



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/04/04, by Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

20 ILCS 2705/2705-20 new	
30 ILCS 105/5.625 new	
35 ILCS 505/8	from Ch. 120, par. 424
220 ILCS 5/1-102	from Ch. 111 2/3, par. 1-102
220 ILCS 5/7-102	from Ch. 111 2/3, par. 7-102
625 ILCS 5/18c-1104	from Ch. 95 1/2, par. 18c-1104
625 ILCS 5/Chapter 18C, Sub-chapter 1, Article II heading	
625 ILCS 5/18c-1201	from Ch. 95 1/2, par. 18c-1201
625 ILCS 5/18c-1201.1 new	
625 ILCS 5/18c-1202	from Ch. 95 1/2, par. 18c-1202
625 ILCS 5/18c-1204	from Ch. 95 1/2, par. 18c-1204
625 ILCS 5/18c-1502	from Ch. 95 1/2, par. 18c-1502
625 ILCS 5/18c-1502.05	
625 ILCS 5/18c-1502.10	
625 ILCS 5/18c-1505	from Ch. 95 1/2, par. 18c-1505
625 ILCS 5/18c-1601	from Ch. 95 1/2, par. 18c-1601
625 ILCS 5/18c-3304	from Ch. 95 1/2, par. 18c-3304
625 ILCS 5/18c-7101	from Ch. 95 1/2, par. 18c-7101
625 ILCS 5/18c-7201	from Ch. 95 1/2, par. 18c-7201
625 ILCS 5/18c-7401	from Ch. 95 1/2, par. 18c-7401
625 ILCS 5/18c-7402	from Ch. 95 1/2, par. 18c-7402
625 ILCS 5/18c-7402.1	
625 ILCS 5/18c-7403	from Ch. 95 1/2, par. 18c-7403
625 ILCS 5/18c-7404	from Ch. 95 1/2, par. 18c-7404

Amends the Department of Transportation Law of the Civil Administrative Code of Illinois, the Motor Fuel Tax Law, the Public Utilities Act, and the Illinois Vehicle Code. Transfers from the Illinois Commerce Commission to the Department of Transportation all the Commission's functions, powers, and duties related to railroads. Provides for procedures and the exercise of authority necessary to effectuate the transfer. Provides that the Commission and the Secretary of Transportation shall adopt rules for implementing the transfer. Provides that the Secretary of Transportation shall adopt rules governing the maintenance of safe walkways for railroad workers. Deletes language requiring any freight train operating outside a railroad yard to be equipped with a radio communication system. Provides that, in accordance with federal railroad safety laws, the Department has authority to adopt rules and issue orders covering every area of railroad safety. Makes other changes. Effective July 1, 2004.

LRB093 20917 DRH 46890 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Transportation Law of the
5 Civil Administrative Code of Illinois is amended by adding
6 Section 2705-20 as follows:

7 (20 ILCS 2705/2705-20 new)

8 Sec. 2705-20. Railroads.

9 (a) The Department shall exercise the functions, powers,
10 and duties relating to railroads set forth in Chapter 18C of
11 the Illinois Vehicle Code.

12 (b) Any reference to the Illinois Commerce Commission in
13 any law of this State relating to railroad regulation shall be
14 deemed to be a reference to the Department.

15 (c) The Secretary of Transportation shall adopt rules
16 governing the maintenance of safe walkways for railroad workers
17 at locations where work is regularly performed on the ground.
18 These rules shall include, at a minimum, a requirement that the
19 walkways have a reasonably uniform surface, be maintained in a
20 safe condition, and be reasonably free of obstacles, debris,
21 and other hazards.

22 Section 10. The State Finance Act is amended by adding
23 Section 5.625 as follows:

24 (30 ILCS 105/5.625 new)

25 Sec. 5.625. The Department of Transportation Railroad
26 Regulatory Fund.

27 Section 15. The Motor Fuel Tax Law is amended by changing
28 Section 8 as follows:

1 (35 ILCS 505/8) (from Ch. 120, par. 424)

2 Sec. 8. Except as provided in Section 8a, subdivision
3 (h)(1) of Section 12a, Section 13a.6, and items 13, 14, 15, and
4 16 of Section 15, all money received by the Department under
5 this Act, including payments made to the Department by member
6 jurisdictions participating in the International Fuel Tax
7 Agreement, shall be deposited in a special fund in the State
8 treasury, to be known as the "Motor Fuel Tax Fund", and shall
9 be used as follows:

10 (a) 2 1/2 cents per gallon of the tax collected on special
11 fuel under paragraph (b) of Section 2 and Section 13a of this
12 Act shall be transferred to the State Construction Account Fund
13 in the State Treasury;

14 (b) \$420,000 shall be transferred each month to the State
15 Boating Act Fund to be used by the Department of Natural
16 Resources for the purposes specified in Article X of the Boat
17 Registration and Safety Act;

18 (c) \$2,250,000 shall be transferred each month to the Grade
19 Crossing Protection Fund to be used as follows: not less than
20 \$6,000,000 each fiscal year shall be used for the construction
21 or reconstruction of rail highway grade separation structures;
22 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter
23 shall be transferred to the Transportation Regulatory Fund and
24 shall be accounted for as part of the rail carrier portion of
25 such funds and shall be used to pay the cost of administration
26 of the Department of Transportation's ~~Illinois Commerce~~
27 ~~Commission's~~ railroad safety program in connection with its
28 duties under subsection (3) of Section 18c-7401 of the Illinois
29 Vehicle Code, with the remainder to be used by the Department
30 of Transportation upon order of the Department ~~Illinois~~
31 ~~Commerce Commission,~~ to pay that part of the cost apportioned
32 by the Department ~~such Commission~~ to the State to cover the
33 interest of the public in the use of highways, roads, streets,
34 or pedestrian walkways in the county highway system, township
35 and district road system, or municipal street system as defined
36 in the Illinois Highway Code, as the same may from time to time

1 be amended, for separation of grades, for installation,
2 construction or reconstruction of crossing protection or
3 reconstruction, alteration, relocation including construction
4 or improvement of any existing highway necessary for access to
5 property or improvement of any grade crossing including the
6 necessary highway approaches thereto of any railroad across the
7 highway or public road, or for the installation, construction,
8 reconstruction, or maintenance of a pedestrian walkway over or
9 under a railroad right-of-way, as provided for in and in
10 accordance with Section 18c-7401 of the Illinois Vehicle Code.
11 The Department ~~Commission~~ shall not order more than \$2,000,000
12 per year in Grade Crossing Protection Fund moneys for
13 pedestrian walkways. In entering orders for projects for which
14 payments from the Grade Crossing Protection Fund will be made,
15 the Department ~~Commission~~ shall account for expenditures
16 authorized by the orders on a cash rather than an accrual
17 basis. For purposes of this requirement an "accrual basis"
18 assumes that the total cost of the project is expended in the
19 fiscal year in which the order is entered, while a "cash basis"
20 allocates the cost of the project among fiscal years as
21 expenditures are actually made. To meet the requirements of
22 this subsection, the Department ~~Illinois Commerce Commission~~
23 shall develop annual and 5-year project plans of rail crossing
24 capital improvements that will be paid for with moneys from the
25 Grade Crossing Protection Fund. The annual project plan shall
26 identify projects for the succeeding fiscal year and the 5-year
27 project plan shall identify projects for the 5 directly
28 succeeding fiscal years. The Department ~~Commission~~ shall
29 submit the annual and 5-year project plans for this Fund to the
30 Governor, the President of the Senate, the Senate Minority
31 Leader, the Speaker of the House of Representatives, and the
32 Minority Leader of the House of Representatives on the first
33 Wednesday in April of each year;

34 (d) of the amount remaining after allocations provided for
35 in subsections (a), (b) and (c), a sufficient amount shall be
36 reserved to pay all of the following:

1 (1) the costs of the Department of Revenue in
2 administering this Act;

3 (2) the costs of the Department of Transportation in
4 performing its duties imposed by the Illinois Highway Code
5 for supervising the use of motor fuel tax funds apportioned
6 to municipalities, counties and road districts;

7 (3) refunds provided for in Section 13 of this Act and
8 under the terms of the International Fuel Tax Agreement
9 referenced in Section 14a;

10 (4) from October 1, 1985 until June 30, 1994, the
11 administration of the Vehicle Emissions Inspection Law,
12 which amount shall be certified monthly by the
13 Environmental Protection Agency to the State Comptroller
14 and shall promptly be transferred by the State Comptroller
15 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
16 Inspection Fund, and for the period July 1, 1994 through
17 June 30, 2000, one-twelfth of \$25,000,000 each month, for
18 the period July 1, 2000 through June 30, 2003, one-twelfth
19 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
20 and \$15,000,000 on January 1 and \$15,000,000 on July 1 of
21 each calendar year for the period January 1, 2004 through
22 June 30, 2006, for the administration of the Vehicle
23 Emissions Inspection Law of 1995, to be transferred by the
24 State Comptroller and Treasurer from the Motor Fuel Tax
25 Fund into the Vehicle Inspection Fund;

26 (5) amounts ordered paid by the Court of Claims; and

27 (6) payment of motor fuel use taxes due to member
28 jurisdictions under the terms of the International Fuel Tax
29 Agreement. The Department shall certify these amounts to
30 the Comptroller by the 15th day of each month; the
31 Comptroller shall cause orders to be drawn for such
32 amounts, and the Treasurer shall administer those amounts
33 on or before the last day of each month;

34 (e) after allocations for the purposes set forth in
35 subsections (a), (b), (c) and (d), the remaining amount shall
36 be apportioned as follows:

1 (1) Until January 1, 2000, 58.4%, and beginning January
2 1, 2000, 45.6% shall be deposited as follows:

3 (A) 37% into the State Construction Account Fund,
4 and

5 (B) 63% into the Road Fund, \$1,250,000 of which
6 shall be reserved each month for the Department of
7 Transportation to be used in accordance with the
8 provisions of Sections 6-901 through 6-906 of the
9 Illinois Highway Code;

10 (2) Until January 1, 2000, 41.6%, and beginning January
11 1, 2000, 54.4% shall be transferred to the Department of
12 Transportation to be distributed as follows:

13 (A) 49.10% to the municipalities of the State,

14 (B) 16.74% to the counties of the State having
15 1,000,000 or more inhabitants,

16 (C) 18.27% to the counties of the State having less
17 than 1,000,000 inhabitants,

18 (D) 15.89% to the road districts of the State.

19 As soon as may be after the first day of each month the
20 Department of Transportation shall allot to each municipality
21 its share of the amount apportioned to the several
22 municipalities which shall be in proportion to the population
23 of such municipalities as determined by the last preceding
24 municipal census if conducted by the Federal Government or
25 Federal census. If territory is annexed to any municipality
26 subsequent to the time of the last preceding census the
27 corporate authorities of such municipality may cause a census
28 to be taken of such annexed territory and the population so
29 ascertained for such territory shall be added to the population
30 of the municipality as determined by the last preceding census
31 for the purpose of determining the allotment for that
32 municipality. If the population of any municipality was not
33 determined by the last Federal census preceding any
34 apportionment, the apportionment to such municipality shall be
35 in accordance with any census taken by such municipality. Any
36 municipal census used in accordance with this Section shall be

1 certified to the Department of Transportation by the clerk of
2 such municipality, and the accuracy thereof shall be subject to
3 approval of the Department which may make such corrections as
4 it ascertains to be necessary.

5 As soon as may be after the first day of each month the
6 Department of Transportation shall allot to each county its
7 share of the amount apportioned to the several counties of the
8 State as herein provided. Each allotment to the several
9 counties having less than 1,000,000 inhabitants shall be in
10 proportion to the amount of motor vehicle license fees received
11 from the residents of such counties, respectively, during the
12 preceding calendar year. The Secretary of State shall, on or
13 before April 15 of each year, transmit to the Department of
14 Transportation a full and complete report showing the amount of
15 motor vehicle license fees received from the residents of each
16 county, respectively, during the preceding calendar year. The
17 Department of Transportation shall, each month, use for
18 allotment purposes the last such report received from the
19 Secretary of State.

20 As soon as may be after the first day of each month, the
21 Department of Transportation shall allot to the several
22 counties their share of the amount apportioned for the use of
23 road districts. The allotment shall be apportioned among the
24 several counties in the State in the proportion which the total
25 mileage of township or district roads in the respective
26 counties bears to the total mileage of all township and
27 district roads in the State. Funds allotted to the respective
28 counties for the use of road districts therein shall be
29 allocated to the several road districts in the county in the
30 proportion which the total mileage of such township or district
31 roads in the respective road districts bears to the total
32 mileage of all such township or district roads in the county.
33 After July 1 of any year, no allocation shall be made for any
34 road district unless it levied a tax for road and bridge
35 purposes in an amount which will require the extension of such
36 tax against the taxable property in any such road district at a

1 rate of not less than either .08% of the value thereof, based
2 upon the assessment for the year immediately prior to the year
3 in which such tax was levied and as equalized by the Department
4 of Revenue or, in DuPage County, an amount equal to or greater
5 than \$12,000 per mile of road under the jurisdiction of the
6 road district, whichever is less. If any road district has
7 levied a special tax for road purposes pursuant to Sections
8 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such
9 tax was levied in an amount which would require extension at a
10 rate of not less than .08% of the value of the taxable property
11 thereof, as equalized or assessed by the Department of Revenue,
12 or, in DuPage County, an amount equal to or greater than
13 \$12,000 per mile of road under the jurisdiction of the road
14 district, whichever is less, such levy shall, however, be
15 deemed a proper compliance with this Section and shall qualify
16 such road district for an allotment under this Section. If a
17 township has transferred to the road and bridge fund money
18 which, when added to the amount of any tax levy of the road
19 district would be the equivalent of a tax levy requiring
20 extension at a rate of at least .08%, or, in DuPage County, an
21 amount equal to or greater than \$12,000 per mile of road under
22 the jurisdiction of the road district, whichever is less, such
23 transfer, together with any such tax levy, shall be deemed a
24 proper compliance with this Section and shall qualify the road
25 district for an allotment under this Section.

26 In counties in which a property tax extension limitation is
27 imposed under the Property Tax Extension Limitation Law, road
28 districts may retain their entitlement to a motor fuel tax
29 allotment if, at the time the property tax extension limitation
30 was imposed, the road district was levying a road and bridge
31 tax at a rate sufficient to entitle it to a motor fuel tax
32 allotment and continues to levy the maximum allowable amount
33 after the imposition of the property tax extension limitation.
34 Any road district may in all circumstances retain its
35 entitlement to a motor fuel tax allotment if it levied a road
36 and bridge tax in an amount that will require the extension of

1 the tax against the taxable property in the road district at a
2 rate of not less than 0.08% of the assessed value of the
3 property, based upon the assessment for the year immediately
4 preceding the year in which the tax was levied and as equalized
5 by the Department of Revenue or, in DuPage County, an amount
6 equal to or greater than \$12,000 per mile of road under the
7 jurisdiction of the road district, whichever is less.

8 As used in this Section the term "road district" means any
9 road district, including a county unit road district, provided
10 for by the Illinois Highway Code; and the term "township or
11 district road" means any road in the township and district road
12 system as defined in the Illinois Highway Code. For the
13 purposes of this Section, "road district" also includes park
14 districts, forest preserve districts and conservation
15 districts organized under Illinois law and "township or
16 district road" also includes such roads as are maintained by
17 park districts, forest preserve districts and conservation
18 districts. The Department of Transportation shall determine
19 the mileage of all township and district roads for the purposes
20 of making allotments and allocations of motor fuel tax funds
21 for use in road districts.

22 Payment of motor fuel tax moneys to municipalities and
23 counties shall be made as soon as possible after the allotment
24 is made. The treasurer of the municipality or county may invest
25 these funds until their use is required and the interest earned
26 by these investments shall be limited to the same uses as the
27 principal funds.

28 (Source: P.A. 92-16, eff. 6-28-01; 92-30, eff. 7-1-01; 93-32,
29 eff. 6-20-03.)

30 Section 20. The Public Utilities Act is amended by changing
31 Sections 1-102 and 7-102 as follows:

32 (220 ILCS 5/1-102) (from Ch. 111 2/3, par. 1-102)

33 Sec. 1-102. Findings and Intent. The General Assembly
34 finds that the health, welfare and prosperity of all Illinois

1 citizens require the provision of adequate, efficient,
2 reliable, environmentally safe and least-cost public utility
3 services at prices which accurately reflect the long-term cost
4 of such services and which are equitable to all citizens. It is
5 therefore declared to be the policy of the State that public
6 utilities shall continue to be regulated effectively and
7 comprehensively. It is further declared that the goals and
8 objectives of such regulation shall be to ensure

9 (a) Efficiency: the provision of reliable energy
10 services at the least possible cost to the citizens of the
11 State; in such manner that:

12 (i) physical, human and financial resources are
13 allocated efficiently;

14 (ii) all supply and demand options are considered
15 and evaluated using comparable terms and methods in
16 order to determine how utilities shall meet their
17 customers' demands for public utility services at the
18 least cost;

19 (iii) utilities are allowed a sufficient return on
20 investment so as to enable them to attract capital in
21 financial markets at competitive rates;

22 (iv) tariff rates for the sale of various public
23 utility services are authorized such that they
24 accurately reflect the cost of delivering those
25 services and allow utilities to recover the total costs
26 prudently and reasonably incurred;

27 (v) variation in costs by customer class and time
28 of use is taken into consideration in authorizing rates
29 for each class.

30 (b) Environmental Quality: the protection of the
31 environment from the adverse external costs of public
32 utility services so that

33 (i) environmental costs of proposed actions having
34 a significant impact on the environment and the
35 environmental impact of the alternatives are
36 identified, documented and considered in the

1 regulatory process;

2 (ii) the prudently and reasonably incurred costs
3 of environmental controls are recovered.

4 (c) Reliability: the ability of utilities to provide
5 consumers with public utility services under varying
6 demand conditions in such manner that suppliers of public
7 utility services are able to provide service at varying
8 levels of economic reliability giving appropriate
9 consideration to the costs likely to be incurred as a
10 result of service interruptions, and to the costs of
11 increasing or maintaining current levels of reliability
12 consistent with commitments to consumers.

13 (d) Equity: the fair treatment of consumers and
14 investors in order that

15 (i) the public health, safety and welfare shall be
16 protected;

17 (ii) the application of rates is based on public
18 understandability and acceptance of the reasonableness
19 of the rate structure and level;

20 (iii) the cost of supplying public utility
21 services is allocated to those who cause the costs to
22 be incurred;

23 (iv) if factors other than cost of service are
24 considered in regulatory decisions, the rationale for
25 these actions is set forth;

26 (v) regulation allows for orderly transition
27 periods to accommodate changes in public utility
28 service markets;

29 (vi) regulation does not result in undue or
30 sustained adverse impact on utility earnings;

31 (vii) the impacts of regulatory actions on all
32 sectors of the State are carefully weighed;

33 (viii) the rates for utility services are
34 affordable and therefore preserve the availability of
35 such services to all citizens.

36 It is further declared to be the policy of the State that

1 this Act shall not apply in relation to motor carriers ~~and rail~~
2 ~~carriers~~ as defined in the Illinois Commercial Transportation
3 Law, or to the Commission in the regulation of such carriers.

4 Nothing in this Act shall be construed to limit, restrict,
5 or mitigate in any way the power and authority of the State's
6 Attorneys or the Attorney General under the Consumer Fraud and
7 Deceptive Business Practices Act.

8 (Source: P.A. 92-22, eff. 6-30-01.)

9 (220 ILCS 5/7-102) (from Ch. 111 2/3, par. 7-102)

10 Sec. 7-102. Transactions requiring Commission approval.

11 (A) Unless the consent and approval of the Commission is
12 first obtained or unless such approval is waived by the
13 Commission or is exempted in accordance with the provisions of
14 this Section or of any other Section of this Act:

15 (a) No 2 or more public utilities may enter into
16 contracts with each other that will enable such public
17 utilities to operate their lines or plants in connection
18 with each other.

19 (b) No public utility may purchase, lease, or in any
20 other manner acquire control, direct or indirect, over the
21 franchises, licenses, permits, plants, equipment, business
22 or other property of any other public utility.

23 (c) No public utility may assign, transfer, lease,
24 mortgage, sell (by option or otherwise), or otherwise
25 dispose of or encumber the whole or any part of its
26 franchises, licenses, permits, plant, equipment, business,
27 or other property, but the consent and approval of the
28 Commission (or the Department of Transportation, as its
29 successor in railroad regulation matters) shall not be
30 required for the sale, lease, assignment or transfer (1) by
31 any public utility of any tangible personal property which
32 is not necessary or useful in the performance of its duties
33 to the public, or (2) by any railroad of any real or
34 tangible personal property.

35 (d) No public utility may by any means, direct or

1 indirect, merge or consolidate its franchises, licenses,
2 permits, plants, equipment, business or other property
3 with that of any other public utility.

4 (e) No public utility may purchase, acquire, take or
5 receive any stock, stock certificates, bonds, notes or
6 other evidences of indebtedness of any other public
7 utility.

8 (f) No public utility may in any manner, directly or
9 indirectly, guarantee the performance of any contract or
10 other obligation of any other person, firm or corporation
11 whatsoever.

12 (g) No public utility may use, appropriate, or divert
13 any of its moneys, property or other resources in or to any
14 business or enterprise which is not, prior to such use,
15 appropriation or diversion essentially and directly
16 connected with or a proper and necessary department or
17 division of the business of such public utility; provided
18 that this subsection shall not be construed as modifying
19 subsections (a) through (e) of this Section.

20 (h) No public utility may, directly or indirectly,
21 invest, loan or advance, or permit to be invested, loaned
22 or advanced any of its moneys, property or other resources
23 in, for, in behalf of or to any other person, firm, trust,
24 group, association, company or corporation whatsoever,
25 except that no consent or approval by the Commission is
26 necessary for the purchase of stock in development credit
27 corporations organized under the Illinois Development
28 Credit Corporation Act, providing that no such purchase may
29 be made hereunder if, as a result of such purchase, the
30 cumulative purchase price of all such shares owned by the
31 utility would exceed one-fiftieth of one per cent of the
32 utility's gross operating revenue for the preceding
33 calendar year.

34 (B) Any public utility may present to the Commission for
35 approval options or contracts to sell or lease real property,
36 notwithstanding that the value of the property under option may

1 have changed between the date of the option and the subsequent
2 date of sale or lease. If the options or contracts are approved
3 by the Commission, subsequent sales or leases in conformance
4 with those options or contracts may be made by the public
5 utility without any further action by the Commission. If
6 approval of the options or contracts is denied by the
7 Commission, the options or contracts are void and any
8 consideration theretofore paid to the public utility must be
9 refunded within 30 days following disapproval of the
10 application.

11 (C) The proceedings for obtaining the approval of the
12 Commission provided for in this Section shall be as follows:
13 There shall be filed with the Commission a petition, joint or
14 otherwise, as the case may be, signed and verified by the
15 president, any vice president, secretary, treasurer,
16 comptroller, general manager, or chief engineer of the
17 respective companies, or by the person or company, as the case
18 may be, clearly setting forth the object and purposes desired,
19 and setting forth the full and complete terms of the proposed
20 assignment, transfer, lease, mortgage, purchase, sale, merger,
21 consolidation, contract or other transaction, as the case may
22 be. Upon the filing of such petition, the Commission shall, if
23 it deems necessary, fix a time and place for the hearing
24 thereon. After such hearing, or in case no hearing is required,
25 if the Commission is satisfied that such petition should
26 reasonably be granted, and that the public will be inconvenienced
27 thereby, the Commission shall make such order in the premises
28 as it may deem proper and as the circumstances may require,
29 attaching such conditions as it may deem proper, and thereupon
30 it shall be lawful to do the things provided for in such order.
31 The Commission shall impose such conditions as will protect the
32 interest of minority and preferred stockholders.

33 (D) The Commission shall have power by general rules
34 applicable alike to all public utilities, other than electric
35 and gas public utilities, affected thereby to waive the filing
36 and necessity for approval of the following: (a) sales of

1 property involving a consideration of not more than \$300,000
2 for utilities with gross revenues in excess of \$50,000,000
3 annually and a consideration of not more than \$100,000 for all
4 other utilities; (b) leases, easements and licenses involving a
5 consideration or rental of not more than \$30,000 per year for
6 utilities with gross revenues in excess of \$50,000,000 annually
7 and a consideration or rental of not more than \$10,000 per year
8 for all other utilities; (c) leases of office building space
9 not required by the public utility in rendering service to the
10 public; (d) the temporary leasing, lending or interchanging of
11 equipment in the ordinary course of business or in case of an
12 emergency; and (e) purchase-money mortgages given by a public
13 utility in connection with the purchase of tangible personal
14 property where the total obligation to be secured shall be
15 payable within a period not exceeding one year. However, if the
16 Commission, after a hearing, finds that any public utility to
17 which such rule is applicable is abusing or has abused such
18 general rule and thereby is evading compliance with the
19 standard established herein, the Commission shall have power to
20 require such public utility to thereafter file and receive the
21 Commission's approval upon all such transactions as described
22 in this Section, but such general rule shall remain in full
23 force and effect as to all other public utilities to which such
24 rule is applicable.

25 (E) The filing of, and the consent and approval of the
26 Commission for, any assignment, transfer, lease, mortgage,
27 purchase, sale, merger, consolidation, contract or other
28 transaction by an electric or gas public utility with gross
29 revenues in all jurisdictions of \$250,000,000 or more annually
30 involving a sale price or annual consideration in an amount of
31 \$5,000,000 or less shall not be required. The Commission shall
32 also have the authority, on petition by an electric or gas
33 public utility with gross revenues in all jurisdictions of
34 \$250,000,000 or more annually, to establish by order higher
35 thresholds than the foregoing for the requirement of approval
36 of transactions by the Commission pursuant to this Section for

1 the electric or gas public utility, but no greater than 1% of
2 the electric or gas public utility's average total gross
3 utility plant in service in the case of sale, assignment or
4 acquisition of property, or 2.5% of the electric or gas public
5 utility's total revenue in the case of other sales price or
6 annual consideration, in each case based on the preceding
7 calendar year, and subject to the power of the Commission,
8 after notice and hearing, to further revise those thresholds at
9 a later date. In addition to the foregoing, the Commission
10 shall have power by general rules applicable alike to all
11 electric and gas public utilities affected thereby to waive the
12 filing and necessity for approval of the following: (a) sales
13 of property involving a consideration of \$100,000 or less for
14 electric and gas utilities with gross revenues in all
15 jurisdictions of less than \$250,000,000 annually; (b) leases,
16 easements and licenses involving a consideration or rental of
17 not more than \$10,000 per year for electric and gas utilities
18 with gross revenues in all jurisdictions of less than
19 \$250,000,000 annually; (c) leases of office building space not
20 required by the electric or gas public utility in rendering
21 service to the public; (d) the temporary leasing, lending or
22 interchanging of equipment in the ordinary course of business
23 or in the case of an emergency; and (e) purchase-money
24 mortgages given by an electric or gas public utility in
25 connection with the purchase of tangible personal property
26 where the total obligation to be secured shall be payable
27 within a period of one year or less. However, if the
28 Commission, after a hearing, finds that any electric or gas
29 public utility is abusing or has abused such general rule and
30 thereby is evading compliance with the standard established
31 herein, the Commission shall have power to require such
32 electric or gas public utility to thereafter file and receive
33 the Commission's approval upon all such transactions as
34 described in this Section and not exempted pursuant to the
35 first sentence of this paragraph or to subsection (g) of
36 Section 16-111 of this Act, but such general rule shall remain

1 in full force and effect as to all other electric and gas
2 public utilities.

3 Every assignment, transfer, lease, mortgage, sale or other
4 disposition or encumbrance of the whole or any part of the
5 franchises, licenses, permits, plant, equipment, business or
6 other property of any public utility, or any merger or
7 consolidation thereof, and every contract, purchase of stock,
8 or other transaction referred to in this Section and not
9 exempted in accordance with the provisions of the immediately
10 preceding paragraph of this Section, made otherwise than in
11 accordance with an order of the Commission authorizing the
12 same, except as provided in this Section, shall be void. The
13 provisions of this Section shall not apply to any transactions
14 by or with a political subdivision or municipal corporation of
15 this State.

16 (F) The provisions of this Section do not apply to the
17 purchase or sale of emission allowances created under and
18 defined in Title IV of the federal Clean Air Act Amendments of
19 1990 (P.L. 101-549), as amended.

20 (Source: P.A. 90-561, eff. 12-16-97; 91-357, eff. 7-29-99.)

21 Section 25. The Illinois Vehicle Code is amended by
22 changing Sections 18c-1104, 18c-1201, 18c-1202, 18c-1204,
23 18c-1502, 18c-1502.05, 18c-1502.10, 18c-1505, 18c-1601,
24 18c-3304, 18c-7101, 18c-7201, 18c-7401, 18c-7402, 18c-7402.1,
25 18c-7403, 18c-7404, adding Section 18c-1201.1, and changing
26 the heading of Chapter 18C, Sub-chapter 1, Article II as
27 follows:

28 (625 ILCS 5/18c-1104) (from Ch. 95 1/2, par. 18c-1104)

29 Sec. 18c-1104. Definitions. The following terms, when used
30 in this Chapter, have the hereinafter designated meanings
31 unless their context clearly indicates otherwise:

32 (1) "Broker" means any person other than a motor carrier of
33 property, that arranges, offers to arrange, or holds itself
34 out, by solicitation, advertisement, or otherwise, as

1 arranging or offering to arrange for-hire transportation of
2 property or other service in connection therewith by a motor
3 carrier of property which holds or is required to hold a
4 license issued by the Commission.

5 (2) "Carrier" means any motor carrier or rail carrier other
6 than a private carrier.

7 (3) "Certificate" means a certificate of public
8 convenience and necessity issued under this Chapter to common
9 carriers of household goods.

10 (4) "Commission" means the Illinois Commerce Commission.

11 (5) "Commission regulations and orders" means rules and
12 regulations adopted and orders or decisions issued by the
13 Commission pursuant to this Chapter; any certificate, permit,
14 broker's license or other license or registration issued
15 pursuant to such rules, regulations, orders and decisions; and
16 all terms, conditions, or limitations thereof.

17 (5.5) "Department" means the Illinois Department of
18 Transportation.

19 (6) (Blank).

20 (7) (Blank).

21 (8) (Blank).

22 (9) "Discrimination" means undue discrimination in the
23 context of the particular mode of transportation involved.

24 (10) "Farm crossing" means a crossing used for agricultural
25 and livestock purposes only.

26 (11) "For-hire" means for compensation or hire, regardless
27 of the form of compensation and whether compensation is direct
28 or indirect.

29 (12) "Freight forwarder" means any person other than a
30 motor carrier, rail carrier, or common carrier by pipeline
31 which holds itself out as a common carrier to provide
32 transportation of property, for compensation or hire, which, in
33 the rendition of its services:

34 (a) Undertakes responsibility for the consolidation
35 (where applicable), transportation, break-bulk (where
36 applicable), and distribution of such property from the

1 point of receipt to the point of delivery; and

2 (b) Utilizes, for the transportation of such property,
3 the services of one or more motor carriers or rail
4 carriers.

5 (13) "Hazardous material" means any substance or material
6 in a quantity and form determined by the federal Office of
7 Hazardous Materials and the Federal Railroad Administration to
8 be capable of posing an unreasonable risk to health, safety, or
9 property when transported in commerce.

10 (13.1) "Household goods" means:

11 (A) Personal effects and property used or to be used in
12 a dwelling when a part of the equipment or supply of such
13 dwelling; except that this subdivision (13.1) shall not be
14 construed to include property moving from a factory or
15 store, except such property as the householder has
16 purchased with intent to use in his or her dwelling and
17 that is transported at the request of, and the
18 transportation charges paid to the carrier by, the
19 householder;

20 (B) Furniture, fixtures, equipment, and the property
21 of stores, offices, museums, institutions, hospitals, or
22 other establishments, when a part of the stock, equipment,
23 or supply of such stores, offices, museums, institutions,
24 hospitals, or other establishments; except that this
25 subdivision (13.1) shall not be construed to include the
26 stock-in-trade of any establishment, whether consignor or
27 consignee, other than used furniture and used fixtures,
28 except when transported as an incident to the moving of the
29 establishment, or a portion thereof, from one location to
30 another; and

31 (C) Articles, including, but not limited to, objects of
32 art, displays, and exhibits, which, because of their
33 unusual nature or value, require the specialized handling
34 and equipment usually employed in moving household goods;
35 except that this subdivision (13.1) shall not be construed
36 to include any article, whether crated or uncrated, that

1 does not, because of its unusual nature or value, require
2 the specialized handling and equipment usually employed in
3 moving household goods.

4 (13.2) "Household goods carrier" means a motor carrier of
5 property authorized to transport household goods.

6 (13.3) "Household goods common carrier" means any
7 household goods carrier engaged in transportation for the
8 general public over regular or irregular routes. Household
9 goods common carriers may also be referred to as "common
10 carriers of household goods".

11 (13.4) "Household goods contract carrier" means any
12 household goods carrier engaged in transportation under
13 contract with a limited number of shippers (that shall not be
14 freight forwarders, shippers' agents or brokers) that either
15 (a) assigns motor vehicles for a continuing period of time to
16 the exclusive use of the shipper or shippers served, or (b)
17 furnishes transportation service designed to meet the distinct
18 need of the shipper or shippers served. Household goods
19 contract carriers may also be referred to as "contract carriers
20 of household goods".

21 (14) "Interstate carrier" means any person engaged in the
22 for-hire transportation of persons or property in interstate or
23 foreign commerce in this State, whether or not such
24 transportation is pursuant to authority issued to it by the
25 Interstate Commerce Commission.

26 (15) "Intrastate carrier" means any person engaged in the
27 for-hire transportation of persons or property in intrastate
28 commerce in this State.

29 (16) "Interstate commerce" means commerce between a point
30 in the State of Illinois and a point outside the State of
31 Illinois, or between points outside the State of Illinois when
32 such commerce moves through Illinois, or between points in
33 Illinois moving through another state in a bona fide operation
34 that is either exempt from federal regulation or moves under a
35 certificate or permit issued by the Interstate Commerce
36 Commission authorizing interstate transportation, whether such

1 commerce moves wholly by motor vehicle or partly by motor
2 vehicle and partly by any other regulated means of
3 transportation where the commodity does not come to rest or
4 change its identity during the movement, and includes commerce
5 originating or terminating in a foreign country moving through
6 the State of Illinois.

7 (17) "Intrastate commerce" means commerce moving wholly
8 between points within the State of Illinois, whether such
9 commerce moves wholly by one transportation mode or partly by
10 one mode and partly by any other mode of transportation.

11 (18) "License" means any certificate, permit, broker's
12 license, or other license issued under this Chapter. For
13 purposes of Article III of Sub-chapter 4 of this Chapter,
14 "license" does not include a "public carrier certificate".

15 (19) "Motor carrier" means any person engaged in the
16 transportation of property or passengers, or both, for hire,
17 over the public roads of this State, by motor vehicle. Motor
18 carriers engaged in the transportation of property are referred
19 to as "motor carriers of property"; motor carriers engaged in
20 the transportation of passengers are referred to as "motor
21 carriers of passengers" or "bus companies".

22 (20) "Motor vehicle" means any vehicle, truck,
23 trucktractor, trailer or semitrailer propelled or drawn by
24 mechanical power and used upon the highways of the State in the
25 transportation of property or passengers.

26 (21) "Non-relocation towing" means the:

27 (a) For-hire transportation of vehicles by use of
28 wrecker or towing equipment, other than the removal of
29 trespassing vehicles from private property subject to the
30 provisions of Chapter 18a of this Code, and other than
31 transportation exempted by Section 18c-4102; and

32 (b) For-hire towing of wheeled property other than
33 vehicles.

34 (22) "Notice" means with regard to all proceedings except
35 enforcement proceedings instituted on the motion of the
36 Commission, and except for interstate motor carrier

1 registrations, public notice by publication in the official
2 state newspaper, unless otherwise provided in this Chapter.

3 (23) "Official state newspaper" means the newspaper
4 designated and certified to the Commission annually by the
5 Director of Central Management Services of the State of
6 Illinois, or, if said Director fails to certify to the
7 Commission the name and address of the official newspaper
8 selected by the Director prior to expiration of the previous
9 certification, the newspaper designated in the most recent
10 certification.

11 (24) "Party" means any person admitted as a party to a
12 Commission or Department proceeding or seeking and entitled as
13 a matter of right to admission as a party to a Commission or
14 Department proceeding.

15 (25) "Permit" means a permit issued under this Chapter to
16 contract carriers of property by motor vehicle.

17 (26) "Person" means any natural person or legal entity,
18 whether such entity is a proprietorship, partnership,
19 corporation, association, or other entity, and, where a
20 provision concerns the acts or omissions of a person, includes
21 the partners, officers, employees, and agents of the person, as
22 well as any trustees, assignees, receivers, or personal
23 representatives of the person.

24 (27) "Private carrier by motor vehicle" means any person
25 engaged in the transportation of property or passengers by
26 motor vehicle other than for hire, whether the person is the
27 owner, lessee or bailee of the lading or otherwise, when the
28 transportation is for the purpose of sale, lease, or bailment
29 and in furtherance of the person's primary business, other than
30 transportation. "Private carriers by motor vehicle" may be
31 referred to as "private carriers". Ownership, lease or bailment
32 of the lading is not sufficient proof of a private carrier
33 operation if the carrier is, in fact, engaged in the
34 transportation of property for-hire.

35 (27.1) "Public carrier" means a motor carrier of property,
36 other than a household goods carrier.

1 (27.2) "Public carrier certificate" means a certificate
2 issued to a motor carrier to transport property, other than
3 household goods, in intrastate commerce. The issuance of a
4 public carrier certificate shall not be subject to the
5 provisions of Article I of Sub-chapter 2 of this Chapter.

6 (28) "Public convenience and necessity" shall be construed
7 to have the same meaning under this Chapter as it was construed
8 by the courts to have under the Illinois Motor Carrier of
9 Property Law, with respect to motor carriers of property, and
10 the Public Utilities Act with respect to motor carriers of
11 passengers and rail carriers.

12 (29) "Public interest" shall be construed to have the same
13 meaning under this Chapter as it was construed by the courts to
14 have under the Illinois Motor Carrier of Property Law.

15 (30) "Rail carrier" means any person engaged in the
16 transportation of property or passengers for hire by railroad,
17 together with all employees or agents of such person or entity,
18 and all property used, controlled, or owned by such person or
19 entity.

20 (31) "Railroad" means track and associated structures,
21 including bridges, tunnels, switches, spurs, terminals and
22 other facilities, and equipment, including engines, freight
23 cars, passenger cars, cabooses, and other equipment, used in
24 the transportation of property or passengers by rail.

25 (32) "Rail yard" means a system of parallel tracks,
26 cross-overs and switches where cars are switched and made up
27 into trains, and where cars, locomotives, and other rolling
28 stock are kept when not in use or awaiting repairs. A "rail
29 yard" may also be referred to as a "yard".

30 (33) "Rate" means every individual or joint rate, fare,
31 toll, or charge of any carrier or carriers, any provisions
32 relating to application thereof, and any tariff or schedule
33 containing rates and provisions. The term "tariff" refers to a
34 publication or document containing motor common carrier rates
35 and provisions or rates and provisions applicable via rail
36 carrier under contracts established pursuant to 49 U.S. Code

1 10713. The term "schedule" refers to a publication or document
2 containing motor contract carrier rates and provisions.

3 (34) "Registration" means a registration issued to an
4 interstate carrier.

5 (35) "Shipper" means the consignor or consignee.

6 (36) "Terminal area" means, in addition to the area within
7 the corporate boundary of an incorporated city, village,
8 municipality, or community center, the area (whether
9 incorporated or unincorporated) within 10 air miles of the
10 corporate limits of the base city, village, municipality, or
11 community center, including all of any city, village or
12 municipality which lies within such area.

13 (37) "Transfer" means the sale, lease, consolidation,
14 merger, acquisition or change of control, or other transfer of
15 a license, in whole or in part.

16 (38) "Transportation" means the actual movement of
17 property or passengers by motor vehicle (without regard to
18 ownership of vehicles or equipment used in providing
19 transportation service) or rail together with loading,
20 unloading, and any other accessorial or ancillary service
21 provided by the carrier in connection with movement by motor
22 vehicle or rail, which is performed by or on behalf of the
23 carriers, its employees or agents, or under the authority or
24 direction of the carrier or under the apparent authority or
25 direction and with the knowledge of the carrier. Transportation
26 of property by motor vehicle includes driveaway or towaway
27 delivery service.

28 (39) "Towing" means the pushing, towing, or drawing of
29 wheeled property by means of a crane, hoist, towbar, towline,
30 or auxiliary axle.

31 (40) "Wrecker or towing equipment" means tow trucks or
32 auxiliary axles, when used in relation to towing accidentally
33 wrecked or disabled vehicles; and roll-back carriers or
34 trailers, when used in relation to transporting accidentally
35 wrecked or disabled vehicles. Wrecker or towing equipment does
36 not include car carriers or trailers other than roll-back car

1 carriers or trailers.

2 (Source: P.A. 89-42, eff. 1-1-96; 89-444, eff. 1-25-96; 90-14,
3 eff. 7-1-97.)

4 (625 ILCS 5/Chapter 18C, Sub-chapter 1, Article II heading)

5 ARTICLE II.

6 JURISDICTION AND POWER OF THE COMMISSION AND DEPARTMENT

7 (625 ILCS 5/18c-1201) (from Ch. 95 1/2, par. 18c-1201)

8 Sec. 18c-1201. Jurisdiction. The jurisdiction of the
9 Commission under this Chapter shall extend to for-hire
10 transportation by motor carrier ~~and rail carrier~~, the
11 activities of brokers, and to other activities specifically
12 enumerated herein, within the State of Illinois, and except as
13 otherwise provided elsewhere in this Chapter shall extend only
14 to intrastate commerce.

15 (Source: P.A. 89-42, eff. 1-1-96.)

16 (625 ILCS 5/18c-1201.1 new)

17 Sec. 18c-1201.1. Transfer of functions, powers, and duties
18 relating to railroads.

19 (a) All functions, powers, and duties of the Illinois
20 Commerce Commission that relate to railroads are transferred to
21 and vested in the Department of Transportation. Any reference
22 to the Illinois Commerce Commission in any law of this State
23 relating to railroad regulation shall be deemed to be a
24 reference to the Department of Transportation. In the context
25 of the functions, powers, and duties of the Illinois Commerce
26 Commission, a reference to "this Chapter" is deemed to be a
27 reference to the portions of this Chapter that are under the
28 jurisdiction of the Illinois Commerce Commission.

29 (b) Exercise of authority necessary or appropriate to
30 perform transferred functions and carry out transferred
31 programs. To the extent necessary or appropriate to perform
32 functions, powers, and duties, and carry out programs
33 transferred by this Section, the Secretary of Transportation

1 may exercise, in relation to the functions transferred, any
2 authority or part of any authority available by law, including
3 appropriation Acts, from which those functions, powers, and
4 duties were transferred.

5 (c) Legal documents and proceedings.

6 (1) All orders, determinations, rules, regulations,
7 permits, grants, loans, contracts, agreements,
8 certificates, licenses, and privileges that (A) have been
9 issued, made, granted, or allowed to become effective by
10 the Commission, any officer or employee of the Commission,
11 or any other government official, or by a court of
12 competent jurisdiction, in the performance of any
13 function, power, or duty that is transferred by this
14 Section and that (B) are in effect on the effective date of
15 the transfer, or become effective after that date according
16 to their terms in effect on the effective date of the
17 transfer, shall continue in effect according to their terms
18 until modified, terminated, superseded, set aside, or
19 revoked in accordance with law, any other authorized
20 official, a court of competent jurisdiction, or operation
21 of law.

22 (2) This Section shall not affect any proceedings
23 pending before the Commission on the effective date of this
24 amendatory Act of the 93rd General Assembly, insofar as
25 those functions are retained and transferred by this
26 Section, but those proceedings and applications, to the
27 extent that they relate to the functions transferred, shall
28 be continued. Orders shall be issued in those proceedings,
29 appeals from those orders shall be taken, and payments
30 shall be made according to those orders, as if this Section
31 had not been enacted and orders issued in those proceedings
32 shall continue in effect until modified, terminated,
33 superseded, or revoked by a duly authorized official, by a
34 court of competent jurisdiction, or by operation of law.
35 Nothing in this paragraph (2) shall be deemed to prohibit
36 the discontinuance or modification of any of those

1 proceedings under the same terms and conditions and to the
2 same extent that the proceeding could have been
3 discontinued or modified if this Section had not been
4 enacted. The Secretary of Transportation is authorized to
5 provide for the orderly transfer of pending proceedings
6 from the Commission.

7 (3) (A) This Section shall not affect suits commenced
8 before the effective date of this amendatory Act of the
9 93rd General Assembly. In all such suits, proceedings shall
10 be had, appeals taken, and judgments rendered in the same
11 manner and with the same effect as if this Section had not
12 been enacted.

13 (B) Any suit by or against the Commission begun before
14 the effective date of this amendatory Act of the 93rd
15 General Assembly shall be continued, insofar as it involves
16 a function retained and transferred under this Section to
17 the Secretary substituted for the Commission.

18 (C) If the court in a suit described in subparagraph
19 (A) remands a case to the Secretary of Transportation,
20 subsequent proceedings related to that case shall proceed
21 in accordance with applicable law and the rules in effect
22 at the time of the subsequent proceedings.

23 (D) No suit, action, or other proceeding commenced by
24 or against any officer in his or her official capacity as
25 an officer of the Commission shall abate by reason of the
26 enactment of this amendatory Act of the 93rd General
27 Assembly. No cause of action by or against the Commission,
28 or by or against any officer of the Commission in his or
29 her official capacity, shall abate by reason of the
30 enactment of this amendatory Act of the 93rd General
31 Assembly.

32 (E) Except as otherwise provided by law, an officer or
33 employee of the Department of Transportation may, for
34 purposes of performing a function transferred by this
35 Section, exercise all authority under any other provision
36 of law that was available with respect to the performance

1 of that function to the official responsible for the
2 performance of the function immediately before the
3 effective date of the transfer of the function under this
4 Section.

5 (d) Transfer of assets and personnel. The personnel,
6 positions, property, assets, contracts, liabilities, and
7 records employed, used, held, available, or to be made
8 available in connection with a function, power, or duty
9 transferred to the Department of Transportation by this Section
10 shall be transferred to the Department for use in connection
11 with the functions, powers, and duties transferred, and
12 unexpended balances of appropriations, allocations, and other
13 funds of the Commission shall also be transferred to the
14 Department. The transfer of personnel shall be without
15 reduction in classification, compensation, or collective
16 bargaining rights of any person transferred.

17 (e) Rulemaking. The Secretary of Transportation shall
18 adopt rules necessary for implementing this Section and
19 exercising the functions, powers, and duties transferred to the
20 Department under this Section. Rules for administrative
21 hearings shall be adopted in accordance with Article 10 of the
22 Illinois Administrative Procedure Act.

23 (625 ILCS 5/18c-1202) (from Ch. 95 1/2, par. 18c-1202)

24 Sec. 18c-1202. Enumeration of Powers. Except as provided
25 in Section 18c-1201.1, the Commission shall have the power to:

26 (1) Administer and enforce provisions of this Chapter;

27 (2) Regulate the entry, exit, and services of carriers; as
28 to public carriers, this power is limited to matters relating
29 to insurance and safety standards;

30 (3) Regulate rates and practices of household goods
31 carriers, ~~rail carriers,~~ passenger carriers, and common
32 carriers by pipeline;

33 (4) Establish and maintain systems of accounting as well as
34 reporting and record-keeping requirements for household goods
35 carriers, ~~rail carriers,~~ passenger carriers, and common

1 carriers by pipeline;

2 (5) Establish and maintain systems for the classification
3 of carriers, commodities and services;

4 (6) Regulate practices, terms and conditions relating to
5 the leasing of equipment and to the interchange of equipment
6 among carriers; as to public carriers, this power is limited to
7 matters relating to insurance and safety standards;

8 (7) Protect the public safety through insurance and safety
9 standards;

10 (8) Regulate brokers in accordance with provisions of this
11 Chapter;

12 (9) Adopt appropriate regulations setting forth the
13 standards and procedures by which it will administer and
14 enforce this Chapter, with such regulations being uniform for
15 all modes of transportation or different for the different
16 modes as will, in the opinion of the Commission, best
17 effectuate the purposes of this Chapter;

18 (10) Conduct hearings and investigations, on its own motion
19 or the motion of a person;

20 (11) Adjudicate disputes, hear complaints or other
21 petitions for relief, and settle such matters by stipulation or
22 agreement;

23 (12) Create special procedures for the receipt and handling
24 of consumer complaints;

25 (13) Issue certificates describing the extent to which a
26 person is exempt under the provisions of this Chapter;

27 (14) Construe this Chapter, Commission regulations and
28 orders, except that the rule of ejusdem generis shall not be
29 applicable in the construction or interpretation of any
30 license, certificate or permit originally issued under the
31 Illinois Motor Carrier of Property Law and now governed by
32 subchapter 4 of this Chapter or issued under subchapter 4 of
33 this Chapter prior to July 1, 1989;

34 (15) Employ such persons as are needed to administer and
35 enforce this Chapter, in such capacities as they are needed,
36 whether as hearings examiners, special examiners, enforcement

1 officers, investigators, or otherwise;

2 (16) Create advisory committees made up of representatives
3 of the various transportation modes, shippers, receivers, or
4 other members of the public;

5 (17) Initiate and participate in proceedings in the federal
6 or State courts, and in proceedings before federal or other
7 State agencies, to the extent necessary to effectuate the
8 purposes of this Chapter, provided that participation in
9 specific proceedings is directed, in writing, by the
10 Commission;

11 (18) Direct any telecommunications carrier to disconnect
12 the telephone number published in any commercial listing of any
13 household goods carrier that does not have a valid license
14 issued by the Commission.

15 (Source: P.A. 89-444, eff. 1-25-96.)

16 (625 ILCS 5/18c-1204) (from Ch. 95 1/2, par. 18c-1204)
17 Sec. 18c-1204. Transportation Division.

18 (1) Establishment. There shall be established within the
19 staff of the Commission a Transportation Division in which
20 primary staff responsibility for the administration and
21 enforcement of this Chapter and Chapter 18a shall be vested.
22 The Transportation Division shall be headed by a division
23 manager responsible to the executive director.

24 (2) Structure. The Transportation Division shall consist
25 of 3 ~~4~~ programs and 2 offices. The 3 ~~4~~ programs shall be
26 Compliance, Review and Examination, and Docketing and
27 Processing, ~~and Rail Safety~~. Each program shall be headed by a
28 program director and responsible to the division manager,
29 except that in the Compliance Program the 3 staff supervisors
30 shall each be responsible to the division manager. The 2
31 offices shall be the Office of Transportation Counsel and the
32 Office of the Division Manager. The Office of Transportation
33 Counsel shall be headed by a Chief Counsel responsible to the
34 Division Manager. The Division Manager shall coordinate the
35 activities and responsibilities of the Office of

1 Transportation Counsel with the executive director and the
2 personal assistant serving as staff counsel to the executive
3 director in the office of the executive director, and with the
4 Commission.

5 (a) The Compliance Program.

6 (i) The Compliance Program shall consist of a
7 police staff, a rate auditing staff, and a civil
8 penalties staff. These staffs shall be headed by a
9 Chief of Police, a Supervisor of Tariffs and Audits,
10 and a Supervisor of Civil Penalties, respectively.

11 (ii) The police staff shall be divided into
12 districts with a field office in each district. Each
13 district shall be headed by a working supervisor
14 responsible to the Chief of Police. All staff
15 responsibility for enforcement of this Chapter, except
16 with regard to rail safety, shall be vested in the
17 Compliance Program.

18 (b) The Review and Examination Program.

19 (i) Staff responsibility for review of all
20 nonhearing matters under this Chapter and Chapter 18a
21 and examination of all matters assigned for hearing
22 under this Chapter and Chapter 18a shall be vested in
23 the Review and Examination Program, except as
24 otherwise provided in Section 18c-1204b.

25 (ii) Hearing examiners in the program shall have
26 responsibility for developing a full, complete and
27 impartial record on all issues to be decided in a
28 proceeding; recommending disposition of the issues or
29 making an initial decision on them, as provided in this
30 Chapter; and setting forth in writing the basis for
31 their recommendations or initial decisions. The
32 program director shall be the chief hearing examiner
33 for matters under this Chapter and Chapter 18a with
34 responsibility to insure consistency of
35 recommendations and initial decisions.

36 (c) The Processing and Docketing Program. All staff

1 responsibility for docketing and processing filings,
2 accounting of receipts and expenditures, issuing, file
3 maintenance and other processing functions under this
4 Chapter and Chapter 18a shall be vested in the Processing
5 Program.

6 (d) The Rail Safety Program. Staff responsibility for
7 administration and enforcement of the rail safety
8 provisions of this Chapter shall be vested in the
9 Department of Transportation Rail Safety Program.

10 (e) The Office of Transportation Counsel.

11 (i) All Commission staff responsibility for
12 provision of legal services in connection with any
13 matter under this Chapter, excepting any matter under
14 subchapters 7 and 8 of this Chapter, or in connection
15 with any matter under Chapter 18a shall, except with
16 regard to functions vested in the review and
17 examination program under paragraph (b) of this
18 subsection, be vested exclusively in the Office of
19 Transportation Counsel.

20 (ii) The Office of Transportation Counsel shall,
21 when directed through the division manager to do so,
22 represent the Commission or Commission staff in
23 administrative or judicial proceedings and render
24 staff advisory opinions to the executive director and
25 the Commission.

26 (f) Levels of Administration. No additional levels of
27 administration, supervision or authority shall be
28 superimposed, or remain superimposed, between levels
29 prescribed under this Section, and no organizational units
30 may be created within the Transportation Division except as
31 prescribed under this Section.

32 (3) Additional Functions. Staff functions relating to
33 rulemaking, policy recommendations and advisory committees
34 under this Chapter and Chapter 18a shall be vested in the
35 Transportation Division.

36 The Department of Transportation ~~staff~~ shall prepare and

1 distribute to the General Assembly, in April of each year, a
2 report on railway accidents in Illinois which involve hazardous
3 materials. The report shall include the location, substance
4 involved, amounts involved, and the suspected reason for each
5 accident. The report shall also reveal the rail line and point
6 of origin of the hazardous material involved in each accident.

7 (Source: P.A. 88-415.)

8 (625 ILCS 5/18c-1502) (from Ch. 95 1/2, par. 18c-1502)

9 Sec. 18c-1502. Gross Receipts Taxes For Motor Carriers of
10 Passengers and Rail Carriers. Each motor carrier of passengers
11 ~~and rail carrier~~ shall pay to the Commission, in accordance
12 with Sections 2-202, 3-120 and 3-121 of "The Public Utilities
13 Act", as amended, a gross receipts tax in the amount provided
14 herein.

15 The amount of the tax for motor carriers of passengers
16 shall be prescribed by the Commission by rulemaking in
17 accordance with provisions of The Illinois Administrative
18 Procedure Act, and shall not exceed 0.1% of the carrier's gross
19 Illinois intrastate revenues for each calendar year.

20 The amount of the tax for rail carriers shall be 0.15% of
21 the carrier's gross Illinois intrastate revenues for each
22 calendar year, and the tax shall be deposited into the
23 Department of Transportation Railroad Regulatory Fund, a
24 special fund that is created in the State treasury and shall be
25 used by the Department to carry out its powers, functions, and
26 duties under this Chapter.

27 (Source: P.A. 89-42, eff. 1-1-96; 89-699, eff. 1-16-97.)

28 (625 ILCS 5/18c-1502.05)

29 Sec. 18c-1502.05. Route Mileage Fee for Rail Carriers.
30 Beginning with calendar year 2004, every rail carrier shall pay
31 to the Department ~~Commission~~ for each calendar year a route
32 mileage fee of \$45 for each route mile of railroad right of way
33 owned by the rail carrier in Illinois. The fee shall be based
34 on the number of route miles as of January 1 of the year for

1 which the fee is due, and the payment of the route mileage fee
2 shall be due by February 1 of each calendar year.

3 (Source: P.A. 93-32, eff. 7-1-03.)

4 (625 ILCS 5/18c-1502.10)

5 Sec. 18c-1502.10. Railroad-Highway Grade Crossing and
6 Grade Separation Fee. Beginning with calendar year 2004, every
7 rail carrier shall pay to the Department ~~Commission~~ for each
8 calendar year a fee of \$28 for each location at which the rail
9 carrier's track crosses a public road, highway, or street,
10 whether the crossing be at grade, by overhead structure, or by
11 subway. The fee shall be based on the number of the crossings
12 as of January 1 of each calendar year, and the fee shall be due
13 by February 1 of each calendar year.

14 (Source: P.A. 93-32, eff. 7-1-03.)

15 (625 ILCS 5/18c-1505) (from Ch. 95 1/2, par. 18c-1505)

16 Sec. 18c-1505. Proration of Fees. The Commission and
17 Department may prorate fees and levies provided in this Chapter
18 throughout the calendar year.

19 (Source: P.A. 84-796.)

20 (625 ILCS 5/18c-1601) (from Ch. 95 1/2, par. 18c-1601)

21 Sec. 18c-1601. Deposit of Monies into the Transportation
22 Regulatory Fund.

23 (1) Deposit of Fees, Taxes, and Monies Other Than Criminal
24 Fines. Except as otherwise provided in this Section, all fees,
25 penalties (other than criminal penalties) or monies collected
26 in settlement of enforcement proceedings, taxes, and other
27 monies collected under this Chapter or which are transferred,
28 appropriated or reimbursed to the Commission for the purpose of
29 administering and enforcing this Chapter, shall be promptly
30 paid into a special fund in the State treasury known as the
31 Transportation Regulatory Fund.

32 (1.1) All monies collected under this Chapter relating to
33 the regulation of railroads and monies that are transferred,

1 appropriated, or reimbursed to the Department for the purpose
2 of carrying out its functions, powers, and duties relating to
3 railroads under this Chapter shall be promptly paid into the
4 Department of Transportation Railroad Regulatory Fund created
5 in Section 18c-1502.

6 (2) Accounting for Monies Received. The Commission shall
7 account separately for the receipt of monies from the following
8 classes:

9 (a) motor carriers of property (other than carriers
10 engaged in nonrelocation towing);

11 (b) (blank) ~~rail carriers~~; and

12 (c) other monies.

13 The Commission may account separately with regard to groups
14 of persons within the foregoing classes.

15 (3) Deposit of criminal fines. Criminal fines collected
16 under this Chapter from motor carriers of property or persons
17 or entities found to have aided or abetted motor carriers of
18 property or passengers in violation of this Chapter shall be
19 disposed of in accordance with Section 16-105 of this Code.
20 Other criminal fines collected under this Chapter shall be
21 deposited into the Transportation Regulatory Fund in
22 accordance with subsection (1) of this Section.

23 (4) (Blank).

24 (Source: P.A. 90-372, eff. 7-1-98.)

25 (625 ILCS 5/18c-3304) (from Ch. 95 1/2, par. 18c-3304)

26 Sec. 18c-3304. Records and accounts. Each household goods
27 carrier, rail carrier, common carrier by pipeline, and
28 passenger carrier shall:

29 (1) Keep written accounts and records of its revenues,
30 expenses, contracts, and other activities subject to
31 regulation under this Chapter in accordance with regulations
32 prescribed by the Commission or the Department of
33 Transportation, as appropriate;

34 (2) Maintain, for a period of 3 years, copies of all
35 accounts and records required by Commission or Department

1 regulations; and

2 (3) Make such accounts and records available for
3 inspection, on request, by any authorized employee of the
4 Commission or Department.

5 Accounts and records kept pursuant to this Section shall be
6 kept at an office in the State of Illinois unless the
7 Commission or Department shall have authorized maintenance at a
8 location outside of the State.

9 (Source: P.A. 89-444, eff. 1-25-96.)

10 (625 ILCS 5/18c-7101) (from Ch. 95 1/2, par. 18c-7101)

11 Sec. 18c-7101. Jurisdiction Over Rail Carriers. The
12 jurisdiction of the Department ~~Commission~~ under this
13 Sub-chapter shall be exclusive and shall extend to all
14 intrastate and interstate rail carrier operations within this
15 State, except to the extent that its jurisdiction is preempted
16 by valid provisions of the Staggers Rail Act of 1980 or other
17 valid federal statute, regulation, or order. In accordance with
18 federal railroad safety laws, the Department has authority to
19 adopt rules and issue orders covering every area of railroad
20 safety.

21 (Source: P.A. 85-406.)

22 (625 ILCS 5/18c-7201) (from Ch. 95 1/2, par. 18c-7201)

23 Sec. 18c-7201. Registration as a Rail Carrier. (1) General
24 Provisions. Except as provided in subsection (2) of this
25 Section, no person shall operate as a rail carrier, and no
26 person shall begin or continue construction of any track or
27 other facilities, other than the repair or replacement of
28 existing plant, for use in operations as a rail carrier unless
29 such person has registered with the Department ~~Commission~~ as a
30 rail carrier.

31 (2) Exceptions. Each rail carrier operating within the
32 State of Illinois on the effective date of this Chapter shall
33 automatically be deemed, as of that date, to have registered as
34 a rail carrier for purposes of this Section. Such constructive

1 registration shall expire on the 180th day after the effective
2 date of this amendatory Act of 1985.

3 (Source: P.A. 84-796.)

4 (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)

5 Sec. 18c-7401. Safety Requirements for Track, Facilities,
6 and Equipment.

7 (1) General Requirements. Each rail carrier shall,
8 consistent with rules, orders, and regulations of the Federal
9 Railroad Administration, construct, maintain, and operate all
10 of its equipment, track, and other property in this State in
11 such a manner as to pose no undue risk to its employees or the
12 person or property of any member of the public.

13 (2) Adoption of Federal Standards. The track safety
14 standards and accident/incident standards promulgated by the
15 Federal Railroad Administration shall be safety standards of
16 the Department ~~Commission~~. The Department ~~Commission~~ may, in
17 addition, adopt by reference in its regulations other federal
18 railroad safety standards, whether contained in federal
19 statutes or in regulations adopted pursuant to such statutes.

20 (3) Railroad Crossings. No public road, highway, or street
21 shall hereafter be constructed across the track of any rail
22 carrier at grade, nor shall the track of any rail carrier be
23 constructed across a public road, highway or street at grade,
24 without having first secured the permission of the Department
25 ~~Commission~~; provided, that this Section shall not apply to the
26 replacement of lawfully existing roads, highways and tracks. No
27 public pedestrian bridge or subway shall be constructed across
28 the track of any rail carrier without having first secured the
29 permission of the Department ~~Commission~~. The Department
30 ~~Commission~~ shall have the right to refuse its permission or to
31 grant it upon such terms and conditions as it may prescribe.
32 The Department ~~Commission~~ shall have power to determine and
33 prescribe the manner, including the particular point of
34 crossing, and the terms of installation, operation,
35 maintenance, use and protection of each such crossing.

1 The Department ~~Commission~~ shall also have power, after a
2 hearing, to require major alteration of or to abolish any
3 crossing, heretofore or hereafter established, when in its
4 opinion, the public safety requires such alteration or
5 abolition, and, except in cities, villages and incorporated
6 towns of 1,000,000 or more inhabitants, to vacate and close
7 that part of the highway on such crossing altered or abolished
8 and cause barricades to be erected across such highway in such
9 manner as to prevent the use of such crossing as a highway,
10 when, in the opinion of the Department ~~Commission~~, the public
11 convenience served by the crossing in question is not such as
12 to justify the further retention thereof; or to require a
13 separation of grades, at railroad-highway grade crossings; or
14 to require a separation of grades at any proposed crossing
15 where a proposed public highway may cross the tracks of any
16 rail carrier or carriers; and to prescribe, after a hearing of
17 the parties, the terms upon which such separations shall be
18 made and the proportion in which the expense of the alteration
19 or abolition of such crossings or the separation of such
20 grades, having regard to the benefits, if any, accruing to the
21 rail carrier or any party in interest, shall be divided between
22 the rail carrier or carriers affected, or between such carrier
23 or carriers and the State, county, municipality or other public
24 authority in interest. However, a public hearing by the
25 Department ~~Commission~~ to abolish a crossing shall not be
26 required when the public highway authority in interest vacates
27 the highway. In such instance the rail carrier, following
28 notification to the Department ~~Commission~~ and the highway
29 authority, shall remove any grade crossing warning devices and
30 the grade crossing surface.

31 The Department ~~Commission~~ shall also have power by its
32 order to require the reconstruction, minor alteration, minor
33 relocation or improvement of any crossing (including the
34 necessary highway approaches thereto) of any railroad across
35 any highway or public road, pedestrian bridge, or pedestrian
36 subway, whether such crossing be at grade or by overhead

1 structure or by subway, whenever the Department ~~Commission~~
2 finds after a hearing or without a hearing as otherwise
3 provided in this paragraph that such reconstruction,
4 alteration, relocation or improvement is necessary to preserve
5 or promote the safety or convenience of the public or of the
6 employees or passengers of such rail carrier or carriers. By
7 its original order or supplemental orders in such case, the
8 Department ~~Commission~~ may direct such reconstruction,
9 alteration, relocation, or improvement to be made in such
10 manner and upon such terms and conditions as may be reasonable
11 and necessary and may apportion the cost of such
12 reconstruction, alteration, relocation or improvement and the
13 subsequent maintenance thereof, having regard to the benefits,
14 if any, accruing to the railroad or any party in interest,
15 between the rail carrier or carriers and public utilities
16 affected, or between such carrier or carriers and public
17 utilities and the State, county, municipality or other public
18 authority in interest. The cost to be so apportioned shall
19 include the cost of changes or alterations in the equipment of
20 public utilities affected as well as the cost of the
21 relocation, diversion or establishment of any public highway,
22 made necessary by such reconstruction, alteration, relocation
23 or improvement of said crossing. A hearing shall not be
24 required in those instances when the Department ~~Commission~~
25 enters an order confirming a written stipulation in which the
26 Department ~~Commission~~, the public highway authority or other
27 public authority in interest, and the rail carrier or carriers
28 affected, ~~and in instances involving the use of the Grade~~
29 ~~Crossing Protection Fund, the Illinois Department of~~
30 ~~Transportation,~~ agree on the reconstruction, alteration,
31 relocation, or improvement and the subsequent maintenance
32 thereof and the division of costs of such changes of any grade
33 crossing (including the necessary highway approaches thereto)
34 of any railroad across any highway, pedestrian bridge, or
35 pedestrian subway.

36 Every rail carrier operating in the State of Illinois shall

1 construct and maintain every highway crossing over its tracks
2 within the State so that the roadway at the intersection shall
3 be as flush with the rails as superelevated curves will allow,
4 and, unless otherwise ordered by the Department ~~Commission~~,
5 shall construct and maintain the approaches thereto at a grade
6 of not more than 5% within the right of way for a distance of
7 not less the 6 feet on each side of the centerline of such
8 tracks; provided, that the grades at the approaches may be
9 maintained in excess of 5% only when authorized by the
10 Department ~~Commission~~.

11 Every rail carrier operating within this State shall remove
12 from its right of way at all railroad-highway grade crossings
13 within the State, such brush, shrubbery, and trees as is
14 reasonably practical for a distance of not less than 500 feet
15 in either direction from each grade crossing. The Department
16 ~~Commission~~ shall have power, upon its own motion, or upon
17 complaint, and after having made proper investigation, to
18 require the installation of adequate and appropriate luminous
19 reflective warning signs, luminous flashing signals, crossing
20 gates illuminated at night, or other protective devices in
21 order to promote and safeguard the health and safety of the
22 public. Luminous flashing signal or crossing gate devices
23 installed at grade crossings, which have been approved by the
24 Department ~~Commission~~, shall be deemed adequate and
25 appropriate. The Department ~~Commission~~ shall have authority to
26 determine the number, type, and location of such signs,
27 signals, gates, or other protective devices which, however,
28 shall conform as near as may be with generally recognized
29 national standards, and the Department ~~Commission~~ shall have
30 authority to prescribe the division of the cost of the
31 installation and subsequent maintenance of such signs,
32 signals, gates, or other protective devices between the rail
33 carrier or carriers, the public highway authority or other
34 public authority in interest, and in instances involving the
35 use of the Grade Crossing Protection Fund, the Illinois
36 Department of Transportation. If the Department ~~Commission~~ has

1 ordered the installation of luminous flashing signal or
2 crossing gate devices at a grade crossing, the Department
3 ~~Commission~~ shall order the installation of temporary stop signs
4 at the highway intersection with the grade crossing. The
5 temporary stop signs shall remain in place until the luminous
6 flashing signal or crossing gate devices have been installed.
7 The rail carrier is responsible for the cost of the
8 installation and subsequent maintenance of any required
9 temporary stop signs.

10 No railroad may change or modify the warning device system
11 at a railroad-highway grade crossing, including warning
12 systems interconnected with highway traffic control signals,
13 without having first received the approval of the Department
14 ~~Commission~~. The Department ~~Commission~~ shall have the further
15 power, upon application, upon its own motion, or upon complaint
16 and after having made proper investigation, to require the
17 interconnection of grade crossing warning devices with traffic
18 control signals at highway intersections located at or near
19 railroad crossings within the distances described by the State
20 Manual on Uniform Traffic Control Devices adopted pursuant to
21 Section 11-301 of this Code. In addition, State and local
22 authorities may not install, remove, modernize, or otherwise
23 modify traffic control signals at a highway intersection that
24 is interconnected or proposed to be interconnected with grade
25 crossing warning devices when the change affects the number,
26 type, or location of traffic control devices on the track
27 approach leg or legs of the intersection or the timing of the
28 railroad preemption sequence of operation until the Department
29 ~~Commission~~ has approved the installation, removal,
30 modernization, or modification. Department ~~Commission~~ approval
31 shall be limited to consideration of issues directly affecting
32 the public safety at the railroad-highway grade crossing. The
33 electrical circuit devices, alternate warning devices, and
34 preemption sequences shall conform as nearly as possible,
35 considering the particular characteristics of the crossing and
36 intersection area, to the State manual adopted by the Illinois

1 Department of Transportation pursuant to Section 11-301 of this
2 Code and such federal standards as are made applicable by
3 subsection (2) of this Section. In order to carry out this
4 authority, the Department ~~Commission~~ shall have the authority
5 to determine the number, type, and location of traffic control
6 devices on the track approach leg or legs of the intersection
7 and the timing of the railroad preemption sequence of
8 operation. The Department ~~Commission~~ shall prescribe the
9 division of costs for installation and maintenance of all
10 devices required by this paragraph between the railroad or
11 railroads and the highway authority in interest and in
12 instances involving the use of the Grade Crossing Protection
13 Fund or a State highway, the Illinois Department of
14 Transportation.

15 Any person who unlawfully or maliciously removes, throws
16 down, damages or defaces any sign, signal, gate or other
17 protective device, located at or near any public grade
18 crossing, shall be guilty of a petty offense and fined not less
19 than \$50 nor more than \$200 for each offense. In addition to
20 fines levied under the provisions of this Section a person
21 adjudged guilty hereunder may also be directed to make
22 restitution for the costs of repair or replacement, or both,
23 necessitated by his misconduct.

24 It is the public policy of the State of Illinois to enhance
25 public safety by establishing safe grade crossings. In order to
26 implement this policy, the Illinois Commerce Commission is
27 directed to conduct public hearings and to adopt specific
28 criteria by July 1, 1994, that shall be adhered to by the
29 Illinois Commerce Commission (or the Department as its
30 successor) in determining if a grade crossing should be opened
31 or abolished. The following factors shall be considered by the
32 Illinois Commerce Commission in developing the specific
33 criteria for opening and abolishing grade crossings:

- 34 (a) timetable speed of passenger trains;
35 (b) distance to an alternate crossing;
36 (c) accident history for the last 5 years;

1 (d) number of vehicular traffic and posted speed
2 limits;

3 (e) number of freight trains and their timetable
4 speeds;

5 (f) the type of warning device present at the grade
6 crossing;

7 (g) alignments of the roadway and railroad, and the
8 angle of intersection of those alignments;

9 (h) use of the grade crossing by trucks carrying
10 hazardous materials, vehicles carrying passengers for
11 hire, and school buses; and

12 (i) use of the grade crossing by emergency vehicles.

13 The Illinois Commerce Commission (or the Department as its
14 successor), upon petition to open or abolish a grade crossing,
15 shall enter an order opening or abolishing the crossing if it
16 meets the specific criteria adopted by the Department
17 Commission.

18 Except as otherwise provided in this subsection (3), in no
19 instance shall a grade crossing be permanently closed without
20 public hearing first being held and notice of such hearing
21 being published in an area newspaper of local general
22 circulation.

23 (4) (Blank). Freight Trains - Radio Communications. The
24 Commission shall after hearing and order require that every
25 main line railroad freight train operating on main tracks
26 outside of yard limits within this State shall be equipped with
27 a radio communication system. The Commission after notice and
28 hearing may grant exemptions from the requirements of this
29 Section as to secondary and branch lines.

30 (5) Railroad Bridges and Trestles - Walkway and Handrail.
31 In cases in which the Department Commission finds the same to
32 be practical and necessary for safety of railroad employees,
33 bridges and trestles, over and upon which railroad trains are
34 operated, shall include as a part thereof, a safe and suitable
35 walkway and handrail on one side only of such bridge or
36 trestle, and such handrail shall be located at the outer edge

1 of the walkway and shall provide a clearance of not less than 8
2 feet, 6 inches, from the center line of the nearest track,
3 measured at right angles thereto.

4 (6) Packages Containing Articles for First Aid to Injured
5 on Trains. All rail carriers shall provide a package containing
6 the articles prescribed by the Department ~~Commission~~, on each
7 train or engine, for first aid to persons who may be injured in
8 the course of the operation of such trains.

9 (7) Abandoned Bridges, Crossings, and Other Rail Plant. The
10 Department ~~Commission~~ shall have authority, after notice and
11 hearing, to order:

12 (a) The removal of any abandoned railroad tracks from
13 roads, streets or other thoroughfares in this State; and

14 (b) The removal of abandoned overhead railroad
15 structures crossing highways, waterways, or railroads.

16 The Department ~~Commission~~ may equitably apportion the cost
17 of such actions between the rail carrier or carriers, public
18 utilities, and the State, county, municipality, township, road
19 district, or other public authority in interest.

20 (8) Railroad-Highway Bridge Clearance. A vertical
21 clearance of not less than 23 feet above the top of rail shall
22 be provided for all new or reconstructed highway bridges
23 constructed over a railroad track. The Department ~~Commission~~
24 may permit a lesser clearance if it determines that the 23 foot
25 clearance standard cannot be justified based on engineering,
26 operational, and economic conditions.

27 (Source: P.A. 93-604, eff. 11-21-03.)

28 (625 ILCS 5/18c-7402) (from Ch. 95 1/2, par. 18c-7402)

29 Sec. 18c-7402. Safety Requirements for Railroad
30 Operations.

31 (1) Obstruction of Crossings.

32 (a) Obstruction of Emergency Vehicles. Every railroad
33 shall be operated in such a manner as to minimize
34 obstruction of emergency vehicles at crossings. Where such
35 obstruction occurs and the train crew is aware of the

1 obstruction, the train crew shall immediately take any
2 action, consistent with safe operating procedure,
3 necessary to remove the obstruction. In the Chicago and St.
4 Louis switching districts, every railroad dispatcher or
5 other person responsible for the movement of railroad
6 equipment in a specific area who receives notification that
7 railroad equipment is obstructing the movement of an
8 emergency vehicle at any crossing within such area shall
9 immediately notify the train crew through use of existing
10 communication facilities. Upon notification, the train
11 crew shall take immediate action in accordance with this
12 paragraph.

13 (b) Obstruction of Highway at Grade Crossing
14 Prohibited. It is unlawful for a rail carrier to permit any
15 train, railroad car or engine to obstruct public travel at
16 a railroad-highway grade crossing for a period in excess of
17 10 minutes, except where such train or railroad car is
18 continuously moving or cannot be moved by reason of
19 circumstances over which the rail carrier has no reasonable
20 control.

21 In a county with a population of greater than 1,000,000, as
22 determined by the most recent federal census, during the hours
23 of 7:00 a.m. through 9:00 a.m. and 4:00 p.m. through 6:00 p.m.
24 it is unlawful for a rail carrier to permit any single train or
25 railroad car to obstruct public travel at a railroad-highway
26 grade crossing in excess of a total of 10 minutes during a 30
27 minute period, except where the train or railroad car cannot be
28 moved by reason or circumstances over which the rail carrier
29 has no reasonable control. Under no circumstances will a moving
30 train be stopped for the purposes of issuing a citation related
31 to this Section.

32 However, no employee acting under the rules or orders of
33 the rail carrier or its supervisory personnel may be prosecuted
34 for a violation of this subsection (b).

35 (c) Punishment for Obstruction of Grade Crossing. Any
36 rail carrier violating paragraph (b) of this subsection

1 shall be guilty of a petty offense and fined not less than
2 \$200 nor more than \$500 if the duration of the obstruction
3 is in excess of 10 minutes but no longer than 15 minutes.
4 If the duration of the obstruction exceeds 15 minutes the
5 violation shall be a business offense and the following
6 fines shall be imposed: if the duration of the obstruction
7 is in excess of 15 minutes but no longer than 20 minutes,
8 the fine shall be \$500; if the duration of the obstruction
9 is in excess of 20 minutes but no longer than 25 minutes,
10 the fine shall be \$700; if the duration of the obstruction
11 is in excess of 25 minutes, but no longer than 30 minutes,
12 the fine shall be \$900; if the duration of the obstruction
13 is in excess of 30 minutes but no longer than 35 minutes,
14 the fine shall be \$1,000; if the duration of the
15 obstruction is in excess of 35 minutes, the fine shall be
16 \$1,000 plus an additional \$500 for each 5 minutes of
17 obstruction in excess of 25 minutes of obstruction.

18 (2) Other Operational Requirements.

19 (a) Bell and Whistle-Crossings. Every rail carrier
20 shall cause a bell, and a whistle or horn to be placed and
21 kept on each locomotive, and shall cause the same to be
22 rung or sounded by the engineer or fireman, at the distance
23 of a least 1,320 feet, from the place where the railroad
24 crosses or intersects any public highway, and shall be kept
25 ringing or sounding until the highway is reached; provided
26 that at crossings where the Department ~~Commission~~ shall by
27 order direct, only after a hearing has been held to
28 determine the public is reasonably and sufficiently
29 protected, the rail carrier may be excused from giving
30 warning provided by this paragraph.

31 (a-5) The requirements of paragraph (a) of this
32 subsection (2) regarding ringing a bell and sounding a
33 whistle or horn do not apply at a railroad crossing that
34 has a permanently installed automated audible warning
35 device authorized by the Department ~~Commission~~ under
36 Section 18c-7402.1 that sounds automatically when an

1 approaching train is at least 1,320 feet from the crossing
2 and that keeps sounding until the lead locomotive has
3 crossed the highway. The engineer or fireman may ring the
4 bell or sound the whistle or horn at a railroad crossing
5 that has a permanently installed audible warning device.

6 (b) Speed Limits. Each rail carrier shall operate its
7 trains in compliance with speed limits set by the
8 Department Commission. The Department Commission may set
9 train speed limits only where such limits are necessitated
10 by extraordinary circumstances effecting the public
11 safety, and shall maintain such train speed limits in
12 effect only for such time as the extraordinary
13 circumstances prevail.

14 The Commission and the Department of Transportation
15 shall conduct a study of the relation between train speeds
16 and railroad-highway grade crossing safety. The Commission
17 shall report the findings of the study to the General
18 Assembly no later than January 5, 1997.

19 (c) Special Speed Limit; Pilot Project. The Commission
20 and the Board of the Commuter Rail Division of the Regional
21 Transportation Authority shall conduct a pilot project in
22 the Village of Fox River Grove, the site of the fatal
23 school bus accident at a railroad crossing on October 25,
24 1995, in order to improve railroad crossing safety. For
25 this project, the Commission is directed to set the maximum
26 train speed limit for Regional Transportation Authority
27 trains at 50 miles per hour at intersections on that
28 portion of the intrastate rail line located in the Village
29 of Fox River Grove. If the Regional Transportation
30 Authority deliberately fails to comply with this maximum
31 speed limit, then any entity, governmental or otherwise,
32 that provides capital or operational funds to the Regional
33 Transportation Authority shall appropriately reduce or
34 eliminate that funding. The Commission shall report to the
35 Governor and the General Assembly on the results of this
36 pilot project in January 1999, January 2000, and January

1 2001. The Commission shall also submit a final report on
2 the pilot project to the Governor and the General Assembly
3 in January 2001. The provisions of this subsection (c),
4 other than this sentence, are inoperative after February 1,
5 2001.

6 (3) Report and Investigation of Rail Accidents.

7 (a) Reports. Every rail carrier shall report to the
8 Department Commission, by the speediest means possible,
9 whether telephone, telegraph, or otherwise, every
10 accident/incident as defined by the Federal Railroad
11 Administration ~~accident~~ involving its equipment, track, or
12 other property which resulted in loss of life to any
13 person. In addition, such carriers shall file a written
14 report with the Department Commission. Reports submitted
15 under this paragraph shall be strictly confidential, shall
16 be specifically prohibited from disclosure, and shall not
17 be admissible in any administrative or judicial proceeding
18 relating to the accidents reported.

19 (b) Investigations. The Department Commission may
20 investigate all railroad accidents reported to it or of
21 which it acquires knowledge independent of reports made by
22 rail carriers, and shall have the power, consistent with
23 standards and procedures established under the Federal
24 Railroad Safety Act, as amended, to enter such temporary
25 orders as will minimize the risk of future accidents
26 pending notice, hearing, and final action by the Department
27 Commission.

28 (Source: P.A. 91-675, eff. 6-1-00; 92-284, eff. 8-9-01.)

29 (625 ILCS 5/18c-7402.1)

30 Sec. 18c-7402.1. Pilot projects; automated audible warning
31 devices.

32 (a) The General Assembly finds and declares that, for the
33 communities of the State that are traversed by railroads, there
34 is a growing need to mitigate train horn noise without
35 compromising the safety of the public. Therefore, after

1 applications are filed and approved by the Department
2 ~~Commission~~, the Department ~~Commission~~ shall authorize pilot
3 projects in the counties of Cook, DuPage, Lake, and Will to
4 test the utility and safety of stationary automated audible
5 warning devices as an alternative to trains having to sound
6 their horns as they approach highway-rail crossings.

7 (b) In light of the pending proposed ruling by the Federal
8 Railroad Administration on the use of locomotive horns at all
9 highway-rail crossings across the nation, it is in the best
10 interest of the State for the Department ~~Commission~~ to expedite
11 the pilot projects in order to contribute data to the federal
12 rulemaking process regarding the possible inclusion of
13 stationary automated warning devices in the counties of Cook,
14 DuPage, Lake, and Will as a safety measure option to the
15 proposed federal rule.

16 (c) The Department ~~Commission~~ shall adopt rules for
17 implementing the pilot projects in the counties of Cook,
18 DuPage, Lake, and Will.

19 (Source: P.A. 92-284, eff. 8-9-01.)

20 (625 ILCS 5/18c-7403) (from Ch. 95 1/2, par. 18c-7403)

21 Sec. 18c-7403. Enforcement and Waiver of Safety
22 Requirements.

23 (1) Enforcement. Except with regard to grade crossing
24 obstructions under Section 18c-7402 of this Chapter and
25 trespass on railroad rights of way and yards under Section
26 18c-7503 of this Chapter, jurisdiction to initiate actions to
27 enforce provisions of this Chapter is vested exclusively in the
28 Department ~~Commission~~. Where a valid federal statute,
29 regulation, or order sets forth procedures or sanctions for
30 violation of safety standards, and such procedures or sanctions
31 are preemptive of state law, the Department ~~Commission~~ shall
32 exercise its enforcement jurisdiction under this Article in
33 accordance therewith. Otherwise, the provisions of this
34 Chapter regarding enforcement procedures and sanctions shall
35 apply.

1 (2) Waiver. The Department ~~Commission~~ may waive any of the
2 safety requirements under this Article if continued adherence
3 to the requirement or requirements is not required for the
4 safety of railroad employees or the public.

5 (Source: P.A. 90-257, eff. 7-30-97.)

6 (625 ILCS 5/18c-7404) (from Ch. 95 1/2, par. 18c-7404)

7 Sec. 18c-7404. Transportation of Hazardous Materials by
8 Rail Carriers. (1) Department ~~Commission~~ to Regulate Hazardous
9 Materials Transportation by Rail Carrier.

10 (a) Powers of the Department ~~Commission~~. The Department
11 ~~Commission~~ is authorized to regulate the transportation of
12 hazardous materials by rail carrier by:

13 (i) Adopting by reference the hazardous materials
14 regulations of the Office of Hazardous Materials
15 Transportation and the Federal Railroad Administration of the
16 United States Department of Transportation, as amended;

17 (ii) Conducting investigations, issuing subpoenas, taking
18 depositions, requiring the production of relevant documents,
19 records and property, and conducting hearings in aid of such
20 investigations;

21 (iii) Conducting a continuing review of all aspects of
22 hazardous materials transportation by rail carrier to
23 determine and recommend actions necessary to insure safe
24 transportation of such materials;

25 (iv) Undertaking, directly or indirectly, research,
26 development, demonstration and training activities;

27 (v) Cooperating with other State agencies and enter into
28 interagency agreements; and

29 (vi) Entering upon, inspecting and examining the records
30 and properties relating to the transportation of hazardous
31 materials by rail, including all portions of any facility used
32 in the loading, unloading, and actual movement of such
33 materials, or in the storage of such materials incidental to
34 actual movement by rail;

35 (vii) Stopping and inspecting trains, at reasonable times

1 and locations and in a reasonable manner, or taking any other
2 action necessary to administer or enforce the provisions of
3 this Section.

4 (b) Scope of Section. The provisions of this Section apply
5 generally to the transportation of hazardous materials by rail
6 carrier within the State of Illinois, but do not apply to:

7 (i) Natural gas pipelines;

8 (ii) Transportation of firearms or ammunition for personal
9 use or in commerce; or

10 (iii) Transportation exempted by the Department ~~Commission~~
11 where the exemption granted by the Department ~~Commission~~ is:

12 (A) Coextensive with an exemption granted by the Office of
13 Hazardous Materials and the Federal Railroad Administration;
14 or

15 (B) Otherwise exempt under statutes or regulations
16 governing similar transportation in interstate commerce.

17 (c) Rail Carriers to Comply with Department ~~Commission~~
18 Regulations. No person shall transport hazardous materials by
19 rail carrier except in compliance with this Section, Department
20 ~~Commission~~ regulations and orders.

21 (2) Enforcement.

22 (a) Criminal Penalties. Any person who willfully violates
23 the provisions of this Section, Department ~~Commission~~
24 regulations or orders shall have committed a class 3 felony and
25 be subject to criminal penalties in an amount not to exceed
26 \$25,000.

27 (b) Civil Penalties. Any person who knowingly violates the
28 provisions of this Section, Department ~~Commission~~ regulations
29 or orders shall also be subject to civil penalties in an amount
30 not to exceed \$10,000.

31 (c) Injunctive Relief. The Department ~~Commission~~ may
32 petition any circuit court with venue and jurisdiction to
33 enforce this Chapter to enjoin actions which it has reason to
34 believe may pose an imminent hazard, and to issue such other
35 orders as will eliminate or ameliorate the imminent hazard. As
36 used in this Section, "imminent hazard" means a substantial

1 likelihood that death, serious illness, or severe personal
2 injury will occur prior to the time during which an
3 administrative proceeding to abate the danger could normally be
4 completed.

5 (3) Department ~~Commission~~ to Adopt Regulations. The
6 Department ~~Commission~~ may adopt regulations governing the
7 transportation of hazardous materials by rail carrier where:

8 (a) The risk created by such transportation is susceptible
9 to control by regulation;

10 (b) State regulation would be more effective in controlling
11 the risk than federal regulation; and

12 (c) The regulations adopted by the Department ~~Commission~~
13 are not inconsistent with federal regulations.

14 (Source: P.A. 85-815.)

15 Section 99. Effective date. This Act takes effect on July
16 1, 2004.