

As Introduced

125th General Assembly
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H. B. No. 247

Representative T. Patton

A B I L L

To enact sections 4955.41 to 4955.49 of the Revised Code to authorize the establishment of demonstration railroad quiet zones in specified Ohio cities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4955.41, 4955.42, 4955.43, 4955.44, 4955.45, 4955.46, 4955.47, 4955.48, and 4955.49 of the Revised Code be enacted to read as follows:

Sec. 4955.41. As used in sections 4955.41 to 4955.49 of the Revised Code:

(A) "Alternative safety measure" means an alternative safety measure, and the guidelines for the use and operation of that measure, that are prescribed in 49 C.F.R. 222.41(b) and (e) and Appendices (A) and (B), as set forth in 65 F.R. 2230 to 2270.

(B) "Railroad quiet zone" means either of the following:

(1) A designated area including and adjacent to one or more consecutive public grade crossings at which all of the conditions specified in 49 C.F.R. 222.41(c) and Appendix (C), as set forth in 65 F.R. 2230 to 2270, are met;

(2) A designated area including and adjacent to one or more consecutive public grade crossings that are equipped with

automatic gates and lights that conform to the manual on uniform traffic control devices and for which one or more supplemental or alternative safety measures are implemented and used pursuant to sections 4955.41 to 4955.49 of the Revised Code.

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(C) "Supplemental safety measure" means a supplementary safety measure, and the guidelines for the use and operation of that measure, that are prescribed in 49 C.F.R. 222.41(a) and (e) and Appendix (A), as set forth in 65 F.R. 2230 to 2270.

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Sec. 4955.42. Only the following municipal corporations, in accordance with sections 4955.41 to 4955.49 of the Revised Code, may establish demonstration railroad quiet zones within their respective jurisdictions: Strongsville, Berea, Brook Park, Brooklyn, and Olmsted Falls.

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Sec. 4955.43. A municipal corporation specified in section 4955.42 of the Revised Code may establish one or more demonstration railroad quiet zones described in division (B)(1) of section 4955.41 of the Revised Code only after the enactment, prior to the effective date of initial regulations adopted pursuant to the "Swift Rail Development Act," Pub. L. No. 103-440, 108 Stat. 4615, 49 U.S.C. 20153, of an ordinance authorizing each zone.

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Sec. 4955.44. A municipal corporation specified in section 4955.42 of the Revised Code may establish within its jurisdiction one or more demonstration railroad quiet zones implementing and using one or more supplemental safety measures, only after the enactment, prior to the effective date of initial regulations adopted pursuant to the "Swift Rail Development Act," Pub. L. No. 103-440, 108 Stat. 4615, 49 U.S.C. 20153, of an ordinance authorizing each zone.

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Sec. 4955.45. (A) A municipal corporation specified in 50
section 4955.42 of the Revised Code may establish within its 51
jurisdiction one or more demonstration railroad quiet zones 52
implementing and using one or more alternative safety measures, 53
only after the enactment, prior to the effective date of initial 54
regulations adopted pursuant to the "Swift Rail Development Act," 55
Pub. L. No. 103-440, 108 Stat. 4615, 49 U.S.C. 20153, of an 56
ordinance authorizing each zone and subject to public utilities 57
commission approval under this section. 58

(B) Following enactment of an ordinance under division (A) of 59
this section, the municipal corporation may file with the 60
commission an application for commission approval of the 61
demonstration railroad quiet zone authorized pursuant to the 62
ordinance. The application shall be in such form and contain such 63
information as the commission specifies. Two or more of the 64
municipal corporations specified in section 4955.42 of the Revised 65
Code may file a joint application for commission approval of 66
demonstration quiet zones within their respective jurisdictions. 67

(C) Upon the filing of an application under division (B) of 68
this section, the commission shall authorize a limited period for 69
the filing of comments by any party regarding the application. 70
After considering any such comments and only by order issued prior 71
to the effective date of initial regulations adopted pursuant to 72
the "Swift Rail Development Act," Pub. L. No. 103-440, 108 Stat. 73
4615, 49 U.S.C. 20153, the commission shall approve the 74
application, or approve it with conditions, and so authorize a 75
demonstration railroad quiet zone for the municipal corporation or 76
corporations if the commission finds that the alternative safety 77
measures proposed for each public crossing included in the zone 78
comply with the guidelines for the use and operation of those 79
measures as set forth in Appendices (A) and (B) of 65 F.R. 2230 to 80

2270 and are appropriate and adequate for the crossing. If the
commission disapproves all or part of an application as to a
particular crossing, the commission's order shall state the
findings and reasons for disapproval. Nothing in this section
precludes the subsequent filing of a substantially modified
application by the municipal corporation.

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Sec. 4955.46. (A) At least ninety days prior to the date of
first operation of a demonstration railroad quiet zone established
pursuant to section 4955.43, 4955.44, or 4955.45 of the Revised
Code, the municipal corporation shall provide detailed, written
notice of the established zone by certified mail, return receipt
requested, to each railroad operating over a public grade crossing
included in the zone, the highway or traffic control authority or
law enforcement authority having responsibility for control of
vehicular traffic at the crossings, the public utilities
commission, the director of public safety, and the associate
administrator for safety for the federal railroad administration.

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(B) For each demonstration railroad quiet zone established
pursuant to section 4955.43, 4955.44, or 4955.45 of the Revised
Code, the commission shall issue an order expressly prohibiting
any engineer or other person in charge of a locomotive from
sounding any locomotive whistle, horn, bell, or other audible
warning device within the distance of each public crossing in the
zone, as that distance is designated pursuant to the ordinance and
subsequently specified in the order or, in the case of a zone
established pursuant to section 4955.45 of the Revised Code, as
that distance is specified in the commission's order issued under
that section.

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Sec. 4955.47. (A) On and after the date of first operation of
a demonstration railroad quiet zone established pursuant to

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section 4955.43, 4955.44, or 4955.45 of the Revised Code, 111
divisions (B)(1) and (2) of section 4955.32 and division (A)(2) of 112
section 4999.04 of the Revised Code do not apply with respect to a 113
public grade crossing included in the zone. 114

(B) The establishment of a demonstration railroad quiet zone 115
pursuant to sections 4955.41 to 4955.49 of the Revised Code does 116
not preclude the sounding of a locomotive whistle, horn, bell, or 117
other audible device by an engineer or other person in charge of 118
the locomotive to address a perceived potential for injury, death, 119
or loss to person or property, as determined by the sole judgment 120
of the engineer or other person. 121

Sec. 4955.48. (A) Each municipal corporation that has 122
established a demonstration railroad quiet zone pursuant to 123
sections 4955.41 to 4955.49 of the Revised Code shall submit a 124
report to the commission every three years after the date of first 125
operation of the zone. The report shall be in such form and 126
contain such information as the commission shall prescribe by 127
rule, including, but not limited to, information on the number of 128
traffic citations issued at the crossing, roadway traffic counts 129
at the crossing, and changes to the crossing and roadway due to 130
construction or improvements. 131

(B) Once every three years after the date of first operation 132
of a demonstration railroad quiet zone established pursuant to 133
section 4955.45 of the Revised Code, the public utilities 134
commission shall inspect each public grade crossing in the zone 135
and issue a report documenting the compliance of the zone with the 136
commission order issued under that section. The commission also 137
may inspect such a crossing at any other time. 138

(C) The commission at any time and by order, after notice and 139
opportunity for the filing of comments, may require at a public 140

grade crossing in a demonstration railroad quiet zone established 141
pursuant to section 4955.45 of the Revised Code the implementation 142
and use of such safety measures as it considers necessary and 143
appropriate to ensure that safety measures are appropriate and 144
adequate for the crossing or to ensure compliance with an order 145
issued under division (C) of that section or with the guidelines 146
for the use and operation of those measures as set forth in 147
Appendices (A) and (B) of 65 F.R. 2230 to 2270, including to the 148
extent such guidelines are applicable upon any adoption of 149
regulations pursuant to the "Swift Rail Development Act," Pub. L. 150
No. 103-440, 108 Stat. 4615, 49 U.S.C. 20153. 151

Sec. 4955.49. (A) Notwithstanding any other provision of law, 152
the designation, establishment, design, construction, 153
implementation, operation, repair, or maintenance of, or the lack 154
of any of the preceding for, a public grade crossing included in a 155
demonstration railroad quiet zone established pursuant to sections 156
4955.41 to 4955.49 of the Revised Code is a governmental function 157
under section 2744.01 of the Revised Code. 158

(B) Sections 9.85 to 9.87 and Chapter 2743. of the Revised 159
Code specify the liability of this state or an officer or employee 160
of this state with respect to a civil action brought for a 161
violation of any provision of sections 4955.41 to 4955.49 of the 162
Revised Code or any order issued under those sections. As used in 163
this division, "state" has the same meaning as in section 2743.01 164
of the Revised Code, and "officer or employee" has the same 165
meaning as in section 9.85 of the Revised Code. 166

(C) Nothing in sections 4955.41 to 4955.49 of the Revised 167
Code authorizes, obligates, or requires the payment by a railroad 168
or this state of any part of the costs of establishing such a 169
demonstration railroad quiet zone. 170