

# SB1233



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1233

Introduced 1/30/2013, by Sen. John M. Sullivan

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-7401

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

Amends the Illinois Vehicle Code. Increases the distance that rail carriers are required to clear view obstructions along their right of way if the associated rail crossing is on a section of track where train speeds may exceed 80 mph. Requires rail carriers to place signs alerting train operators to upcoming farm private crossings along stretches of track where train speeds may exceed 80 mph.

LRB098 08104 MLW 38195 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 18c-7401 as follows:

6 (625 ILCS 5/18c-7401) (from Ch. 95 1/2, par. 18c-7401)

7 Sec. 18c-7401. Safety Requirements for Track, Facilities,  
8 and Equipment.

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

15 (2) Adoption of Federal Standards. The track safety  
16 standards and accident/incident standards promulgated by the  
17 Federal Railroad Administration shall be safety standards of  
18 the Commission. The Commission may, in addition, adopt by  
19 reference in its regulations other federal railroad safety  
20 standards, whether contained in federal statutes or in  
21 regulations adopted pursuant to such statutes.

22 (3) Railroad Crossings. No public road, highway, or street  
23 shall hereafter be constructed across the track of any rail

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

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

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

18 The Commission shall also have power by its order to  
19 require the reconstruction, minor alteration, minor relocation  
20 or improvement of any crossing (including the necessary highway  
21 approaches thereto) of any railroad across any highway or  
22 public road, pedestrian bridge, or pedestrian subway, whether  
23 such crossing be at grade or by overhead structure or by  
24 subway, whenever the Commission finds after a hearing or  
25 without a hearing as otherwise provided in this paragraph that  
26 such reconstruction, alteration, relocation or improvement is

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

1 subsequent maintenance thereof and the division of costs of  
2 such changes of any grade crossing (including the necessary  
3 highway approaches thereto) of any railroad across any highway,  
4 pedestrian bridge, or pedestrian subway.

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

15 Every rail carrier operating within this State shall remove  
16 from its right of way at all railroad-highway grade crossings  
17 within the State, such brush, shrubbery, and trees as is  
18 reasonably practical for a distance of not less than 500 feet  
19 in either direction from each grade crossing, except that the  
20 distance shall not be less than 1000 feet in either direction  
21 from each public or private railroad-grade crossing on any  
22 corridor or stretch of track where train speeds may exceed 80  
23 miles per hour. The Commission shall have power, upon its own  
24 motion, or upon complaint, and after having made proper  
25 investigation, to require the installation of adequate and  
26 appropriate luminous reflective warning signs, luminous

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

1 crossing not equipped with active warning devices, the  
2 Commission shall order the installation of temporary stop signs  
3 at the highway intersection with the grade crossing unless an  
4 engineering study has determined that a stop sign is not  
5 appropriate. If a stop sign is not appropriate, the Commission  
6 may order the installation of other appropriate supplemental  
7 signing as determined by an engineering study. The temporary  
8 signs shall remain in place until the luminous flashing signal  
9 or crossing gate devices have been installed. The rail carrier  
10 is responsible for the installation and subsequent maintenance  
11 of any required signs. The permanent signs shall be in place by  
12 July 1, 2011.

13 At farm private crossings, also known as field access  
14 crossings, on any corridor or stretch of track where train  
15 speeds may exceed 80 miles per hour, advance crossing signs, or  
16 what are commonly known as "whistle posts", must be erected at  
17 an appropriate distance from the crossing in each direction to  
18 alert train operating crews that a farm private crossing is  
19 ahead.

20 No railroad may change or modify the warning device system  
21 at a railroad-highway grade crossing, including warning  
22 systems interconnected with highway traffic control signals,  
23 without having first received the approval of the Commission.  
24 The Commission shall have the further power, upon application,  
25 upon its own motion, or upon complaint and after having made  
26 proper investigation, to require the interconnection of grade



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

1 railroad preemption sequence of operation. The Commission  
2 shall prescribe the division of costs for installation and  
3 maintenance of all devices required by this paragraph between  
4 the railroad or railroads and the highway authority in interest  
5 and in instances involving the use of the Grade Crossing  
6 Protection Fund or a State highway, the Illinois Department of  
7 Transportation.

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

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

- 1 (a) timetable speed of passenger trains;
- 2 (b) distance to an alternate crossing;
- 3 (c) accident history for the last 5 years;
- 4 (d) number of vehicular traffic and posted speed
- 5 limits;
- 6 (e) number of freight trains and their timetable
- 7 speeds;
- 8 (f) the type of warning device present at the grade
- 9 crossing;
- 10 (g) alignments of the roadway and railroad, and the
- 11 angle of intersection of those alignments;
- 12 (h) use of the grade crossing by trucks carrying
- 13 hazardous materials, vehicles carrying passengers for
- 14 hire, and school buses; and
- 15 (i) use of the grade crossing by emergency vehicles.

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

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

25 (4) Freight Trains - Radio Communications. The Commission  
26 shall after hearing and order require that every main line

1 railroad freight train operating on main tracks outside of yard  
2 limits within this State shall be equipped with a radio  
3 communication system. The Commission after notice and hearing  
4 may grant exemptions from the requirements of this Section as  
5 to secondary and branch lines.

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

16 (6) Packages Containing Articles for First Aid to Injured  
17 on Trains.

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

23 (b) A vehicle, excluding a taxi cab used in an  
24 emergency situation, operated by a contract carrier  
25 transporting railroad employees in the course of their  
26 employment shall be equipped with a readily available first

1 aid kit that contains, as a minimum, the same articles that  
2 are required on each train or engine.

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

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

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

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

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

21 (Source: P.A. 96-470, eff. 8-14-09; 97-374, eff. 1-1-12.)