

**As Passed by the Senate**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Am. 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  
Senators Spada, Armbruster, Brady, Robert Gardner, Harris, Roberts, Hagan,  
DiDonato**

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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.

**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:

**Sec. 4955.41.** As used in sections 4955.41 to 4955.47 of the Revised Code:

(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.

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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.

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**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.

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(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.

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(2) The municipal corporation or township then may file with the commission an application for commission approval of the

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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.  
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 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 49 C.F.R. part 222 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.

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  
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.

(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.

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.

(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 person or property, as determined by the sole judgment of the

engineer or other person.

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

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

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

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issued under that section. The commission also may inspect such a 170  
crossing at any other time. 171

(C) The commission at any time and by order, after notice and 172  
opportunity for the filing of comments, may require at a public 173  
grade crossing in a railroad quiet zone established pursuant to 174  
section 4955.42 of the Revised Code the implementation and use of 175  
such safety measures as it considers necessary and appropriate to 176  
ensure that safety measures are appropriate and adequate for the 177  
crossing or to ensure compliance with an order issued under 178  
division (C) of that section or with the guidelines for the use 179  
and operation of those measures as set forth in Appendix (A) of 65 180  
F.R. 2230 to 2270, including to the extent such guidelines are 181  
applicable upon any adoption of regulations pursuant to the "Swift 182  
Rail Development Act," Pub. L. No. 103-440, 108 Stat. 4615, 49 183  
U.S.C. 20153. 184

**Sec. 4955.46.** (A) Notwithstanding any other provision of law, 185  
the designation, establishment, design, construction, 186  
implementation, operation, repair, or maintenance of, or the lack 187  
of any of the preceding for, a public grade crossing included in a 188  
railroad quiet zone established pursuant to sections 4955.41 to 189  
4955.47 of the Revised Code is a governmental function under 190  
section 2744.01 of the Revised Code. 191

(B) Sections 9.85 to 9.87 and Chapter 2743. of the Revised 192  
Code specify the liability of this state or an officer or employee 193  
of this state with respect to a civil action brought for a 194  
violation of any provision of sections 4955.41 to 4955.47 of the 195  
Revised Code or any order issued under those sections. As used in 196  
this division, "state" has the same meaning as in section 2743.01 197  
of the Revised Code, and "officer or employee" has the same 198  
meaning as in section 9.85 of the Revised Code. 199

(C) Nothing in sections 4955.41 to 4955.47 of the Revised 200

Code obligates or requires the payment by a railroad of any part 201  
of the costs of establishing or maintaining such a railroad quiet 202  
zone. 203

(D) If, prior to the creation of a railroad quiet zone, a 204  
railroad is paying any part of the maintenance costs of a railroad 205  
grade crossing protective device then in existence at a railroad 206  
grade crossing located within the quiet zone, the railroad shall 207  
continue to pay those maintenance costs after the approval by the 208  
commission of the quiet zone, but the railroad is not required to 209  
pay any of the additional costs associated with the installation 210  
or maintenance of any protective device installed thereafter at 211  
the railroad grade crossing due to the creation of the quiet zone. 212

(E) Except as provided in division (F) of this section, no 213  
money appropriated by the general assembly to pay the costs of 214  
measures taken to increase the safety of the traveling public at a 215  
public railroad grade crossing shall be diverted from such use 216  
after the effective date of this section to pay any of the costs 217  
associated with the establishment of a railroad quiet zone, 218  
including money in the grade crossing protection fund created by 219  
section 4907.472 of the Revised Code. 220

(F) State grade crossing safety funds may be used to pay part 221  
of the costs of additional safety improvements required to 222  
establish a railroad quiet zone when the municipal corporation or 223  
township establishing the quiet zone complies with sections 224  
4955.41 to 4955.47 of the Revised Code if either of the following 225  
circumstances exist: 226

(1) The municipal corporation or township closes a public 227  
grade crossing in the same railroad corridor as the railroad quiet 228  
zone. 229

(2) The department of transportation has selected the 230  
municipal corporation or township as a participant in the grade 231



separation program along the same railroad corridor as the 232  
railroad quiet zone. 233

(G) No political subdivision of the state may use state funds 234  
of any kind to assist in the planning, construction, development, 235  
operation, or maintenance of a railroad quiet zone unless the 236  
political subdivision acts in accordance with sections 4955.41 to 237  
4955.47 of the Revised Code. 238

**Sec. 4955.47.** No railroad company and no employee or agent of 239  
the company shall be charged, or is liable in damages to person or 240  
property, for any failure to sound an audible warning by whistle, 241  
horn, bell, or other audible warning device at a public or private 242  
grade crossing equipped in accordance with division (B)(2) of 243  
section 4955.32 of the Revised Code or located in a railroad quiet 244  
zone established pursuant to section 4955.42 of the Revised Code 245  
or in a jurisdiction in which such sounding is restricted or 246  
prohibited by law. 247

**Section 2.** Notwithstanding division (A) of section 4955.42 of 248  
the Revised Code as enacted by this act, demonstration quiet zones 249  
may be established after the effective date of this act but prior 250  
to the effective date of initial federal regulations described in 251  
that division. Only the following portions of railroad lines are 252  
eligible to have demonstration quiet zones established on them: 253

(A) The Chicago Line of the Norfolk Southern Corporation, 254  
from the point where that line enters the municipal corporation of 255  
Brook Park in the north and ending where the line exits the 256  
municipal corporation of North Ridgeville in the west. 257

(B) The Short Line of the CSX Railroad, from the point where 258  
that line enters the municipal corporation of Brooklyn in the east 259  
and ending where the line exits the municipal corporation of 260  
Olmsted Falls in the south. 261

(C) The Old B&O Line of the CSX Railroad, from the point 262  
where that line enters the municipal corporation of Brooklyn in 263  
the east and ending where the line exits the municipal corporation 264  
of Strongsville in the west. 265

Except as provided in this section, sections 4955.41 to 266  
4955.47 of the Revised Code as enacted by this act apply to all 267  
demonstration quiet zones created pursuant to this section. 268