



## Ohio Revised Code

### Section 4907.471 Surveys determining probability of accident at crossing.

Effective: November 28, 1991

Legislation: House Bill 248 - 119th General Assembly

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(A) The public utilities commission shall survey all public crossings of railroads at grade, whether on state, county, or township highways or on streets or ways within municipal corporations. The commission shall devise a formula according to sound highway engineering practice for determining the probability of accident at each such crossing and may include in the formula factors representing volume of vehicular traffic, volume of train traffic, history of previous accidents, train type and speed, limitations of view, intersection angle, number of tracks, highway alignment, and such other special factors and conditions as are in its opinion relevant. The commission shall submit the formula to the director of transportation, who shall review it to ensure that it is consistent with applicable federal requirements.

The commission shall classify all such public crossings according to that formula and shall prepare a priority list for the protection of such crossings, giving highest priority to the crossings at which the commission finds the highest probability of accident, and lowest priority to the ones at which it finds the least probability of accident, provided that for the purposes of this section the commission shall place first on the list any crossing that meets all of the following criteria:

- (1) The crossing is at a section of railroad track that is being reactivated on or after May 1, 1990, and that has not been used for at least three years prior to the reactivation as determined by the commission;
- (2) The territory abutting the railroad's right-of-way for a distance of three hundred feet or more has been improved with residences during the period of time the track was not being used;
- (3) The commission has designated the crossing as dangerous and hazardous under division (A) of this section.

The priority list shall be for the use of the commission in carrying out this section and sections 4907.47, 4907.474, and 4907.475 of the Revised Code and shall not be admissible in evidence in any



action to recover damages for negligence arising out of the use of such grade crossings. The list shall be made available to the department of transportation for use in carrying out sections 4511.61 and 4955.33 of the Revised Code.

The survey shall be continuous, and after the original list is prepared, the commission may change the respective priority ratings as it may from time to time determine. When new crossings at grade are opened, the commission shall survey them and place them on the priority list at such places as in its opinion the probability of accident at those crossings warrants.

The commission may, pursuant to the priority ratings established as provided in this section, designate as dangerous and hazardous any railroad highway grade crossing it determines to be in need of additional protective devices. With respect to a high priority crossing so designated, the commission may negotiate with the railroad concerned, and with the state agency or political subdivision having jurisdiction over the crossing, an agreement providing for the installation at the crossing of appropriate luminous reflecting warning signs, luminous flashing signals, crossing gates illuminated at night, or other protective devices. The number, type, and location of the signs, signals, gates, or other protective devices, which shall conform with generally recognized national standards, shall be determined by agreement among the commission, the railroad concerned, and the state agency or political subdivision. The assignment of any part or all of the cost of the installation and subsequent maintenance of such signs, signals, gates, or other protective devices to the railroad and to the state or the political subdivisions shall be by the commission in any proportion it determines proper that is consistent with any applicable federal requirements, after giving due consideration to the factors listed in division (C) of this section.

(B) In cases where the railroad does not agree that the installation of additional protective devices is necessary, or where no agreement can be reached with the railroad as to the number, type, or location of such devices or the proportion of cost to be assigned to the railroad, the commission shall hold a public hearing as to the necessity for installing additional protective devices at the crossing at issue. Written notice of the hearing shall be given to the railroad at least thirty days in advance of the hearing, and notice of the hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the crossing at issue is located. If, after the hearing, it is the opinion of the commission that the public safety requires additional protective devices to be erected and maintained at the crossing, the commission shall give the superintendent,



manager, or other officer in charge of the railroad a written order of the protective devices required and the date by which any action shall be completed, and shall assign to the parties the cost of installing and maintaining the protective devices in any proportion it determines proper that is consistent with any applicable federal requirements, after giving due consideration to the factors listed in division (C) of this section.

(C) In assigning the cost of additional protective devices, the commission shall consider factors of volume of vehicular traffic, volume of train traffic, train type and speed, limitations of view and the causes thereof, savings, if any, which will inure to the railroad as the result of the installation, benefits to the public resulting from the reduction of hazard at the crossing, the probable cost of the installation, the future cost to the railroad of maintaining the devices, and any other special factors and conditions that the commission considers relevant. The commission may accept a railroad's agreement to maintain the additional protective devices as being its share of the cost for the protection. If any part of the cost of installation is assigned by the commission to the state agency or political subdivision having jurisdiction over the crossing, that cost may be paid from any funds levied and made available for highway or street purposes, provided that funds from the grade crossing protection fund created by section 4907.472 of the Revised Code may be used to pay the public's share of the cost. After the commission has issued an appropriate order requiring that additional protective devices be installed by a specific date, which shall be a reasonable time from the date of the order, the railroad concerned shall erect or install the additional protective devices within the time prescribed by the order. If the additional protective devices are not erected or installed within that time, the commission may reduce or eliminate the amount of any funds in the grade crossing protection fund obligated to pay the public's share of the costs relating to the erection, installation, and maintenance of the additional protective devices and, consistent with any applicable federal requirements, may assign to the railroad concerned any amount, up to one hundred per cent, of the total amount of the costs of erecting, installing, and maintaining the additional protective devices.