

SB2009



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2009

Introduced 2/7/2008, by Sen. Larry K. Bomke

SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-7401

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

Amends the Illinois Vehicle Code. Provides that, on and after January 1, 2009, stop signs shall be in place at the highway intersection with every grade crossing in this State that is not equipped with automatic warning devices, such as a luminous flashing signal or crossing gate devices, and that the rail carrier is responsible for the cost of the installation and subsequent maintenance of the stop signs. Deletes language requiring temporary stop signs at grade crossings under specified circumstances. Effective January 1, 2009.

LRB095 18676 WGH 44770 b

A BILL FOR

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. On and after January 1, 2009, if
14 ~~the Commission has ordered the installation of luminous~~
15 ~~flashing signal or crossing gate devices at a grade crossing,~~
16 ~~the Commission shall order the installation of temporary stop~~
17 ~~signs shall be in place~~ at the highway intersection with every
18 the grade crossing in this State that is not equipped with
19 automatic warning devices, such as a . ~~The temporary stop signs~~
20 ~~shall remain in place until the luminous flashing signal or~~
21 ~~crossing gate devices have been installed.~~ The rail carrier is
22 responsible for the cost of the installation and subsequent
23 maintenance of the any required temporary stop signs.

24 No railroad may change or modify the warning device system
25 at a railroad-highway grade crossing, including warning
26 systems interconnected with highway traffic control signals,

1 without having first received the approval of the Commission.
2 The Commission shall have the further power, upon application,
3 upon its own motion, or upon complaint and after having made
4 proper investigation, to require the interconnection of grade
5 crossing warning devices with traffic control signals at
6 highway intersections located at or near railroad crossings
7 within the distances described by the State Manual on Uniform
8 Traffic Control Devices adopted pursuant to Section 11-301 of
9 this Code. In addition, State and local authorities may not
10 install, remove, modernize, or otherwise modify traffic
11 control signals at a highway intersection that is
12 interconnected or proposed to be interconnected with grade
13 crossing warning devices when the change affects the number,
14 type, or location of traffic control devices on the track
15 approach leg or legs of the intersection or the timing of the
16 railroad preemption sequence of operation until the Commission
17 has approved the installation, removal, modernization, or
18 modification. Commission approval shall be limited to
19 consideration of issues directly affecting the public safety at
20 the railroad-highway grade crossing. The electrical circuit
21 devices, alternate warning devices, and preemption sequences
22 shall conform as nearly as possible, considering the particular
23 characteristics of the crossing and intersection area, to the
24 State manual adopted by the Illinois Department of
25 Transportation pursuant to Section 11-301 of this Code and such
26 federal standards as are made applicable by subsection (2) of

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

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

21 It is the public policy of the State of Illinois to enhance
22 public safety by establishing safe grade crossings. In order to
23 implement this policy, the Illinois Commerce Commission is
24 directed to conduct public hearings and to adopt specific
25 criteria by July 1, 1994, that shall be adhered to by the
26 Illinois Commerce Commission in determining if a grade crossing

1 should be opened or abolished. The following factors shall be
2 considered by the Illinois Commerce Commission in developing
3 the specific criteria for opening and abolishing grade
4 crossings:

5 (a) timetable speed of passenger trains;

6 (b) distance to an alternate crossing;

7 (c) accident history for the last 5 years;

8 (d) number of vehicular traffic and posted speed
9 limits;

10 (e) number of freight trains and their timetable
11 speeds;

12 (f) the type of warning device present at the grade
13 crossing;

14 (g) alignments of the roadway and railroad, and the
15 angle of intersection of those alignments;

16 (h) use of the grade crossing by trucks carrying
17 hazardous materials, vehicles carrying passengers for
18 hire, and school buses; and

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

20 The Illinois Commerce Commission, upon petition to open or
21 abolish a grade crossing, shall enter an order opening or
22 abolishing the crossing if it meets the specific criteria
23 adopted by the Commission.

24 Except as otherwise provided in this subsection (3), in no
25 instance shall a grade crossing be permanently closed without
26 public hearing first being held and notice of such hearing

1 being published in an area newspaper of local general
2 circulation.

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

10 (5) Railroad Bridges and Trestles - Walkway and Handrail.
11 In cases in which the Commission finds the same to be practical
12 and necessary for safety of railroad employees, bridges and
13 trestles, over and upon which railroad trains are operated,
14 shall include as a part thereof, a safe and suitable walkway
15 and handrail on one side only of such bridge or trestle, and
16 such handrail shall be located at the outer edge of the walkway
17 and shall provide a clearance of not less than 8 feet, 6
18 inches, from the center line of the nearest track, measured at
19 right angles thereto.

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

25 (7) Abandoned Bridges, Crossings, and Other Rail Plant. The
26 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.)

18 Section 99. Effective date. This Act takes effect January
19 1, 2009.