



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB0813

Introduced 2/10/2021, by Rep. Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

35 ILCS 505/8

from Ch. 120, par. 424

625 ILCS 5/18c-7401

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

Amends the Motor Fuel Tax Law. Provides that the funds transferred each month to the Grade Crossing Protection Fund may go to the maintenance of safety treatments to deter trespassing. Deletes language providing that the Illinois Commerce Commission shall not order more than \$2,000,000 per year in Grade Crossing Protection Fund moneys for pedestrian walkways. Amends the Illinois Vehicle Code. Allows the Illinois Commerce Commission, after a hearing or by stipulated agreement, to authorize and order the terms of installation, operation, maintenance, and use of safety treatments requested by a public authority or rail carrier to deter trespassing on railroad property at a place other than a public crossing. Provides that the trespassing location shall be within 1,000 feet of a public crossing or at a hotspot location as identified by the Federal Railroad Administration and confirmed by the unit of local government, railroad, and Illinois Commerce Commission via diagnostic review.

LRB102 04038 HEP 14054 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 Motor Fuel Tax Law is amended by changing  
5 Section 8 as follows:

6 (35 ILCS 505/8) (from Ch. 120, par. 424)

7 Sec. 8. Except as provided in subsection (a-1) of this  
8 Section, Section 8a, subdivision (h)(1) of Section 12a,  
9 Section 13a.6, and items 13, 14, 15, and 16 of Section 15, all  
10 money received by the Department under this Act, including  
11 payments made to the Department by member jurisdictions  
12 participating in the International Fuel Tax Agreement, shall  
13 be deposited in a special fund in the State treasury, to be  
14 known as the "Motor Fuel Tax Fund", and shall be used as  
15 follows:

16 (a) 2 1/2 cents per gallon of the tax collected on special  
17 fuel under paragraph (b) of Section 2 and Section 13a of this  
18 Act shall be transferred to the State Construction Account  
19 Fund in the State Treasury; the remainder of the tax collected  
20 on special fuel under paragraph (b) of Section 2 and Section  
21 13a of this Act shall be deposited into the Road Fund;

22 (a-1) Beginning on July 1, 2019, an amount equal to the  
23 amount of tax collected under subsection (a) of Section 2 as a

1 result of the increase in the tax rate under Public Act 101-32  
2 ~~this amendatory Act of the 101st General Assembly~~ shall be  
3 transferred each month into the Transportation Renewal Fund;~~;~~

4 (b) \$420,000 shall be transferred each month to the State  
5 Boating Act Fund to be used by the Department of Natural  
6 Resources for the purposes specified in Article X of the Boat  
7 Registration and Safety Act;

8 (c) \$3,500,000 shall be transferred each month to the  
9 Grade Crossing Protection Fund to be used as follows: not less  
10 than \$12,000,000 each fiscal year shall be used for the  
11 construction or reconstruction of rail highway grade  
12 separation structures; \$2,250,000 in fiscal years 2004 through  
13 2009 and \$3,000,000 in fiscal year 2010 and each fiscal year  
14 thereafter shall be transferred to the Transportation  
15 Regulatory Fund and shall be accounted for as part of the rail  
16 carrier portion of such funds and shall be used to pay the cost  
17 of administration of the Illinois Commerce Commission's  
18 railroad safety program in connection with its duties under  
19 subsection (3) of Section 18c-7401 of the Illinois Vehicle  
20 Code, with the remainder to be used by the Department of  
21 Transportation upon order of the Illinois Commerce Commission,  
22 to pay that part of the cost apportioned by such Commission to  
23 the State to cover the interest of the public in the use of  
24 highways, roads, streets, or pedestrian walkways in the county  
25 highway system, township and district road system, or  
26 municipal street system as defined in the Illinois Highway

1 Code, as the same may from time to time be amended, for  
2 separation of grades, for installation, construction or  
3 reconstruction of crossing protection or reconstruction,  
4 alteration, relocation including construction or improvement  
5 of any existing highway necessary for access to property or  
6 improvement of any grade crossing and grade crossing surface  
7 including the necessary highway approaches thereto of any  
8 railroad across the highway or public road, or for the  
9 installation, construction, reconstruction, or maintenance of  
10 safety treatments to deter trespassing or a pedestrian walkway  
11 over or under a railroad right-of-way, as provided for in and  
12 in accordance with Section 18c-7401 of the Illinois Vehicle  
13 Code. The Commission may order up to \$2,000,000 per year in  
14 Grade Crossing Protection Fund moneys for the improvement of  
15 grade crossing surfaces and up to \$300,000 per year for the  
16 maintenance and renewal of 4-quadrant gate vehicle detection  
17 systems located at non-high speed rail grade crossings. ~~The~~  
18 ~~Commission shall not order more than \$2,000,000 per year in~~  
19 ~~Grade Crossing Protection Fund moneys for pedestrian walkways.~~  
20 In entering orders for projects for which payments from the  
21 Grade Crossing Protection Fund will be made, the Commission  
22 shall account for expenditures authorized by the orders on a  
23 cash rather than an accrual basis. For purposes of this  
24 requirement an "accrual basis" assumes that the total cost of  
25 the project is expended in the fiscal year in which the order  
26 is entered, while a "cash basis" allocates the cost of the

1 project among fiscal years as expenditures are actually made.  
2 To meet the requirements of this subsection, the Illinois  
3 Commerce Commission shall develop annual and 5-year project  
4 plans of rail crossing capital improvements that will be paid  
5 for with moneys from the Grade Crossing Protection Fund. The  
6 annual project plan shall identify projects for the succeeding  
7 fiscal year and the 5-year project plan shall identify  
8 projects for the 5 directly succeeding fiscal years. The  
9 Commission shall submit the annual and 5-year project plans  
10 for this Fund to the Governor, the President of the Senate, the  
11 Senate Minority Leader, the Speaker of the House of  
12 Representatives, and the Minority Leader of the House of  
13 Representatives on the first Wednesday in April of each year;

14 (d) of the amount remaining after allocations provided for  
15 in subsections (a), (a-1), (b)1 and (c), a sufficient amount  
16 shall be reserved to pay all of the following:

17 (1) the costs of the Department of Revenue in  
18 administering this Act;

19 (2) the costs of the Department of Transportation in  
20 performing its duties imposed by the Illinois Highway Code  
21 for supervising the use of motor fuel tax funds  
22 apportioned to municipalities, counties and road  
23 districts;

24 (3) refunds provided for in Section 13, refunds for  
25 overpayment of decal fees paid under Section 13a.4 of this  
26 Act, and refunds provided for under the terms of the

1 International Fuel Tax Agreement referenced in Section  
2 14a;

3 (4) from October 1, 1985 until June 30, 1994, the  
4 administration of the Vehicle Emissions Inspection Law,  
5 which amount shall be certified monthly by the  
6 Environmental Protection Agency to the State Comptroller  
7 and shall promptly be transferred by the State Comptroller  
8 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
9 Inspection Fund, and for the period July 1, 1994 through  
10 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
11 the period July 1, 2000 through June 30, 2003, one-twelfth  
12 of \$30,000,000 each month, and \$15,000,000 on July 1,  
13 2003, and \$15,000,000 on January 1, 2004, and \$15,000,000  
14 on each July 1 and October 1, or as soon thereafter as may  
15 be practical, during the period July 1, 2004 through June  
16 30, 2012, and \$30,000,000 on June 1, 2013, or as soon  
17 thereafter as may be practical, and \$15,000,000 on July 1  
18 and October 1, or as soon thereafter as may be practical,  
19 during the period of July 1, 2013 through June 30, 2015,  
20 for the administration of the Vehicle Emissions Inspection  
21 Law of 2005, to be transferred by the State Comptroller  
22 and Treasurer from the Motor Fuel Tax Fund into the  
23 Vehicle Inspection Fund;

24 (4.5) beginning on July 1, 2019, the costs of the  
25 Environmental Protection Agency for the administration of  
26 the Vehicle Emissions Inspection Law of 2005 shall be

1       paid, subject to appropriation, from the Motor Fuel Tax  
2       Fund into the Vehicle Inspection Fund; beginning in 2019,  
3       no later than December 31 of each year, or as soon  
4       thereafter as practical, the State Comptroller shall  
5       direct and the State Treasurer shall transfer from the  
6       Vehicle Inspection Fund to the Motor Fuel Tax Fund any  
7       balance remaining in the Vehicle Inspection Fund in excess  
8       of \$2,000,000;

9           (5) amounts ordered paid by the Court of Claims; and

10          (6) payment of motor fuel use taxes due to member  
11       jurisdictions under the terms of the International Fuel  
12       Tax Agreement. The Department shall certify these amounts  
13       to the Comptroller by the 15th day of each month; the  
14       Comptroller shall cause orders to be drawn for such  
15       amounts, and the Treasurer shall administer those amounts  
16       on or before the last day of each month;

17          (e) after allocations for the purposes set forth in  
18       subsections (a), (a-1), (b), (c), and (d), the remaining  
19       amount shall be apportioned as follows:

20           (1) Until January 1, 2000, 58.4%, and beginning  
21       January 1, 2000, 45.6% shall be deposited as follows:

22           (A) 37% into the State Construction Account Fund,  
23       and

24           (B) 63% into the Road Fund, \$1,250,000 of which  
25       shall be reserved each month for the Department of  
26       Transportation to be used in accordance with the

1 provisions of Sections 6-901 through 6-906 of the  
2 Illinois Highway Code;

3 (2) Until January 1, 2000, 41.6%, and beginning  
4 January 1, 2000, 54.4% shall be transferred to the  
5 Department of Transportation to be distributed as follows:

6 (A) 49.10% to the municipalities of the State,

7 (B) 16.74% to the counties of the State having  
8 1,000,000 or more inhabitants,

9 (C) 18.27% to the counties of the State having  
10 less than 1,000,000 inhabitants,

11 (D) 15.89% to the road districts of the State.

12 If a township is dissolved under Article 24 of the  
13 Township Code, McHenry County shall receive any moneys  
14 that would have been distributed to the township under  
15 this subparagraph, except that a municipality that assumes  
16 the powers and responsibilities of a road district under  
17 paragraph (6) of Section 24-35 of the Township Code shall  
18 receive any moneys that would have been distributed to the  
19 township in a percent equal to the area of the dissolved  
20 road district or portion of the dissolved road district  
21 over which the municipality assumed the powers and  
22 responsibilities compared to the total area of the  
23 dissolved township. The moneys received under this  
24 subparagraph shall be used in the geographic area of the  
25 dissolved township. If a township is reconstituted as  
26 provided under Section 24-45 of the Township Code, McHenry



1 County or a municipality shall no longer be distributed  
2 moneys under this subparagraph.

3 As soon as may be after the first day of each month, the  
4 Department of Transportation shall allot to each municipality  
5 its share of the amount apportioned to the several  
6 municipalities which shall be in proportion to the population  
7 of such municipalities as determined by the last preceding  
8 municipal census if conducted by the Federal Government or  
9 Federal census. If territory is annexed to any municipality  
10 subsequent to the time of the last preceding census the  
11 corporate authorities of such municipality may cause a census  
12 to be taken of such annexed territory and the population so  
13 ascertained for such territory shall be added to the  
14 population of the municipality as determined by the last  
15 preceding census for the purpose of determining the allotment  
16 for that municipality. If the population of any municipality  
17 was not determined by the last Federal census preceding any  
18 apportionment, the apportionment to such municipality shall be  
19 in accordance with any census taken by such municipality. Any  
20 municipal census used in accordance with this Section shall be  
21 certified to the Department of Transportation by the clerk of  
22 such municipality, and the accuracy thereof shall be subject  
23 to approval of the Department which may make such corrections  
24 as it ascertains to be necessary.

25 As soon as may be after the first day of each month, the  
26 Department of Transportation shall allot to each county its

1 share of the amount apportioned to the several counties of the  
2 State as herein provided. Each allotment to the several  
3 counties having less than 1,000,000 inhabitants shall be in  
4 proportion to the amount of motor vehicle license fees  
5 received from the residents of such counties, respectively,  
6 during the preceding calendar year. The Secretary of State  
7 shall, on or before April 15 of each year, transmit to the  
8 Department of Transportation a full and complete report  
9 showing the amount of motor vehicle license fees received from  
10 the residents of each county, respectively, during the  
11 preceding calendar year. The Department of Transportation  
12 shall, each month, use for allotment purposes the last such  
13 report received from the Secretary of State.

14 As soon as may be after the first day of each month, the  
15 Department of Transportation shall allot to the several  
16 counties their share of the amount apportioned for the use of  
17 road districts. The allotment shall be apportioned among the  
18 several counties in the State in the proportion which the  
19 total mileage of township or district roads in the respective  
20 counties bears to the total mileage of all township and  
21 district roads in the State. Funds allotted to the respective  
22 counties for the use of road districts therein shall be  
23 allocated to the several road districts in the county in the  
24 proportion which the total mileage of such township or  
25 district roads in the respective road districts bears to the  
26 total mileage of all such township or district roads in the

1 county. After July 1 of any year prior to 2011, no allocation  
2 shall be made for any road district unless it levied a tax for  
3 road and bridge purposes in an amount which will require the  
4 extension of such tax against the taxable property in any such  
5 road district at a rate of not less than either .08% of the  
6 value thereof, based upon the assessment for the year  
7 immediately prior to the year in which such tax was levied and  
8 as equalized by the Department of Revenue or, in DuPage  
9 County, an amount equal to or greater than \$12,000 per mile of  
10 road under the jurisdiction of the road district, whichever is  
11 less. Beginning July 1, 2011 and each July 1 thereafter, an  
12 allocation shall be made for any road district if it levied a  
13 tax for road and bridge purposes. In counties other than  
14 DuPage County, if the amount of the tax levy requires the  
15 extension of the tax against the taxable property in the road  
16 district at a rate that is less than 0.08% of the value  
17 thereof, based upon the assessment for the year immediately  
18 prior to the year in which the tax was levied and as equalized  
19 by the Department of Revenue, then the amount of the  
20 allocation for that road district shall be a percentage of the  
21 maximum allocation equal to the percentage obtained by  
22 dividing the rate extended by the district by 0.08%. In DuPage  
23 County, if the amount of the tax levy requires the extension of  
24 the tax against the taxable property in the road district at a  
25 rate that is less than the lesser of (i) 0.08% of the value of  
26 the taxable property in the road district, based upon the

1 assessment for the year immediately prior to the year in which  
2 such tax was levied and as equalized by the Department of  
3 Revenue, or (ii) a rate that will yield an amount equal to  
4 \$12,000 per mile of road under the jurisdiction of the road  
5 district, then the amount of the allocation for the road  
6 district shall be a percentage of the maximum allocation equal  
7 to the percentage obtained by dividing the rate extended by  
8 the district by the lesser of (i) 0.08% or (ii) the rate that  
9 will yield an amount equal to \$12,000 per mile of road under  
10 the jurisdiction of the road district.

11 Prior to 2011, if any road district has levied a special  
12 tax for road purposes pursuant to Sections 6-601, 6-602, and  
13 6-603 of the Illinois Highway Code, and such tax was levied in  
14 an amount which would require extension at a rate of not less  
15 than .08% of the value of the taxable property thereof, as  
16 equalized or assessed by the Department of Revenue, or, in  
17 DuPage County, an amount equal to or greater than \$12,000 per  
18 mile of road under the jurisdiction of the road district,  
19 whichever is less, such levy shall, however, be deemed a  
20 proper compliance with this Section and shall qualify such  
21 road district for an allotment under this Section. Beginning  
22 in 2011 and thereafter, if any road district has levied a  
23 special tax for road purposes under Sections 6-601, 6-602, and  
24 6-603 of the Illinois Highway Code, and the tax was levied in  
25 an amount that would require extension at a rate of not less  
26 than 0.08% of the value of the taxable property of that road

1 district, as equalized or assessed by the Department of  
2 Revenue or, in DuPage County, an amount equal to or greater  
3 than \$12,000 per mile of road under the jurisdiction of the  
4 road district, whichever is less, that levy shall be deemed a  
5 proper compliance with this Section and shall qualify such  
6 road district for a full, rather than proportionate, allotment  
7 under this Section. If the levy for the special tax is less  
8 than 0.08% of the value of the taxable property, or, in DuPage  
9 County if the levy for the special tax is less than the lesser  
10 of (i) 0.08% or (ii) \$12,000 per mile of road under the  
11 jurisdiction of the road district, and if the levy for the  
12 special tax is more than any other levy for road and bridge  
13 purposes, then the levy for the special tax qualifies the road  
14 district for a proportionate, rather than full, allotment  
15 under this Section. If the levy for the special tax is equal to  
16 or less than any other levy for road and bridge purposes, then  
17 any allotment under this Section shall be determined by the  
18 other levy for road and bridge purposes.

19 Prior to 2011, if a township has transferred to the road  
20 and bridge fund money which, when added to the amount of any  
21 tax levy of the road district would be the equivalent of a tax  
22 levy requiring extension at a rate of at least .08%, or, in  
23 DuPage County, an amount equal to or greater than \$12,000 per  
24 mile of road under the jurisdiction of the road district,  
25 whichever is less, such transfer, together with any such tax  
26 levy, shall be deemed a proper compliance with this Section

1 and shall qualify the road district for an allotment under  
2 this Section.

3 In counties in which a property tax extension limitation  
4 is imposed under the Property Tax Extension Limitation Law,  
5 road districts may retain their entitlement to a motor fuel  
6 tax allotment or, beginning in 2011, their entitlement to a  
7 full allotment if, at the time the property tax extension  
8 limitation was imposed, the road district was levying a road  
9 and bridge tax at a rate sufficient to entitle it to a motor  
10 fuel tax allotment and continues to levy the maximum allowable  
11 amount after the imposition of the property tax extension  
12 limitation. Any road district may in all circumstances retain  
13 its entitlement to a motor fuel tax allotment or, beginning in  
14 2011, its entitlement to a full allotment if it levied a road  
15 and bridge tax in an amount that will require the extension of  
16 the tax against the taxable property in the road district at a  
17 rate of not less than 0.08% of the assessed value of the  
18 property, based upon the assessment for the year immediately  
19 preceding the year in which the tax was levied and as equalized  
20 by the Department of Revenue or, in DuPage County, an amount  
21 equal to or greater than \$12,000 per mile of road under the  
22 jurisdiction of the road district, whichever is less.

23 As used in this Section, the term "road district" means  
24 any road district, including a county unit road district,  
25 provided for by the Illinois Highway Code; and the term  
26 "township or district road" means any road in the township and

1 district road system as defined in the Illinois Highway Code.  
2 For the purposes of this Section, "township or district road"  
3 also includes such roads as are maintained by park districts,  
4 forest preserve districts and conservation districts. The  
5 Department of Transportation shall determine the mileage of  
6 all township and district roads for the purposes of making  
7 allotments and allocations of motor fuel tax funds for use in  
8 road districts.

9 Payment of motor fuel tax moneys to municipalities and  
10 counties shall be made as soon as possible after the allotment  
11 is made. The treasurer of the municipality or county may  
12 invest these funds until their use is required and the  
13 interest earned by these investments shall be limited to the  
14 same uses as the principal funds.

15 (Source: P.A. 101-32, eff. 6-28-19; 101-230, eff. 8-9-19;  
16 101-493, eff. 8-23-19; revised 9-24-19.)

17 Section 10. The Illinois Vehicle Code is amended by  
18 changing Section 18c-7401 as follows:

19 (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)

20 Sec. 18c-7401. Safety Requirements for Track, Facilities,  
21 and Equipment.

22 (1) General Requirements. Each rail carrier shall,  
23 consistent with rules, orders, and regulations of the Federal  
24 Railroad Administration, construct, maintain, and operate all

1 of its equipment, track, and other property in this State in  
2 such a manner as to pose no undue risk to its employees or the  
3 person or property of any member of the public.

4 (2) Adoption of Federal Standards. The track safety  
5 standards and accident/incident standards promulgated by the  
6 Federal Railroad Administration shall be safety standards of  
7 the Commission. The Commission may, in addition, adopt by  
8 reference in its regulations other federal railroad safety  
9 standards, whether contained in federal statutes or in  
10 regulations adopted pursuant to such statutes.

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



1 other than a public crossing, as established in subparagraph  
2 (i) of paragraph (a) of subsection (1) of Section 18c-7503,  
3 the Commission has the right to authorize safety treatments  
4 requested by a public authority or rail carrier and order the  
5 terms of installation, operation, maintenance, and use after a  
6 hearing or by stipulated agreement. The trespassing location  
7 shall be within 1,000 feet of a public crossing or at a hotspot  
8 location as identified by the Federal Railroad Administration  
9 and confirmed by the unit of local government, railroad, and  
10 Commission via diagnostic review.

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

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

14 The Commission shall also have power by its order to  
15 require the reconstruction, minor alteration, minor  
16 relocation, or improvement of any crossing (including the  
17 necessary highway approaches thereto) of any railroad across  
18 any highway or public road, pedestrian bridge, or pedestrian  
19 subway, whether such crossing be at grade or by overhead  
20 structure or by subway, whenever the Commission finds after a  
21 hearing or without a hearing as otherwise provided in this  
22 paragraph that such reconstruction, alteration, relocation, or  
23 improvement is necessary to preserve or promote the safety or  
24 convenience of the public or of the employees or passengers of  
25 such rail carrier or carriers. By its original order or  
26 supplemental orders in such case, the Commission may direct

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

1 subway.

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

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

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

1 Commission may order the installation of other appropriate  
2 supplemental signing as determined by an engineering study.  
3 The temporary signs shall remain in place until the luminous  
4 flashing signal or crossing gate devices have been installed.  
5 The rail carrier is responsible for the installation and  
6 subsequent maintenance of any required signs. The permanent  
7 signs shall be in place by July 1, 2011.

8 No railroad may change or modify the warning device system  
9 at a railroad-highway grade crossing, including warning  
10 systems interconnected with highway traffic control signals,  
11 without having first received the approval of the Commission.  
12 The Commission shall have the further power, upon application,  
13 upon its own motion, or upon complaint and after having made  
14 proper investigation, to require the interconnection of grade  
15 crossing warning devices with traffic control signals at  
16 highway intersections located at or near railroad crossings  
17 within the distances described by the State Manual on Uniform  
18 Traffic Control Devices adopted pursuant to Section 11-301 of  
19 this Code. In addition, State and local authorities may not  
20 install, remove, modernize, or otherwise modify traffic  
21 control signals at a highway intersection that is  
22 interconnected or proposed to be interconnected with grade  
23 crossing warning devices when the change affects the number,  
24 type, or location of traffic control devices on the track  
25 approach leg or legs of the intersection or the timing of the  
26 railroad preemption sequence of operation until the Commission

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

22 Any person who unlawfully or maliciously removes, throws  
23 down, damages or defaces any sign, signal, gate, or other  
24 protective device, located at or near any public grade  
25 crossing, shall be guilty of a petty offense and fined not less  
26 than \$50 nor more than \$200 for each offense. In addition to

1 fines levied under the provisions of this Section a person  
2 adjudged guilty hereunder may also be directed to make  
3 restitution for the costs of repair or replacement, or both,  
4 necessitated by his misconduct.

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

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

1 and shall provide a clearance of not less than 8 feet, 6  
2 inches, from the center line of the nearest track, measured at  
3 right angles thereto.

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

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

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

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

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

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

24 The Commission may equitably apportion the cost of such  
25 actions between the rail carrier or carriers, public  
26 utilities, and the State, county, municipality, township, road

1 district, or other public authority in interest.

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

9 (9) Right of Access To Railroad Property.

10 (a) A community antenna television company franchised  
11 by a municipality or county pursuant to the Illinois  
12 Municipal Code or the Counties Code, respectively, shall  
13 not enter upon any real estate or rights-of-way in the  
14 possession or control of a railroad subject to the  
15 jurisdiction of the Illinois Commerce Commission unless  
16 the community antenna television company first complies  
17 with the applicable provisions of subparagraph (f) of  
18 Section 11-42-11.1 of the Illinois Municipal Code or  
19 subparagraph (f) of Section 5-1096 of the Counties Code.

20 (b) Notwithstanding any provision of law to the  
21 contrary, this subsection (9) applies to all entries of  
22 railroad rights-of-way involving a railroad subject to the  
23 jurisdiction of the Illinois Commerce Commission by a  
24 community antenna television company and shall govern in  
25 the event of any conflict with any other provision of law.

26 (c) This subsection (9) applies to any entry upon any

1 real estate or right-of-way in the possession or control  
2 of a railroad subject to the jurisdiction of the Illinois  
3 Commerce Commission for the purpose of or in connection  
4 with the construction, or installation of a community  
5 antenna television company's system or facilities  
6 commenced or renewed on or after August 22, 2017 (the  
7 effective date of Public Act 100-251).

8 (d) Nothing in Public Act 100-251 shall be construed  
9 to prevent a railroad from negotiating other terms and  
10 conditions or the resolution of any dispute in relation to  
11 an entry upon or right of access as set forth in this  
12 subsection (9).

13 (e) For purposes of this subsection (9):

14 "Broadband service", "cable operator", and "holder"  
15 have the meanings given to those terms under Section  
16 21-201 of the Public Utilities Act.

17 "Community antenna television company" includes, in  
18 the case of real estate or rights-of-way in possession of  
19 or in control of a railroad, a holder, cable operator, or  
20 broadband service provider.

21 (f) Beginning on August 22, 2017 (the effective date  
22 of Public Act 100-251), the Transportation Division of the  
23 Illinois Commerce Commission shall include in its annual  
24 Crossing Safety Improvement Program report a brief  
25 description of the number of cases decided by the Illinois  
26 Commerce Commission and the number of cases that remain

1           pending before the Illinois Commerce Commission under this  
2           subsection (9) for the period covered by the report.

3           (Source: P.A. 100-251, eff. 8-22-17; 101-81, eff. 7-12-19.)