

39:4-128

LEGISLATIVE HISTORY CHECKLIST

(Establish "exempt" railroad grade crossings -- eliminate requirements for stopping by certain motor vehicles)

WJSA 39:4-128

LAWS OF 1979

CHAPTER 48

Bill No. A183

Sponsor(s) Kozloski

Date Introduced pre-filed

Committee: Assembly Transportation and Communications

Senate Transportation and Communications

Amended during passage XXX No

Date of Passage: Assembly June 19, 1978

Senate January 11, 1979

Date of approval March 21, 1979

Following statements are attached if available:

Sponsor statement Yes XX

Committee Statement: Assembly Yes XX

Senate Yes XX

Fiscal Note XXX No

Veto message XXX No

Message on signing Yes XX

Following were printed:

Reports XXX No

Hearings XXX No

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9/1/78

ASSEMBLY, No. 183

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1978 SESSION

By Assemblyman KOZLOSKI

AN ACT to create certain exempt railroad grade crossings, eliminating the necessity that certain vehicles stop before proceeding across such crossings and amending R. S. 39:4-128.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

- 1 1. R. S. 39:4-128 is amended to read as follows:  
2 39:4-128. (a) The driver of any omnibus, designed for carrying  
3 more than six passengers, or of any school bus carrying any school  
4 child or children, or of any vehicle carrying explosive substance or  
5 flammable liquids as a cargo or part of a cargo, before crossing at  
6 grade any track or tracks of a railroad shall stop such vehicle  
7 within 50 feet but not less than 15 feet from the nearest rail of such  
8 railroad and while so stopped listen and look in both directions  
9 along such track or tracks, for any approaching train, and for sig-  
10 nals indicating the approach of a train. After stopping as required  
11 herein and upon proceeding when it is safe to do so, the driver of  
12 any said vehicle shall cross only in such gear of the vehicle that  
13 there will be no necessity for changing gears while **[transversing]**  
14 *traversing* such crossing and the driver shall not shift gears while  
15 crossing the track or tracks. This section shall not apply to grade  
16 crossings which are no longer used for railroad traffic and which  
17 have been abandoned by the railroad company provided that appro-  
18 priate signs have been posted to indicate that such grade crossing  
19 has been abandoned or is no longer used for any railroad traffic. This  
20 section shall **[also]** not apply to grade crossings where the rail-  
21 road track has been removed or paved over and the warning signs  
22 erected by the railroad in accordance with R. S. 48:12-58 have been  
23 removed, provided that in such case written notice is given to the  
24 **[Board of Public Utility Commissioners]** *Commissioner of*  
25 *Transportation* and to the appropriate State or local authority

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

26 having jurisdiction over the highway, road, or street prior to the  
27 undertaking of such removal or paving of railroad track. *This*  
28 *section shall also not apply to grade crossings marked with a sign*  
28A *reading "Exempt Crossing."*

29 *The Commissioner of Transportation is hereby vested with the*  
30 *exclusive authority to designate and mark any railroad grade*  
31 *crossings across any street or highway in this State with a sign*  
32 *"Exempt Crossing." The commissioner shall hold a public hear-*  
33 *ing before designating any crossing as exempt with notice of such*  
34 *hearing to be served in accordance with regulations promulgated*  
35 *by the commissioner.*

36 *The commissioner shall designate a grade crossing an exempt*  
37 *crossing when the potential for damage and injury from accidents*  
38 *between motor vehicles required to stop at grade crossings and*  
39 *other motor vehicles traveling in the same direction exceeds that*  
40 *between a train and the vehicles required to stop by law. Crossings*  
41 *designated as exempt crossings may include, but shall not be lim-*  
42 *ited to, industrial, spurline and secondary crossings. The commis-*  
43 *sioner shall promulgate such regulations as are necessary to*  
44 *effectuate the purpose of the establishment of exempt crossings.*

45 (b) No person shall operate or move any crawler-type tractor,  
46 wheel tractor, tractor engine with or without trailer or trailers  
47 attached, steam shovel, derrick, roller, self-propelled concrete  
48 mixer, or any self-propelled vehicle, equipment, machinery,  
49 apparatus or structure having a normal operating speed of 10 or  
50 less miles per hour or a vertical body or load clearance of less than  
51  $\frac{1}{2}$  inch per foot of the distance between any two adjacent axles or  
52 in any event of less than 9 inches, measured above the level surface  
53 of a roadway, upon or across any track or tracks at a railroad grade  
54 crossing without first complying with the following requirements.

55 Notice of any such intended crossing shall be given to the nearest  
56 superintendent or trainmaster of such railroad. Such notice shall  
57 specify the approximate time of crossing and a reasonable time  
58 shall be given to such railroad to provide proper protection at  
59 such crossing.

60 After concluding satisfactory arrangements with the proper  
61 officer of the railroad and before making any such crossing, the  
62 person operating or moving any such vehicle or equipment shall  
63 first stop the same not less than 15 feet nor more than 50 feet from  
64 the nearest rail of such railroad, and while so stopped shall listen  
65 and look in both directions along such track or tracks for any  
66 approaching train and for signals indicating the approach of a  
67 train, and shall not proceed until the crossing can be made safely.

68 No such crossing shall be made when warning is given by auto-  
 69 matic signal or crossing gates or a flagman or otherwise of the  
 70 immediate approach of a railroad train or car. If the flagman is  
 71 provided by the railroad, movement over the crossing shall be  
 72 made under his jurisdiction.

73 (c) Any person violating the provisions of this section shall be  
 74 punished by a fine of not more than \$50.00 for the first offense and  
 75 for the second offense a fine of not more than \$100.00, or by  
 76 imprisonment for not more than 30 days, or by both such fine and  
 77 imprisonment.

78 (d) This section shall not be construed as limiting the authority  
 79 of any municipality to adopt police regulations governing the op-  
 80 eration of omnibuses and to provide penalties for their violation,  
 81 or to relieve the owner or operator of such omnibus subject to the  
 82 jurisdiction of the Board of Public **Utility Commissioners**  
 83 *Utilities* from any penalty prescribed by the laws of this State for  
 84 violation of orders of such board.

1 2. This act shall take effect immediately.

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#### STATEMENT

This bill creates an exception from the requirement for certain vehicles such as school buses to stop at railroad grade crossings. The Commissioner of Transportation is given the authority to designate railroad grade crossings as "exempt crossings." Crossings are designated as exempt when the likelihood of motor vehicle accidents between vehicles required to stop at grade crossings and other vehicles traveling in the same direction exceeds the probability of collision between a train and the vehicles required to stop at the crossing. A public hearing is required prior to the designation of any crossing as an exempt crossing. The commissioner is given the power to promulgate such regulations as are necessary to effectuate the purpose of establishment of exempt crossings.

A183 (1979)

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 183**

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**STATE OF NEW JERSEY**

DATED: JUNE 12, 1978

R. S. 39:4-128 requires that in most cases the driver of any omnibus carrying more than six passengers, or of any school bus carrying any school child or children, or of any vehicle carrying explosive substance or flammable liquids as a cargo or part of a cargo, shall stop his vehicle before a railroad grade crossing and while so stopped shall listen and look in both directions for any approaching train and for signals indicating the approach of a train; furthermore, the driver of such a vehicle shall proceed when it is safe to do so.

This section does not apply to grade crossings which are no longer used for railroad traffic and which have been abandoned by the railroad company provided that appropriate signs have been posted to indicate that such grade crossing has been abandoned or is no longer used for any railroad traffic and in certain instances to grade crossings where the railroad track has been removed or paved over and the warning signs erected by the railroad have been removed.

The purpose of this bill is to create an additional exception from the requirement for such vehicles to stop at railroad grade crossings. Assembly Bill No. 183 vests the Commissioner of Transportation with the exclusive authority to designate railroad grade crossings as "exempt crossings." Crossings shall be designated as exempt when the commissioner determines that the potential for accidents between motor vehicles required to stop at grade crossings and other motor vehicles traveling in the same direction exceeds the potential for collision between a train and the vehicles required to stop at such crossings. A public hearing is required prior to the designation of any crossing as an exempt crossing. The commissioner is given the power to promulgate such regulations as are necessary to effectuate the purpose of establishment of exempt crossings.

The Department of Transportation is in favor of Assembly Bill No. 183. It maintains that enactment of this bill into law would reduce the incidents of rear-end motor vehicle collisions that occur as a result of the existing law requiring certain vehicles to stop at certain railroad grade crossings, which are presently never or rarely used by the railroads.

SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 183**

—◆—  
**STATE OF NEW JERSEY**  
—◆—

DATED: DECEMBER 4, 1978

This legislation provides that the Commissioner of Transportation shall have the authority to designate any railroad grade crossing as an exempt crossing. A public hearing shall be held prior to designating any crossing as exempt.

The Department of Transportation supports this legislation.

This legislation is identical to Senate Bill No. 1145 which has already passed the Senate.

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

MARCH 21, 1979

KATHRYN FORSYTH

Governor Brendan Byrne today signed the following bills into law:

S-288, sponsored by Senator John H. Ewing (R-Somerset), which increases the maximum annual amount which a municipality can appropriate to a fire district or independent volunteer fire company located in an adjoining municipality which responds to fires in the first municipality.

The bill increases the maximum annual amount from \$10,000 to \$12,000.

S-1103, sponsored by Senator Steven Perskie (D-Atlantic), which amends current law to restrict and clarify the procedures for the correction of technical errors in tax assessments.

A-183, sponsored by Assemblyman Walter Kozloski (D-Freehold), which provides for certain exemptions from the requirement that buses carrying more than six passengers or any school bus carrying children stop at all railroad grade crossings.

Under the bill, the Commissioner of Transportation, after holding public hearings and issuing regulations in each case, may designate certain railroad grade crossings as "exempt crossings" when the potential for accidents between vehicles traveling in the same direction exceeds the potential for accidents between trains and vehicles.

The Federal Highway Administration has said that it will share the costs of the necessary engineering, investigations and hearings on a 90-10 match basis.

A-1007, sponsored by Assemblyman Robert E. Littell (R-Sussex) which permits persons to use one application form to request absentee voting ballots for local school elections, county vocational school elections and regional school elections.

A-1492, sponsored by Assemblyman Martin Herman (D-Gloucester), which provides that the "average ratio" of assessed to true value of real property for a taxing district which is to be used for the purposes of establishing rebuttal presumptions relating to alleged discrimination tax appeal cases be the ratio promulgated by the Director of the Division of Taxation.

The bill is applicable to all appeals filed in 1979 and thereafter.

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