIDING THAT A QUIET ZONE MAY NOT BE ESTABLISHED UNLESS CERTAIN PROCEDURES ARE FOLLOWED; ALLOWING A RAILROAD COMPANY TO PERMIT ITS TRAINS TO PASS THROUGH DESIGNATED QUIET ZONES WITHOUT SOUNDING THEIR HORNS AND BELLS; EXEMPTING A RAILROAD COMPANY AND EMPLOYEES FROM LIABILITY; AMENDING SECTIONS 61-8-347, 69-14-562, AND 69-14-610, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Establishment of railroad quiet zones.** (1) For the purposes of this section, "quiet zone" means a segment of a railroad within which is situated one or a number of consecutive railroad crossings at which locomotive horns and bells are not routinely sounded.

(2) A governing body of a municipality or a board of county commissioners may petition to the secretary of the United States department of transportation to establish quiet zones at railroad crossings that meet the requirements established in the rules adopted to implement 49 U.S.C. 20153(c). IN DEVELOPING THE PETITION, THE GOVERNING BODY OF THE MUNICIPALITY OR THE BOARD OF COUNTY COMMISSIONERS SHALL CONSULT WITH THE RAILROAD CORPORATIONS THAT OPERATE THE RAIL LINES THROUGH CROSSINGS THAT ARE WITHIN THE PROPOSED QUIET ZONE. The petition must include how the municipality or county intends to implement the supplemental safety measures that are required by the United States department of transportation at railroad crossings within quiet zones.

(3) A quiet zone may not be established at a railroad crossing unless the governing body of a municipality or a board of county commissioners follows the procedure provided in subsection (2) and receives the approval of the secretary of the United States department of transportation or the secretary's designee.

**Section 2.** Section 61-8-347, MCA, is amended to read:

**"61-8-347. Obedience to signal indicating approach of train.** (1) ~~Whenever any~~ When a person driving operating a vehicle approaches a railroad ~~grade~~ crossing under any of the circumstances stated in this section, the ~~driver operator~~ operator of ~~such the~~ vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of ~~such the~~ railroad; and ~~shall may~~ not proceed until ~~he the operator~~ the operator can do so safely. ~~The foregoing~~ These requirements ~~shall~~ apply when:

(a) a clearly visible electric or mechanical signal device gives warning of the presence or immediate approach of a railroad train;

(b) a crossing gate is lowered or when a ~~human flagman~~ flag person gives or continues to give a signal of the approach or passage of a railroad train;

(c) a railroad train approaching within approximately 1,500 feet of the ~~highway~~ crossing emits a signal audible from ~~such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;~~ that distance, except at crossings within quiet zones established under [section 1], indicating that the train is an immediate hazard because of its speed or nearness to the crossing; or

(d) an approaching railroad train is plainly visible and is in hazardous proximity to ~~such the~~ crossing.

(2) ~~No person shall drive any~~ A person may not operate a vehicle through, around, or under any crossing gate or barrier at a railroad crossing while ~~such the~~ gate or barrier is closed or is being opened or closed."

**Section 3.** Section 69-14-562, MCA, is amended to read:

**"69-14-562. Regulation of safety on railroads.** (1) A railroad corporation within this state is guilty of a misdemeanor and upon conviction is subject to the penalties provided in subsection (2) if the corporation:

(a) neglects to provide comfortable and convenient cars or coaches for the transportation of its passengers and their baggage or safe cars for the transportation of express matter and freight;

(b) runs a train over an unsafe bridge, trestlework, or aqueduct;

(c) fails to have a locomotive in use by it equipped with a properly functioning horn and bell;

(d) except as provided in [section 1], permits a locomotive to approach a public highway, public road, or public railroad crossing without causing the locomotive horn and bell to be sounded at ~~a point 1,320 feet~~ the distance from the crossing provided in 61-8-347, the horn and bell to be sounded from the specified point until the crossing is reached. If the owner or permitholder of a private crossing makes a written request to the railroad corporation to have the locomotive horn and bell sounded at the private crossing, the railroad shall comply with the request. The owner or permitholder is not subject to any liability as a result of not making a request.

(e) willfully fails to make any report required by law.

(2) Upon conviction of the offenses provided in subsection (1), a railroad corporation is subject to a fine of:

- (a) \$1,000 for the first offense;
- (b) \$2,000 for the second violation of the same provision; and
- (c) not less than \$5,000 or more than \$10,000 for subsequent violations of a provision for which it has twice been found guilty."

**Section 4.** Section 69-14-610, MCA, is amended to read:

**"69-14-610. Effect of railroad crossing provisions on liability of railroad.** (1) Nothing contained in 69-14-601 through 69-14-611 ~~shall in any way affect~~ affects the liability of ~~any a~~ a railroad company for damage to persons or property injured at ~~any crossings~~ a railroad crossing.

(2) A railroad company or an employee of a railroad company may not be held liable for damages to persons or property injured at a railroad crossing that is within a quiet zone, as defined in [section 1], if the damages are alleged to arise from the locomotive's failure to sound its horn or bell at a railroad crossing that is within a quiet zone as provided in [section 1]."

NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 69, chapter 14, part 6, and the provisions of Title 69, chapter 14, part 6, apply to [section 1].

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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