



Sen. Larry K. Bomke

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LRB095 18676 LCT 47633 a

1 AMENDMENT TO SENATE BILL 2009

2 AMENDMENT NO. _____. Amend Senate Bill 2009 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing 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

1 Federal Railroad Administration shall be safety standards of
2 the Commission. The Commission may, in addition, adopt by
3 reference in its regulations other federal railroad safety
4 standards, whether contained in federal statutes or in
5 regulations adopted pursuant to such statutes.

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

22 The Commission shall also have power, after a hearing, to
23 require major alteration of or to abolish any crossing,
24 heretofore or hereafter established, when in its opinion, the
25 public safety requires such alteration or abolition, and,
26 except in cities, villages and incorporated towns of 1,000,000

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

25 The Commission shall also have power by its order to
26 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

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

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

22 Every rail carrier operating within this State shall remove
23 from its right of way at all railroad-highway grade crossings
24 within the State, such brush, shrubbery, and trees as is
25 reasonably practical for a distance of not less than 500 feet
26 in either direction from each grade crossing. The Commission

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

1 highway authority and the Illinois Department of
2 Transportation has determined that a stop sign is warranted. If
3 the Commission has ordered the installation of luminous
4 flashing signal or crossing gate devices at a grade crossing
5 not equipped with active warning devices, the Commission shall
6 order the installation of temporary stop signs at the highway
7 intersection with the grade crossing unless an engineering
8 study has determined that a stop sign is not appropriate. If a
9 stop sign is not appropriate, the Commission may order the
10 installation of other appropriate supplemental signing as
11 determined by an engineering study. The temporary ~~stop~~ signs
12 shall remain in place until the luminous flashing signal or
13 crossing gate devices have been installed. The rail carrier is
14 responsible for ~~the cost of~~ the installation and subsequent
15 maintenance of any required ~~temporary stop~~ signs. The permanent
16 signs shall be in place by July 1, 2010.

17 No railroad may change or modify the warning device system
18 at a railroad-highway grade crossing, including warning
19 systems interconnected with highway traffic control signals,
20 without having first received the approval of the Commission.
21 The Commission shall have the further power, upon application,
22 upon its own motion, or upon complaint and after having made
23 proper investigation, to require the interconnection of grade
24 crossing warning devices with traffic control signals at
25 highway intersections located at or near railroad crossings
26 within the distances described by the State Manual on Uniform

1 Traffic Control Devices adopted pursuant to Section 11-301 of
2 this Code. In addition, State and local authorities may not
3 install, remove, modernize, or otherwise modify traffic
4 control signals at a highway intersection that is
5 interconnected or proposed to be interconnected with grade
6 crossing warning devices when the change affects the number,
7 type, or location of traffic control devices on the track
8 approach leg or legs of the intersection or the timing of the
9 railroad preemption sequence of operation until the Commission
10 has approved the installation, removal, modernization, or
11 modification. Commission approval shall be limited to
12 consideration of issues directly affecting the public safety at
13 the railroad-highway grade crossing. The electrical circuit
14 devices, alternate warning devices, and preemption sequences
15 shall conform as nearly as possible, considering the particular
16 characteristics of the crossing and intersection area, to the
17 State manual adopted by the Illinois Department of
18 Transportation pursuant to Section 11-301 of this Code and such
19 federal standards as are made applicable by subsection (2) of
20 this Section. In order to carry out this authority, the
21 Commission shall have the authority to determine the number,
22 type, and location of traffic control devices on the track
23 approach leg or legs of the intersection and the timing of the
24 railroad preemption sequence of operation. The Commission
25 shall prescribe the division of costs for installation and
26 maintenance of all devices required by this paragraph between

1 the railroad or railroads and the highway authority in interest
2 and in instances involving the use of the Grade Crossing
3 Protection Fund or a State highway, the Illinois Department of
4 Transportation.

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

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

- 24 (a) timetable speed of passenger trains;
25 (b) distance to an alternate crossing;
26 (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, upon petition to open or
14 abolish a grade crossing, shall enter an order opening or
15 abolishing the crossing if it meets the specific criteria
16 adopted by the Commission.

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

22 (4) Freight Trains - Radio Communications. The Commission
23 shall after hearing and order require that every main line
24 railroad freight train operating on main tracks outside of yard
25 limits within this State shall be equipped with a radio
26 communication system. The Commission after notice and hearing

1 may grant exemptions from the requirements of this Section as
2 to secondary and branch lines.

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

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

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

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

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

25 The Commission may equitably apportion the cost of such
26 actions between the rail carrier or carriers, public utilities,

1 and the State, county, municipality, township, road district,
2 or other public authority in interest.

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

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