

**As Reported by the Senate Highways and Transportation
Committee**

**125th General Assembly
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Am. Sub. H. B. No. 247

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Webster, Wilson**

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.

(B) "Supplemental safety measure" means a supplementary 16
safety measure, and the guidelines for the use and operation of 17
that measure, that are prescribed in 49 C.F.R. 222.41(a) and (e) 18
and Appendix (A), as set forth in 65 F.R. 2230 to 2270. 19

Sec. 4955.42. (A) A municipal corporation or township may 20
establish within its jurisdiction one or more railroad quiet zones 21
implementing and using one or more supplemental safety measures, 22
through the enactment or adoption, after the effective date of 23
initial regulations adopted pursuant to the "Swift Rail 24
Development Act," Pub. L. No. 103-440, 108 Stat. 4615, 49 U.S.C. 25
20153, of an ordinance or resolution authorizing each zone and 26
subject to public utilities commission approval under this 27
section. 28

(B)(1) Following enactment of an ordinance or resolution 29
under division (A) of this section, the municipal corporation or 30
township shall send a detailed written notice by certified mail, 31
return receipt requested, to each railroad operating over a public 32
grade crossing within the quiet zone. The notice shall request the 33
railroad to give a written reply that includes its comments about 34
the quiet zone and details any concerns the railroad has with any 35
aspect of the quiet zone. The notice shall inform the railroad 36
that if the municipal corporation or township does not receive the 37
railroad's written reply within sixty days of the date of delivery 38
of the notice, the municipal corporation or township is permitted 39
to submit its application for approval of the quiet zone to the 40
commission without the railroad's written reply and inform the 41
commission that it provided the written notice as required by this 42
section but that the railroad did not reply in a timely manner. 43

(2) The municipal corporation or township then may file with 44
the commission an application for commission approval of the 45
railroad quiet zone authorized pursuant to the ordinance or 46

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.

Sec. 4955.43. (A) At least ninety days prior to the date of 109
first operation of a railroad quiet zone established pursuant to 110
section 4955.42 of the Revised Code, the municipal corporation or 111
township shall provide detailed, written notice of the established 112
zone by certified mail, return receipt requested, to each railroad 113
operating over a public grade crossing included in the zone, the 114
highway or traffic control authority or law enforcement authority 115
having responsibility for control of vehicular traffic at the 116
crossings, the public utilities commission, the director of public 117
safety, and the associate administrator for safety for the federal 118
railroad administration. 119

(B) For each railroad quiet zone established pursuant to 120
section 4955.42 of the Revised Code, the commission shall issue an 121
order expressly prohibiting any engineer or other person in charge 122
of a locomotive from sounding any locomotive whistle, horn, bell, 123
or other audible warning device within the distance of each public 124
crossing in the zone, as that distance is designated in the order 125
of the commission. 126

Sec. 4955.44. (A) On and after the date of first operation of 127
a railroad quiet zone established pursuant to section 4955.42 of 128
the Revised Code, divisions (B)(1) and (2) of section 4955.32 and 129
division (A)(2) of section 4999.04 of the Revised Code do not 130
apply with respect to a public or private grade crossing included 131
in the zone. 132

(B) The establishment of a railroad quiet zone pursuant to 133
sections 4955.41 to 4955.47 of the Revised Code does not preclude 134
the sounding of a locomotive whistle, horn, bell, or other audible 135
device by an engineer or other person in charge of the locomotive 136
to address a perceived potential for injury, death, or loss to 137
person or property, as determined by the sole judgment of the 138

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
crossing at any other time.

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

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

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

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

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

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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.

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(E) Except as provided in division (F) of this section, no
money appropriated by the general assembly 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.

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

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

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

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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