



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB1190

Introduced 2/8/2005, by Rep. Jay C. Hoffman

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-7401

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

Amends the Illinois Vehicle Code. Provides that, if the Illinois Commerce Commission orders a grade crossing closed, the rail carrier is responsible for all costs incurred in removing the grade crossing surface and any warning devices and in installing barricades, if ordered to do so by the Commission. Provides that neither the railroad nor the public authority involved may be assessed more than 5% of any other costs associated with the crossing closure, unless the rail carrier or the public authority, as applicable, agrees in writing to pay a higher percentage of those costs. Provides that if the Commission orders the alteration, reconstruction, or relocation of a crossing across a highway, pedestrian bridge, or pedestrian subway, the costs shall be borne according to the benefits derived. Provides that, if the project is requested by the rail carrier or the public highway authority, the other party may not be assessed more than 15% of the cost.

LRB094 08828 DRH 39046 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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. If the  
29 Commission orders a grade crossing closed, however, the rail  
30 carrier is responsible for all costs incurred in removing the  
31 grade crossing surface and any warning devices and in  
32 installing barricades, if ordered to do so by the Commission.  
33 Neither the railroad nor the public authority in interest may  
34 be assessed more than 5% of any other costs associated with the  
35 crossing closure, unless the rail carrier or the public  
36 authority in interest, as applicable, agrees in writing to pay

1 a higher percentage of those costs. However, a public hearing  
2 by the Commission to abolish a crossing shall not be required  
3 when the public highway authority in interest vacates the  
4 highway. In such instance the rail carrier, following  
5 notification to the Commission and the highway authority, shall  
6 remove any grade crossing warning devices and the grade  
7 crossing surface.

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

1 confirming a written stipulation in which the Commission, the  
2 public highway authority or other public authority in interest,  
3 the rail carrier or carriers affected, and in instances  
4 involving the use of the Grade Crossing Protection Fund, the  
5 Illinois Department of Transportation, agree on the  
6 reconstruction, alteration, relocation, or improvement and the  
7 subsequent maintenance thereof and the division of costs of  
8 such changes of any grade crossing (including the necessary  
9 highway approaches thereto) of any railroad across any highway,  
10 pedestrian bridge, or pedestrian subway.

11 Unless otherwise agreed upon, however, the cost of  
12 construction of new grade separation structures, or the  
13 reconstruction of existing grade separations, or the  
14 alteration of existing grade separations for enhanced highway  
15 or railroad facilities, shall be borne according to the  
16 benefits derived; except that: (i) the costs borne by the  
17 affected rail carrier or carriers for projects requested by the  
18 public highway authority shall not exceed 15%, with the balance  
19 to be paid by the public highway authority and the Grade  
20 Crossing Protection Fund; and (ii) the costs borne by the  
21 affected public highway authority or authorities for projects  
22 requested by the rail carrier shall not exceed 15%, with the  
23 balance paid by the railroad and the Grade Crossing Protection  
24 Fund. If there is more than one affected rail carrier, and the  
25 rail carriers do not agree on the division of the amount to be  
26 borne by each, the division shall be made by the order of the  
27 Commission. If the amount to be borne by more than one public  
28 highway authority is not agreed upon, the division of the  
29 amount to be borne by them shall be made by the order of the  
30 Commission.

31 Every rail carrier operating in the State of Illinois shall  
32 construct and maintain every highway crossing over its tracks  
33 within the State so that the roadway at the intersection shall  
34 be as flush with the rails as superelevated curves will allow,  
35 and, unless otherwise ordered by the Commission, shall  
36 construct and maintain the approaches thereto at a grade of not

1 more than 5% within the right of way for a distance of not less  
2 the 6 feet on each side of the centerline of such tracks;  
3 provided, that the grades at the approaches may be maintained  
4 in excess of 5% only when authorized by the Commission.

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

1 maintenance of any required temporary stop signs.

2 No railroad may change or modify the warning device system  
3 at a railroad-highway grade crossing, including warning  
4 systems interconnected with highway traffic control signals,  
5 without having first received the approval of the Commission.  
6 The Commission shall have the further power, upon application,  
7 upon its own motion, or upon complaint and after having made  
8 proper investigation, to require the interconnection of grade  
9 crossing warning devices with traffic control signals at  
10 highway intersections located at or near railroad crossings  
11 within the distances described by the State Manual on Uniform  
12 Traffic Control Devices adopted pursuant to Section 11-301 of  
13 this Code. In addition, State and local authorities may not  
14 install, remove, modernize, or otherwise modify traffic  
15 control signals at a highway intersection that is  
16 interconnected or proposed to be interconnected with grade  
17 crossing warning devices when the change affects the number,  
18 type, or location of traffic control devices on the track  
19 approach leg or legs of the intersection or the timing of the  
20 railroad preemption sequence of operation until the Commission  
21 has approved the installation, removal, modernization, or  
22 modification. Commission approval shall be limited to  
23 consideration of issues directly affecting the public safety at  
24 the railroad-highway grade crossing. The electrical circuit  
25 devices, alternate warning devices, and preemption sequences  
26 shall conform as nearly as possible, considering the particular  
27 characteristics of the crossing and intersection area, to the  
28 State manual adopted by the Illinois Department of  
29 Transportation pursuant to Section 11-301 of this Code and such  
30 federal standards as are made applicable by subsection (2) of  
31 this Section. In order to carry out this authority, the  
32 Commission shall have the authority to determine the number,  
33 type, and location of traffic control devices on the track  
34 approach leg or legs of the intersection and the timing of the  
35 railroad preemption sequence of operation. The Commission  
36 shall prescribe the division of costs for installation and

1 maintenance of all devices required by this paragraph between  
2 the railroad or railroads and the highway authority in interest  
3 and in instances involving the use of the Grade Crossing  
4 Protection Fund or a State highway, the Illinois Department of  
5 Transportation.

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

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

- 25 (a) timetable speed of passenger trains;
- 26 (b) distance to an alternate crossing;
- 27 (c) accident history for the last 5 years;
- 28 (d) number of vehicular traffic and posted speed  
29 limits;
- 30 (e) number of freight trains and their timetable  
31 speeds;
- 32 (f) the type of warning device present at the grade  
33 crossing;
- 34 (g) alignments of the roadway and railroad, and the  
35 angle of intersection of those alignments;
- 36 (h) use of the grade crossing by trucks carrying



1 hazardous materials, vehicles carrying passengers for  
2 hire, and school buses; and

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

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

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

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

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

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

35 (7) Abandoned Bridges, Crossings, and Other Rail Plant. The  
36 Commission shall have authority, after notice and hearing, to

1 order:

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

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

6 The Commission may equitably apportion the cost of such  
7 actions between the rail carrier or carriers, public utilities,  
8 and the State, county, municipality, township, road district,  
9 or other public authority in interest.

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

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