

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

*Your Committee on Roads and Transportation, to which was referred House Bill 1310, 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:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 8-6-4-0.3, AS ADDED BY P.L.220-2011,
- 4 SECTION 193, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2013]: Sec. 0.3. (a) An ordinance that would be
- 6 permitted under section ~~1(e)~~ **1(e)** of this chapter, as added by
- 7 P.L.101-1993, that was adopted before April 27, 1993:
- 8 (1) is legalized; and
- 9 (2) may be enforced after May 11, 1993.
- 10 (b) The Indiana department of transportation shall conduct a review
- 11 of crossing safety levels at all crossings to which an ordinance
- 12 legalized under this section applies. The department shall complete a
- 13 study required by this subsection not later than one (1) year after April
- 14 27, 1993.

1 (c) If the Indiana department of transportation finds, based upon the
 2 results of the department's review under subsection (b), that the
 3 crossing safety level at a crossing to which an ordinance legalized
 4 under this section applies creates an undue risk of harm to the public,
 5 the department shall, after consulting with the railroad and the
 6 municipality, develop a program to increase crossing safety at the
 7 crossing to an acceptable level, as determined by the department.

8 (d) A program to increase crossing safety under subsection (c) must
 9 be decided after an evaluation of all remedies available to the Indiana
 10 department of transportation and the costs and benefits of each remedy.
 11 The department must consider the following in an evaluation of the
 12 costs and benefits of each remedy upon the municipality:

13 (1) The degree to which the remedy is likely to increase safety at
 14 the crossing.

15 (2) The economic impact of the cost of the remedy, including
 16 possible cost-sharing mechanisms.

17 (3) The impact of the remedy upon the environment in the
 18 municipality."

19 Page 1, delete lines 3 through 17 and insert "[EFFECTIVE JULY 1,
 20 2013]: Sec. 1. (a) A railroad company operating in this state shall equip
 21 every locomotive engine with a whistle and a bell, maintained in good
 22 working order, such as are used by other railroad companies. Except
 23 when approaching a crossing to which an ordinance adopted under
 24 subsection ~~(d)~~ (e) applies, the engineer or other person in charge of or
 25 operating an engine upon the line of a railroad shall, when the engine
 26 approaches the crossing of a turnpike, public highway, or street in this
 27 state:

28 (1) sound the whistle on the engine distinctly not less than four
 29 (4) times, which sounding shall be prolonged or repeated until the
 30 crossing is reached; and

31 (2) ring the bell attached to the engine continuously from the time
 32 of sounding the whistle until the engine has fully passed the
 33 crossing.

34 (b) A railroad company shall erect a sign that is:

35 (1) not more than one-fourth (1/4) mile in advance of a crossing
 36 or multiple consecutive crossings; and

37 (2) visible from an approaching train;

38 to notify the engineer or other person in charge of or operating an

1 engine to sound the engine's whistle in accordance with federal law.
 2 The railroad company shall maintain the sign in good repair or replace
 3 the sign. However, this subsection does not apply to a crossing to
 4 which an ordinance adopted under subsection ~~(d)~~ (e) applies. The
 5 locomotive engineer or other person in charge of the train shall notify,
 6 in writing, the appropriate maintenance of way supervisor of the
 7 railroad of any missing or damaged whistle post, and the railroad shall,
 8 within thirty (30) days after the maintenance of way supervisor is
 9 notified under this subsection, repair or replace the missing or damaged
 10 whistle post.

11 (c) **Except as provided in subsection (d)**, it is unlawful for an
 12 engineer or other person in charge of a locomotive to move the
 13 locomotive, or allow it to be moved, over or across a turnpike, public
 14 highway, or street crossing if the whistle ~~and bell are~~ **is** not in good
 15 working order. **Except as provided in subsection (d)**, it is unlawful for
 16 a railroad company to order or permit a locomotive to be moved over
 17 or across a turnpike, public highway, or street crossing if the whistle
 18 ~~and bell are~~ **is** not in good working order. When a whistle ~~or bell~~ is not
 19 in good working order, the locomotive must stop before each crossing
 20 and proceed only after manual protection is provided at the crossing by
 21 a member of the crew unless manual protection is known to be
 22 provided.

23 **(d) If the bell of a locomotive becomes inoperable after the daily**
 24 **inspection required under 49 CFR 229.21, the locomotive may be**
 25 **operated until the next daily inspection required under 49 CFR**
 26 **229.21.**

27 ~~(d)~~ (e) A city, town, or county may adopt an ordinance to regulate
 28 the sounding of a whistle or the ringing of a bell under subsection (a)
 29 in the city, the town, or the county. However, an ordinance may not
 30 prohibit the sounding of a whistle or the ringing of a bell at a crossing
 31 that does not have an automatic train-activated warning signal as set
 32 forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that
 33 prohibits the sounding of a whistle or the ringing of a bell at a crossing
 34 must require that signs be posted at the crossing to warn the public that
 35 trains do not sound whistles or ring bells at that crossing. Before an
 36 ordinance adopted under this subsection goes into effect, the city, town,
 37 or county must receive the written permission of the department to
 38 regulate the sounding or the ringing. The department shall grant

1 permission only if the department determines, based upon a study
 2 conducted by the department, that the ordinance, as applied to the rail
 3 corridor identified in the ordinance, increases the overall safety of the
 4 corridor for the public. Notwithstanding anything to the contrary in this
 5 subsection, the department shall grant permission to a city or a town to
 6 regulate the sounding of a whistle or the ringing of a bell if the city or
 7 town had an ordinance regulating the sounding of a whistle or the
 8 ringing of a bell that was approved and in effect on January 1, 1991, if
 9 the city or town amended or repealed the ordinance, and if the city or
 10 town adopts a subsequent ordinance on the same subject. In making its
 11 determination during the course of the study, the department shall
 12 consider:

- 13 (1) school bus routes;
- 14 (2) emergency service routes;
- 15 (3) hazardous materials routes;
- 16 (4) pedestrian traffic;
- 17 (5) trespassers;
- 18 (6) recreational facilities;
- 19 (7) trails; and
- 20 (8) measures to increase safety in the corridor, including:
 - 21 (A) four (4) quadrant gates;
 - 22 (B) median barriers;
 - 23 (C) crossing closures;
 - 24 (D) law enforcement programs; and
 - 25 (E) public education.

26 The study by the department required under this subsection must be
 27 completed not later than one hundred twenty (120) days after the
 28 department receives notice of the passage of the ordinance from the
 29 city, town, or county.

30 ~~(e)~~ **(f)** Notwithstanding a contrary provision in an ordinance adopted
 31 under subsection ~~(d)~~; **(e)**, an engineer or other person who is operating
 32 an engine shall sound the engine's whistle if, in the determination of the
 33 engineer or other person who is operating the engine, an apparent
 34 emergency exists.

35 ~~(f)~~ **(g)** A railroad company and the employees of the railroad
 36 company are immune from criminal or civil liability for injury or
 37 property damage that results from an accident that occurs at a crossing
 38 to which an ordinance described in subsection ~~(d)~~ **(e)** applies if the

1 injury or property damage was proximately caused solely by the
2 railroad company and the employees failing to sound a whistle.

3 ~~(g)~~ **(h)** The Indiana department of transportation shall review
4 crossing safety at each crossing to which an ordinance adopted under
5 subsection ~~(d)~~ **(e)** applies not less than one (1) time in a five (5) year
6 period.

7 ~~(h)~~ **(i)** The Indiana department of transportation may not revoke the
8 permission granted under subsection ~~(d)~~ **(e)** for an ordinance.

9 ~~(i)~~ **(j)** The Indiana department of transportation may create pilot
10 railroad crossing safety projects to improve railroad crossing safety.

11 SECTION 3. IC 8-6-4-1.3, AS ADDED BY P.L.220-2011,
12 SECTION 194, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2013]: Sec. 1.3. (a) An ordinance that would be
14 permitted under section ~~1(e)~~ **1(e)** of this chapter, as added by
15 P.L.101-1993, that was adopted before April 27, 1993:

16 (1) is legalized; and

17 (2) may be enforced on May 12, 1993.

18 (b) The Indiana department of transportation shall conduct a review
19 of crossing safety levels at all crossings to which an ordinance
20 legalized under this section applies. ~~The department shall complete a~~
21 ~~study required by this subsection not later than April 27, 1994.~~

22 (c) If the Indiana department of transportation finds, based upon the
23 results of the department's review under subsection (b), that the
24 crossing safety level at a crossing to which an ordinance legalized
25 under this section applies creates an undue risk of harm to the public,
26 the department shall, after consulting with the railroad and the
27 municipality, develop a program to increase crossing safety to an
28 acceptable level, as determined by the department, at the crossing.

29 (d) A program to increase crossing safety under subsection (c) must
30 be decided after an evaluation of all remedies available to the Indiana
31 department of transportation and the costs and benefits of each remedy.
32 The department must consider the following in an evaluation of the
33 costs and benefits of each remedy upon the municipality:

34 (1) The degree to which the remedy is likely to increase safety at
35 the crossing.

36 (2) The economic impact of the cost of the remedy, including
37 possible cost-sharing mechanisms.

38 (3) The impact of the remedy upon the environment in the

1 municipality.
2 SECTION 4. IC 34-30-2-24.4, AS AMENDED BY
3 P.L.182-2009(ss), SECTION 509, IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 24.4. ~~IC 8-6-4-1(f)~~
5 **IC 8-6-4-1(g)** (Concerning a railroad company and its employees for
6 injury or property damage resulting from certain accidents).".
7 Delete pages 2 through 3.
8 Renumber all SECTIONS consecutively.
 (Reference is to HB 1310 as introduced.)

and when so amended that said bill do pass.

Representative Soliday