



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0988

Introduced 2/3/2005, by Rep. John J. Millner

SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-7401

from Ch. 95 1/2, par. 18c-7401

Amends the Illinois Vehicle Code. Provides that a railroad must submit its final bills for expenses incurred in a railroad crossing project authorized by an order of the Illinois Commerce Commission to the Department of Transportation within 12 months of project completion. Provides that, if the Department fails to audit a railroad's bills within 12 months of receiving them, the Department forfeits its right to take exceptions to the bills submitted.

LRB094 07001 DRH 37123 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 18c-7401 as follows:

6 (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)

7 Sec. 18c-7401. Safety Requirements for Track, Facilities,
8 and Equipment.

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

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

22 (3) Railroad Crossings. No public road, highway, or street
23 shall hereafter be constructed across the track of any rail
24 carrier at grade, nor shall the track of any rail carrier be
25 constructed across a public road, highway or street at grade,
26 without having first secured the permission of the Commission;
27 provided, that this Section shall not apply to the replacement
28 of lawfully existing roads, highways and tracks. No public
29 pedestrian bridge or subway shall be constructed across the
30 track of any rail carrier without having first secured the
31 permission of the Commission. The Commission shall have the
32 right to refuse its permission or to grant it upon such terms

1 and conditions as it may prescribe. The Commission shall have
2 power to determine and prescribe the manner, including the
3 particular point of crossing, and the terms of installation,
4 operation, maintenance, use and protection of each such
5 crossing.

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

35 The Commission shall also have power by its order to
36 require the reconstruction, minor alteration, minor relocation

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

1 pedestrian bridge, or pedestrian subway.

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

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

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

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

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

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

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

- 32 (a) timetable speed of passenger trains;
33 (b) distance to an alternate crossing;
34 (c) accident history for the last 5 years;
35 (d) number of vehicular traffic and posted speed
36 limits;

1 (e) number of freight trains and their timetable
2 speeds;

3 (f) the type of warning device present at the grade
4 crossing;

5 (g) alignments of the roadway and railroad, and the
6 angle of intersection of those alignments;

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

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

11 The Illinois Commerce Commission, upon petition to open or
12 abolish a grade crossing, shall enter an order opening or
13 abolishing the crossing if it meets the specific criteria
14 adopted by the Commission.

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

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

27 (5) Railroad Bridges and Trestles - Walkway and Handrail.
28 In cases in which the Commission finds the same to be practical
29 and necessary for safety of railroad employees, bridges and
30 trestles, over and upon which railroad trains are operated,
31 shall include as a part thereof, a safe and suitable walkway
32 and handrail on one side only of such bridge or trestle, and
33 such handrail shall be located at the outer edge of the walkway
34 and shall provide a clearance of not less than 8 feet, 6
35 inches, from the center line of the nearest track, measured at
36 right angles thereto.

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

6 (7) Abandoned Bridges, Crossings, and Other Rail Plant. The
7 Commission shall have authority, after notice and hearing, to
8 order:

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

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

13 The Commission may equitably apportion the cost of such
14 actions between the rail carrier or carriers, public utilities,
15 and the State, county, municipality, township, road district,
16 or other public authority in interest.

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

24 (9) Bills for Crossing Project Expenses. A railroad must
25 submit its final bills for expenses incurred in a crossing
26 project authorized by a Commission order to the Department of
27 Transportation within 12 months of project completion. The
28 Department of Transportation must complete its audit of these
29 bills within 12 months of receiving them. If the Department
30 fails to audit a railroad's bills within 12 months of receiving
31 them, the Department forfeits its right to take exceptions to
32 the bills submitted.

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