



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5152

Introduced 2/8/2012, by Rep. Patrick J. Verschoore

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-7401

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

Amends the Illinois Vehicle Code. Provides that the fire chief of a municipal fire department or fire protection district shall be provided notice 7 days prior to the temporary closure of any railroad crossing for the reconstruction, alteration, relocation, maintenance, or improvement of any crossing (including the necessary highway approaches thereto) of any railroad across any highway or public road within the jurisdiction of the municipal fire department or fire protection district. Effective immediately.

LRB097 17925 HEP 63148 b

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

1 carrier at grade, nor shall the track of any rail carrier be  
2 constructed across a public road, highway or street at grade,  
3 without having first secured the permission of the Commission;  
4 provided, that this Section shall not apply to the replacement  
5 of lawfully existing roads, highways and tracks. No public  
6 pedestrian bridge or subway shall be constructed across the  
7 track of any rail carrier without having first secured the  
8 permission of the Commission. The Commission shall have the  
9 right to refuse its permission or to grant it upon such terms  
10 and conditions as it may prescribe. The Commission shall have  
11 power to determine and prescribe the manner, including the  
12 particular point of crossing, and the terms of installation,  
13 operation, maintenance, use and protection of each such  
14 crossing.

15 The Commission shall also have power, after a hearing, to  
16 require major alteration of or to abolish any crossing,  
17 heretofore or hereafter established, when in its opinion, the  
18 public safety requires such alteration or abolition, and,  
19 except in cities, villages and incorporated towns of 1,000,000  
20 or more inhabitants, to vacate and close that part of the  
21 highway on such crossing altered or abolished and cause  
22 barricades to be erected across such highway in such manner as  
23 to prevent the use of such crossing as a highway, when, in the  
24 opinion of the Commission, the public convenience served by the  
25 crossing in question is not such as to justify the further  
26 retention thereof; or to require a separation of grades, at

1 railroad-highway grade crossings; or to require a separation of  
2 grades at any proposed crossing where a proposed public highway  
3 may cross the tracks of any rail carrier or carriers; and to  
4 prescribe, after a hearing of the parties, the terms upon which  
5 such separations shall be made and the proportion in which the  
6 expense of the alteration or abolition of such crossings or the  
7 separation of such grades, having regard to the benefits, if  
8 any, accruing to the rail carrier or any party in interest,  
9 shall be divided between the rail carrier or carriers affected,  
10 or between such carrier or carriers and the State, county,  
11 municipality or other public authority in interest. However, a  
12 public hearing by the Commission to abolish a crossing shall  
13 not be required when the public highway authority in interest  
14 vacates the highway. In such instance the rail carrier,  
15 following notification to the Commission and the highway  
16 authority, shall remove any grade crossing warning devices and  
17 the grade crossing surface.

18 The Commission shall also have power by its order to  
19 require the reconstruction, minor alteration, minor relocation  
20 or improvement of any crossing (including the necessary highway  
21 approaches thereto) of any railroad across any highway or  
22 public road, pedestrian bridge, or pedestrian subway, whether  
23 such crossing be at grade or by overhead structure or by  
24 subway, whenever the Commission finds after a hearing or  
25 without a hearing as otherwise provided in this paragraph that  
26 such reconstruction, alteration, relocation or improvement is

1 necessary to preserve or promote the safety or convenience of  
2 the public or of the employees or passengers of such rail  
3 carrier or carriers. By its original order or supplemental  
4 orders in such case, the Commission may direct such  
5 reconstruction, alteration, relocation, or improvement to be  
6 made in such manner and upon such terms and conditions as may  
7 be reasonable and necessary and may apportion the cost of such  
8 reconstruction, alteration, relocation or improvement and the  
9 subsequent maintenance thereof, having regard to the benefits,  
10 if any, accruing to the railroad or any party in interest,  
11 between the rail carrier or carriers and public utilities  
12 affected, or between such carrier or carriers and public  
13 utilities and the State, county, municipality or other public  
14 authority in interest. The cost to be so apportioned shall  
15 include the cost of changes or alterations in the equipment of  
16 public utilities affected as well as the cost of the  
17 relocation, diversion or establishment of any public highway,  
18 made necessary by such reconstruction, alteration, relocation  
19 or improvement of said crossing. A hearing shall not be  
20 required in those instances when the Commission enters an order  
21 confirming a written stipulation in which the Commission, the  
22 public highway authority or other public authority in interest,  
23 the rail carrier or carriers affected, and in instances  
24 involving the use of the Grade Crossing Protection Fund, the  
25 Illinois Department of Transportation, agree on the  
26 reconstruction, alteration, relocation, or improvement and the

1 subsequent maintenance thereof and the division of costs of  
2 such changes of any grade crossing (including the necessary  
3 highway approaches thereto) of any railroad across any highway,  
4 pedestrian bridge, or pedestrian subway.

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

15 Every rail carrier operating within this State shall remove  
16 from its right of way at all railroad-highway grade crossings  
17 within the State, such brush, shrubbery, and trees as is  
18 reasonably practical for a distance of not less than 500 feet  
19 in either direction from each grade crossing. The Commission  
20 shall have power, upon its own motion, or upon complaint, and  
21 after having made proper investigation, to require the  
22 installation of adequate and appropriate luminous reflective  
23 warning signs, luminous flashing signals, crossing gates  
24 illuminated at night, or other protective devices in order to  
25 promote and safeguard the health and safety of the public.  
26 Luminous flashing signal or crossing gate devices installed at

1 grade crossings, which have been approved by the Commission,  
2 shall be deemed adequate and appropriate. The Commission shall  
3 have authority to determine the number, type, and location of  
4 such signs, signals, gates, or other protective devices which,  
5 however, shall conform as near as may be with generally  
6 recognized national standards, and the Commission shall have  
7 authority to prescribe the division of the cost of the  
8 installation and subsequent maintenance of such signs,  
9 signals, gates, or other protective devices between the rail  
10 carrier or carriers, the public highway authority or other  
11 public authority in interest, and in instances involving the  
12 use of the Grade Crossing Protection Fund, the Illinois  
13 Department of Transportation. Except where train crews provide  
14 flagging of the crossing to road users, yield signs shall be  
15 installed at all highway intersections with every grade  
16 crossing in this State that is not equipped with automatic  
17 warning devices, such as luminous flashing signals or crossing  
18 gate devices. A stop sign may be used in lieu of the yield sign  
19 when an engineering study conducted in cooperation with the  
20 highway authority and the Illinois Department of  
21 Transportation has determined that a stop sign is warranted. If  
22 the Commission has ordered the installation of luminous  
23 flashing signal or crossing gate devices at a grade crossing  
24 not equipped with active warning devices, the Commission shall  
25 order the installation of temporary stop signs at the highway  
26 intersection with the grade crossing unless an engineering

1 study has determined that a stop sign is not appropriate. If a  
2 stop sign is not appropriate, the Commission may order the  
3 installation of other appropriate supplemental signing as  
4 determined by an engineering study. The temporary signs shall  
5 remain in place until the luminous flashing signal or crossing  
6 gate devices have been installed. The rail carrier is  
7 responsible for the installation and subsequent maintenance of  
8 any required signs. The permanent signs shall be in place by  
9 July 1, 2011.

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 Commission.  
14 The Commission shall have the further power, upon application,  
15 upon its own motion, or upon complaint and after having made  
16 proper investigation, to require the interconnection of grade  
17 crossing warning devices with traffic control signals at  
18 highway intersections located at or near railroad crossings  
19 within the distances described by the State Manual on Uniform  
20 Traffic Control Devices adopted pursuant to Section 11-301 of  
21 this Code. In addition, State and local authorities may not  
22 install, remove, modernize, or otherwise modify traffic  
23 control signals at a highway intersection that is  
24 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



1 approach leg or legs of the intersection or the timing of the  
2 railroad preemption sequence of operation until the Commission  
3 has approved the installation, removal, modernization, or  
4 modification. Commission approval shall be limited to  
5 consideration of issues directly affecting the public safety at  
6 the railroad-highway grade crossing. The electrical circuit  
7 devices, alternate warning devices, and preemption sequences  
8 shall conform as nearly as possible, considering the particular  
9 characteristics of the crossing and intersection area, to the  
10 State manual adopted by the Illinois Department of  
11 Transportation pursuant to Section 11-301 of this Code and such  
12 federal standards as are made applicable by subsection (2) of  
13 this Section. In order to carry out this authority, the  
14 Commission shall have the authority to determine the number,  
15 type, and location of traffic control devices on the track  
16 approach leg or legs of the intersection and the timing of the  
17 railroad preemption sequence of operation. The Commission  
18 shall prescribe the division of costs for installation and  
19 maintenance of all devices required by this paragraph between  
20 the railroad or railroads and the highway authority in interest  
21 and in instances involving the use of the Grade Crossing  
22 Protection Fund or a State highway, the Illinois Department of  
23 Transportation.

24 Any person who unlawfully or maliciously removes, throws  
25 down, damages or defaces any sign, signal, gate or other  
26 protective device, located at or near any public grade

1 crossing, shall be guilty of a petty offense and fined not less  
2 than \$50 nor more than \$200 for each offense. In addition to  
3 fines levied under the provisions of this Section a person  
4 adjudged guilty hereunder may also be directed to make  
5 restitution for the costs of repair or replacement, or both,  
6 necessitated by his misconduct.

7 It is the public policy of the State of Illinois to enhance  
8 public safety by establishing safe grade crossings. In order to  
9 implement this policy, the Illinois Commerce Commission is  
10 directed to conduct public hearings and to adopt specific  
11 criteria by July 1, 1994, that shall be adhered to by the  
12 Illinois Commerce Commission in determining if a grade crossing  
13 should be opened or abolished. The following factors shall be  
14 considered by the Illinois Commerce Commission in developing  
15 the specific criteria for opening and abolishing grade  
16 crossings:

- 17 (a) timetable speed of passenger trains;
- 18 (b) distance to an alternate crossing;
- 19 (c) accident history for the last 5 years;
- 20 (d) number of vehicular traffic and posted speed  
21 limits;
- 22 (e) number of freight trains and their timetable  
23 speeds;
- 24 (f) the type of warning device present at the grade  
25 crossing;
- 26 (g) alignments of the roadway and railroad, and the

1 angle of intersection of those alignments;

2 (h) use of the grade crossing by trucks carrying  
3 hazardous materials, vehicles carrying passengers for  
4 hire, and school buses; and

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

6 The Illinois Commerce Commission, upon petition to open or  
7 abolish a grade crossing, shall enter an order opening or  
8 abolishing the crossing if it meets the specific criteria  
9 adopted by the Commission.

10 Except as otherwise provided in this subsection (3), in no  
11 instance shall a grade crossing be permanently closed without  
12 public hearing first being held and notice of such hearing  
13 being published in an area newspaper of local general  
14 circulation.

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

22 (5) Railroad Bridges and Trestles - Walkway and Handrail.  
23 In cases in which the Commission finds the same to be practical  
24 and necessary for safety of railroad employees, bridges and  
25 trestles, over and upon which railroad trains are operated,  
26 shall include as a part thereof, a safe and suitable walkway

1 and handrail on one side only of such bridge or trestle, and  
2 such handrail shall be located at the outer edge of the walkway  
3 and shall provide a clearance of not less than 8 feet, 6  
4 inches, from the center line of the nearest track, measured at  
5 right angles thereto.

6 (6) Packages Containing Articles for First Aid to Injured  
7 on Trains.

8 (a) All rail carriers shall provide a first aid kit  
9 that contains, at a minimum, those articles prescribed by  
10 the Commission, on each train or engine, for first aid to  
11 persons who may be injured in the course of the operation  
12 of such trains.

13 (b) A vehicle, excluding a taxi cab used in an  
14 emergency situation, operated by a contract carrier  
15 transporting railroad employees in the course of their  
16 employment shall be equipped with a readily available first  
17 aid kit that contains, as a minimum, the same articles that  
18 are required on each train or engine.

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

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

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

26 The Commission may equitably apportion the cost of such

1 actions between the rail carrier or carriers, public utilities,  
2 and the State, county, municipality, township, road district,  
3 or other public authority in interest.

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

11 (9) Temporary Closure of Crossings. The fire chief of each  
12 municipal fire department or fire protection district shall be  
13 provided notice 7 days prior to the temporary closure of a  
14 railroad crossing for the reconstruction, alteration,  
15 relocation, maintenance, or improvement of any crossing  
16 (including the necessary highway approaches thereto) of any  
17 railroad across any highway or public road within the  
18 jurisdiction of the municipal fire department or fire  
19 protection district.

20 (Source: P.A. 96-470, eff. 8-14-09; 97-374, eff. 1-1-12.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law.