



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4248

Introduced 1/27/2020, 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.

LRB101 15832 LNS 65187 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, Section
9 13a.6, and items 13, 14, 15, and 16 of Section 15, all money
10 received by the Department under this Act, including payments
11 made to the Department by member jurisdictions participating in
12 the International Fuel Tax Agreement, shall be deposited in a
13 special fund in the State treasury, to be known as the "Motor
14 Fuel Tax Fund", and shall be used as follows:

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

21 (a-1) Beginning on July 1, 2019, an amount equal to the
22 amount of tax collected under subsection (a) of Section 2 as a
23 result of the increase in the tax rate under Public Act 101-32

1 ~~this amendatory Act of the 101st General Assembly~~ shall be
2 transferred each month into the Transportation Renewal Fund;~~:-~~

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

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

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

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

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

15 (1) the costs of the Department of Revenue in
16 administering this Act;

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

21 (3) refunds provided for in Section 13, refunds for
22 overpayment of decal fees paid under Section 13a.4 of this
23 Act, and refunds provided for under the terms of the
24 International Fuel Tax Agreement referenced in Section
25 14a;

26 (4) from October 1, 1985 until June 30, 1994, the

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

21 (4.5) beginning on July 1, 2019, the costs of the
22 Environmental Protection Agency for the administration of
23 the Vehicle Emissions Inspection Law of 2005 shall be paid,
24 subject to appropriation, from the Motor Fuel Tax Fund into
25 the Vehicle Inspection Fund; beginning in 2019, no later
26 than December 31 of each year, or as soon thereafter as

1 practical, the State Comptroller shall direct and the State
2 Treasurer shall transfer from the Vehicle Inspection Fund
3 to the Motor Fuel Tax Fund any balance remaining in the
4 Vehicle Inspection Fund in excess of \$2,000,000;

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

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

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

16 (1) Until January 1, 2000, 58.4%, and beginning January
17 1, 2000, 45.6% shall be deposited as follows:

18 (A) 37% into the State Construction Account Fund,
19 and

20 (B) 63% into the Road Fund, \$1,250,000 of which
21 shall be reserved each month for the Department of
22 Transportation to be used in accordance with the
23 provisions of Sections 6-901 through 6-906 of the
24 Illinois Highway Code;

25 (2) Until January 1, 2000, 41.6%, and beginning January
26 1, 2000, 54.4% shall be transferred to the Department of

1 Transportation to be distributed as follows:

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

3 (B) 16.74% to the counties of the State having
4 1,000,000 or more inhabitants,

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

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

8 If a township is dissolved under Article 24 of the
9 Township Code, McHenry County shall receive any moneys that
10 would have been distributed to the township under this
11 subparagraph, except that a municipality that assumes the
12 powers and responsibilities of a road district under
13 paragraph (6) of Section 24-35 of the Township Code shall
14 receive any moneys that would have been distributed to the
15 township in a percent equal to the area of the dissolved
16 road district or portion of the dissolved road district
17 over which the municipality assumed the powers and
18 responsibilities compared to the total area of the
19 dissolved township. The moneys received under this
20 subparagraph shall be used in the geographic area of the
21 dissolved township. If a township is reconstituted as
22 provided under Section 24-45 of the Township Code, McHenry
23 County or a municipality shall no longer be distributed
24 moneys under this subparagraph.

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

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

21 As soon as may be after the first day of each month, the
22 Department of Transportation shall allot to each county its
23 share of the amount apportioned to the several counties of the
24 State as herein provided. Each allotment to the several
25 counties having less than 1,000,000 inhabitants shall be in
26 proportion to the amount of motor vehicle license fees received

1 from the residents of such counties, respectively, during the
2 preceding calendar year. The Secretary of State shall, on or
3 before April 15 of each year, transmit to the Department of
4 Transportation a full and complete report showing the amount of
5 motor vehicle license fees received from the residents of each
6 county, respectively, during the preceding calendar year. The
7 Department of Transportation shall, each month, use for
8 allotment purposes the last such report received from the
9 Secretary of State.

10 As soon as may be after the first day of each month, the
11 Department of Transportation shall allot to the several
12 counties their share of the amount apportioned for the use of
13 road districts. The allotment shall be apportioned among the
14 several counties in the State in the proportion which the total
15 mileage of township or district roads in the respective
16 counties bears to the total mileage of all township and
17 district roads in the State. Funds allotted to the respective
18 counties for the use of road districts therein shall be
19 allocated to the several road districts in the county in the
20 proportion which the total mileage of such township or district
21 roads in the respective road districts bears to the total
22 mileage of all such township or district roads in the county.
23 After July 1 of any year prior to 2011, no allocation shall be
24 made for any road district unless it levied a tax for road and
25 bridge purposes in an amount which will require the extension
26 of such tax against the taxable property in any such road

1 district at a rate of not less than either .08% of the value
2 thereof, based upon the assessment for the year immediately
3 prior to the year in which such tax was levied and as equalized
4 by the Department of Revenue or, in DuPage County, an amount
5 equal to or greater than \$12,000 per mile of road under the
6 jurisdiction of the road district, whichever is less. Beginning
7 July 1, 2011 and each July 1 thereafter, an allocation shall be
8 made for any road district if it levied a tax for road and
9 bridge purposes. In counties other than DuPage County, if the
10 amount of the tax levy requires the extension of the tax
11 against the taxable property in the road district at a rate
12 that is less than 0.08% of the value thereof, based upon the
13 assessment for the year immediately prior to the year in which
14 the tax was levied and as equalized by the Department of
15 Revenue, then the amount of the allocation for that road
16 district shall be a percentage of the maximum allocation equal
17 to the percentage obtained by dividing the rate extended by the
18 district by 0.08%. In DuPage County, if the amount of the tax
19 levy requires the extension of the tax against the taxable
20 property in the road district at a rate that is less than the
21 lesser of (i) 0.08% of the value of the taxable property in the
22 road district, based upon the assessment for the year
23 immediately prior to the year in which such tax was levied and
24 as equalized by the Department of Revenue, or (ii) a rate that
25 will yield an amount equal to \$12,000 per mile of road under
26 the jurisdiction of the road district, then the amount of the

1 allocation for the road district shall be a percentage of the
2 maximum allocation equal to the percentage obtained by dividing
3 the rate extended by the district by the lesser of (i) 0.08% or
4 (ii) the rate that will yield an amount equal to \$12,000 per
5 mile of road under the jurisdiction of the road district.

6 Prior to 2011, if any road district has levied a special
7 tax for road purposes pursuant to Sections 6-601, 6-602, and
8 6-603 of the Illinois Highway Code, and such tax was levied in
9 an amount which would require extension at a rate of not less
10 than .08% of the value of the taxable property thereof, as
11 equalized or assessed by the Department of Revenue, or, in
12 DuPage County, an amount equal to or greater than \$12,000 per
13 mile of road under the jurisdiction of the road district,
14 whichever is less, such levy shall, however, be deemed a proper
15 compliance with this Section and shall qualify such road
16 district for an allotment under this Section. Beginning in 2011
17 and thereafter, if any road district has levied a special tax
18 for road purposes under Sections 6-601, 6-602, and 6-603 of the
19 Illinois Highway Code, and the tax was levied in an amount that
20 would require extension at a rate of not less than 0.08% of the
21 value of the taxable property of that road district, as
22 equalized or assessed by the Department of Revenue 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, that levy shall be deemed a proper
26 compliance with this Section and shall qualify such road

1 district for a full, rather than proportionate, allotment under
2 this Section. If the levy for the special tax is less than
3 0.08% of the value of the taxable property, or, in DuPage
4 County if the levy for the special tax is less than the lesser
5 of (i) 0.08% or (ii) \$12,000 per mile of road under the
6 jurisdiction of the road district, and if the levy for the
7 special tax is more than any other levy for road and bridge
8 purposes, then the levy for the special tax qualifies the road
9 district for a proportionate, rather than full, allotment under
10 this Section. If the levy for the special tax is equal to or
11 less than any other levy for road and bridge purposes, then any
12 allotment under this Section shall be determined by the other
13 levy for road and bridge purposes.

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

24 In counties in which a property tax extension limitation is
25 imposed under the Property Tax Extension Limitation Law, road
26 districts may retain their entitlement to a motor fuel tax

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

18 As used in this Section, the term "road district" means any
19 road district, including a county unit road district, provided
20 for by the Illinois Highway Code; and the term "township or
21 district road" means any road in the township and district road
22 system as defined in the Illinois Highway Code. For the
23 purposes of this Section, "township or district road" also
24 includes such roads as are maintained by park districts, forest
25 preserve districts and conservation districts. The Department
26 of Transportation shall determine the mileage of all township

1 and district roads for the purposes of making allotments and
2 allocations of motor fuel tax funds for use in road districts.

3 Payment of motor fuel tax moneys to municipalities and
4 counties shall be made as soon as possible after the allotment
5 is made. The treasurer of the municipality or county may invest
6 these funds until their use is required and the interest earned
7 by these investments shall be limited to the same uses as the
8 principal funds.

9 (Source: P.A. 101-32, eff. 6-28-19; 101-230, eff. 8-9-19;
10 101-493, eff. 8-23-19; revised 9-24-19.)

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

13 (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)

14 Sec. 18c-7401. Safety Requirements for Track, Facilities,
15 and Equipment.

16 (1) General Requirements. Each rail carrier shall,
17 consistent with rules, orders, and regulations of the Federal
18 Railroad Administration, construct, maintain, and operate all
19 of its equipment, track, and other property in this State in
20 such a manner as to pose no undue risk to its employees or the
21 person or property of any member of the public.

22 (2) Adoption of Federal Standards. The track safety
23 standards and accident/incident standards promulgated by the
24 Federal Railroad Administration shall be safety standards of

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

5 (3) Railroad Crossings. No public road, highway, or street
6 shall hereafter be constructed across the track of any rail
7 carrier at grade, nor shall the track of any rail carrier be
8 constructed across a public road, highway or street at grade,
9 without having first secured the permission of the Commission;
10 provided, that this Section shall not apply to the replacement
11 of lawfully existing roads, highways, and tracks. No public
12 pedestrian bridge or subway shall be constructed across the
13 track of any rail carrier without having first secured the
14 permission of the Commission. The Commission shall have the
15 right to refuse its permission or to grant it upon such terms
16 and conditions as it may prescribe. The Commission shall have
17 power to determine and prescribe the manner, including the
18 particular point of crossing, and the terms of installation,
19 operation, maintenance, use, and protection of each such
20 crossing. To deter trespassing on railroad property at a place
21 other than a public crossing, as established in subparagraph
22 (i) of paragraph (a) of subsection (1) of Section 18c-7503, the
23 Commission has the right to authorize safety treatments
24 requested by a public authority or rail carrier and order the
25 terms of installation, operation, maintenance, and use after a
26 hearing or by stipulated agreement.

1 The Commission shall also have power, after a hearing, to
2 require major alteration of or to abolish any crossing,
3 heretofore or hereafter established, when in its opinion, the
4 public safety requires such alteration or abolition, and,
5 except in cities, villages, and incorporated towns of 1,000,000
6 or more inhabitants, to vacate and close that part of the
7 highway on such crossing altered or abolished and cause
8 barricades to be erected across such highway in such manner as
9 to prevent the use of such crossing as a highway, when, in the
10 opinion of the Commission, the public convenience served by the
11 crossing in question is not such as to justify the further
12 retention thereof; or to require a separation of grades, at
13 railroad-highway grade crossings; or to require a separation of
14 grades at any proposed crossing where a proposed public highway
15 may cross the tracks of any rail carrier or carriers; and to
16 prescribe, after a hearing of the parties, the terms upon which
17 such separations shall be made and the proportion in which the
18 expense of the alteration or abolition of such crossings or the
19 separation of such grades, having regard to the benefits, if
20 any, accruing to the rail carrier or any party in interest,
21 shall be divided between the rail carrier or carriers affected,
22 or between such carrier or carriers and the State, county,
23 municipality or other public authority in interest. However, a
24 public hearing by the Commission to abolish a crossing shall
25 not be required when the public highway authority in interest
26 vacates the highway. In such instance the rail carrier,

1 following notification to the Commission and the highway
2 authority, shall remove any grade crossing warning devices and
3 the grade crossing surface.

4 The Commission shall also have power by its order to
5 require the reconstruction, minor alteration, minor
6 relocation, or improvement of any crossing (including the
7 necessary highway approaches thereto) of any railroad across
8 any highway or public road, pedestrian bridge, or pedestrian
9 subway, whether such crossing be at grade or by overhead
10 structure or by subway, whenever the Commission finds after a
11 hearing or without a hearing as otherwise provided in this
12 paragraph that such reconstruction, alteration, relocation, or
13 improvement is necessary to preserve or promote the safety or
14 convenience of the public or of the employees or passengers of
15 such rail carrier or carriers. By its original order or
16 supplemental orders in such case, the Commission may direct
17 such reconstruction, alteration, relocation, or improvement to
18 be made in such manner and upon such terms and conditions as
19 may be reasonable and necessary and may apportion the cost of
20 such reconstruction, alteration, relocation, or improvement
21 and the subsequent maintenance thereof, having regard to the
22 benefits, if any, accruing to the railroad or any party in
23 interest, between the rail carrier or carriers and public
24 utilities affected, or between such carrier or carriers and
25 public utilities and the State, county, municipality or other
26 public authority in interest. The cost to be so apportioned

1 shall include the cost of changes or alterations in the
2 equipment of public utilities affected as well as the cost of
3 the relocation, diversion or establishment of any public
4 highway, made necessary by such reconstruction, alteration,
5 relocation, or improvement of said crossing. A hearing shall
6 not be required in those instances when the Commission enters
7 an order confirming a written stipulation in which the
8 Commission, the public highway authority or other public
9 authority in interest, the rail carrier or carriers affected,
10 and in instances involving the use of the Grade Crossing
11 Protection Fund, the Illinois Department of Transportation,
12 agree on the reconstruction, alteration, relocation, or
13 improvement and the subsequent maintenance thereof and the
14 division of costs of such changes of any grade crossing
15 (including the necessary highway approaches thereto) of any
16 railroad across any highway, pedestrian bridge, or pedestrian
17 subway.

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

1 in excess of 5% only when authorized by the Commission.

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

1 flagging of the crossing to road users, yield signs shall be
2 installed at all highway intersections with every grade
3 crossing in this State that is not equipped with automatic
4 warning devices, such as luminous flashing signals or crossing
5 gate devices. A stop sign may be used in lieu of the yield sign
6 when an engineering study conducted in cooperation with the
7 highway authority and the Illinois Department of
8 Transportation has determined that a stop sign is warranted. If
9 the Commission has ordered the installation of luminous
10 flashing signal or crossing gate devices at a grade crossing
11 not equipped with active warning devices, the Commission shall
12 order the installation of temporary stop signs at the highway
13 intersection with the grade crossing unless an engineering
14 study has determined that a stop sign is not appropriate. If a
15 stop sign is not appropriate, the Commission may order the
16 installation of other appropriate supplemental signing as
17 determined by an engineering study. The temporary signs shall
18 remain in place until the luminous flashing signal or crossing
19 gate devices have been installed. The rail carrier is
20 responsible for the installation and subsequent maintenance of
21 any required signs. The permanent signs shall be in place by
22 July 1, 2011.

23 No railroad may change or modify the warning device system
24 at a railroad-highway grade crossing, including warning
25 systems interconnected with highway traffic control signals,
26 without having first received the approval of the Commission.

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

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

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

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

1 considered by the Illinois Commerce Commission in developing
2 the specific criteria for opening and abolishing grade
3 crossings:

4 (a) timetable speed of passenger trains;

5 (b) distance to an alternate crossing;

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

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

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

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

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

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

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

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

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

1 circulation.

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

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

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

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

26 (b) A vehicle, excluding a taxi cab used in an

1 emergency situation, operated by a contract carrier
2 transporting railroad employees in the course of their
3 employment shall be equipped with a readily available first
4 aid kit that contains, as a minimum, the same articles that
5 are required on each train or engine.

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

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

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

13 The Commission may equitably apportion the cost of such
14 actions between the rail carrier or carriers, public utilities,
15 and the State, county, municipality, township, road district,
16 or other public authority in interest.

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

24 (9) Right of Access To Railroad Property.

25 (a) A community antenna television company franchised
26 by a municipality or county pursuant to the Illinois

1 Municipal Code or the Counties Code, respectively, shall
2 not enter upon any real estate or rights-of-way in the
3 possession or control of a railroad subject to the
4 jurisdiction of the Illinois Commerce Commission unless
5 the community antenna television company first complies
6 with the applicable provisions of subparagraph (f) of
7 Section 11-42-11.1 of the Illinois Municipal Code or
8 subparagraph (f) of Section 5-1096 of the Counties Code.

9 (b) Notwithstanding any provision of law to the
10 contrary, this subsection (9) applies to all entries of
11 railroad rights-of-way involving a railroad subject to the
12 jurisdiction of the Illinois Commerce Commission by a
13 community antenna television company and shall govern in
14 the event of any conflict with any other provision of law.

15 (c) This subsection (9) applies to any entry upon any
16 real estate or right-of-way in the possession or control of
17 a railroad subject to the jurisdiction of the Illinois
18 Commerce Commission for the purpose of or in connection
19 with the construction, or installation of a community
20 antenna television company's system or facilities
21 commenced or renewed on or after August 22, 2017 (the
22 effective date of Public Act 100-251).

23 (d) Nothing in Public Act 100-251 shall be construed to
24 prevent a railroad from negotiating other terms and
25 conditions or the resolution of any dispute in relation to
26 an entry upon or right of access as set forth in this

1 subsection (9).

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

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

6 "Community antenna television company" includes, in
7 the case of real estate or rights-of-way in possession of
8 or in control of a railroad, a holder, cable operator, or
9 broadband service provider.

10 (f) Beginning on August 22, 2017 (the effective date of
11 Public Act 100-251), the Transportation Division of the
12 Illinois Commerce Commission shall include in its annual
13 Crossing Safety Improvement Program report a brief
14 description of the number of cases decided by the Illinois
15 Commerce Commission and the number of cases that remain
16 pending before the Illinois Commerce Commission under this
17 subsection (9) for the period covered by the report.

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