

Enrolled
House Bill 2292

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Transportation)

CHAPTER

AN ACT

Relating to rail fixed guideway public transportation systems; creating new provisions; and amending ORS 479.950, 801.406, 811.160, 811.165, 811.460, 811.465, 811.470, 811.475, 811.550 and 824.045.

Be It Enacted by the People of the State of Oregon:

DEFINITION

SECTION 1. ORS 801.406 is amended to read:

801.406. "Rail fixed guideway **public transportation** system" means any light, heavy or rapid rail system, monorail, inclined plane, funicular, trolley, streetcar or automated guideway used primarily for carrying passengers.

STATE SAFETY OVERSIGHT PROGRAM

SECTION 2. ORS 824.045 is amended to read:

824.045. [(1) For the purposes of this section:]

[(a) "Accident" means an event that involves one or more persons suffering a serious injury, property or equipment damage equal to or greater than \$25,000, a mainline derailment occurring at any location, or an evacuation of equipment or a station to prevent injury or loss of life.]

[(b) "Event" means any accident, incident or occurrence.]

[(c) "Hazard" means any real or potential condition that can cause injury, illness or death, damage to or loss of the facilities, equipment or property of a rail fixed guideway system, or damage to the environment.]

[(d) "Incident" means an event that exceeds the definition of "occurrence," but does not meet the definition of "accident."]

[(e) "Occurrence" means an event with no injuries, where damage occurs to property or equipment but does not affect transit operations.]

[(f) "Transit Agency Safety Plan" means the comprehensive safety plan for a transit agency as required by 49 U.S.C. 5329(d), based on a safety management system and subject to federal regulations.]

[(2)] (1) Subject to ORS 479.950, the Department of Transportation, by rule, shall establish a state safety oversight program that applies to all rail fixed guideway **public transportation** systems in Oregon that are not subject to regulation by the Federal Railroad Administration.

[3] (2) For purposes of 49 U.S.C. 5329(e), the department is designated as the state safety oversight agency to monitor compliance with the program for rail fixed guideway **public transportation** systems that are not subject to regulation by the Federal Railroad Administration. The state safety oversight agency **and rules**:

(a) Shall implement the state safety oversight program in compliance with the requirements of 49 U.S.C. 5329.

(b) [May] **Shall** review, approve, oversee and enforce the implementation, by the owner and operator of a rail fixed guideway **public transportation** system, of the public transportation agency safety plan adopted pursuant to 49 U.S.C. 5329(d).

(c) [May] **Shall** inspect, investigate and enforce the safety of rail fixed guideway **public transportation** systems.

(d) [May] **Shall** audit rail fixed guideway **public transportation** systems for compliance with the public transportation agency safety plan.

(e) May investigate any hazard or risk that threatens the safety of a rail fixed guideway **public transportation** system.

(f) May investigate any event involving a rail fixed guideway **public transportation** system.

(g) May investigate any allegation of noncompliance with a transit agency safety plan.

[4] (3) The department shall implement the state safety oversight program for rail fixed guideway **public transportation** systems that are not subject to regulation by the Federal Railroad Administration and that are not subject to 49 U.S.C. 5329.

[5] (4) Unless prohibited by federal law, the department shall set an annual fee for owners and operators of rail fixed guideway **public transportation** systems to defray the costs of the **state safety oversight** program [*described in this section*] and the costs associated with department responsibilities under ORS 267.230 (2). The department shall establish by rule the manner and timing of the collection of the fee.

[6] (5) Fees collected by the department that are in excess of the combined actual cost of the **state safety oversight** program and the costs associated with department responsibilities under ORS 267.230 (2) shall be refunded to owners and operators of rail fixed guideway **public transportation** systems within one year following the end of the fiscal year in which the department collected the excess fees. In lieu of a refund, an owner or operator of a rail fixed guideway **public transportation** system may choose to have the excess fees credited against the subsequent year's fee payment.

CONFORMING AMENDMENTS

SECTION 3. ORS 479.950 is amended to read:

479.950. (1) Notwithstanding ORS 479.510 to 479.945, 479.995 and 824.045, the Director of the Department of Consumer and Business Services shall adopt rules establishing, amending or repealing minimum safety standards for workmanship and materials for, and the design and construction of electrical products used in, traction electrification and electrical communications and electrical signaling installations for rail fixed guideway **public transportation** systems operated by a mass transit district established under ORS 267.010 to 267.390. The rules adopted by the director under this subsection shall be the exclusive rules adopted for this state that establish minimum safety standards for workmanship and materials for, and the design and construction of electrical products used in, traction electrification and electrical communications and electrical signaling installations for rail fixed guideway **public transportation** systems operated by a mass transit district.

(2) Before adopting rules under subsection (1) of this section, the Director of the Department of Consumer and Business Services shall consider:

(a) Technological advances in the rail fixed guideway industry.

(b) The practicability of following the standards under consideration, if adopted.

(c) The probability, extent and gravity of the injury to the public or to property that will result from failure to follow the standards under consideration.

(d) Safety standards followed, proposed or approved by responsible members of the rail fixed guideway industry.

(3) Notwithstanding ORS 479.510 to 479.945, 479.995 and 824.045, the Department of Consumer and Business Services is designated as the state agency to administer and enforce the standards established by the Director of the Department of Consumer and Business Services under this section. The department shall adopt rules establishing procedures for the administration and enforcement of such standards.

SECTION 4. ORS 811.160 is amended to read:

811.160. (1) A person commits the offense of interference with rail fixed guideway **public transportation** system operation if the person does any of the following:

(a) Drives any vehicle in front of a rail fixed guideway **public transportation** system vehicle upon a track and the person fails to remove the person's vehicle from the track as soon as practicable after signal from the operator of the rail fixed guideway **public transportation** system vehicle.

(b) Drives a vehicle upon or across rail fixed guideway **public transportation** system tracks within an intersection in front of a rail fixed guideway **public transportation** system vehicle when the rail fixed guideway **public transportation** system vehicle has started to cross the intersection.

(c) Overtakes or passes upon the left any rail fixed guideway **public transportation** system vehicle proceeding in the same direction whether actually in motion or temporarily at rest. This paragraph does not apply on one-way streets or on streets where the tracks are so located as to prevent compliance.

(2) This section applies to any rail fixed guideway **public transportation** system vehicle that is any device traveling exclusively upon rails when upon or crossing a highway but does not apply to cars or trains propelled or moved by steam engine or by diesel engine.

(3) The offense described in this section, interference with rail fixed guideway **public transportation** system operation, is a Class B traffic violation.

SECTION 5. ORS 811.165 is amended to read:

811.165. (1) A person commits the offense of failure to stop for passenger loading of a public transit vehicle if the person is the driver of a vehicle overtaking a public transit vehicle described in this section that is stopped or about to stop for the purpose of receiving or discharging any passenger and the person does not:

(a) Stop the overtaking vehicle to the rear of the nearest running board or door of the public transit vehicle; and

(b) Keep the vehicle stationary until all passengers have boarded or alighted therefrom and reached a place of safety.

(2) This section applies to the following public transit vehicles:

(a) Commercial buses; and

(b) Rail fixed guideway **public transportation** system vehicles.

(3) A person is not in violation of this section if the person passes a public transit vehicle:

(a) Upon the left of any public transit vehicle described in this section on a one-way street; or

(b) At a speed not greater than is reasonable and proper and with due caution for the safety of pedestrians when:

(A) The public transit vehicle has stopped at the curb; or

(B) Any area or space has been officially set apart within the roadway for the exclusive use of pedestrians and the area or space is so protected or marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(4) The offense described in this section, failure to stop for passenger loading of public transit vehicle, is a Class B traffic violation.

SECTION 6. ORS 811.460 is amended to read:

811.460. (1) A person commits the offense of failure to follow rail crossing procedures for high-risk vehicles if the person takes any vehicle described in this section across any railroad or rail fixed guideway **public transportation** system tracks at grade without doing all of the following:

(a) Stopping the vehicle at a clearly marked stop line or, if there is not a clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the railroad or rail fixed guideway **public transportation** system.

(b) While so stopped, listening and looking in both directions along the tracks for approaching trains or rail fixed guideway **public transportation** system vehicles and for signals indicating approaching trains or rail fixed guideway **public transportation** system vehicles.

(c) Proceeding across the tracks after stopping only when such movement can be performed safely in the gear of the motor vehicle that does not require manually changing gears while proceeding.

(d) Proceeding across the tracks without manually changing gears.

(2) This section applies to the following vehicles when moved across railroad or rail fixed guideway **public transportation** system tracks:

(a) A school bus.

(b) A school activity vehicle with a loaded weight of 10,000 pounds or more.

(c) A worker transport bus.

(d) Any bus operated for transporting children to and from church or an activity or function authorized by a church.

(e) Any vehicle used in the transportation of persons for hire by a nonprofit entity.

(f) A commercial bus.

(g) A motor vehicle carrying as a cargo or part of a cargo any explosive substance, inflammable liquids, corrosives or similar substances or any cargo that the Department of Transportation determines to be hazardous. For purposes of this paragraph, the department may only determine a substance to be hazardous by rule. Any rules adopted by the department to determine hazardous substances must be consistent with substances classified as hazardous by the United States Secretary of Transportation.

(h) A tank vehicle, whether loaded or empty, used for the transportation of any hazardous material.

(3) Exemptions to this section are provided under ORS 811.465.

(4) The offense described in this section, failure to follow rail crossing procedures for high-risk vehicles, is a Class B traffic violation.

SECTION 7. ORS 811.465 is amended to read:

811.465. This section establishes exemptions from the special crossing procedures established for high-risk vehicles under ORS 811.460. The exemptions are partial or complete as described in the following:

(1) The vehicles are not required to comply with the procedures at a crossing of a street or highway and rail fixed guideway **public transportation** system tracks if:

(a) The rail fixed guideway **public transportation** system vehicles operate within and parallel to the right of way of a street or highway; and

(b) All vehicle movements are controlled by traffic control devices.

(2) The vehicles are not required to comply with the procedures when crossing any railway tracks upon which operation has been abandoned and for which the Department of Transportation has plainly marked that no stop need be made.

(3) The vehicles are not required to comply with the procedures when crossing industry track crossings across which train operations are required by law to be conducted under flag protection.

(4) The vehicles are not required to comply with the procedures when crossing industry track crossings within business districts.

(5) Vehicles are not required to comply with the procedures when crossing any crossing where an officer directs traffic to proceed or where an operating traffic control signal indicates that other traffic may proceed.

(6) Vehicles are not required to comply with the procedures when crossing any crossing protected by crossing gates. The exemption under this subsection does not apply to:

(a) School buses or school activity vehicles that are required to stop at crossings with crossing gates under ORS 811.460;

(b) Tank vehicles, whether loaded or empty, used to transport hazardous materials;

(c) Vehicles transporting any hazardous material requiring the vehicle to be placarded; or

(d) High-risk vehicles described in ORS 811.460 that are not otherwise described in this subsection, when operating in interstate commerce.

(7) Except when a train or rail fixed guideway **public transportation** system vehicle is approaching, the driver of a commercial bus is not required to stop at crossings where the Department of Transportation has determined and plainly marked that no stop need be made.

SECTION 8. ORS 811.470 is amended to read:

811.470. (1) A person commits the offense of improper movement of heavy equipment across a rail crossing if the person operates or moves any equipment described in this section upon or across any tracks at a railroad or rail fixed guideway **public transportation** system grade crossing without complying with any of the following:

(a) Before moving across the tracks, the person must give notice of an intended crossing to a responsible officer of the railroad or rail fixed guideway **public transportation** system in time for protection to be given.

(b) Where the railroad or rail fixed guideway **public transportation** system has provided a flagger, the person operating or moving such equipment shall obey the direction of the flagger.

(c) The person operating or moving such equipment must do all of the following:

(A) The person must stop before making the crossing at a clearly marked line or, if there is no clearly marked line, not less than 15 feet nor more than 50 feet from the nearest rail.

(B) While so stopped, the person must look and listen in both directions along the tracks for approaching trains.

(C) The person shall not proceed across the tracks unless the crossing can be made safely.

(2) This section applies to the operation of movement across railroad or rail fixed guideway **public transportation** system tracks of any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 miles per hour or less 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 nine inches, measured above the level surface of a roadway.

(3) The offense described in this section, improper movement of heavy equipment across a rail crossing, is a Class B traffic violation.

SECTION 9. ORS 811.475 is amended to read:

811.475. (1) A person commits the offense of obstructing a rail crossing if the person is operating a vehicle and the person does either of the following:

(a) Drives onto any railroad or rail fixed guideway **public transportation** system grade crossing when there is not sufficient space on the other side of the railroad or rail fixed guideway **public transportation** system grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, railroad trains or rail fixed guideway **public transportation** system vehicles; or

(b) While driving a commercial motor vehicle, fails to negotiate the rail crossing because of insufficient undercarriage clearance.

(2) The offense described in this section is applicable whether or not a traffic control device indicates to proceed.

(3) The offense described in this section, obstructing rail crossings, is a Class B traffic violation.

SECTION 10. ORS 811.550 is amended to read:

811.550. This section establishes places where stopping, standing and parking a vehicle are prohibited for purposes of the penalties under ORS 811.555. Except as provided under an exemption in ORS 811.560, a person is in violation of ORS 811.555 if a person parks, stops or leaves standing a vehicle in any of the following places:

(1) Upon a roadway outside a business district or residence district, whether attended or unattended, when it is practicable to stop, park or leave the vehicle standing off the roadway. Exemptions under ORS 811.560 (1), (7) and (9) are applicable to this subsection.

(2) On a shoulder, whether attended or unattended, unless a clear and unobstructed width of the roadway opposite the standing vehicle is left for the passage of other vehicles and the standing vehicle is visible from a distance of 200 feet in each direction upon the roadway or the person, at least 200 feet in each direction upon the roadway, warns approaching motorists of the standing vehicle by use of flaggers, flags, signs or other signals. Exemptions under ORS 811.560 (9) are applicable to this subsection.

(3) On the roadway side of a vehicle stopped or parked at the edge or curb of a highway. Exemptions under ORS 811.560 (7) are applicable to this subsection.

(4) On a sidewalk. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(5) Within an intersection. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(6) On a crosswalk. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs and markings. For purposes of this subsection the safety zone must be an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(8) Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(9) Upon a bridge or other elevated structure upon a highway. Exemptions under ORS 811.560 (4) to (8) are applicable to this subsection.

(10) Within a highway tunnel. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(11) On any railroad or rail fixed guideway **public transportation** system tracks or within seven and one-half feet of the nearest rail at a time when the parking of vehicles would conflict with operations or repair of the tracks. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(12) On a throughway. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(13) In the area between roadways of a divided highway, including crossovers. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(14) At any place where traffic control devices prohibit stopping. Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

(15) In front of a public or private driveway. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(16) Within 10 feet of a fire hydrant. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(17) Within 20 feet of a crosswalk at an intersection. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(18) Within 50 feet upon the approach to an official flashing signal, stop sign, yield sign or traffic control device located at the side of the roadway if the standing or parking of a vehicle will obstruct the view of any traffic control device located at the side of the roadway. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(19) Within 15 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station, within 75 feet of the entrance. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(20) At any place where traffic control devices prohibit standing. Exemptions under ORS 811.560 (2) and (4) to (7) are applicable to this subsection.

(21) Within 50 feet of the nearest rail of a railroad or rail fixed guideway **public transportation** system crossing. Exemptions under ORS 811.560 (3) to (7) are applicable to this subsection.

(22) At any place where traffic control devices prohibit parking. Exemptions under ORS 811.560 (3) to (7) are applicable to this subsection.

(23) On a bicycle lane. Exemptions under ORS 811.560 are applicable to this subsection.

(24) On a bicycle path. Exemptions under ORS 811.560 are applicable to this subsection.

CAPTIONS

SECTION 11. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

Passed by House February 16, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 3, 2017

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Peter Courtney, President of Senate

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.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

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Dennis Richardson, Secretary of State