

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 177 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 written request*
10 *to a local government to close a crossing shall be considered a petition within the*
11 *meaning of this section.*

12 *(3) Within thirty (30) days following the receipt of a petition under subsection (2) of*
13 *this section, the local government's legislative body shall make a determination*
14 *whether the railroad crossing is eligible for closure according to the criteria in*
15 *subsection (4) of this section.*

16 *(4) A railroad crossing shall be eligible for closure if it meets any of the following*
17 *criteria:*

18 *(a) An alternate railroad crossing is available within one-quarter (1/4) road*
19 *mile in urban areas and the railroad crossing has a current average daily*
20 *traffic count of five hundred (500) vehicles or less;*

21 *(b) An alternate railroad crossing is available within one (1) road mile in rural*
22 *areas, and the railroad crossing has a current average daily traffic count of*
23 *two hundred fifty (250) vehicles or less; or*

24 *(c) The railroad crossing has sight distance obstructions or other layout*
25 *characteristics which create unsafe conditions, and closure of the railroad*
26 *crossing is an economically preferable alternative to correcting the*
27 *deficiencies at the site, and an alternate crossing is available as required in*

1 paragraphs (a) and (b) of this subsection.

2 (5) If a railroad crossing meets any of the criteria in subsection (4) of this section,
3 the local government's legislative body shall make a final determination on the
4 petition within sixty (60) days of making the eligibility determination. In making
5 its findings and conclusions on whether to close a crossing, the local government
6 legislative body shall consider whether the crossing has met at least one (1) of the
7 following criteria in each of paragraphs (a), (b), (c), and (d) of this subsection:

8 (a) 1. The crossing is located where passenger train service operates at
9 greater than twenty-five (25) miles per hour under the Class 2 Federal
10 Railroad Administration track classification or higher. In cases where
11 passenger service does not operate, this criterion is not applicable; or

12 2. The crossing is located where freight train service operates at greater
13 than twenty-five (25) miles per hour (Class 2 Federal Railroad
14 Administration track classification or higher);

15 (b) 1. The crossing has an accident prediction rate of fifteen one-
16 thousandths (.015) or higher, as determined by the Federal Railroad
17 Administration accident prediction methodology, as set forth in the
18 Rail-Highway Crossing Resource Allocation Procedure, Third
19 Edition, August 1987; or

20 2. The type of warning devices that are used at the crossing;

21 (c) 1. The crossing has an average annual daily traffic count of two
22 hundred fifty (250) or less within rural areas or five hundred (500) or
23 less within urbanized areas, where the traffic collection procedure is
24 completed by guidance provided in the Federal Highway
25 Administration's Traffic Monitoring Guide, Third Edition, February
26 1995. This requirement shall not be applicable when it refers to a
27 nonmotorized public grade crossing; or

- 1 2. The nature of train movements across the crossing; and
- 2 (d) 1. 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; or
- 6 2. The roadway approach to the crossing is skewed or the physical
7 characteristics of the crossing otherwise limit the ability to traverse the
8 crossing in a safe manner.
- 9 (6) In addition to the criteria set forth in subsection (5) of this section, the local
10 government's legislative body may consider the following in determining whether
11 a crossing stays open or is closed:
- 12 (a) If the crossing is utilized by the following types of vehicles, then the use by
13 these vehicles should be considered in determining whether a crossing stays
14 open or is closed. The presence of any of the following types of vehicles
15 shall not solely be responsible for closure or nonclosure of a crossing:
- 16 1. Trucks carrying hazardous materials;
17 2. Vehicles carrying passengers for hire; or
18 3. School buses; and
- 19 (b) If it is fully demonstrated by the local government that closure of the
20 crossing would create unsafe conditions.
- 21 (7) The local government legislative body may allow testimony, evidence, and written
22 comments submitted by the railroad company, city employees, members of the
23 community, and any other stakeholder that the local government legislative body
24 deems pertinent to the final determination of the proposed closure.
- 25 (8) The decision of the local government legislative body shall be considered
26 legislative in nature, but the local government legislative body shall create a
27 record of the public hearing and shall make its findings of facts and conclusions

- 1 regarding the proposed closure part of the record.
- 2 (9) If the local government legislative body denies the petition, the railroad may
- 3 appeal the decision to the Transportation Cabinet. Pursuant to KRS Chapter 13B,
- 4 the Transportation Cabinet shall conduct an administrative hearing and make a
- 5 ruling within ninety (90) days from receipt of the appeal. The cabinet's review of
- 6 the matter shall be on the record created by the local legislative body. Either party
- 7 may appeal the decision of the cabinet to the Franklin Circuit Court in the
- 8 manner provided by KRS Chapter 13B.
- 9 (10) The Transportation Cabinet may promulgate administrative regulations pursuant
- 10 to KRS Chapter 13A to implement the provisions of this section.