



Reprinted
March 4, 1999

HOUSE BILL No. 1235

DIGEST OF HB 1235 (Updated March 3, 1999 12:35 pm - DI 94)

Citations Affected: IC 8-6.

Synopsis: Municipal regulation of train whistles. Allows Elkhart, Munster, Goshen and Osceola to adopt an ordinance regulating the use of train whistles within the city limits. Allows a city or town to adopt an ordinance regulating the use of train whistles before January 1, 2001. Prohibits a city or town from regulating by ordinance the sounding of a whistle or the ringing of a bell at a train crossing that does not have an automatic train activated warning signal.

Effective: July 1, 1999.

Fry, Mock, Fesko, Ulmer

January 11, 1999, read first time and referred to Committee on Roads and Transportation.
February 24, 1999, amended, reported — Do Pass.
March 3, 1999, read second time, amended, ordered engrossed.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 1235

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-6-4-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) A railroad company operating
3 in this state shall equip every locomotive engine with a whistle and a
4 bell, maintained in good working order, such as are used by other
5 railroad companies. Except when approaching a crossing to which an
6 ordinance adopted under subsection (c) applies, the engineer or other
7 person in charge of or operating an engine upon the line of a railroad
8 shall, when the engine approaches the crossing of a turnpike, public
9 highway, or street in this state, beginning not less than one-fourth (1/4)
10 mile from the crossings:
11 (1) sound the whistle on the engine distinctly not less than four
12 (4) times, which sounding shall be prolonged or repeated until the
13 crossing is reached; and
14 (2) ring the bell attached to the engine continuously from the time
15 of sounding the whistle until the engine has fully passed the
16 crossing.
17 (b) It is unlawful for an engineer or other person in charge of a

HB 1235—LS 6779/DI 94+



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1 locomotive to move the locomotive, or allow it to be moved, over or
 2 across a turnpike, public highway, or street crossing if the whistle and
 3 bell are not in good working order. It is unlawful for a railroad
 4 company to order or permit a locomotive to be moved over or across a
 5 turnpike, public highway, or street crossing if the whistle and bell are
 6 not in good working order. When a whistle or bell is not in good
 7 working order, the locomotive must stop before each crossing and
 8 proceed only after manual protection is provided at the crossing by a
 9 member of the crew unless manual protection is known to be provided.

10 (c) This subsection applies only to:

11 (1) a city or town that had an ordinance in effect and approved by
 12 the Indiana department of transportation on **or before** January 1,
 13 ~~1991~~ **2001**, that regulated the sounding of a whistle or the ringing
 14 of a bell in the city or town; ~~and~~

15 (2) a crossing that was included in an ordinance on **or before**
 16 January 1, ~~1991~~ **2001**;

17 (3) a city having a population of more than forty-four
 18 thousand (44,000) but less than forty-four thousand seven
 19 hundred (44,700) located in a county having a population of
 20 more than one hundred fifty thousand (150,000) but less than
 21 one hundred sixty thousand (160,000);

22 (4) a town having a population of more than one thousand
 23 nine hundred (1,900) but less than two thousand (2,000)
 24 located in a county having a population of more than two
 25 hundred thousand (200,000) but less than three hundred
 26 thousand (300,000); and

27 (5) a town having a population of more than nineteen
 28 thousand (19,000) but less than twenty thousand (20,000)
 29 located in a county having a population of more than four
 30 hundred thousand (400,000) but less than seven hundred
 31 thousand (700,000).

32 (6) a city having a population of more than twenty-three
 33 thousand (23,000) but less than twenty-four thousand (24,000)
 34 located in a county having a population of more than one
 35 hundred fifty thousand but less than one hundred sixty
 36 thousand (160,000).

37 A city or town may adopt an ordinance to regulate the sounding of a
 38 whistle or the ringing of a bell under subsection (a) in the city or the
 39 town. **However, the city or town may not adopt an ordinance**
 40 **prohibiting the sounding of a whistle or the ringing of a bell at a**
 41 **crossing that does not have an automatic train activated warning**
 42 **signal as set forth in IC 8-6-7.7-2.** Before an ordinance adopted under



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1 this subsection goes into effect, the city or town must receive the
2 written permission of the department to regulate the sounding or the
3 ringing. The department may grant permission only if the department
4 determines, based upon a study conducted by the department, that the
5 ordinance, as applied to a particular crossing, will not create an undue
6 risk of harm to the public.

7 (d) Notwithstanding a contrary provision in an ordinance adopted
8 under subsection (c), an engineer or other person who is operating an
9 engine shall sound the engine's whistle if an apparent emergency exists.

10 (e) A railroad company and the employees of the railroad company
11 are immune from criminal or civil liability for injury or property
12 damage that results from an accident that occurs at a crossing to which
13 an ordinance described in subsection (c) applies if the injury or
14 property damage was proximately caused solely by the railroad
15 company and the employees failing to sound a whistle.

16 (f) The Indiana department of transportation shall review crossing
17 safety at each crossing to which an ordinance adopted under subsection
18 (c) applies not less than one (1) time in a five (5) year period.

19 (g) The Indiana department of transportation may not revoke the
20 permission granted under subsection (c) for an ordinance.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1235, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 16, delete "and".

Page 2, line 21, delete "." and insert ";".

Page 2, between lines 21 and 22, begin a new line block indented and insert:

"(4) a town having a population of more than one thousand nine hundred (1,900) but less than two thousand (2,000) located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); and

(5) a town having a population of more than nineteen thousand (19,000) but less than twenty thousand (20,000) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000)."

Page 2, line 24, after "town." insert "**However, the city or town may not adopt an ordinance prohibiting the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2.**".

and when so amended that said bill do pass.

(Reference is to HB 1239 as introduced.)

COOK, Chair

Committee Vote: yeas 12, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1235 be amended to read as follows:

- Page 2, line 12, after "on" insert "**or before**".
- Page 2, line 12, strike "1991" and insert "**2001**".
- Page 2, line 15, after "on" insert "**or before**".
- Page 2, line 16, strike "1991" and insert "**2001**".

(Reference is to HB 1235 as printed February 25, 1999.)

SAUNDERS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1235 be amended to read as follows:

Page 2, between lines 31 and 32, begin a new subparagraph and insert:

"(6) a city having a population of more than twenty-three thousand (23,000) but less than twenty-four thousand (24,000) located in a county having a population of more than one hundred fifty thousand but less than one hundred sixty thousand (160,000)."

(Reference is to HB1235 as printed February 25, 1999.)

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