

**As Passed by the House**

**125th General Assembly  
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2003-2004**

**Sub. H. B. No. 247**

**Representatives T. Patton, Perry, Price, S. Patton, Schlichter, McGregor, Key,  
Reinhard, Widowfield, Cirelli, Core, Daniels, DeBose, Domenick, Fessler,  
Flowers, Hoops, Hughes, Jolivette, Kearns, Kilbane, Latta, Martin, Miller,  
Raussen, Schmidt, Schneider, Setzer, Skindell, S. Smith, J. Stewart, Walcher,  
Webster, Wilson**

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**A B I L L**

To enact sections 4955.41 to 4955.47 of the Revised Code to authorize the establishment of railroad quiet zones by municipal corporations and townships. 1  
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**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, and 4955.47 of the Revised Code be enacted to read as follows: 5  
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**Sec. 4955.41.** As used in sections 4955.41 to 4955.47 of the Revised Code: 8  
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(A) "Railroad quiet zone" means 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 safety measures are implemented and used pursuant to sections 4955.41 to 4955.47 of the Revised Code. 10  
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(B) "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.

**Sec. 4955.42.** (A) A municipal corporation or township may establish within its jurisdiction one or more railroad quiet zones implementing and using one or more supplemental safety measures, through the enactment or adoption, after 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 or resolution authorizing each zone and subject to public utilities commission approval under this section.

(B)(1) Following enactment of an ordinance or resolution under division (A) of this section, the municipal corporation or township shall send a detailed written notice by certified mail, return receipt requested, to each railroad operating over a public grade crossing within the quiet zone. The notice shall request the railroad to give a written reply that includes its comments about the quiet zone and details any concerns the railroad has with any aspect of the quiet zone. The notice shall inform the railroad that if the municipal corporation or township does not receive the railroad's written reply within sixty days of the date of delivery of the notice, the municipal corporation or township is permitted to submit its application for approval of the quiet zone to the commission without the railroad's written reply and inform the commission that it provided the written notice as required by this section but that the railroad did not reply in a timely manner.

(2) The municipal corporation or township then may file with the commission an application for commission approval of the railroad quiet zone authorized pursuant to the ordinance or

resolution. The application shall be in such form and contain such  
information as the commission specifies. All applications also  
shall include all of the following:

(a) The written reply described in division (B)(1) of this  
section, if any, from each railroad operating over a public grade  
crossing located within the quiet zone. If there is a written  
reply and it contains concerns that the railroad has about any  
aspect of the quiet zone, the municipal corporation or township  
shall include a written statement explaining how it will meet  
those concerns.

(b) A written statement from the federal railroad  
administration, stating that the agency has no objection to the  
establishment of the quiet zone;

(c) If a municipal corporation or township makes application  
under this division and wishes to pay all or part of the cost of  
the installation or maintenance of supplemental safety measures at  
a highway grade crossing located within the quiet zone in an  
adjoining municipal corporation or township, a written statement  
from the adjoining municipal corporation or township agreeing to  
that arrangement;

(d) A list of the private grade crossings, if any, that are  
located within the quiet zone, and a description of how the  
municipal corporation or township will ensure the safety of those  
who utilize those private grade crossings if the commission  
approves the quiet zone.

(3) Any combination of municipal corporations and townships  
may file a joint application for commission approval of quiet  
zones within their respective jurisdictions.

(C) Upon the filing of an application under division (B) of  
this section, the commission shall authorize a limited period for  
the filing of comments by any party regarding the application.

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After considering any such comments and only by order issued after  
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, the commission may approve the application,  
approve it with conditions, or reject the application. If the  
application is complete and otherwise meets all the requirements  
of this section, the commission shall approve the railroad quiet  
zone if the commission finds that instituting the proposed quiet  
zone will increase the overall safety of the rail line for the  
public and that the supplemental safety measures proposed for each  
public crossing included in the zone comply with the guidelines  
for the use and operation of those measures as set forth in  
Appendix (A) of 65 F.R. 2230 to 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 or township.

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The commission shall reject an application that does not  
include the documents described in divisions (B)(2)(a), (b), and,  
if applicable, (B)(2)(c) and (d) of this section. If the  
application includes a written reply and a written statement  
described in division (B)(2)(a) of this section, the commission  
shall reject the application if the commission finds that the  
statement from the municipal corporation or township does not  
adequately address the concerns of the railroad contained in the  
railroad's written reply. If the application includes a statement  
described in division (B)(2)(d) of this section, the commission  
shall reject the application if the commission finds that the  
application does not adequately address the issue of the safety of  
those persons who will utilize the private grade crossings located

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within the quiet zone if the commission approves its creation.

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**Sec. 4955.43.** (A) At least ninety days prior to the date of first operation of a railroad quiet zone established pursuant to section 4955.42 of the Revised Code, the municipal corporation or township 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 railroad quiet zone established pursuant to section 4955.42 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 in the order of the commission.

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**Sec. 4955.44.** (A) On and after the date of first operation of a railroad quiet zone established pursuant to section 4955.42 of the Revised Code, divisions (B)(1) and (2) of section 4955.32 and division (A)(2) of section 4999.04 of the Revised Code do not apply with respect to a public or private grade crossing included in the zone.

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(B) The establishment of a railroad quiet zone pursuant to sections 4955.41 to 4955.47 of the Revised Code does not preclude the sounding of a locomotive whistle, horn, bell, or other audible device by an engineer or other person in charge of the locomotive to address a perceived potential for injury, death, or loss to

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person or property, as determined by the sole judgment of the 140  
engineer or other person. 141

(C) The commission may suspend summarily the operation of a 142  
quiet zone established pursuant to section 4955.42 of the Revised 143  
Code if the commission, through any source, obtains sufficient, 144  
credible evidence showing that a condition at a public grade 145  
crossing located within a quiet zone has changed to such an extent 146  
that, even with the continuing existence of the supplemental 147  
safety measures at the crossing, the quiet zone no longer 148  
qualifies as such under federal law or the commission determines 149  
that public safety is otherwise compromised at the crossing. 150  
Within fifteen days following the quiet zone suspension date 151  
described in this division, the commission shall hold a hearing in 152  
the general vicinity of the quiet zone in question to determine 153  
whether the quiet zone suspension should be lifted or continued, 154  
or whether commission approval of the quiet zone should be 155  
rescinded and the quiet zone eliminated. 156

**Sec. 4955.45.** (A) Each municipal corporation or township that 157  
has established a railroad quiet zone pursuant to sections 4955.41 158  
to 4955.47 of the Revised Code shall submit a report to the 159  
commission every three years after the date of first operation of 160  
the zone. The report shall be in such form and contain such 161  
information as the commission shall prescribe by rule, including, 162  
but not limited to, information on the number of traffic citations 163  
issued at the crossing, roadway traffic counts at the crossing, 164  
and changes to the crossing and roadway due to construction or 165  
improvements. 166

(B) Once every three years after the date of first operation 167  
of a railroad quiet zone established pursuant to section 4955.42 168  
of the Revised Code, the public utilities commission shall inspect 169  
each public grade crossing in the zone and issue a report 170

documenting the compliance of the zone with the commission order 171  
issued under that section. The commission also may inspect such a 172  
crossing at any other time. 173

(C) The commission at any time and by order, after notice and 174  
opportunity for the filing of comments, may require at a public 175  
grade crossing in a railroad quiet zone established pursuant to 176  
section 4955.42 of the Revised Code the implementation and use of 177  
such safety measures as it considers necessary and appropriate to 178  
ensure that safety measures are appropriate and adequate for the 179  
crossing or to ensure compliance with an order issued under 180  
division (C) of that section or with the guidelines for the use 181  
and operation of those measures as set forth in Appendix (A) of 65 182  
F.R. 2230 to 2270, including to the extent such guidelines are 183  
applicable upon any adoption of regulations pursuant to the "Swift 184  
Rail Development Act," Pub. L. No. 103-440, 108 Stat. 4615, 49 185  
U.S.C. 20153. 186

Sec. 4955.46. (A) Notwithstanding any other provision of law, 187  
the designation, establishment, design, construction, 188  
implementation, operation, repair, or maintenance of, or the lack 189  
of any of the preceding for, a public grade crossing included in a 190  
railroad quiet zone established pursuant to sections 4955.41 to 191  
4955.47 of the Revised Code is a governmental function under 192  
section 2744.01 of the Revised Code. 193

(B) Sections 9.85 to 9.87 and Chapter 2743. of the Revised 194  
Code specify the liability of this state or an officer or employee 195  
of this state with respect to a civil action brought for a 196  
violation of any provision of sections 4955.41 to 4955.47 of the 197  
Revised Code or any order issued under those sections. As used in 198  
this division, "state" has the same meaning as in section 2743.01 199  
of the Revised Code, and "officer or employee" has the same 200  
meaning as in section 9.85 of the Revised Code. 201

(C) Nothing in sections 4955.41 to 4955.47 of the Revised Code obligates or requires the payment by a railroad of any part of the costs of establishing or maintaining such a railroad quiet zone. 202  
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(D) If, prior to the creation of a railroad quiet zone, a railroad is paying any part of the maintenance costs of a railroad grade crossing protective device then in existence at a railroad grade crossing located within the quiet zone, the railroad shall continue to pay those maintenance costs after the approval by the commission of the quiet zone, but the railroad is not required to pay any of the additional costs associated with the installation or maintenance of any protective device installed thereafter at the railroad grade crossing due to the creation of the quiet zone. 206  
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(E) No money appropriated to the public utilities commission that is to be used to pay the costs of measures taken to increase the safety of the traveling public at a public railroad grade crossing shall be diverted from such use after the effective date of this section to pay any of the costs associated with the establishment of a railroad quiet zone, including money in the grade crossing protection fund created by section 4907.472 of the Revised Code. 215  
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**Sec. 4955.47.** No railroad company and no employee or agent of the company shall be charged, or is liable in damages to person or property, for any failure to sound an audible warning by whistle, horn, bell, or other audible warning device at a public or private grade crossing equipped in accordance with division (B)(2) of section 4955.32 of the Revised Code or located in a railroad quiet zone established pursuant to section 4955.42 of the Revised Code or in a jurisdiction in which such sounding is restricted or prohibited by law. 223  
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**Section 2.** Notwithstanding division (A) of section 4955.42 of 232



the Revised Code as enacted by this act, demonstration quiet zones 233  
may be established after the effective date of this act but prior 234  
to the effective date of initial federal regulations described in 235  
that division. Only the following portions of railroad lines are 236  
eligible to have demonstration quiet zones established on them: 237

(A) The Chicago Line of the Norfolk Southern Corporation, 238  
from the point where that line enters the municipal corporation of 239  
Brook Park in the north and ending where the line exits the 240  
municipal corporation of North Ridgeville in the west. 241

(B) The Short Line of the CSX Railroad, from the point where 242  
that line enters the municipal corporation of Brooklyn in the east 243  
and ending where the line exits the municipal corporation of 244  
Olmsted Falls in the south. 245

(C) The Old B&O Line of the CSX Railroad, from the point 246  
where that line enters the municipal corporation of Brooklyn in 247  
the east and ending where the line exits the municipal corporation 248  
of Strongsville in the west. 249

Except as provided in this section, sections 4955.41 to 250  
4955.47 of the Revised Code as enacted by this act apply to all 251  
demonstration quiet zones created pursuant to this section. 252