

HOUSE BILL No. 1235

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-6-4-1.

Synopsis: Municipal regulation of train whistles. Allows the city of Elkhart to adopt an ordinance regulating the use of train whistles within the city limits.

Effective: July 1, 1999.

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January 11, 1999, read first time and referred to Committee on Roads and Transportation.

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Introduced

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



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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 January 1, 1991, that
 13 regulated the sounding of a whistle or the ringing of a bell in the
 14 city or town; ~~and~~

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

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 A city or town may adopt an ordinance to regulate the sounding of a
 23 whistle or the ringing of a bell under subsection (a) in the city or the
 24 town. Before an ordinance adopted under this subsection goes into
 25 effect, the city or town must receive the written permission of the
 26 department to regulate the sounding or the ringing. The department
 27 may grant permission only if the department determines, based upon a
 28 study conducted by the department, that the ordinance, as applied to a
 29 particular crossing, will not create an undue risk of harm to the public.

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

33 (e) A railroad company and the employees of the railroad company
 34 are immune from criminal or civil liability for injury or property
 35 damage that results from an accident that occurs at a crossing to which
 36 an ordinance described in subsection (c) applies if the injury or
 37 property damage was proximately caused solely by the railroad
 38 company and the employees failing to sound a whistle.

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

42 (g) The Indiana department of transportation may not revoke the

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1 permission granted under subsection (c) for an ordinance.

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