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SENATE BILL 390

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO RAILROAD CROSSINGS; PROVIDING FOR A "GOOD AND SUFFICIENT CROSSING" TO INCLUDE AN ACTIVE TRAFFIC CONTROL SYSTEM; REQUIRING THE PUBLIC REGULATION COMMISSION TO SCHEDULE COMPLIANCE; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 63-3-35 NMSA 1978 (being Laws 1929, Chapter 97, Section 1) is amended to read:

"63-3-35. HIGHWAY CROSSINGS--DEFINITIONS.~~---[The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:~~

~~(a) "Public Highways": Every place or way of whatever nature open to the use of the public as a matter of~~

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1 ~~right for purposes of vehicular travel.]~~ As used in Sections
2 63-3-35 through 63-3-38 NMSA 1978:

3 A. "good and sufficient crossing" includes an
4 active traffic control system consisting of flashing light
5 signals, gates or traffic control signals pursuant to the 2003
6 edition and subsequent revisions of the manual of uniform
7 traffic control devices, approved and published by the federal
8 highway administration of the United States department of
9 transportation;

10 [~~b~~] B. "grade crossing" or "crossing at grade"
11 means a crossing so constructed that a highway crosses railroad
12 tracks upon the same grade as is occupied by [~~such~~] the tracks;

13 [~~e~~] C. "grade separation" means a separation of
14 the grade of railroad tracks from that of a highway at a
15 railroad crossing, so constructed that the highway will either
16 pass under the tracks of the railroad or over [~~such~~] the tracks
17 at a sufficient height above the [~~same~~] tracks to permit
18 railroad trains to pass under [~~such~~] the highway;

19 [~~d~~] D. "grade separation limits" means all that
20 portion of a highway at or near a railroad crossing between the
21 points where the grade line of [~~such~~] the highway leaves its
22 natural grade on one side of a railroad track and where it
23 returns to its natural grade on the other side of [~~such~~] the
24 track; and

25 E. "public highways" means every place or way open

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1 to the use of the public as a matter of right or consent for
2 purposes of motor vehicle travel."

3 Section 2. Section 63-3-36 NMSA 1978 (being Laws 1929,
4 Chapter 97, Section 2, as amended) is amended to read:

5 "63-3-36. CONSTRUCTION AND MAINTENANCE OF HIGHWAY
6 CROSSINGS.--

7 A. Subject to the provisions of Subsection B
8 [~~hereof, every~~] of this section, a railroad company [~~in this~~
9 ~~state~~] shall construct or reconstruct and maintain in good
10 condition, at its own expense, a good and sufficient [~~crossings~~
11 ~~at all places in this state~~] crossing where its railroad
12 crosses public highways or city, town or village streets at
13 grade, [~~now or hereafter to be opened for public use. Such~~
14 ~~crossings~~] whether the highways or streets are publicly or
15 privately owned. A crossing shall be constructed of planks,
16 macadam, concrete or other suitable material [~~in such manner as~~
17 ~~to~~] and shall be level with the top of the rails for a
18 reasonable distance on each side of each rail.

19 B. [~~Any~~] A highway-railroad crossing at grade that
20 may [~~here after~~] be constructed or reconstructed by the [~~state~~
21 ~~highway~~] department [~~will~~] of transportation shall be [~~a full~~
22 ~~plank crossing of a material~~] the same as a crossing described
23 in Subsection A of this section as approved by [~~the state~~
24 ~~highway~~] that department and the affected railroad company, to
25 be installed by [~~the railroad~~] that company at the [~~state~~

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1 highway] department's expense. [~~If a joint investigation of~~
2 ~~railroad and highway engineers shows that a highway railroad~~
3 ~~crossing at grade should be reconstructed, then the highway~~
4 ~~department shall pay the railroad for the initial full plank~~
5 ~~crossing.~~ Said] The constructed or reconstructed crossing
6 [~~will~~] shall be maintained in good condition at the railroad
7 company's [~~own~~] expense.

8 C. Pursuant to its powers granted in Section
9 63-7-1.1 NMSA 1978, the public regulation commission shall
10 adopt a schedule for compliance by railroads, as soon as
11 practicable, with the provisions of this section for grade
12 crossings in existence on the effective date of this 2009 act."

13 Section 3. EMERGENCY.--It is necessary for the public
14 peace, health and safety that this act take effect immediately.