

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)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes defined term "rail fixed guideway system" to "rail fixed guideway public transportation system."

Directs Department of Transportation to take certain actions related to state safety oversight program of rail fixed guideway public transportation systems.

A BILL FOR 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.]

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

[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

1 standards for workmanship and materials for, and the design and construction of electrical products
 2 used in, traction electrification and electrical communications and electrical signaling installations
 3 for rail fixed guideway **public transportation** systems operated by a mass transit district.

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

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

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

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

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

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

17 **SECTION 4.** ORS 811.160 is amended to read:

18 811.160. (1) A person commits the offense of interference with rail fixed guideway **public**
 19 **transportation** system operation if the person does any of the following:

20 (a) Drives any vehicle in front of a rail fixed guideway **public transportation** system vehicle
 21 upon a track and the person fails to remove the person's vehicle from the track as soon as practi-
 22 cable after signal from the operator of the rail fixed guideway **public transportation** system vehi-
 23 cle.

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

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

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

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

36 **SECTION 5.** ORS 811.165 is amended to read:

37 811.165. (1) A person commits the offense of failure to stop for passenger loading of a public
 38 transit vehicle if the person is the driver of a vehicle overtaking a public transit vehicle described
 39 in this section that is stopped or about to stop for the purpose of receiving or discharging any
 40 passenger and the person does not:

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

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

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

- 1 (a) Commercial buses; and
 2 (b) Rail fixed guideway **public transportation** system vehicles.
 3 (3) A person is not in violation of this section if the person passes a public transit vehicle:
 4 (a) Upon the left of any public transit vehicle described in this section on a one-way street; or
 5 (b) At a speed not greater than is reasonable and proper and with due caution for the safety
 6 of pedestrians when:
 7 (A) The public transit vehicle has stopped at the curb; or
 8 (B) Any area or space has been officially set apart within the roadway for the exclusive use of
 9 pedestrians and the area or space is so protected or marked or indicated by adequate signs as to
 10 be plainly visible at all times while set apart as a safety zone.
 11 (4) The offense described in this section, failure to stop for passenger loading of public transit
 12 vehicle, is a Class B traffic violation.
 13 **SECTION 6.** ORS 811.460 is amended to read:
 14 811.460. (1) A person commits the offense of failure to follow rail crossing procedures for high-
 15 risk vehicles if the person takes any vehicle described in this section across any railroad or rail
 16 fixed guideway **public transportation** system tracks at grade without doing all of the following:
 17 (a) Stopping the vehicle at a clearly marked stop line or, if there is not a clearly marked stop
 18 line, not less than 15 feet nor more than 50 feet from the nearest rail of the railroad or rail fixed
 19 guideway **public transportation** system.
 20 (b) While so stopped, listening and looking in both directions along the tracks for approaching
 21 trains or rail fixed guideway **public transportation** system vehicles and for signals indicating ap-
 22 proaching trains or rail fixed guideway **public transportation** system vehicles.
 23 (c) Proceeding across the tracks after stopping only when such movement can be performed
 24 safely in the gear of the motor vehicle that does not require manually changing gears while pro-
 25 ceeding.
 26 (d) Proceeding across the tracks without manually changing gears.
 27 (2) This section applies to the following vehicles when moved across railroad or rail fixed
 28 guideway **public transportation** system tracks:
 29 (a) A school bus.
 30 (b) A school activity vehicle with a loaded weight of 10,000 pounds or more.
 31 (c) A worker transport bus.
 32 (d) Any bus operated for transporting children to and from church or an activity or function
 33 authorized by a church.
 34 (e) Any vehicle used in the transportation of persons for hire by a nonprofit entity.
 35 (f) A commercial bus.
 36 (g) A motor vehicle carrying as a cargo or part of a cargo any explosive substance, inflammable
 37 liquids, corrosives or similar substances or any cargo that the Department of Transportation deter-
 38 mines to be hazardous. For purposes of this paragraph, the department may only determine a sub-
 39 stance to be hazardous by rule. Any rules adopted by the department to determine hazardous
 40 substances must be consistent with substances classified as hazardous by the United States Secre-
 41 tary of Transportation.
 42 (h) A tank vehicle, whether loaded or empty, used for the transportation of any hazardous ma-
 43 terial.
 44 (3) Exemptions to this section are provided under ORS 811.465.
 45 (4) The offense described in this section, failure to follow rail crossing procedures for high-risk

1 vehicles, is a Class B traffic violation.

2 **SECTION 7.** ORS 811.465 is amended to read:

3 811.465. This section establishes exemptions from the special crossing procedures established for
4 high-risk vehicles under ORS 811.460. The exemptions are partial or complete as described in the
5 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

32 **SECTION 8.** ORS 811.470 is amended to read:

33 811.470. (1) A person commits the offense of improper movement of heavy equipment across a
34 rail crossing if the person operates or moves any equipment described in this section upon or across
35 any tracks at a railroad or rail fixed guideway **public transportation** system grade crossing without
36 complying with any of the following:

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

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

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

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

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

1 approaching trains.

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

3 (2) This section applies to the operation of movement across railroad or rail fixed guideway
4 **public transportation** system tracks of any crawler-type tractor, steam shovel, derrick, roller or
5 any equipment or structure having a normal operating speed of 10 miles per hour or less or a ver-
6 tical body or load clearance of less than one-half inch per foot of the distance between any two
7 adjacent axles or in any event of less than nine inches, measured above the level surface of a
8 roadway.

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

11 **SECTION 9.** ORS 811.475 is amended to read:

12 811.475. (1) A person commits the offense of obstructing a rail crossing if the person is operating
13 a vehicle and the person does either of the following:

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

19 (b) While driving a commercial motor vehicle, fails to negotiate the rail crossing because of in-
20 sufficient undercarriage clearance.

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

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

24 **SECTION 10.** ORS 811.550 is amended to read:

25 811.550. This section establishes places where stopping, standing and parking a vehicle are
26 prohibited for purposes of the penalties under ORS 811.555. Except as provided under an exemption
27 in ORS 811.560, a person is in violation of ORS 811.555 if a person parks, stops or leaves standing
28 a vehicle in any of the following places:

29 (1) Upon a roadway outside a business district or residence district, whether attended or unat-
30 tended, when it is practicable to stop, park or leave the vehicle standing off the roadway. Ex-
31 emptions under ORS 811.560 (1), (7) and (9) are applicable to this subsection.

32 (2) On a shoulder, whether attended or unattended, unless a clear and unobstructed width of the
33 roadway opposite the standing vehicle is left for the passage of other vehicles and the standing ve-
34 hicle is visible from a distance of 200 feet in each direction upon the roadway or the person, at least
35 200 feet in each direction upon the roadway, warns approaching motorists of the standing vehicle
36 by use of flaggers, flags, signs or other signals. Exemptions under ORS 811.560 (9) are applicable to
37 this subsection.

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

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

41 (5) Within an intersection. Exemptions under ORS 811.560 (4) to (7) are applicable to this sub-
42 section.

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

44 (7) Between a safety zone and the adjacent curb or within 30 feet of points on the curb imme-
45 diately opposite the ends of a safety zone, unless a different length is indicated by signs and

1 markings. For purposes of this subsection the safety zone must be an area or space officially set
 2 apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked
 3 or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
 4 Exemptions under ORS 811.560 (4) to (7) are applicable to this subsection.

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

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

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

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

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

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

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

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

22 (16) Within 10 feet of a fire hydrant. Exemptions under ORS 811.560 (2) and (4) to (7) are appli-
 23 cable to this subsection.

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

26 (18) Within 50 feet upon the approach to an official flashing signal, stop sign, yield sign or traffic
 27 control device located at the side of the roadway if the standing or parking of a vehicle will obstruct
 28 the view of any traffic control device located at the side of the roadway. Exemptions under ORS
 29 811.560 (2) and (4) to (7) are applicable to this subsection.

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

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

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

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

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

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

41
 42 **CAPTIONS**
 43

44 **SECTION 11. The unit captions used in this 2017 Act are provided only for the conven-**
 45 **ience of the reader and do not become part of the statutory law of this state or express any**

1 **legislative intent in the enactment of this 2017 Act.**

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