



January 18, 2013

HOUSE BILL No. 1037

DIGEST OF HB 1037 (Updated January 16, 2013 11:19 am - DI 96)

Citations Affected: IC 8-6.

Synopsis: Railroad crossings. Requires the Indiana department of transportation to adopt rules concerning minimum distance requirements at railroad crossings. Provides that statutory minimum distance requirements expire on the date on which the rules are finally adopted. Provides that a railroad that violates a rule adopted by the Indiana department of transportation (INDOT) concerning minimum distance requirements at railroad crossings is subject to a civil penalty of \$100 for each day the violation continues and that the maximum civil penalty for a continuing violation is \$5,000. Authorizes INDOT to bring an action to recover a civil penalty in the circuit or superior court of the county in which the crossing that is the subject of the violation is located.

Effective: July 1, 2013.

Soliday

January 7, 2013, read first time and referred to Committee on Roads and Transportation.
January 17, 2013, amended, reported — Do Pass.

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HB 1037—LS 6180/DI 103+



January 18, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1037

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

1 SECTION 1. IC 8-6-7.6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Except as
3 provided in subsection (b) or in a rule adopted by the Indiana
4 department of transportation, each railroad in the State of Indiana shall
5 maintain each public crossing under its control in such a manner that
6 the operator of any licensed motor vehicle has an unobstructed view for
7 fifteen hundred (1,500) feet in both directions along the railroad
8 right-of-way subject only to terrain elevations or depressions, track
9 curvature, or permanent improvements. However, the Indiana
10 department of transportation may adopt rules under IC 4-22-2 to adjust
11 the distance of the unobstructed view requirement under this
12 subsection based on variances in train speeds, number of tracks, angles
13 of highway and rail crossing intersections, elevations, and other factors
14 consistent with accepted engineering practices.
15 (b) A public crossing equipped with a train activated crossing gate
16 is exempt from the requirements of subsection (a), if the railroad
17 maintains an unobstructed view for at least two hundred fifty (250) feet

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1 in both directions along the railroad right-of-way.

2 **(c) This section expires on the date on which rules described in**
 3 **section 1.1 of this chapter are finally adopted.**

4 SECTION 2. IC 8-6-7.6-1.1 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 6 1, 2013]: **Sec. 1.1. The Indiana department of transportation shall**
 7 **adopt rules under IC 4-22-2 to do the following:**

8 **(1) Establish minimum distances to which a railroad must**
 9 **maintain, for the benefit of operators of licensed motor**
 10 **vehicles, an unobstructed view from the railroad right-of-way**
 11 **at a public railroad crossing that is under the control of the**
 12 **railroad. In establishing minimum distances under this**
 13 **subdivision, the Indiana department of transportation shall**
 14 **take into account safety measures in place at a public**
 15 **crossing, including train activated warning devices and**
 16 **federal railroad track classifications.**

17 **(2) Provide exceptions to minimum distances required under**
 18 **subdivision (1) based on variances in terrain, elevations, track**
 19 **curvature, and permanent improvements at or near a public**
 20 **crossing.**

21 **(3) Develop a method to determine and verify a minimum**
 22 **distance required under subdivision (1). The method must:**

- 23 **(A) be consistent with accepted engineering practices; and**
 24 **(B) produce results capable of replication.**

25 SECTION 3. IC 8-6-7.6-2 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 2. A railroad that**
 27 **violates ~~the provisions~~ section 1** of this chapter shall be held liable
 28 therefor to the State of Indiana in a penalty of one hundred dollars
 29 (\$100) a day for each day the violation continues subject to a maximum
 30 fine of five thousand dollars (\$5,000), to be recovered in a civil action
 31 at the suit of said state, in the circuit or superior court of any county
 32 wherein such crossing may be located. **This section expires on the**
 33 **date on which rules described in section 1.1 of this chapter are**
 34 **finally adopted.**

35 SECTION 4. IC 8-6-7.6-2.1 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 37 1, 2013]: **Sec. 2.1. A railroad that violates a rule adopted under**
 38 **section 1.1 of this chapter is subject to a civil penalty of one**
 39 **hundred dollars (\$100) for each day the violation continues. The**
 40 **maximum penalty under this section is five thousand dollars**
 41 **(\$5,000). The Indiana department of transportation may bring an**
 42 **action to recover a civil penalty under this section in the circuit or**



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1 superior court of the county in which the crossing that is the
2 subject of the violation is located.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1037, 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, after line 24, begin a new paragraph and insert:

"SECTION 3. IC 8-6-7.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 2. A railroad that violates ~~the provisions~~ **section 1** of this chapter shall be held liable therefor to the State of Indiana in a penalty of one hundred dollars (\$100) a day for each day the violation continues subject to a maximum fine of five thousand dollars (\$5,000), to be recovered in a civil action at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located. **This section expires on the date on which rules described in section 1.1 of this chapter are finally adopted.**

SECTION 4. IC 8-6-7.6-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 2.1. A railroad that violates a rule adopted under section 1.1 of this chapter is subject to a civil penalty of one hundred dollars (\$100) for each day the violation continues. The maximum penalty under this section is five thousand dollars (\$5,000). The Indiana department of transportation may bring an action to recover a civil penalty under this section in the circuit or superior court of the county in which the crossing that is the subject of the violation is located."**

and when so amended that said bill do pass.

(Reference is to HB 1037 as introduced.)

SOLIDAY, Chair

Committee Vote: yeas 13, nays 0.

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