

1 AN ACT relating to railroad crossings.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 178 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) As used in this section, "local government" means a city, county, urban-county*
6 *government, charter county government, consolidated local government, or*
7 *unified local government.*

8 *(2) Local governments and railroad companies, at the request of either, may pursue*
9 *agreements to close public railroad grade crossings. A railroad's request to a*
10 *local government to close a crossing shall be considered a petition within the*
11 *meaning of this section.*

12 *(3) If a local government denies a railroad's petition to close a public crossing within*
13 *its jurisdiction, the railroad may request an administrative hearing to be*
14 *conducted by the Transportation Cabinet pursuant to KRS Chapter 13B.*

15 *(4) (a) Except as provided in paragraph (b) of this subsection, the cabinet shall*
16 *issue an order abolishing the crossing under Section 2 of this Act if, after*
17 *reviewing the findings of the local government on the petition, it determines*
18 *that the crossing meets the criteria for closure as set forth under Section 2*
19 *of this Act.*

20 *(b) A crossing which meets the criteria for closure as set forth under Section 2*
21 *of this Act may be ordered to remain open if a compelling reason can be*
22 *shown by the local government for the crossing to remain open.*

23 *(5) The closure decision of the cabinet may be appealed by either affected party to the*
24 *Franklin Circuit Court in the manner provided by KRS Chapter 13B.*

25 ➔Section 2. KRS 177.120 is amended to read as follows:

26 (1) Whenever the *cabinet*~~department~~ considers it necessary for the public safety, it
27 may order any railroad company owning or operating a railroad in this state, to

1 eliminate any grade crossing or change any existing overhead or underpass structure
2 where any public road crosses the railroad tracks of the company. The
3 cabinet~~[department]~~ may determine whether a substitute crossing should be
4 established and if so, the location of the crossing to be substituted, and whether it
5 shall pass over or under the railroad tracks or intersect them at grade.

6 (2) In accordance with this section, the cabinet may~~[department shall]~~ promulgate
7 administrative regulations~~[by December 1, 1992]~~, that contain standards governing
8 the closure of public grade crossings. ~~[In adopting standards,]~~When considering a
9 public grade crossing as a candidate for closure, the cabinet~~[department]~~ shall
10 request and consider written comments from affected local governments and shall
11 consider that the number of redundant and inherently dangerous grade crossings in
12 this state should be reduced and that public safety will be enhanced by reducing the
13 number of redundant and inherently dangerous grade crossings.

14 (3) The cabinet may consider any railroad crossing as a candidate for closure when:
15 (a) An alternate railroad crossing is available within one-quarter (1/4) road
16 mile in urban areas and the railroad crossing has a current average daily
17 traffic count of five hundred (500) vehicles or less;
18 (b) An alternate railroad crossing is available within one (1) road mile in rural
19 areas and the railroad crossing has a current average daily traffic count of
20 two hundred fifty (250) vehicles or less; or
21 (c) The railroad crossing has sight distance obstructions or other layout
22 characteristics which create unsafe conditions and closure of the railroad
23 crossing is an economically preferable alternative to correcting the
24 deficiencies at the site, and an alternate crossing is available as required in
25 paragraphs (a) and (b) of this subsection~~[On or before July 1, 1993, and on~~
26 ~~or before July 1 of each of the next four (4) years, and As necessary thereafter,~~
27 ~~the department shall compose a list of grade crossings proposed to be closed.~~

1 ~~The list shall be developed by applying the standards set forth in the~~
2 ~~administrative regulations adopted under subsection (2) of this section. Grade~~
3 ~~crossings that are part of an abandonment, closing, or removal shall not be~~
4 ~~included in the list. The department shall notify the public officials having the~~
5 ~~necessary authority and the railway companies operating the railroads of the~~
6 ~~proposed closures. Either affected party may request a public hearing, and if~~
7 ~~requested, the department shall hold a public hearing and apply in its~~
8 ~~determination the information gained at the public hearing and administrative~~
9 ~~regulations developed under subsection (2) of this section. If after the hearing~~
10 ~~the department determines that closure is warranted, it may order the crossing~~
11 ~~closed.~~

12 (4) *In making its findings and conclusions on whether to close a crossing, the*
13 *cabinet shall consider the following criteria to the crossing decision under*
14 *consideration:*

15 *(a) The crossing is located where passenger train service operates at greater*
16 *than ten (10) miles per hour under the Federal Railroad Administration*
17 *accepted track classification. In cases where passenger service does not*
18 *operate, this criterion is not applicable;*

19 *(b) The crossing has an accident prediction rate of fifteen one-thousandths*
20 *(.015) or higher, as determined by the Federal Railroad Administration*
21 *accident prediction methodology, as set forth in the Rail-Highway Crossing*
22 *Resource Allocation Procedure, Third Edition, August 1987;*

23 *(c) The crossing has an average annual daily traffic count of two hundred fifty*
24 *(250) or less within rural areas or five hundred (500) or less within*
25 *urbanized areas, where the traffic collection procedure is completed by*
26 *guidance provided in the Federal Highway Administration's Traffic*
27 *Monitoring Guide, Third Edition, February 1995. This requirement shall*

- 1 not be applicable when it refers to a nonmotorized public grade crossing;
- 2 (d) The posted or established speed limit on the road through the crossing
- 3 exceeds ten (10) miles per hour within one thousand (1,000) feet of the
- 4 crossing. This requirement shall not be applicable when it refers to a
- 5 nonmotorized public grade crossing;
- 6 (e) The number of train movements per day across the crossing;
- 7 (f) The crossing is located where freight train service operates at greater than
- 8 twenty-five (25) miles per hour (Class 2 Federal Railroad Administration
- 9 track classification or higher);
- 10 (g) Crossbucks serve as the only warning device at the crossing;
- 11 (h) The roadway approach to the crossing is skewed or the physical
- 12 characteristics of the crossing otherwise limit the ability to traverse the
- 13 crossing in a safe manner; and
- 14 (i) If the crossing is utilized by the following types of vehicles, then the use by
- 15 such vehicles should be considered in determining whether a crossing stays
- 16 open or is closed. The presence or lack of presence of any of the following
- 17 types of vehicles shall not solely be responsible for closure or nonclosure of
- 18 a crossing:
- 19 1. Trucks carrying hazardous materials;
- 20 2. Vehicles carrying passengers for hire; and
- 21 3. School buses.

22 (5) If a request for a hearing on a particular crossing is not received within thirty (30)

23 days of notice of the opportunity for a public hearing advertised pursuant to the

24 requirements of KRS Chapter 424, the cabinet~~[department]~~ shall order the crossing

25 closed.