



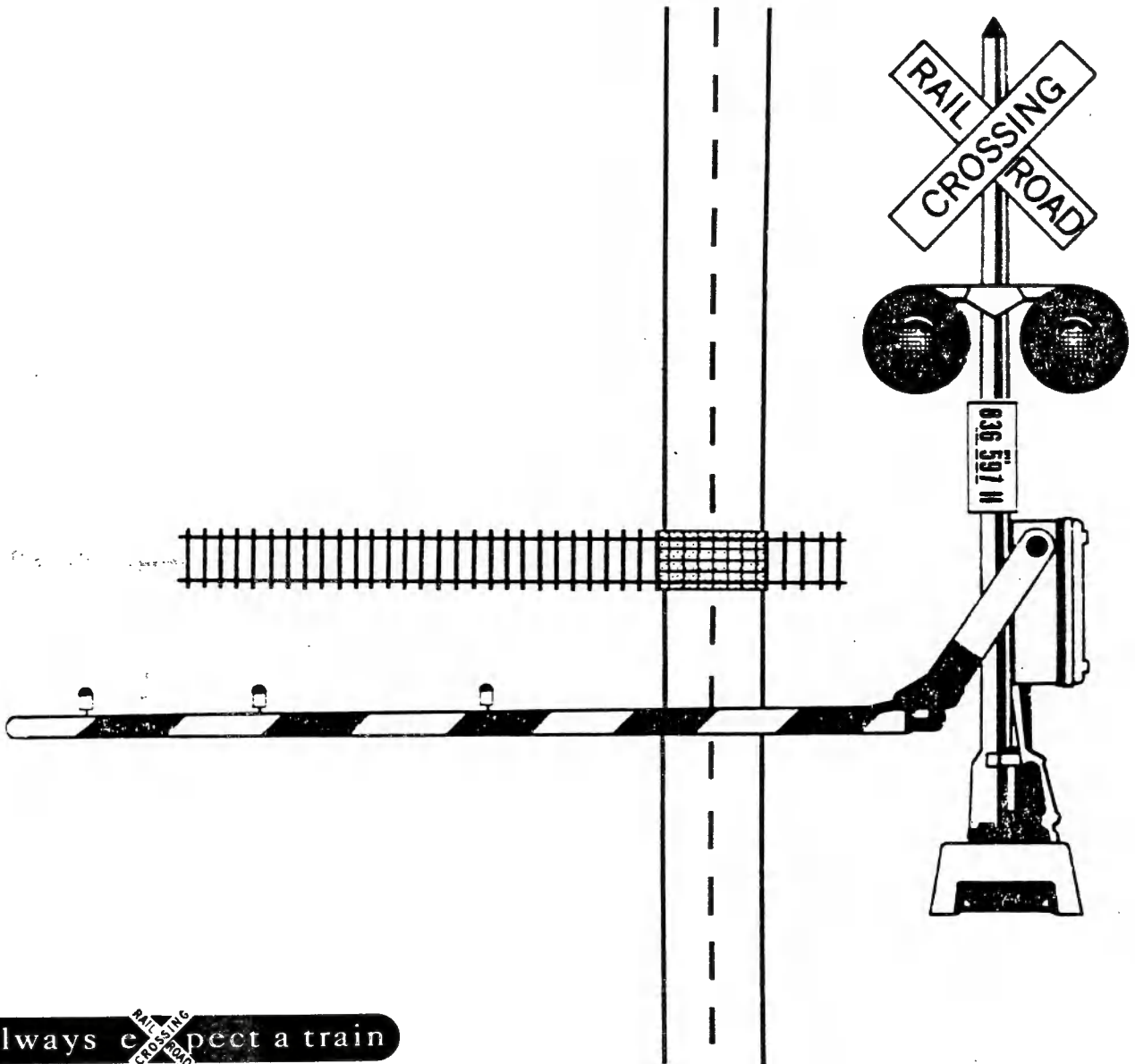
U.S. Department
of Transportation

**Federal Railroad
Administration**

Compilation of State Laws And Regulations Affecting Highway-Rail Grade Crossings

Office of Safety

August 1995



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**COMPILATION OF STATE LAWS AND REGULATIONS
AFFECTING HIGHWAY-RAIL GRADE CROSSINGS**

SECOND EDITION

**COMPILED AND EDITED BY
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PREFACE

COMPILATION OF STATE LAWS AND REGULATIONS ON MATTERS AFFECTING HIGHWAY-RAIL CROSSINGS, Second Edition makes a unique contribution to the grade crossing safety literature.

This compilation is presented as the second edition to the original publication which came out in 1983 even though a part of the title has been changed from RAIL-HIGHWAY grade crossings to HIGHWAY-RAIL grade crossings.

In this Second Edition, the scope of inquiry has been expanded to include subjects that were not examined in the predecessor publication. Also, in this addition references to the Uniform Traffic Code have been eliminated so as to direct the focus more fully to each state's laws and regulations. Each subject corresponds to a chapter and each chapter's contents are discussed in an effort to provide the reader with an overview of the subject matter being presented. Each individual state's laws or regulations concerning the subject has been listed and presented in a meaningful manner.

The following new subjects have been added: "Trespassing," "Vandalism," and "Private Crossings". These additions reflect the increased concern among government policy makers, railroads, and state and regional transportation agencies regarding safety as we usher in the era of the high-speed train.

Each subject area is addressed from a practical orientation, making it an invaluable resource for both students and practitioners. Although it is written in everyday language for use by laymen, it is also intended to serve as a comprehensive legal reference.

This book was prepared under the sponsorship of the Federal Railroad Administration (FRA), Office of the Chief Counsel, and the Office of Safety. I acknowledge with sincere appreciation the contributions of Messrs. Mark Tessler, from the Office of the Chief Counsel and Bruce George, of the Office of Safety. Additional gratitude goes to Ms. Barbara Belk, also of the FRA's Office of Safety.

I would like to extend special appreciation to Ms. Shelli Alexander for her thorough research, without which this book could not have been written, and to Angie Calzetta, and Traci Bidinger of Applied System Technologies, Inc. for their valuable editorial review and assistance.

Finally, I extend a special thanks to Professor Eugene Russell, Sr. and his colleagues at Kansas State University for their fine efforts in producing the first edition of this book.

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QUICK REFERENCE

CHAPTERS	1	2	3	4	5	6	7	8	9	10	11	12	13
Alabama		X	X		X			X	X				
Alaska						X		X	X				
Arizona		X	X	X	X	X		X	X	X	X		
Arkansas		X	X		X	X		X	X				
California		X	X		X	X		X	X	X	X	X	
Colorado		X	X		X	X		X	X		X		X
Connecticut		X	X		X	X		X	X		X	X	X
Delaware		X	X	X				X	X	X	X		
District of Columbia		X	X	X					X				X
Florida		X	X	X	X	X	X	X	X		X	X	
Georgia		X	X	X	X	X		X	X	X	X		
Hawaii			X		X			X	X		X		
Idaho		X	X	X		X		X	X		X		
Illinois		X	X	X		X		X	X	X	X		X
Indiana		X	X	X	X	X	X	X	X	X			X
Iowa		X	X	X		X	X	X	X		X	X	X
Kansas		X	X	X	X	X		X	X		X	X	X
Kentucky		X	X	X	X	X	X	X	X	X			
Louisiana			X		X	X		X	X	X	X		X
Maine		X	X		X	X	X	X	X	X	X	X	X
Maryland		X	X		X			X	X		X	X	
Massachusetts		X	X	X	X	X	X	X	X	X	X	X	X
Michigan		X	X	X	X			X	X	X	X	X	
Minnesota		X	X		X	X	X	X	X	X	X	X	
Mississippi		X	X	X	X	X		X	X				
Missouri		X	X	X		X	X	X	X	X		X	X
Montana		X	X	X	X	X		X	X				
Nebraska		X	X	X	X	X		X	X		X		
Nevada		X	X		X	X		X	X				
New Hampshire		X	X	X	X	X		X	X	X		X	
New Jersey		X	X	X	X	X	X	X	X	X	X	X	
New Mexico		X	X		X	X		X	X				
New York		X	X	X	X			X	X	X		X	X
North Carolina		X	X					X	X		X		
North Dakota		X	X	X	X	X	X	X	X		X		
Ohio		X	X	X	X	X	X	X	X	X		X	
Oklahoma		X	X	X	X	X	X	X	X	X	X	X	X

CHAPTERS	1	2	3	4	5	6	7	8	9	10	11	12	13
Oregon		X	X	X	X	X	X	X	X		X	X	
Pennsylvania		X	X	X				X	X				
Rhode Island		X	X	X	X	X	X	X	X	X	X	X	
South Carolina		X	X	X	X	X		X	X		X		X
South Dakota		X	X	X	X			X	X		X	X	
Tennessee		X	X		X	X	X	X	X		X		X
Texas		X	X	X	X	X	X	X	X	X	X		X
Utah		X	X	X		X		X	X				
Vermont		X	X	X	X	X	X	X	X		X		
Virginia		X	X	X		X	X	X	X	X	X	X	
Washington		X	X		X	X	X	X	X		X		
West Virginia		X	X	X	X	X		X	X	X	X		
Wisconsin		X	X	X	X	X	X	X	X	X	X		X
Wyoming		X	X				X	X	X		X		

CHAPTER 1: INTRODUCTION

BACKGROUND

The Federal Railroad Administration has identified roughly 280,000 highway-rail crossings in the United States. For the most part, jurisdiction over highway-rail grade crossings resides with the states. Within some states, responsibility is divided among several public agencies and the railroad. In other states, jurisdiction over the crossing is assigned to a regulatory agency referred to as a Public Utilities Commission, Public Service Commission or similar designation. Still other states divide the authority among public administrative agencies of the state, county and city having jurisdiction and responsibility for their respective highway systems.

State and local law enforcement agencies have the responsibility for the enforcement of traffic laws at highway-rail crossings. In a number of cases, local government bodies are given responsibility for operational matters related to crossings, and they do this through ordinances.

The first comprehensive listing of all the state laws pertaining to highway-rail crossings was compiled in the initial edition of this book produced in 1983.

PURPOSE AND SCOPE

The second edition of Compilation of State Laws and Regulations on Matters Affecting Highway-Rail Crossings provides an up-to-date and more expansive look at the various state laws and regulations concerning grade crossings. The laws and regulations of all fifty states and the District of Columbia concerning highway-rail crossings are compiled into one comprehensive, easy-to-use document. Making a unique contribution to the grade crossing literature, this book provides a one-stop reference for researchers, engineers, students and legal practitioners.

What is presented is a comprehensive, carefully compiled and edited collection of state laws and regulations concerning highway-rail crossings. It is intended as a reference tool for those working in the highway-rail crossing safety field. As with the first edition, this document is intended to be useful in assessing differences among states, in seeking desirable and undesirable laws and in conducting legal research.

A number of changes have been made in this second edition. The book is now organized by subject rather than by state. Three new subjects have been added, all references to the Uniform Vehicle Code (UVC) have been eliminated and each state law or regulation pertaining to an individual subject is discussed and referenced. Subjects, topics and key words are alphabetized and indexed. Lastly, the relevant state statutes and regulations have been copied and are appended to the book allowing further in-depth reference.

The material collected for this book was obtained using 1994 laws and reflects current law as of May 1995.

CHAPTER 2: CROSSING CONSOLIDATIONS AND CLOSINGS

CHAPTER OVERVIEW

In the majority of states, the overall authority for highway-rail crossing safety and the authority to order the consolidation or elimination of at-grade crossings lies with the state agency that regulates and oversees transportation.

In a small number of states, the responsibility for crossing elimination is vested in regulatory bodies. These are referred to by different names, including the Public Utility Commission and the Corporation Commission. A couple of states provide for shared responsibility among a state agency and a unit of local government while a few more provide for shared responsibility among the DOT and another state agency.

The agency charged with the responsibility for elimination or abolishment as the process is often called, has not changed a great deal since the original publication of this book. In the few instances where the responsible agency is different, it was the result of the powers and functions of the agency being assumed by another agency. For example, in Missouri, the agency originally responsible for grade crossing regulation was the Public Service Commission (PSC). The powers, functions and duties of the PSC with respect to grade crossing safety were transferred to the Division of Transportation of the Department of Economic Development.

This chapter presents a brief overview of the procedures for grade crossing elimination on a state-by-state basis. The state agency with statutory authority to order the elimination of a grade crossing is identified along with a discussion of whether the authority is exclusive or shared. Each state's entry concerning the subject is followed by the appropriate citation(s).

STATE LAWS AND REGULATIONS

ALABAMA

The Alabama Department of Transportation has statutory authority to abandon and discontinue grade crossings when, in its judgement, the grade crossing has ceased to be necessary for the public as part of any state highway.

With respect to at-grade crossings on a municipal or county highway, street or right-of-way of any railroad within the state whenever, if in the judgement of the Department of Transportation, the grade crossing is dangerous, redundant or the enhancement of public safety resulting from the closing outweighs any inconvenience caused by rerouting the vehicular traffic. Any such action to be taken by the Department of Transportation concerning an at-grade crossing on a municipal or county highway must have the approval of the city or governing body.

Whenever the Department orders the closing of a grade crossing, it must enter its order in the department minutes. Notice in writing is given by the Department by posting a notice on each side of the railroad or street railway at the grade crossing for a period of 30 days. If the closing is a crossing on a county or municipal road, prior to issuing the order to close the crossing, the Department must also give notice of its intention to close to the affected municipality or county. In

addition, the Department must publish legal notice of intention to close the crossing in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the closure. The notice must outline the procedure to request a hearing. If there is such a request for hearing, the Department must give ten days' notice to the requester and the municipality or county. See ALA. CODE § 37-2-84 (a)-(b)-(c) (1994).

ALASKA

No relevant code section exists in Alaska.

ARIZONA

The Arizona Corporation Commission has the power to alter or abolish highway-rail grade crossings within the state. This authority extends to those crossings lying within the jurisdiction of individual cities and towns. See ARIZ. REV. STAT. ANN. § 40-337 (1994).

ARKANSAS

The "Railroad Safety and Regulatory Act of 1993" grants the Arkansas Highway Commission exclusive jurisdiction concerning the location, construction, improvement and equipping of highway-rail crossings.

Although the statute does not specifically mention elimination, the General Assembly designated the highway commission as the sole public body to deal with crossings in an effort to promote public safety by establishing uniformity regarding matters relating to railroad crossings. See ARK. CODE ANN. §§ 23-12-1001-1002 (Michie 1994).

CALIFORNIA

The California Public Utilities Commission has exclusive authority to abolish any crossing of a public or publicly used road or highway by a railroad or street railroad and of a street by railroad. See CAL. [PUB. UTIL.] CODE § 1202 (a)-(b) (West 1994).

COLORADO

The Colorado Public Utilities Commission has the power, upon its own motion or upon complaint of an interested party, to order the abolishment of a highway-rail grade crossing. The process requires a hearing before which all interested parties, including the owners of any adjacent property, must be given due notice. See COLO. REV. STAT. § 40-4-106(2)(3) (1994).

CONNECTICUT

The Commissioner of Transportation is granted exclusive authority to close highway-rail grade crossings.

The process may be initiated upon written petition to the Commissioner by the selectmen of any town, the mayor and common council of any city or the warden and burgesses of any borough within which a highway crosses a railroad. This also applies to the directors of any railroad company whose track is crossed by a highway. The Commissioner appoints a time and place for hearing the petition and gives notice to the petitioners.

Nothing in the statute precludes the Commissioner from initiating a petition on his own when, in his opinion, public safety demands it. See CONN. GEN. STAT. §§ 13b-270-345 (1992).

DELAWARE

The Delaware Department of Transportation has the authority to order the closing of highway-rail crossings. See DEL. CODE ANN. tit. 2 § 1804 (1994).

DISTRICT OF COLUMBIA

In the District of Columbia, current law forbids the construction of any at-grade crossings now or in the future. However, the mayor has authority to order a grade crossing elimination. See D.C. CODE ANN. § 7-137 (1994).

FLORIDA

The Florida Department of Transportation has regulatory authority over all public highway-rail grade crossings in the state.

A public highway-rail grade crossing is defined in the Florida statute as any location at which a railroad track is crossed at-grade by a public road.

The Department is mandated to work with the various railroad companies to develop and initiate a program for the expenditure of funds for the performance of projects aimed at reducing grade crossing hazards. See FLA. STAT. ANN. § 335.141 (West 1994).

GEORGIA

The Georgia Department of Transportation has the authority for final approval of grade crossing eliminations. The statute indicates that, when necessary in the interest of public safety, the unit of local government with jurisdiction may authorize and direct the elimination of a grade crossing by construction of an overpass or underpass, provided that no grade crossing shall be eliminated without prior approval from the DOT.

Once a decision is made by either entity, prompt notice must be given to the affected railroads. All parties must meet within thirty days and must further agree on a method of closure

and separation within ninety days. If there is no agreement within the specified time, the department, county or municipality may proceed with construction or may, by written order, direct the interested railroads to proceed with construction. See GA. CODE ANN. §§ 32-6-193-194 (1994).

HAWAII

No relevant code section exists in Hawaii.

IDAHO

The Idaho Transportation Department has full authority to negotiate and enter into an agreement with the railroad companies to provide for crossing elimination on state highways. There is nothing in the statute, however, to indicate that the Idaho Transportation Department has exclusive authority to order elimination of any crossing

For crossings not on state highways, the local authorities and railroad companies have the same authority (to negotiate and enter into agreements) with respect to the elimination or alteration of such crossings as are granted to and required of the Idaho Transportation Department and railroad companies. See IDAHO CODE §§ 62-301-303 (1994).

The authority to order elimination in the event the affected parties cannot agree lies with the Public Utilities Commission. In the event a new crossing at grade or an overpass or underpass has been or shall be constructed at any new location, or whenever the closing and abandonment of an existing crossing is in the interest of and reasonably necessary for the public safety, or an existing crossing is no longer reasonably necessary as a public crossing for any reason, then the old grade crossing shall be deemed to be unnecessary and may be eliminated and discontinued. If any objection is made to the elimination and discontinuance of any crossings, either of the affected parties may petition the Public Utilities Commission for an order to eliminate or discontinue an old grade crossing. If the commission determines that the closing and abandonment of any such crossing is in the interest of, and reasonably necessary for the public safety, it may make an order accordingly. See IDAHO CODE § 62-305 (1994).

ILLINOIS

The Illinois Commerce Commission has statutory authority to order the elimination of a highway-rail grade crossing. After a hearing, the commission has the power to require major alteration of or to abolish any crossing heretofore or hereafter established when, in its opinion, the public safety demands it. This authority does not extend to grade crossings in cities, villages and incorporated towns of one million or more inhabitants.

The commission can prescribe, after a hearing of all the parties, the terms upon which any separation is to be made and the proportion in which the expense of any alteration or abolition of such crossings or the separation of such grades is to be divided between the affected rail carrier(s) or between such carrier(s) and the state, county, municipality or other public authority in interest.

The statute also provides that no grade crossing can be permanently closed without first holding a public hearing and notice of such hearing being published in an area newspaper of local general circulation. See 625 ILCS 5/18c-7401(3) (1994).

INDIANA

Indiana law gives the Indiana Department of Transportation the authority to order closed and abolished as a public way within the limits of a railroad right-of-way, any grade crossing then in existence at the time the Department assumes jurisdiction of the matter. The Department's order must be based on a determination that the enhancement of public safety resulting from the closing will outweigh any inconvenience caused by rerouting traffic.

The authority of the Department to legally close and abolish grade crossings is in addition to any authority by law granted to other state agencies or units of local government.

Upon the issuance of any such order by the Department, the railroad(s) involved is to physically remove the crossing from the tracks. The government unit responsible for maintaining the highway is to remove approaches to the crossing or barricade them. See IND. CODE ANN. § 8-6-7.7-3 (Burns 1994).

IOWA

Whenever a railway track crosses or is planned to cross a highway, street or alley, the affected railroad and the Iowa Transportation Department in the case of a primary highway, the board of supervisors of the county in which the crossing at issue is located in the case of secondary roads or the council of the city in the case of streets and alleys located within a city, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing. See IOWA CODE § 327G.15 (1993). See also chapter on crossing treatment procedures.

KANSAS

The Kansas State Corporation Commission and the Secretary of Transportation both have the authority to close and abolish grade crossings on city, county or township roads that are in proximity to crossings on which safety devices have been ordered subject to the approval of the governing body of such city, county or township. See KAN. STAT. ANN. § 68-509 (1993).

KENTUCKY

The Kentucky Department of Transportation has the authority to order any railroad company owning or operating a railroad in the state to eliminate any grade crossing.

The Department is responsible for the promulgation of administrative regulations containing standards that govern the closure of public grade crossings. The standards reflect the intent of the legislation, i.e. that public safety will be enhanced by reducing the number of redundant and inherently dangerous grade crossings.

On or before July 1, 1993, on or before July 1 of each of the next four years and as necessary thereafter, the Department must compose a list of grade crossings to be closed. See KY. REV. STAT. ANN. § 177.120 (1)(2)(3) (Baldwin 1994).

LOUISIANA

No relevant code section exists in Louisiana.

MAINE

The Maine Department of Transportation has the authority to close or discontinue a crossing. The Department can issue an order after notice of not less than ten days to the railroad and municipality or after a hearing if requested within the ten days either by the railroad or the municipality. See ME. REV. STAT. ANN. tit. 23 § 7207 (West 1994). Also see ME. REV. STAT. ANN. tit. 23 § 7231 (West 1994).

MARYLAND

The Maryland Highway Administration and the State Secretary of Transportation have general authority to abandon, relocate, construct or reconstruct any railroad grade crossing or grade separation that is dangerous or inconvenient for public travel. See MD. ANN. CODE art. 8 § 639 (1994). Also see MD. ANN. CODE art. 8 § 640 (1994).

MASSACHUSETTS

The Department of Public Utilities has the authority to order grade crossing closure.

The Department of Highways plays a supporting role by investigating crossings where a public or private way and a railroad cross each other at-grade. The Department receives petitions for the abolition of grade crossings from the aldermen of a city, the selectmen of a town, the commissioners of the county where such a crossing exists or the board of directors of the railroad corporation operating the railroad crossed. After a hearing, due notice of which is given to the railroad corporation, city or town and county, the Department may, in its discretion, place a crossing on one of its lists.

The Department must file its list on or before October 1 of each year with the Department of Public Utilities. After giving due notice to the Department of Highways, the counties and municipalities in which the identified crossings are located and the affected railroad corporations, the Department of Public Utilities proceeds to hold public hearings on the list. When the hearings are completed, the Department orders a program of grade crossings. The program can be amended or revised from time to time by the Department of Public Utilities on requests from the Department of Highways. See MASS. ANN. LAWS ch. 159, §§ 65-70 (Law. Co-op. 1994).

MICHIGAN

The Michigan Department of Transportation has sole authority to order the elimination of highway-rail crossings. The Department, when it determines that it is necessary for public safety, may change the location of or abolish any existing public at-grade crossing after not less than thirty days' notice in the affected areas. If an affected party requests a hearing, the Department must hold one, and within thirty days after the date of the hearing, can issue an order to close the existing grade crossing. See MICH. STAT. ANN. § 22.1263(307)(2) (Law. Co-op. 1993).

MINNESOTA

In Minnesota, the Transportation Regulation Board has ultimate authority to order grade crossing closure when local public entities cannot agree on a method of closure. If the local government agency in authority and the railroad cannot agree, either party may petition the Transportation Regulation Board asking for a determination. The board is then required to conduct a hearing and make a determination.

The Commissioner of Transportation may also bring matters concerning closure to the board for determination. The Commissioner is required by law to submit a list of grade crossings proposed to be vacated to the board on or before July 1 of each year until 1996.

The Commissioner is charged with the responsibility for the adoption of rules containing standards governing the vacation and separation of public at-grade crossings. See MINN. STAT. §§ 219.14-219.073 (1993).

MISSISSIPPI

The Mississippi Transportation Commission has statutory authority to regulate and abandon grade crossings on any fixed route as part of the state highway system. See MISS. CODE ANN. § 65-1-8 (1994). The State of Mississippi maintains a Grade Crossing Closure Account whose funds may be used for the following purposes: financial aid for closure of public roadway/railroad grade crossings; realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing; monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad. See MISS. CODE ANN. § 57-43-13 (1994).

MISSOURI

The Division of Transportation of the Department of Economic Development has exclusive power to alter or abolish a crossing, at-grade or otherwise, of a railroad by a public road whenever the division finds that public convenience and necessity will not be adversely affected and public safety will be promoted by altering or eliminating the crossing.

This authority extends to private crossings in specific instances in which it is determined that the private crossing is being used by the public to the extent that it is necessary to protect and promote public safety. See also the private crossing section under Missouri. See MO. REV. STAT. § 389.610 (1993).

MONTANA

The Montana Code does not provide specific authority to close highway-rail grade crossings to any public agency. General authority over highway-rail crossings is vested in the Montana Public Service Commission. Local authority to construct new highway-rail crossings is provided for in the Code. Local authority means the Board of County Commissioners. See generally MONT. CODE ANN. §§ 69-14-607 (1994).

NEBRASKA

The authority for closure seems to be left to mutual agreement between the owner of the railroad tracks and the Board of the county in which the crossing in question is located. This authority does not extend to at-grade highway-rail crossings within incorporated cities and villages.

The Public Service Commission does have authority to order alteration, relocation or construction of a highway-rail grade crossing if there is disagreement between the railroad company and the county board. Either party can file an application with the commission after which the commission will hear the application and enter its order. See generally NEB. REV. STAT. §§ 75-415-416-417 (1994).

NEVADA

The Nevada Public Service Commission has the authority for closure of existing highway-rail crossings.

After an investigation and hearing, the commission may decide on the closure, alteration, addition or change of a highway-rail crossing. See NEV. REV. STAT. § 704.300(2) (Michie 1993).

NEW HAMPSHIRE

The Department of Transportation has statutory authority to order closure.

Whenever, after hearing upon petition or upon its own motion, the Department concludes that public safety requires the closing of any public or private crossing, at-grade or above or below the railroad, it can order the closing. See N.H. REV. STAT. ANN. §§ 373:4-373:2-373:22 (1993).

NEW JERSEY

The Commissioner and the Department of Transportation have statutory authority to order closure of or alterations to existing highway-rail crossings.

When, in the judgement of the Commissioner and the Department, crossings are dangerous to public safety or impede public travel, the Department may order the railroad(s), to alter such crossings within such time as the Department specifies by grade separating the crossing. If in the judgement of the Department, the owners of the public or private property will be unduly injured

by the elimination of the crossing, the Department can order the railroad(s) to relocate the tracks. See N.J. STAT. ANN. § 48:12-61 (West 1993). Regarding schedules for elimination, see N.J. STAT. ANN. § 48:12-68 (West 1993). Also see N.J. STAT. ANN. § 54:39-72 (West 1993) regarding funding.

Within the New Jersey Highway Department, has authorization to undertake, directly or by contract, the entire expense of eliminating or relocating a highway and railroad at grade. In the event the total cost is borne by the state, the expense of closing, abandoning or combining any existing road or highway shall be borne solely by the affected railroad or railroads. Where the cost of construction is divided between the state and the affected railroad company, the share to be borne by the railroad shall be five percent. See N.J. STAT. ANN. §§ 48:12-77 -12A-21 (West 1993).

NEW MEXICO

The statute does not specifically mention any authority for closure. It does provide for grade separation procedures.

Whenever a state, county, municipal or other street or highway, including a highway which is or may be designated as a part of the federal-aid highway system, is constructed or reconstructed so as to cross or intersect a railroad, the State Highway Commission or other governing body may separate the grades at the highway-rail crossing if, in its opinion, it is practicable and reasonably necessary for the protection of the traveling public.

Whenever the public authority is unable to agree with the railroad as to the grade separation and the methodology for carrying it out, the public authority may petition the district court of the county in which the intended separation is located. See N.M. STAT. ANN. § 63-3-37 (Michie 1994).

NEW YORK

The power to order the elimination of a highway-rail crossing lies with the Commissioner of Transportation.

Any railroad company or governing body of a municipality which contains a highway-rail crossing can petition the Commissioner to institute grade crossing elimination procedures.

The Commissioner may hold public hearings on any elimination requested by petition after giving due notice to the parties in interest. After the conclusion of the hearing, the Commissioner shall, by order, determine whether it is in the public interest to require the elimination of the highway-rail grade crossing. In any elimination order, the procedures for elimination are to be specified. See N.Y. [TRANSP.] LAW § 222 (McKinney 1994). Also see N.Y. [TRANSP.] LAW § 10 (McKinney 1994) listing powers and duties of the Commissioner generally.

NORTH CAROLINA

In North Carolina, grade crossing elimination is a shared responsibility depending on the designation of the road that crosses the railroad tracks at-grade.

The Public Utilities Commission has authority to abolish grade crossings in a road or street not forming a link in part of the state highway system. That authority allows them to designate who pays in what proportion for the elimination and separation of the crossing. The amounts are based on the same formula provided for grade crossing elimination on the state highway system. See N.C. GEN. STAT. § 62-237 (1994).

In North Carolina, the Secretary of Transportation has statutory authority to order crossing closure on roads or streets forming a link in part of the state highway system. If in the opinion of the Secretary the crossing is dangerous to the traveling public or unreasonably interferes with or impedes traffic on the state highway, the Department of Transportation issues notice requiring the person or company operating the affected railroad to appear before the Secretary at an appointed time not less than ten days or more than twenty days from the date of the notice and show cause if any why the railroad should not be required to make adjustment to the crossing or close it. After hearing the matter, the Secretary will determine whether the crossing is dangerous to public safety or unreasonably interferes with traffic. If an affirmative conclusion is reached, the Secretary can order either closure or separation. See N.C. GEN. STAT. §§ 136-20, 160A-298 (1994). A city has authority also to order crossing elimination. See N.C. GEN. STAT. § 160A-298 (1994).

NORTH DAKOTA

The North Dakota Public Service Commission has authority to order the closure of highway-rail grade crossings if no agreement can be reached by the public officials having the necessary authority and the railroad. Either party to the dispute can file a petition with the commission, thereby submitting the matter for determination.

The commission, after receiving the petition, must give reasonable notice, conduct a hearing, and then issue its order. N.D. CENT. CODE § 24-09-10 (1993).

OHIO

The authority for the alteration or elimination of highway-rail crossings lies with the local government.

Both the legislative authorities of municipal corporations and the boards of county commissioners are vested with the authority to institute proceedings necessary for the abolition of grade crossings.

Both entities are given authority to meet with the affected railroad corporation to devise a plan for altering, abolishing and changing the approaches to or the location of the railroad, public way or the grades so as to avoid an at-grade crossing.

The Board of County Commissioners is granted the same powers as are conferred upon municipal corporations to alter or require to be altered any railroad crossing for that part of a state, county or township road which lies within the limits of a municipal corporation.

When a grade crossing exists on a county line road, the respective boards of county commissioners are allowed to join in all the proceedings necessary for grade crossing elimination.

When it does become necessary, on the part of a municipal corporation or county, to join with a railroad company, the legislative authority of the municipal corporation by a two-thirds vote of all the members or the Board of County Commissioners by a unanimous vote, can declare a necessity and intent to abolish a grade crossing. The resolutions of both entities can contain the manner in which the eliminations are to be made, the method of constructing any new crossings, by whom the construction is to be done and how the cost is to be apportioned.

Any time a resolution is passed by either entity, it must be published. Notice of the passage of a resolution must be given to the affected parties and the owners of the property adjacent to the proposed improvement. See OHIO REV. CODE ANN. §§ 4957.01-4957.02-4957.09 (Baldwin 1994).

OKLAHOMA

The Oklahoma Corporation Commission has full statutory authority over all public highway-rail crossings. This authority is inclusive of the right to order elimination. See OKLA. STAT. tit. 17, § 81 (1994). Also see OKLA. STAT. tit. 17, § 84 (1994).

OREGON

The Public Utility Commission has statutory authority to eliminate highway-rail grade crossings.

The commission, either upon its own motion or upon an application by a railroad, the public authority in interest or the Oregon Department of Transportation, may find, subsequent to a hearing, that elimination is required in the interest of public safety, necessity, convenience and general welfare. See OR. REV. STAT. §§ 763.030 - .013 (1994). Also see section under private crossings OR. REV. STAT. § 763.220.

PENNSYLVANIA

The Pennsylvania Public Utility Commission has exclusive authority to eliminate highway-rail grade crossings. After due notice and proper hearing to all parties in interest, the commission may order any crossing relocated, altered, suspended or abolished.

Upon a finding of immediate danger to the safety and welfare of the public, the commission may order an immediate alteration, improvement or suspension. Any order for suspension must include the following for protection of the motoring public:

- 1) Removal or covering of crossing warning devices.
- 2)
 - (a) Paving over the tracks.
 - (b) Removing the tracks and paving over the area formerly occupied by the tracks.
 - (c) Barricading the crossing.

Within a township, borough or city, the Court of Quarter Sessions of the county may close a crossing upon petition of the railroad company and declare as a public highway any overgrade or undergrade substitution that is to then be maintained by the proper authorities. See PA. CONS. STAT. §§ 2702-2111 (1994).

RHODE ISLAND

In the exercise of the police power of the state for the safety of its inhabitants, the state legislature vests in the Public Utilities Commission the authority to eliminate highway-rail grade crossings. The statute further states that the commission shall have this authority even if, by its order, it effectively deprives a municipality of control of its streets. See R.I. GEN. LAWS § 39-8-1.1 (1994). No railroad shall not be allowed to lay its tracks across any railroad, street, highway, turnpike or traveled way at grade, except by the consent of the commission. See R.I. GEN. LAWS § 39-8-3 (1994).

SOUTH CAROLINA

The South Carolina Department of Transportation has general authority over highway-rail crossings. See S.C. CODE ANN. § 58-17-1450 (1993).

SOUTH DAKOTA

The South Dakota Department of Transportation has the ultimate authority for determining the necessity to eliminate grade crossings.

The Department, along with the Board of County Commissioners, has a statutory duty to eliminate all railroad crossings and other dangerous places on the state trunk and county highway systems.

The Department can order that any existing or planned crossing be relocated, altered or abolished upon its own motion or upon complaint and after a hearing and notice to all interested parties, including the owners of adjacent property and the affected railroad company. See S.D. CODIFIED LAWS ANN. §§ 31-27-1, 31-27-4 - 31-27-12 (1994).

TENNESSEE

The Department of Transportation, through the discretion of the Commissioner or the commissioner's designee, has the authority to eliminate grade crossings whenever the crossing elimination is necessary for the protection of persons traveling on the highway or railroad.

The affected railroad company has the right to appeal to the public service commission but only with regard to the period of time required to comply. The public service commission has the authority to stay the order of the Commissioner for the actual construction for any length of time not exceeding two years. See TENN. CODE ANN. §§ 65-11-107-108-109(1994).

TEXAS

The statute makes no mention of closures of existing grade crossings.

There exists within the Texas Revised Civil Statutes, a provision for grade crossing elimination within every incorporated city or town (including home rule cities) having a population of more than one hundred thousand inhabitants. See TEX. REV. CIV. STAT. ANN. art. 1105c (West 1995).

UTAH

The Utah Department of Transportation has exclusive authority to order the closure of highway-rail grade crossings. See UTAH CODE ANN. § 54-4-15 (1994).

VERMONT

The Vermont Transportation Board has statutory jurisdiction to determine what alterations, changes or removals, if any, shall be made and by whom. See VT. STAT. ANN. tit. 30, §§ 1901-1906 (1994).

VIRGINIA

The Virginia State Corporation Commission has the ultimate authority to order the elimination of grade crossings. Proceedings to eliminate existing grade crossings may be initiated by the Board of Supervisors or other governing body of any county or, in the case of a city or town, by the council or other government. If the governing body representing the county or city or town cannot reach an agreement with the affected railroad(s) regarding any of the matters concerning the procedure, they may petition the commission for a hearing. The commission then serves the affected railroad with copies of the petition and the plans and specifications. The railroad has twenty days to file an answer setting out its objections to the proposed project. The commission then hears and determines the matter.

In the case of highway-rail crossings on a state highway, the state Highway and Transportation Commissioner and the affected railroad(s) may enter into agreement concerning all matters and issues with regard to elimination. If they are unable to agree on any aspect of the process, the Commissioner may petition the state corporation commission. The commission then

notifies the railroad in the same manner as outlined for units of local government. See VA. CODE ANN. §§ 56-365-366.1 (Michie 1994). Also see VA. CODE ANN. § 56-366.2 (Michie 1994) regarding municipalities.

WASHINGTON

The Washington State Utilities and Transportation Commission has authority to order closure of existing crossings except for those located within first class cities, such as Seattle. There is no statutory authority upon which to force closure within those cities. See WASH. REV. CODE §§ 81.53.030-060 (1994).

WEST VIRGINIA

The Road Commissioner may require any railroad company, owning, controlling or operating a railroad in the state to eliminate at-grade highway-rail crossings on existing highways, relocated highways and extensions of existing highways by separating the grades or by relocating an existing highway. The Commissioner may determine the location, design and grade for any project or structure for the elimination or avoidance of at-grade highway-rail crossings and may determine whether a new, relocated or extended highway shall pass over or under the railroad right-of-way or tracks. See W. VA. CODE § 17-4-10 (1994).

WISCONSIN

The Office of the Commissioner of Railroads within the Wisconsin Department of Highways has the authority to abolish highway-rail crossings. This authority extends to the resolution of dispute between the railroads and units of local government. See WIS. STAT. §§ 195.29-84.05 (1995).

WYOMING

The Transportation Commission of Wyoming has the authority to close or establish at-grade crossings on public highways as specified and those over the track(s) of any railroad corporation or street railway corporation in the state.

Upon application to the commission from the authorized agents of the city, counties or other government entities or the affected railroads, or upon its own motion when public interest indicates action should be taken, the commission must consider the need for closure based on evidence presented, availed or adduced. The commission must establish a priority rating from the applications or evidence, assigning priority first to the most hazardous railroad crossing location, giving proper weight to increased rail traffic and to the volume of traffic over the crossing with due consideration being given for school buses and dangerous commodities. If the commission determines a need for grade crossing warning devices, they will determine the type of crossing warning devices required, including whether the crossing is to be made at-grade or with a grade separation structure. WYO. STAT. § 37-10-102 (a)-(b) (1994).

CHAPTER 3: CROSSING TREATMENT PROCEDURES

CHAPTER OVERVIEW

Chapter 3 presents a description of the processes and procedures required, along with the roles to be played by the respective parties (units of government and the railroads), when undertaking elimination, construction, repair and/or improvement of grade crossings. This chapter also presents an overview of the different formulae for allocating costs of crossing treatments.

In most states the designated agency having authority to order improvements is also the one with statutory authority to order outright elimination. For purposes of clarity and ease of reference, the two processes are described in separate chapters. The appropriate statute sections are included with each state.

STATE LAWS AND REGULATIONS

ALABAMA

When the funds of the state are being expended for the construction, maintenance or repair of a public highway, the Alabama Highway Department has the authority to compel railways operating in the state to construct viaducts, tunnels, underpasses or bridges to the full extent of the width of the right-of-way and over the tracks when they are judged to be necessary for the safety of the general public.

To cover these costs, the Highway Department can appropriate an amount not to exceed fifty percent out of the funds credited to them for the construction and maintenance of highways.

If after due notice to the railroad that such action is necessary in the judgement of the Highway Department and the railroad fails or refuses to comply with the Department's order, the Department is then authorized to undertake the necessary construction and charge the railroad. See ALA. CODE § 23-1-9 (1994).

ALASKA

The Alaska Statutes do not provide for a process of upgrading or improving highway-rail crossings in the state.

ARIZONA

The Arizona Corporation Commission has exclusive power to prescribe the manner, the particular point of crossing and the terms of installation, operation, maintenance, use and equipping of each crossing in the state.

On or before February 15 of each year, the Commission submits to the affected railroad, city, county and Department of Transportation, a list of crossings where installation of automatic

warning signals or devices should be considered during the year or in a reasonable timeframe depending upon the availability of funds, materials, labor and other factors involved in installation.

The Commission prepares an annual budget request in which ten percent, up to two hundred thousand dollars, of the total amount approved for the same year by the Federal Highway Administration for highway-rail projects within the state, is set aside from the general or any other fund for installation or improvement of automatic warning signals or devices at public railroad grade crossings.

After a public hearing, the Commission may determine that a particular railroad crossing at a public highway or street requires the installation of automatic warning signals. If the interested parties are unable to agree on the apportionment of cost, fifty percent will be covered by the railroad and the remaining fifty percent by the respective city, county or state. City, county or state highway funds can be used to finance the cost of installation in greater amounts than those that are set forth in the statute, provided that federal funds are available for the reimbursement of the city, county or state highway fund. See ARIZ. REV. STAT. ANN. §§ 40-336 and 40-337-337.01-337.02-337.03 (1994).

ARKANSAS

The "Railroad Safety and Regulatory Act of 1993" grants the Arkansas State Highway Commission exclusive jurisdiction concerning the location, construction, improvement and equipping of railroad crossings in the state. The General Assembly designated the highway commission as the sole public body to deal with crossings in an effort to promote public safety by establishing uniformity regarding matters relating to railroad crossings.

The State Highway Commission and local authorities are each authorized to identify particularly dangerous state highway grade crossings and mark these crossings with STOP signs.

It is the duty of the Highway Commission to inspect any road or street crossing. Based on its findings, the Commission may order the railroad company to equip the crossing in any manner it considers reasonable, regardless of whether or not the crossing is at-grade. See ARK. CODE ANN. §§ 23-12-1001, 1002, 27-67-214 (Michie 1994).

CALIFORNIA

The California Public Utility Commission has exclusive power to determine and prescribe the manner, the particular point of crossing and the terms of installation, operation, maintenance, use and equipping of each crossing of one railroad by another railroad or street railroad, a public or publicly used road or highway by a railroad or street railroad or of a street by a railroad or street railroad.

The commission may, where practicable, require a grade separation at any crossing, prescribe the terms upon which the separation is to be made and what type of structure is required. See CAL. [PUB. UTIL] CODE § 1201 (West 1994).

COLORADO

The Colorado Public Utilities Commission has the power to determine, order and prescribe the terms and conditions of installation, operation, maintenance and equipping of highway-rail crossings which may be constructed. This includes the placement of watchmen at the crossing and the installation and regulation of lights, blocks, interlockings, other signaling systems, safety appliance devices or other such means as appear reasonable and necessary to promote public safety.

The Commission may order that automatic or other safety appliance signals or devices be installed, reconstructed, improved and/or operated at any grade crossing of any public highway or road by any railroad. The Commission must also determine and order, after notice and hearing, how the cost of installing, reconstructing or improving such signals or devices shall be divided between the affected railroads, the highway operations and maintenance division and the affected city, city and county, town, county or other political subdivision of the state. In determining how much of the cost is to be borne by the railroad, consideration will be given to the benefit, if any which will accrue from those signals or devices to the railroad. In every case, the part to be paid by the railroad is to be not less than twenty percent of the total cost of the signals or devices. In order to compensate for the use of such crossings by the public, the commission will generally order that such part of the total not paid by the railroad will be divided between the state highway crossing fund and the city, town, city and county, county or other political subdivision in which the crossing is located. In that case, the Commission shall also fix the amount to be paid. See COLO. REV. STAT. § 40-4-106 (1994).

CONNECTICUT

The Connecticut Commissioner of Transportation has the authority to investigate conditions surrounding all highway-rail crossings and determine at which crossing(s) public safety reasonably requires that any person traveling upon the highway shall come to a stop or proceed with caution before passing over the tracks. The Commissioner has the authority to require a railroad company at each of the crossings to erect and maintain, on the highway and within the limits of its right-of-way, a STOP, caution or warning sign.

Where the tracks cross a state highway at-grade, the state Traffic Commissioner has authority to prescribe the nature of any traffic control devices or measures that are to be installed. The Commissioner of Transportation is to furnish and install such devices or measures.

The Commissioner may require each railroad company, at all of its at-grade crossings with gates or signals, to erect and maintain, within their right-of-way, a sign advising the public to call the 911 emergency telecommunication number upon the malfunctioning of any grade crossing gates or signals.

The Commissioner may also require each railroad company to maintain logs, subject to the inspection of the Transportation Department, that list all reports of malfunctioning grade crossing gates or signals. Each log must contain information concerning all investigations and actions taken by the company to repair the malfunctioning gates and signals. Each railroad must report to the municipality all actions taken to repair the gate or signals within the municipality.

The Commissioner has authority to make all necessary orders concerning the establishment of a temporary grade crossing during the period of construction of a permanent grade separation,

provided the state, town, city or borough bears the cost of any necessary signs, signals, gates, flagmen or other devices. See CONN. GEN. STAT. § 13b-345 (1992).

DELAWARE

The Delaware Department of Transportation is vested with exclusive power to determine, order and prescribe the points at and the manner in which any crossing may be constructed, altered, relocated or abolished and the manner and conditions in or under which such crossing shall be maintained, operated and equipped. See DEL. CODE ANN. tit. 2, § 1804 (1994).

DISTRICT OF COLUMBIA

Any existing or planned street or highway within the District of Columbia that crosses a railroad, other than a street railroad, is to be located, constructed and maintained either beneath the tracks by a suitable subway or above the tracks by a suitable viaduct bridge.

The cost of any such project, including the cost of constructing the portion of any viaduct bridge within the limits of the railroad company's right-of-way, shall be borne and paid as follows:

- 1) The District of Columbia must apply all federal-aid highway-rail grade separation funds available for use by them.
- 2) If the federal-aid funds are insufficient, the portion not covered shall be paid one-half by the railroad company and one-half by the District of Columbia, provided that in no case shall the obligation of the affected railroad company exceed ten percent of the total cost and expense of the project.
- 3) After construction, the cost of maintenance shall be wholly borne by the District of Columbia in the case of a highway overpass and by the railroad company in the case of an underpass. See D.C. CODE ANN. § 7-1414 (1994).

FLORIDA

The Florida Department of Transportation has regulatory authority over all public highway-rail grade crossings in the state.

Every railroad company maintaining a highway-rail crossing must, upon reasonable notice from the Department of Transportation, install, maintain and operate at the crossing, traffic control devices to warn motorists of the approach of trains.

Advance railroad warning signs and pavement markings must be installed and maintained at public highway-rail grade crossings by the government agency which has jurisdiction over or maintenance responsibility for the highway or street in accordance with the uniform system of traffic control devices.

Pavement markings and advance warning signals are the responsibility of the government entity having jurisdiction over the crossing location. See FLA. STAT. ANN. § 335.141 (West 1994). Also see FLA. STAT. ANN. § 351.03 (West 1994).

GEORGIA

Where a new grade crossing results from the construction of a new or relocated railroad line, the railroad is responsible for and bears all expenses associated with the construction of the grade crossing. The local public authorities with jurisdiction may impose the terms and conditions on the nature of the grade crossing, including any safety devices that may be required.

Whenever maintenance of a grade separation structure, warning device or grade crossing is reasonably necessary for the safety and convenience of the traveling public and the maintenance is the responsibility of the railroad, the affected department, county or municipality may give written notice to the railroad of the necessity of such maintenance. If the railroad does not proceed with maintenance within thirty days after receipt of such notice, the department, county or municipality may perform the maintenance and later collect from the railroad. Where the maintenance is deemed to be the responsibility of the Department, county or municipality, the affected railroad may give notice and proceed in the same manner as the public authorities. See GA. CODE ANN. 32-6-191 (1994).

HAWAII

Hawaii has no laws concerning crossing maintenance or improvement procedures for warning or protective devices.

One section of the Hawaii code does indicate that the director of transportation and the counties are authorized to identify and erect STOP signs at particularly dangerous highway-rail crossings. See HAW. REV. STAT. § 291C-92 (1994).

IDAHO

The Idaho Transportation Department has authority to administer programs and promote public safety at highway-rail crossings.

The Department is charged with exclusive administration of the Railroad Grade Crossing Protection Account. The account was created as a dedicated fund in the state treasury in order to promote public safety at railroad grade crossings and public streets, roads or highways and to pay for all costs of installing, reconstructing, maintaining or improving safety appliances, signals or devices. See IDAHO CODE § 62-304B (1994).

The Department must follow federal guidelines on grade crossing improvement projects that are to be funded, in whole or in part, under any federal act. Where the project is not entirely funded by federal funds, the Department may use monies in the railroad grade crossing account to pay all or a portion of the matching funds required.

On projects where federal-aid funds are not being utilized in whole or in part, the Department shall apportion the entire cost of the engineering installation, reconstruction or improvement of any signal or device between the railroad and the Department or the local authority, in proportion to the respective benefits to be derived.

The railroad company(s) owning the track(s) upon which the improvements are to be made shall perform all construction and maintenance of the signals and devices and shall be reimbursed

for that part of the cost not to be borne by it. In allocating and dividing the costs among the parties involved, the Department must limit the amount to be charged against the railroad to a maximum of ten percent of the total cost of the construction, unless the crossing is a new one proposed by the railroad. In such a case, the railroad assumes the entire cost of construction. See IDAHO CODE §§ 62-301-304A-304C (1994).

ILLINOIS

The Illinois Commerce Commission has the power, either upon its own motion or upon complaint, and after making proper investigation, to require the installation of adequate and appropriate luminous reflective warning signs, flashing signals, crossing gates or any other warning devices in order to promote and safeguard the health and safety of the public.

The commission has the authority to determine the number, type and location of such signs, signals, gates or other warning devices, which shall conform as near as possible to generally recognized national standards. The commission has the authority to prescribe the division of the cost of installation and subsequent maintenance of the signs, signals, gates or other warning devices between the rail carriers, the public highway authority in interest and, in instances involving the use of the Grade Crossing Protection Fund, the Illinois Department of Transportation which administers the fund. See 625 ILCS 5/18c-7401(3) (1994).

INDIANA

Upon petition by five or more citizens of the state or a board of county commissioners, the Indiana Department of Transportation has the authority to conduct a hearing to declare as dangerous or extra hazardous, grade crossings in the state that the Department finds require the installation of automatic train-activated warning signals or other crossing safety devices in order to improve the safety of the users.

When a railroad track crosses a road or highway, the way may be carried over or under the track. When an embankment or cutting makes a change in the line in the road or highway desirable for easier ascent or descent, the railroad may take additional lands for the construction of the road or new line. Unless the lands taken are purchased or voluntarily given, compensation will be made by the railroad to the owners and the land will become part of the intersecting road or highway and held for highway purposes.

When the Department orders installation, replacement, relocation or improvement of automatic train activated warning signals, it will divide the costs of equipment, installation, operation and maintenance between the railroad and the public agencies involved.

After the construction of a grade separation, the public authority or municipality having jurisdiction over the street or highway shall maintain the street or highway, the supporting structures and the drainage thereof. Where the street or highway is carried over the railroad(s), the railroad(s) shall maintain its railway tracks. Where the street or highway is carried under any such railroad(s), the public authority or municipality having jurisdiction over the street or highway shall maintain the street or highway and drainage thereof, and the railroad(s) shall maintain its roadbed, tracks and structures supporting the same.

When a railroad constructs a new highway-rail crossing, the railroad company must maintain the crossing at its expense. When warning signals or devices are required by law, they will be installed and maintained at the expense of the railroad. See IND. CODE ANN. §§ 8-23-9-44 and 8-6-2.1-16 (Burns 1994). Also see IND. CODE ANN. §§ 8-6-7-1 and 8-6-1-7 (Burns 1994).

IOWA

Wherever a railroad track crosses or will cross a highway, street or alley, the railroad company owning the track and the Iowa Transportation Department in the case of primary highways, the Board of Supervisors of the county in which the crossing is located in the case of secondary roads or the council of the city in the case of streets and alleys located within a city, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing, flasher lights or gate arm signals at the crossing and the allocation of costs. The Department will be party to the agreement if grade crossing safety funds are to be used. Up to seventy-five percent of the maintenance cost of flashing lights or gate arm signals at the crossing may be paid from the grade crossing safety fund. See IOWA CODE § 327G.15 (1993).

KANSAS

Upon request by the governing body of any city, county or township, and after a proper investigation is made in cooperation with the secretary of transportation, the Kansas State Corporation Commission has authority to indicate those railroad grade crossings which are dangerous. The state corporation commission may, at a crossing so designated, order that appropriate safety devices be installed and maintained by the railroad(s) and set a completion date. The commission has the authority to determine the number, type and location of such safety devices, which must conform with generally recognized national standards, and to require a portion of the installation cost of the safety devices be paid by the railroad(s) involved provided that the cost to the railroad(s) shall not be less than twenty percent nor more than fifty percent of the total installation costs. See KAN. STAT. ANN. § 66-231a (1993).

As regards the improvement of railroad crossings on the highway system, the secretary of transportation, may order the affected railroad to install and maintain suitable safety devices or warning signals at dangerous or obscure crossings to indicate the approach of trains. See KAN. STAT. ANN. § 68-414 (1993).

KENTUCKY

The Public Protection and Regulation Cabinet shall investigate any public grade crossing not equipped with gates and with an average daily traffic of four thousand or more, at which two or more accidents involving a train and a vehicle traversing a highway-rail crossing have occurred in a consecutive five year period beginning January 1, 1986. The cabinet shall request written comments from the affected local government prior to reaching a decision on a particular crossing. After the cabinet receives a report from the affected local government supporting the installation of gates, the cabinet, utilizing matching funds available from the Federal Highway Administration's highway-rail grade crossing safety program, shall program the installation of gates at the crossing. The Kentucky Public Protection and Regulation Cabinet may also close any crossing with an average daily traffic less than four thousand vehicles.

The cost of installing gates shall be the responsibility of the cabinet and the affected railroad, and shall not be charged to any unit of local government. See KY. REV. STAT. ANN. §§ 189.561 and 277.065 (Baldwin 1994).

LOUISIANA

With the exception of railroads owned and operated by a political corporation, railways or street railway companies in any subdivision of the state, all railroads whose tracks are laid on or across the public street of any municipality, are responsible for keeping the crossing and that portion of the street lying between the rails of the tracks and for a distance of two feet on the outside of each rail of the tracks used by them, together with the necessary headers, in good condition for vehicular traffic. When a street is paved before or after the tracks are laid, the railroad shall pave, repave, repair and keep in good condition and suitable for vehicular traffic the portion of the public street lying between the rails of the tracks and for a distance of two feet outside each rail. The character and kind of paving may be designated by the governing body of the municipality. If the ties of any track should extend for more than two feet on the outside of the rails, the duty and obligation of the railroad to pave, repave, repair and keep in good condition, shall extend to the end of the ties.

Where railroads cross any highway, the corporation shall construct the works so as not to hinder, impede or obstruct its safe and convenient use.

Whenever a highway crosses a railroad track at-grade and the crossing is deemed in need of repair by the chief engineer of the Department of Transportation and Development or an authorized representative, the chief engineer or the authorized representative shall give the affected railroad company fifteen days' notice in writing. If the railroad company fails to make the repairs, the Department of Transportation and Development may make the repairs and bill the railroad.

The governing authority of a municipality in which the tracks of a railroad cross a street or alley may require the railroad to pay one-half of the cost of constructing and maintaining a viaduct over their tracks or a subway under their tracks. The other one-half of the cost of construction and maintenance is to be paid by the municipality. See LA. REV. STAT. ANN. §§ 386-323-3701 (West 1993).

MAINE

Title 23 of the Maine Revised Statute provides a methodology for paying for and maintaining public at-grade railroad crossings and crossing warning devices. Such devices include signals, gates, crossbucks and grade separation bridges that carry highways over the rail line. The actual reimbursement that is calculated for each railroad is based on the following formula: "Cost" shall include all reimbursable costs incurred by the affected railroad, as determined by the Commissioner, less any payment made to the railroad by any other entities.

The statute defines public at-grade crossings as those crossings determined by the Commissioner of Transportation to be public crossings.

The state may provide each railroad with an annual reimbursement payment. For at-grade crossings, the payment is determined based on each railroad's verified average cost for crossing maintenance multiplied by the number of eligible crossings, with total payment not to exceed

fifteen hundred dollars per crossing. For grade separation bridges, the payment is to be determined based on each railroad's verified average maintenance cost for grade separation bridges multiplied by the number of eligible structures. See ME. REV. STAT. ANN. tit. 23, § 7231 (1994).

If the affected railroad corporation fails to perform the required maintenance as deemed necessary in the interest of the public welfare or safety, the commission may contract with others for the work or have the Transportation Department do it. In either case, reimbursement of the actual cost is made to the entity doing the work or causing it to be performed and the payment to the railroad is adjusted accordingly.

Title 23 of the Maine Revised Statute at § 7222 allows the Department of Transportation to designate by general orders, which can be issued without formal notice or hearing, crossings in which the railroads must, through trimming brush and trees or by removing fences and signboards on their right-of-way, insure that the motorist or traveler through the crossing has a clear view of an approaching train three hundred feet from the crossing. See ME. REV. STAT. ANN. tit. 23, § 7222 (1994).

MARYLAND

The Secretary of Transportation has sole authority to approve the construction or modification of a railroad grade crossing or its crossing equipment and to impose the conditions necessary to insure public safety at the crossing. The powers of the Secretary over all aspects of railroad grade crossing can be found in MD. CODE ANN., [TRANSP.] § 8-639 (Michie 1994).

This section also outlines the process required when making application to the Secretary for approval of the construction or modification of a railroad grade crossing or its crossing equipment. The Secretary, after notice to all parties, including adjacent property owners, will hold a hearing if the secretary considers it necessary. A hearing can also be requested by one party in interest if the proposed change might eliminate or diminish any existing crossing device. After conducting any such hearing, the Secretary can either approve or disapprove the application or impose on the person initiating the crossing projects, under uniform standards and regulations, the conditions necessary to insure public safety at the crossing, including installing and maintaining equipment and allocating costs.

When any railroad grade crossing outside the corporate limits of a city is believed to be dangerous, it is the duty of the county commissioner to notify the railroad company that further safety measures at a crossing are necessary. The railroad must either place a flagger at the crossing or erect a system of electric alarm bells or safety gates within thirty days. The county commissioner has the option of changing the crossing to an overgrade or undergrade crossing.

Every railroad company in the State of Maryland has the right, when it considers that the crossing of its tracks by a highway is dangerous, to provide at its own cost, a grade separation. For constructing the approaches to the grade separation, the railroad may, at its own expense, change the grade of the public highway. See MD. CODE ANN., [TRANSP.] § 8-639 (Michie 1994). Also see MD. CODE ANN., [TRANSP.] § 8-640 (Michie 1994) concerning administrative responsibilities.

MASSACHUSETTS

A railroad corporation is authorized to raise or lower a public way in order to pass over or under a highway-rail crossing, but before doing so, it must obtain from the County Commissioners a decree prescribing what alterations may be made in the way, what structures are to be erected and the manner and time of erection. Before either entering upon, excavating or altering the way, the railroad must give to the city or town where the crossing is to be situated, some form of security, satisfactory to the Commissioners, that it will follow the dictates of the decree and that it will indemnify the city or the town against all damages by reason of failure to comply. See MASS. ANN. LAWS ch. 160, § 100 (Law. Co-op. 1994).

If the railroad proceeds with work without having first obtained the decree and given proper security or neglects to give security for fifteen days, the supreme judicial court may enjoin the railroad from entering upon, altering, excavating or crossing the way until the decree has been obtained or security given.

In every case in which consent or approval of the Department of Public Utilities has been obtained, the Department may, after proper notice to all interested parties, hold a hearing and impose conditions, limitations, restrictions and regulations concerning the construction and use of the crossing. The Department may also change and modify them.

A public road shall not be permitted to cross a railroad at-grade unless it is determined that public necessity requires it. Determination may be made by the Department of Highways if it is a state highway or the county commissioners in the case of any public way. However, the Department of Public Utilities must give written consent in all cases. See MASS. ANN. LAW ch. 160, § 104 (Law. Co-op. 1994). Also see MASS. ANN. LAW ch. 160, § 136 (Law. Co-op. 1994).

MICHIGAN

If the location of a proposed highway-rail crossing is found by the Michigan Department of Transportation to be necessary, feasible and reasonably safe, the Department is authorized to grant permission for the crossing. The Department may then require installation of any traffic control devices it judges appropriate.

The full cost of constructing a new street or highway across an existing railroad track or of a new railroad track across an existing street or highway, is to be borne by the party(s) requesting the crossing. The plans for such a grade crossing must be approved by both the railroad and the road authority. If they are unable to agree, the Department will settle the points of the disagreement through its order.

Temporary grade crossings may be constructed, maintained and removed at the sole expense of the affected parties.

If any new grade crossing project is requested by a road authority and approved by the Department of Transportation, the road authority must notify the affected railroad in writing, requesting that the railroad supply a competent inspector and other necessary persons to inspect the construction. The road authority must pay the railroad for the actual costs incurred by the railroad for inspection. Likewise, if the new grade crossing project is requested by the railroad, the railroad must notify the road authority in writing requesting an inspector and other necessary personnel to

inspect the construction. The railroad then is responsible for payment of actual costs for time spent by the road authority inspector and other personnel.

Any railroad owning tracks across a public street or highway at-grade is solely responsible for the cost of constructing and thereafter maintaining, removing and repairing the railroad roadbed, track and culverts within the confines of that street or highway and the streets or sidewalks lying between the rails and for distance outside the rail of one foot beyond the end of the ties. The road authority, on the other hand, is responsible for the construction, improvement, maintenance, renewal and repair of the remainder of the road surface.

The Transportation Department, on its own or upon request by any interested party, may initiate a Diagnostic Study Team review of the physical condition and safety needs of grade crossings of railroad tracks with public streets and highways or with a nonmotorized trail. The Department must give all parties fifteen days' notice of the review and each affected party will provide a representative to participate in the review who is empowered to make decisions on behalf of the party. The Diagnostic Study Team makes its decision concerning the safety needs of a grade crossing based upon current roadway and railroad traffic levels, speeds and other parameters. Funding arrangements, division of responsibility and scheduling will be mutually decided to accommodate adjustments or improvements, relocations, closures, grade separations or other changes reasonably required in the interest of public welfare and safety.

When the diagnostic review is completed the Department issues an order in writing to all parties confirming any agreements reached.

If a consensus is not reached during the Diagnostic Study Team review, the Department can order any adjustments or improvements, relocations, closures or other changes in the interest of the public welfare and safety. The road authority having jurisdiction has the right to a hearing on the Department's order.

Funding for any of the improvements, relocations, closures, or grade separations determined necessary by the Department may come from the following sources, if available and the work deemed eligible:

- 1) From federal funds obtained through the federal-aid highway-rail grade crossing improvement program.
- 2) From state funds obtained through the railroad grade crossing account of the state trunk line fund. See MICH. COMP. LAWS § 22.1263(301) (1993).

The Department is responsible for the administration of funds for high speed rail corridor grade crossing improvements. The Department will administer the funds from a separate account and in an efficient and equitable process by establishing an annual prioritization of grade crossing safety improvements. Items of work that are considered routine maintenance would not be eligible for funding.

The Department can, after routine inspections, periodically serve notice to affected parties that existing devices and conditions existing at public grade crossings need corrective action. See MICH. COMP. LAWS § 22.1263(307) (1993).

MINNESOTA

Chapter 161 of the Minnesota Statutes outlines the general power of the Commissioner of Transportation.

The Commissioner is authorized to contract, on an equitable basis, with railroad companies for the installation and reinstallation of safety devices at trunk highway-rail grade crossings and for the construction, reconstruction and maintenance of existing or necessary bridges and approaches for the separation of grade at railroad and trunk highway intersections.

The Transportation Regulation Board can, upon its own motion, investigate and make a determination as to whether a railroad crossing, over a street or public highway that is or will be opened to public travel, is or will be dangerous to life or property. The board has the authority to order the crossing equipped in any manner it finds reasonable and proper, including requiring the affected railroad company to separate the grades. The board must give the affected railroad company notice and the opportunity to be heard.

The Commissioner of Transportation is required to compile and have completed by 31 December 1993, an inventory of all public and private grade crossings in the state and to annually revise the inventory to reflect grade crossing changes.

If the Transportation Regulation Board finds, through an investigation instituted either upon motion of the Commissioner or upon complaint and after notice and hearing, that a grade crossing requires additional safeguards to insure life and property, it can specify the type of devices required and order the affected railroad company to install them.

If any new grade crossing is desired, either by the appropriate public official or the railroad, and they cannot agree as to the need, location or the type of warning device required, either party can then file a petition to the Commissioner for a determination. If after a hearing, the Commissioner directs the establishment of a new grade crossing and the apportionment of costs cannot be agreed upon, the Commissioner has the authority to determine the cost on the basis of benefit to the users of each.

Powers of the Commissioner notwithstanding, the laws of Minnesota give authority to cities, towns and counties to enter into agreements with railroad companies regarding the construction and maintenance of a railroad crossing. See MINN. STAT. § 161.20 (1993). Also see MINN. STAT. § 219-074(2) regarding the Commissioner's responsibilities for crossing vacations, and § 219-072 regarding new crossings.

MISSISSIPPI

Title 65, Chapter 1, § 8 of the Mississippi Code Annotated grants the Transportation Commission the authority to regulate and abandon grade crossings on any road fixed as a part of the state highway system. Whenever the commission, in order to avoid a grade crossing with the railroad, builds a road on one side of the railroad, it shall have the power to abandon and close the grade crossing whenever an underpass or an overhead bridge is substituted for a grade crossing. The commission is also granted the authority to require the railroad to install signal posts with lights or other warning devices, at the expense of the railroad, and to regulate and abandon an underpass or overhead bridge. Where the underpass or bridge was abandoned because of the building of a new underpass or bridge, the commission can close the old underpass or bridge or, in

its discretion, return jurisdiction for the underpass or bridge back to the county board of supervisors. See MISS. CODE ANN. § 65-1-8 (1994).

Municipal government authorities in Mississippi also have the authority to regulate highway-rail crossings and to provide precautions and prescribe rules regulating the same. This authority includes the power to require railroad companies to erect viaducts over or gates across their tracks at the crossing of streets. See MISS. CODE ANN. § 21-37-9 (1994).

Mississippi uses a multi-disciplinary diagnostic team study approach to determine the need for protective or warning devices at railroad crossings. If the findings of any study reveal a need for warning or protective devices at or in the vicinity of a railroad crossing of a public highway under the jurisdiction of any county or incorporated municipality, the Mississippi State Highway Department is authorized to construct protective or warning devices and to pay up to a maximum of one percent of available monies in the State Highway Fund for construction, provided that the municipality complies with conditions necessary for federal matching funds to complete the balance. See MISS. CODE ANN. § 57-43-13 (1994).

The State of Mississippi maintains a Grade Crossing Closure Account whose funds may be used for the following purposes: financial aid for closure of public roadway/railroad grade crossings; realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing; monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad. See MISS. CODE ANN. § 57-43-13 (1994). Also see MISS. CODE ANN. § 65-1-69 (1994).

MISSOURI

The Division of Transportation of the Department of Economic Development has exclusive power to regulate and provide standards for railroad crossing construction and maintenance.

The Division may make and enforce reasonable rules and regulations pertaining to all public grade crossings. The Division may establish minimum standards for: the materials to be used in the crossing surface, the length and width of the crossing, the approach grades, and the individual parties responsible for maintenance of the approaches and the crossing surfaces.

The Division also has exclusive power to determine and prescribe the particular point of crossing, the terms of the installation, operation, maintenance, apportionment of expenses, use and any warning devices for each crossing of a public road, street or highway by a railroad, of one railroad by another and of one street railroad by another railroad or street railroad. The Division is aided in its determination by adopting pertinent provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways.

The division may, after application or complaint by a city, town or village, or upon its own motion, regulate within a municipality the crossing of a highway, street or roadway with a railroad track. The Division's regulatory authority includes requiring precautions, regulating the running, handling and operation of railway engines and cars, governing the speed of railway engines, cars and trains and making and enforcing orders and restrictions to promote public safety.

Missouri makes funds available for the construction of grade crossing signals or other safety devices by charging a grade crossing safety fee of fifteen cents when the owner of a motor vehicle registers or renews his registration. See MO. REV. STAT. §§ 389.610-612 (1994).

MONTANA

Title 69, Chapter 14, § 603 of the Montana Annotated Statutes provides for railroad crossings in unincorporated towns or villages. The Board of County Commissioners can order the construction and maintenance of a highway-rail crossing. The board's authority does not allow them to order grade separation. See MONT. CODE ANN. § 69-14-603 (1994).

The Montana Public Service Commission may, upon petition or request in writing of any board of county commissioners, order an overhead or an underground crossing. The commission shall give at least ten days' notice to the board and the owner or operator of the affected railroad of the time fixed for a hearing. In the event an overhead or underground crossing is ordered, the commission may apportion the expense between the railroad company and the county. See MONT. CODE ANN. § 69-14-607 (1994).

At all highway-rail crossings of public highways outside incorporated cities and towns, it is the duty of the railroad company owning or operating such railroad to construct and maintain the crossing. See MONT. CODE ANN. § 69-14-602 (1994).

NEBRASKA

In Nebraska, the Public Service Commission has authority over public highway-rail crossings outside incorporated cities and villages. It has authority to order abandonment of state and county highway-rail crossings not located within incorporated cities and villages.

When railroad tracks cross a public highway at-grade outside an incorporated city or village, the owner of the railroad tracks and the county board may agree to any change, alteration or construction that is in the interest of public convenience or safety. They may agree on relocating the highway so as to eliminate the crossing entirely or to construct a grade separation. They may also agree as to the apportionment of costs (see Revised Statutes of Nebraska § 75-415). If there is a dispute between the parties and they cannot agree, either party can make application to the Commission for resolution. The Commission may order the process done and apportion costs. See NEB. REV. STAT. § 75-415 (1994).

Every corporation owning railroad tracks crossed by a public road must maintain, in good repair, crossing for the road over its tracks, including all grading, bridges, ditches and culverts necessary within the railroad right-of-way. Any such crossing will be not less than twenty feet in width and be built of solidly constructed or durable material. The Public Service Commission can, after proper investigation and hearing, impose additional reasonable requirements as circumstances warrant.

When any railroad track crosses a public road in a cut, on a curve or side hill, in timberlands, near buildings or near any object restricting the view from the road, the commission, either on its own motion or upon complaint of interested parties, may order that certain precautions be taken to promote public safety. Each railroad carrier must provide and maintain whatever the Commission may direct, including gates, crossings, signs, alarm bells and warning personnel. The Commission has the authority to adopt a uniform crossing sign design and direct that it be used at any crossing or other place. It may also direct the placement of special signs where the physical conditions of the crossing warrant, except with regard to automatic grade crossing warning devices. See NEB. REV. STAT. §§ 75-411-412 (1994).

A county board or other public authority in interest is vested with the authority to carry out any agreement or order of the Commission and may establish, vacate or relocate any public road so as to be in compliance with any agreement or order of the Commission. See NEB. REV. STAT. § 75-417 (1994). See NEB. REV. STAT. § 75-416 concerning disagreements.

NEVADA

Chapter 704 of Title 58 of Nevada Revised Statutes annotated sets forth the powers of the Public Service Commission, which include exclusive power over railroad crossings (see § 704.300).

The Public Service Commission, after an investigation and hearing, may determine and order any of the options below for the safety of the traveling public. The investigation and hearing result from the filing of a formal complaint by the Department of Transportation, the board of county commissioners, the town board or council or any railroad company.

After a formal hearing the commission may determine and order:

- 1) The elimination, alteration, addition or change of a highway crossing(s) over any railroad at-grade or grade separated, including its approaches and surface.
- 2) Changes in the method of crossing at, above or below grade.
- 3) The closing of a crossing and the substitution of another therefore.
- 4) The removal of obstacles to the public view upon approach.
- 5) Any other changes and improvements for the safety of the public.

The commission is also empowered to order costs for any such work to be divided and paid by the railroad and the state, county, town or municipality. See NEV. REV. STAT. § 704.300 (1993).

The entire cost of a new grade crossing or separation, including any automatic warning devices, is the responsibility of the government unit affected if they initiated the proceeding or the railroad if it initiated the proceeding (see § 704-305), provided that the crossing is not at or near the location of a previous grade crossing elimination project.

Where a new grade separation results in the elimination or reconstruction of an existing grade crossing, the railroad will be responsible for thirteen percent of the costs, the remainder is to be borne by the affected government unit.

Where automatic warning devices are added or materially altered at an existing grade crossing, eighty-seven percent of the costs shall be the responsibility of the railroad.

The affected railroads will pay fifty percent of the maintenance costs for any new or altered automatic crossing warning device, with the remaining fifty percent being paid by the affected government units. See NEV. REV. STAT. ANN. § 704-305 (1993).

NEW HAMPSHIRE

Chapter 373, § 22 of the Revised Statutes of New Hampshire provides that whenever the Department of Transportation, after a hearing as a result of its own motion or by petition from a party in interest, decides that public safety requires the closing of a crossing, either at-grade or above or below the railroad, it may order such closure. See N.H. REV. STAT. ANN. § 373:22 (1993). Also see chapter on private crossings.

No railroad may be constructed across another railroad, highway or other way at-grade, without first obtaining written consent from the state Department of Transportation (see 373:4). Likewise, no highway may be constructed at-grade across a railroad without consent of the Department of Transportation. See N.H. REV. STAT. ANN. §§ 373:4-6 (1993).

The Department of Transportation, after receipt of a petition from a railroad, the selectmen of a town or the mayor and council of a city, and after proper notice and a hearing, has authority in the interest of safety to the railroad and the public to require a railroad to separate grades, change the location of a highway or a railroad in order to avoid or improve a grade crossing, reconstruct or otherwise alter any existing bridge or underpass, and improve the approaches to any grade crossing so they will be as level as possible.

The railroads in New Hampshire have a statutory duty to provide suitable crossings, stations and other facilities for public accommodation and suitable gates, crossings, cattle passes and other facilities for the accommodation of persons whose lands are divided or are separated from a highway by a railroad. See N.H. REV. STAT. ANN. § 373:2 (1993).

NEW JERSEY

No new highway-rail crossings can be constructed without first obtaining the permission of the Department of Transportation. A 1979 amendment to the statute transferred all of the functions, powers and duties of the Board of Public Utility Commissioners with respect to highway-rail grade crossings to the Commissioner and the Department of Transportation.

New Jersey Revised Statutes § 48:12-61 (1993) describe the authority of the Department of Transportation over highway-rail crossings. This authority extends only to a public highway and not a state highway. It is referred to in the New Jersey statutes as the "Fielder Grade Crossing Law".

When a public highway crosses railroad tracks at the same level and it appears to the Department of Transportation that the crossing(s) are dangerous to public safety, the Department may order the railroad(s) to alter the crossing, within a set time limit, according to plans approved by the Department.

The kinds of alterations that can be made are:

- 1) Grade separations.
- 2) Vacations, relocations or changes in the line, width, direction or location of the highway and the opening of a new crossing in place of the vacated one.
- 3) Relocation of the railroad tracks where, in the judgement of the Department, the owner of the property will be unduly injured by the elimination of the crossing. See N.J. REV. STAT. § 48:12-61 (1993).

The railroad company(s) involved will pay fifteen percent and the Department will pay eighty-five percent of the entire cost of any alterations, reconstructions, changes, relocations or openings, including damages to adjacent property and the cost of removing, relaying or relocating any municipal pipes, conduits or subways.

If the Department finds that any such alterations are necessary because of increased vehicular or pedestrian traffic within the limits of the municipality or county having jurisdiction over the affected public highway, it may change the apportionment to fifteen percent by the railroad company(s) involved, fifteen percent by the municipality(s) or county(s) having jurisdiction over the public highways involved and seventy percent by the Department.

Any railroad company(s) whose tracks are crossed at-grade by a public highway, a body having charge of the finances of any municipality or court having jurisdiction over any such highway, may present a petition to the Department in writing, setting forth the facts upon which relief is sought concerning alterations to or connected with the crossing(s). The Department will schedule a hearing, determine what alterations should be made and make an order. See N.J. REV. STAT. § 48:12-64 (1993).

The Department of Transportation is authorized to maintain two million dollars per annum to be used to defray the public share of the costs of eliminating grade crossings or installing, changing, reconstructing, relocating and modifying protective devices. See N.J. REV. STAT. § 54:39-72 (1993).

NEW MEXICO

When a state, county, municipal or other street or highway, including a highway which has been or may be designated as a part of the federal-aid highway system, which may hereafter be constructed or reconstructed in such manner that the same crosses or intersects any railroad, the New Mexico State Highway Commission or other governing body, may, if in its opinion it is practicable and reasonably necessary for the safety of the traveling public, separate the grades at such crossings. As to the separation and the method of achieving it, the Commission may apply to the district court of the county asking that the court order separations of the grades. If the court determines that grade separation is practicable and necessary for the safety of the traveling public, it can order separation and the permanent closure of the existing grade crossing. When any such separation is made, the railroad company is responsible for an amount up to ten percent of the cost. See N.M. STAT. ANN. § 63-3-37 (Michie 1994).

After any such grade separation is constructed, the State Highway Commission shall be responsible for maintaining the roadbed and structures and the railroad is responsible for its roadway, the track and its structures. See N.M. STAT. ANN. § 63-3-38 (Michie 1994).

NEW YORK

The Commissioner of Transportation of New York is responsible for reporting to the Governor and appropriate members of the legislature by the first of December each year on grade crossing projects that have been completed, those under construction, those ordered to be completed but not yet started and the amount of money expended or expected to be expended on the projects.

The governing body of any municipality where a highway-rail grade crossing is located or any railroad that has tracks crossed at-grade by a highway is entitled to petition the Commissioner of Transportation to begin grade crossing elimination procedures. After issuing notice, the Commissioner shall promulgate rules and regulations concerning the procedure to be followed at the hearing. After the conclusion of the hearing, the Commissioner can order an elimination. Its determination can include any alterations, the location and method of crossing, the character of the structures and approaches, the type and extent of payment, the closing and discontinuance of the crossing and the divergence of traffic from an existing crossing to an existing or new highway, road or street crossing. The Commissioner may also order a change in the location of a railroad. See N.Y. [RAILROAD] LAW § 91 (Law. Co-op. 1994).

The Mayor or City Manager and Common Council of any city, the President or Mayor and trustees of any village, the town board of any town, or the board of supervisors and county executive of any county, who has jurisdiction over a street, avenue, highway or road which crosses a railroad track, may bring a petition in writing to the Commissioner of Transportation alleging that the public interest requires rehabilitation, an alteration in the manner or location of the crossing, a change in the existing structure or the closure and discontinuance of a crossing. After proper notice to the affected parties, the Commissioner may order that the changes be made. See N.Y. [TRANSP.] LAW § 222 (McKinney 1994). Also see N.Y. [TRANSP.] LAW § 223 (McKinney 1994) for a discussion of apportioned expenses.

NORTH CAROLINA

The General Statutes of North Carolina, Chapter 136, § 20 provides guidance on the elimination or safeguarding of at-grade crossings and inadequate underpasses or overpasses.

The Secretary of Transportation, along with the power to eliminate crossings, is also authorized to order grade separation and the installation and maintenance of gates, alarm signals and other approved safety devices. Any such orders shall specify that the cost of construction of any underpass or overpass or the installation of safety devices is to be allocated between the railroad company and the Department of Transportation in the same ratio as the net benefits received by the railroad and the net benefits occurring to the public using the highway, but in no case shall the railroad be responsible for more than ten percent. After any such order is issued by the Secretary, it will be the responsibility of the railroad to construct the grade separation and to install and maintain all safety devices.

Beginning January 1, 1995, if any railroad refuses to comply with any order of the Secretary, they shall be guilty of a Class 3 misdemeanor and may be fined not less than fifty nor more than one hundred dollars for each day in which they fail to comply.

From any order made by the Secretary, the railroad company has the right to appeal to the superior court of the county wherein the crossing is located. See N.C. GEN. STAT. § 136.20 (e)-(g) (1994).

Railroad crossings in the cities of North Carolina are regulated by the cities themselves. A city has the authority to direct, control and prohibit the laying of railroad tracks and switches in public streets and alleys and to require that all railroad tracks, crossings and bridges be constructed so as not to interfere with ordinary travel or drainage patterns. The costs relating to construction, reconstruction and improvement of such streets and alleys are to be borne equally by the city and

the railroad, but the costs of maintenance and repair after construction is the responsibility of the railroad.

A city has the authority to order the installation, construction, erection, reconstruction and improvements of warning signs, gates, lights and other safety devices at grade crossings. The city is responsible for ninety percent of the cost and the railroad is responsible for ten percent.

A city has the authority to order the elimination and separation of a grade crossing if the council finds that the crossing constitutes an unreasonable hazard to vehicular or pedestrian traffic. See N.C. GEN. STAT. § 160A-298 (a)-(c)-(d) (1994).

NORTH DAKOTA

Changing or closing railroad crossings is the authority of the Public Service Commission. When it is desired, either by the public officials having the necessary authority or by the railroad, to establish, vacate or relocate any crossing of a public highway and a railroad or to separate grades, they may agree to do so. If they are unable to reach an agreement, either as to the necessity for establishing, vacating or relocating a crossing or for grade separation, regarding place, manner of construction or reasonable division of the expenses, either party may file a petition with the Public Service Commission. The Commission, after giving proper notice, shall conduct a hearing and issue its order. See N.D. CENT. CODE § 24-09-10 (1993).

The Commission, either by its own motion or upon written application made to it by the Director of Transportation, the board of county commissioners, the board of supervisors or the railroad company, is empowered to investigate and determine whether any railroad grade crossing over any state, county, township or municipal highway in the state is dangerous to life and property and needs protection. If the Commission finds that such is the case, it may order the same equipped in any manner it may find reasonable and proper, including grade separation. If the railroad company does not agree with the Commission's order, it may appeal, within thirty days of being served a copy of the order, to the district court of the county where the crossing is located. See N.D. CENT. CODE § 24-09-08 (1993).

In order to promote public safety at intersections of railroad lines and all classes of highways, the North Dakota Department of Transportation has the authority to apportion costs of automatic grade crossing warning devices. One exception to the process occurs when, if under § 24-09-08, the Public Service Commission orders that any grade crossing be equipped with automatic grade crossing warning devices, the commission shall, in its order, apportion the cost thereof between the affected railroad, the political subdivision having jurisdiction of the highway involved and the state of North Dakota. Costs are to be apportioned to any one or more of the parties on the basis of the respective benefit derived by highway users and the railroad from the installation of any crossing device. See N.D. CENT. CODE § 24-09-08 (1993).

OHIO

Just as with the authority for closure, the authority to order alterations and grade separations lies with the various units of local government in Ohio.

Chapter 4957 of the Ohio Revised Code Annotated, subchapter one, provides that, if the legislative authority of a municipal corporation or the board of county commissioners and the

board of directors of the railroad company are of the opinion that the security and convenience of the public require alterations to any such crossing, its approaches, or the location of the railroad, crossing or grades so as to avoid a crossing at-grade, that crossing should be discontinued with or without building a new one. The board of county commissioners has the same powers with respect to that part of a state, county or township road which lies within the limits of a municipal corporation as are conferred upon municipal corporations to alter or require to be altered, any railroad crossing and to apportion the cost between the county and the railroad.

Ohio established a grade crossing protection fund for the purposes of paying the public share of the cost of reducing hazards at public highway-railroad crossings. The money is raised from the motor vehicle fuel tax and any federal funds apportioned to the state for the reduction of hazards at highway-railroad crossings. See OHIO REV. CODE ANN. § 4907.472 (Anderson 1994).

Railroad companies will build and maintain crossings over or approaches to their tracks, sidetracks and switches at all points where any public highway, street, land, avenue, alley, road or pike is intersected by the tracks. The Board of Township Trustees has the power to determine the kind, time and manner of constructing crossings and approaches outside municipal corporations. The legislative authority of a municipal corporation has the same powers as to crossings, approaches and sidewalks within the municipality. Such crossings, approaches and sidewalks are to be constructed, repaired and maintained by the railroad companies. Every municipal corporation or other authority building a highway across an existing railroad will construct it above or below the grade of the railroad, unless allowed to build at-grade as provided by § 4957.30 to 4957.32. Unless otherwise agreed upon, eighty-five percent of the costs will be paid by the municipal corporation and fifteen percent by the railroad company. In the case of rebuilding bridges or other structures at or in line with a public street or highway and across a street, the cost of making the streets or highways conform to a new grade, with all damages to property abutting on them, will be paid by the railroad company when the raising or building of its bridges or structures in the line of a street or highway results in it being at a greater height than was previously required. See OHIO REV. CODE ANN. §§ 4955.20-4957.32 (Baldwin 1994).

A municipal corporation may raise or lower the grade of any street it owns, either within or outside its municipal limits, above or below railroad tracks and may require any railroad company operating across its streets to raise or lower the grade of its tracks. Municipal corporations may construct crossings above the tracks of a railroad and require the railroad company to construct crossings to be passed under its tracks. A municipal corporation may require the railroad to erect permanent piers, abutments or other appropriate supports in the crossings, streets, roads or alleys when, in the opinion of the legislative authority, raising or lowering is necessary. See OHIO REV. CODE ANN. § 4957.10 (Baldwin 1994).

In a municipal corporation, after the completion of crossing alteration, crossings and approaches will be maintained as follows:

- 1) When the public road crosses a railroad by an overhead bridge, the cost of maintenance must be borne by the municipal corporation.
- 2) When the road passes under the railroad, the bridge and its abutments will be maintained by the railroad company. The public road and its approaches will be maintained by the municipal corporation. See OHIO REV. CODE ANN. § 4957.24 (Baldwin 1994).

The cost of constructing a highway-rail crossing improvement, including the building of roads, crossings or viaducts above or below the tracks and the raising or lowering of the grades of the tracks and sidetracks, as required by the municipality, together with the cost of land purchased or appropriated and damages, will be borne eighty-five percent by the municipal corporation and fifteen percent by the railroad company. The railroad is entitled to deduct from its share of the expense the cost incurred in changing its grade as required by the municipal corporation or made necessary by its specifications, but only if the amount of expense or method for calculating it has been agreed upon in writing by the municipality and the railroad. See OHIO REV. CODE ANN. § 4957.18 (Baldwin 1994).

The legislative authority of a municipal corporation may, by ordinance, prescribe the manner and time of payment that proportion of the cost of crossing improvement which the railroad company is required to pay. See OHIO REV. CODE ANN. § 4957.19 (Baldwin 1994).

After the completion of a crossing alteration, the crossings and approaches will be maintained as follows:

- 1) When the public road crosses a railroad by overhead bridge, the cost of maintenance must be borne by the county or the state as provided by law.
- 2) When the public road passes under a railroad, the bridge and its abutments will be maintained by the railroad company, in proportions fixed by agreement or the court of common pleas of the county in which the improvement is located. The public road and its approaches will be maintained by the county or the state, as provided by law. See OHIO REV. CODE ANN. § 4957.06 (Baldwin 1994).

OKLAHOMA

Just as with the authority for closure, the Oklahoma Corporation Commission has exclusive jurisdiction to determine and prescribe the particular location of highway-rail crossings, the amount and kind of warning devices required, the removal of all obstructions in view of such crossings, the altering or abolishment of any such crossings and to require, where practicable, a separation of grade at any such crossing, either current or projected for the future. See OKL. STAT. tit. 17, § 84 (1994).

The cost of construction and maintenance of public highway-rail crossings is borne by the affected railroad company. For overgrade or undergrade public highway crossings, the apportionment of cost and maintenance is left to the discretion of the corporation commission, but under no circumstances is the city, town or municipality assessed with more than fifty percent of the actual cost of overgrade or undergrade crossings.

The Corporation Commission has the authority to designate certain crossings extra hazardous and to order the installation of appropriate warning devices. The installations are performed by the railroad. The commission prescribes the division of the cost of the installation of signs, signals, gates or other warning devices between the railroad and the state or its political subdivision. In any case, the cost to the railroad will not be less than ten percent nor more than twenty-five percent of the total costs. The railroads are responsible for all subsequent maintenance costs. See OKL. STAT. tit. 17, §§ 82-86 (1994).

All such division of costs that become an obligation of the state will be paid from the state highway construction and maintenance fund. All such division of costs made the obligation of a

All such division of costs that become an obligation of the state will be paid from the state highway construction and maintenance fund. All such division of costs made the obligation of a municipality or other subdivision will be paid from funds accruing to the various counties of the state. See OKL. STAT. tit. 17, § 87 (1994)).

OREGON

"The Public Utility Commission has the authority to adopt rules prescribing specifications for the design and location of protective devices. Specifications for the design and location of protective devices to be installed on or adjacent to the highway in advance of a highway-rail grade crossing shall conform to standards adopted by the Oregon Department Of Transportation. Specifications for all other warning devices shall be adopted in consultation with the Department." See OR. REV. STAT. § 763.110 (1994).

In the event any warning device is to be installed or altered at an existing or relocated crossing or at an existing separation structure with the aid of any federal funds administered by the Federal Highway Administration of the United States Department Of Transportation, the Commission may, unless the parties agree otherwise, apportion the amount of federal funds to payment of installation, reconstruction or alteration costs and apportion the remaining costs of the same, plus maintenance, as provided by ORS 763.250, 763.271 to 763.275 and 763.080. In a case where the federal fund assistance equals or exceeds seventy-five percent of the cost of installing, altering and reconstructing warning devices at an existing or relocated crossing, the remaining costs, except for maintenance costs, may be allocated entirely to the Grade Crossing Protection Account. See OR. REV. STAT. § 763.290 (1994). See also OR. REV. STAT. § 763.271 (1994) for apportionment of costs for installation and OR. REV. STAT. § 763.273 (1994) for apportionment of costs for maintenance.

The Commission may, upon application by a railroad, the public authority in interest, the Department of Transportation or upon its own motion, subsequent to a hearing if necessary under ORS § 763.080 and after finding that such action is required by the public safety, necessity, convenience and general welfare:

- 1) Eliminate a grade crossing by relocation of the highway.
- 2) Alter or abolish any grade crossing, change the location thereof or require a separation of grades at any such crossing.
- 3) Alter or change any existing grade separation.
- 4) Require installation or alteration of protective or warning devices. See OR. REV. STAT. § 763.030 (1994).

PENNSYLVANIA

The Public Service Commission of Pennsylvania is vested with exclusive power to appropriate property for and regulate crossings. The Commission can determine and prescribe, by regulation or order, the points and manner in which crossings are to be constructed, altered, relocated, suspended or abolished and the manner and conditions in or under which such crossings shall be maintained, operated and equipped to effectuate the prevention of accidents and the promotion of public safety. The Commission can also require every railroad whose right-of-way crosses a public highway at-grade to cut or otherwise control the growth of brush and weeds upon its property within two hundred feet of the crossing on both sides in both directions so as to insure proper visibility by motorists. In determining the plans and specifications for any such crossing, the Commission may lay out, establish and open such new highways as, in its opinion, may be necessary to connect such crossing with any existing highway or make such crossing more available to public use. It may abandon or vacate such highways or portions of highways as, in the opinion of the Commission, may be rendered unnecessary for public use by the construction, relocation or abandonment of any such crossing. The commission may order the work of construction, relocation, alteration, equipping, suspension or abolition of any crossing to be performed in whole or in part by any public utility (railroad) or municipal corporation concerned or by the Commonwealth. See 66 PA. CONS. STAT. § 2702(b)-(c) (1994).

"When any railroad is or will be crossed at-grade by a public road, street or highway and the railroad company shall have constructed or shall have been or shall be constructed by others, with such company's consent, an undergrade subway or an overgrade bridge or crossing sufficiently near the public crossing to reasonably accommodate the traveling public, the Court of Quarter Sessions of the county in which the said crossing exists, upon petition of the affected railroad company or other persons, may, if satisfied that the undergrade subway or overgrade bridge or crossing reasonably accommodates the traveling public, after notice to any corporation using or occupying the street proposed to be vacated, with tracks, wires, pipes or conduits and by rule show cause to the supervisors if the crossing is in a township or to the burgess or mayor if the crossing is in a borough or city and after testimony, taken either in open court or by deposition, as the court may direct order that the road, street or highway where it crosses the affected railroad at-grade and its approaches on both sides, shall be vacated and that the undergrade crossing or subway or the overgrade bridge or crossing and its approaches on both sides, substituted therefore, shall be a public highway and be maintained by the proper authorities." See 36 PA. CONS. STAT. § 2111 (1994).

RHODE ISLAND

The General Assembly of Rhode Island vests in the Public Utility Commission the authority and power to determine the point at and the manner in which any grade crossing of a railroad and street is constructed and the jurisdiction to determine whether any crossing should be altered, relocated, abolished or eliminated and the manner and conditions under which the crossings shall be maintained, even if the order of the Commission has the effect of depriving a municipality of control of its streets. See R.I. GEN. LAWS § 39-8-1.1 (1994).

All railroads crossing any other railroad at-grade shall be operated at the crossing subject to and in accordance with, rules and regulations as prescribed by the Division of Public Utilities and Carriers of the Public Utility Commission. See R.I. GEN. LAWS § 39-8-6 (1994).

If the town council is of the opinion that it is necessary for the security of the public in any town wherein a turnpike or highway is crossed by a railroad at-grade, to raise or lower the turnpike or highway so as to separate the grade with the railroad, they may request the corporation owning the railroad to do so. If the railroad corporation neglects or refuses to do so, the town council may apply to the Public Utility Commission. If the Commission, after due notice and a hearing with the parties, decides that grade separation is necessary for the safety of the public, the railroad corporation shall comply with the decision. Either party however, may petition the Rhode Island Supreme Court for relief. The Rhode Island Supreme Court has full power to decide these issues.

The cost and expense of making the grade change shall be borne by the railroad corporation and the town requesting the change, in proportions as may be decided by the court. If the railroad neglects or refuses to make the changes after order of the court, the town council may proceed to make the separation and may, in action against the railroad, recover all charges and expenses. See R.I. GEN. LAWS § 39-8-2 (1994).

The Director of Transportation is given statutory authority to improve an existing highway-rail at-grade crossing by adding automatic warning devices, relocating it or rebuilding it if the improvements will increase the safety of the crossing and the highway. The Director may eliminate the crossing by adjusting track and highway levels and constructing separation structures and connecting roadways which are suitably located to serve all affected properties. The Director may also close the highways at existing crossings so served, subject to approval of the railroad authorities and the Public Utilities and Carriers Division.

For highway-rail crossings not on the state highway system, the improvements, construction, reconstruction or closure shall also be subject to the approval of the town or city in which the work is to be performed. See R.I. GEN. LAWS § 24-8-10 (1994).

Every railroad corporation must establish or substitute flaggers, gates or other precautionary measures or appliances at public highway crossings when the commission says it is necessary for public safety. See R.I. GEN. LAWS § 39-8-9 (1994).

SOUTH CAROLINA

The governing body of a county may authorize the construction of a highway or town way across a railroad previously constructed when it decides that the public convenience and necessity require such a crossing. After due notice to the railroad corporation and a hearing with all interested parties, the governing body may construct the highway or town way or may authorize a city or town, on the petition of the mayor and aldermen thereof, to construct a way across a railroad in such manner as not to injure or obstruct the railroad. See S.C. CODE ANN. § 58-17-1360 (Law. Co-op. 1994).

With the exception of a street in any incorporated city or town, a railroad corporation may alter the course of a highway or other way for the purpose of facilitating crossing by a railroad or permit the railroad to pass at the side without crossing. A decree of the governing body of the county must first be obtained prescribing the manner and time of any such alteration. The railroad

shall pay all damages occasioned to private property by the alteration, as in the case of land taken for its road. See S.C. CODE ANN. § 58-17-1340 (Law. Co-op. 1994).

The South Carolina Department of Transportation is responsible for inspecting railroad crossings on state maintained highways. The governing body of each county is responsible for inspecting railroad crossings on county maintained roads. The governing body of each municipality is responsible for inspecting railroad crossings on road and street rights-of-way maintained by municipalities.

If any authorized person from any of these jurisdictions inspecting a railroad crossing finds that the required signs are not in place or maintained or finds that a motorist's view of approaching trains is unsafely obstructed by vegetation, growth or objects which are within the right-of-way of the railroad, the inspector must immediately notify the Deputy Director of Engineering with the South Carolina Department Of Transportation. The inspector must also inform the state highway engineer if there is a STOP sign at the crossing and, if not, whether, in his opinion, one should be added. After receiving notice from the inspector on his findings, the Department must give written notice of the hazard immediately by certified mail to any officer or registered agent of the railroad within the state. Notice from the Department may order the railroad to erect, maintain or properly situate crossbucks, or to cut or remove the vegetation, growth and objects not permanently affixed to realty that are obstructing a motorist's view. The Department must also notify the governing body of any county or municipality of the inspector's opinion that a STOP sign be erected.

Removal or elimination of the obstructions must be made by the responsible railroad within sixty days of receipt of notice. Measures to assure that crossbucks are properly in place and maintained must be taken by the responsible railroad within thirty days of receipt of notice. However, if the crossbucks are not present or have been removed, then the railroad has ten days from notice to erect crossbucks.

By January 1 of each year, counties and municipalities are required to report to the Department all railroad crossings that have been inspected during the preceding year and at which no obstructions were found. The Department must make an annual report of inspections conducted during the preceding year and provide that report to the Transportation Committee of the South Carolina Senate and Education and Public Works Committee of the South Carolina House of Representatives. See S.C. CODE ANN. § 58-17-1450 (Law. Co-op. 1994).

All railroad companies must construct and maintain crossings meeting the requirements of the authorities responsible for such highways. This applies to both crossings at new highways and to crossings replacing those rendered obsolete or unnecessary by the relocation or improvement of existing highways or roads. See S.C. CODE ANN. § 58-15-2110 (Law. Co-op. 1994).

In case of highway-rail crossings involving state highways, the State Highway Department, after due notice to the railroad corporation and a hearing with the affected railroad, shall have the power to specify the character of the crossing. The railroad company shall, at its own cost, construct and maintain the crossing to meet those specifications. See S.C. CODE ANN. § 58-15-2120 (Law. Co-op. 1994).

SOUTH DAKOTA

The Department of Transportation may determine, order and prescribe the reasonable manner in which the tracks or other facilities of any railroad company(s) may be constructed at, above or below grade across the track or facilities of any other railroad company, public highway or street. The Department also may determine, order and prescribe the terms and conditions of installation, operation, maintenance and equipping of all such crossings which may be constructed, including any watchman thereat or the installation and regulation of lights, blocks, interlocking or other signaling systems, safety appliance devices and such other means as determined by the Department. See S.D. CODIFIED LAWS ANN. § 31-27-2 (1994).

When no right-of-way is needed for the building of a subway or overhead crossing on a state or county highway, the expense of any such construction will be divided between the railroad company and the state or counties according to the benefits accruing to each party. See S.D. CODIFIED LAWS ANN. § 31-27-10 (1994).

If a new right-of-way is necessary for the construction of a grade separation on a state or county highway, the Department of Transportation determines whether to eliminate the crossing (§ 31-27-12). If a new right-of-way is necessary for the construction of a grade separation on a county highway, the board of county commissioners must proceed to eliminate the dangerous crossing after being notified by the Department of Transportation. See S.D. CODIFIED LAWS ANN. § 31-27-9 (1994).

A railroad can raise or lower a public highway, except a highway within the limits of a municipality, for a railroad crossing. The railroad company must petition the board of county commissioners if the crossing is not a part of the state highway system or the Department of Transportation if it is a part of the state system. There must be a guarantee, on the part of the railroad, that the crossing is to be kept in as good repair and condition as before the alteration was made, and the railroad is to do this at its own expense. The grade approaching the crossing shall not exceed ten percent at any point.

A railroad, while in the process of a grade separation or while making any other alterations which obstruct a public highway, shall provide and keep suitable such temporary ways as necessary to enable traffic to avoid or pass the obstruction. See S.D. CODIFIED LAWS ANN. §§ 49-16A-84-85 (1994).

Except within the limits of a municipality, the Department of Transportation and county commissioners may designate any hazardous railroad crossing as a stop crossing. The crossing shall be designated by placing a STOP sign at the point of stop and such sign is to be preceded by a warning sign. See S.D. CODIFIED LAWS ANN. § 31-28-17 (1994). Also see § 32-29-7.

The expense of repairing, replacing and maintaining all railroad and highway crossings and all warning and safety devices, is to be determined by the Department of Transportation on the basis of the proportion of any benefits derived by railroad companies and the public authority in interest. See S.D. CODIFIED LAWS ANN. § 31-27-19.1 (1994).

Every municipality has the authority to require the railroad to make, keep open and repair its crossings of streets and public roads. The municipalities may also require the railroads to make, keep open and repair ditches, drains, sewers and culverts along and under their tracks. See S.D. CODIFIED LAW ANN. § 9-35-8 (1994).

The responsibility of a railroad corporation to maintain highway-rail crossings as provided by law does not terminate upon the abandonment of the railroad right-of-way or a portion of it but continues until the highway is restored to usable condition. See S.D. CODIFIED LAWS ANN. § 31-27-2.1 (1994).

TENNESSEE

When any grade crossing is ordered to be eliminated by the Commissioner of Transportation, it is the duty of the affected railroad company to comply with the order within the specified time by first submitting to the Commissioner or the Commissioner's designee detailed plans and specifications along with estimates of cost for the construction of a grade separation, including its approaches.

The affected railroad company has the right to appeal the order of the Commissioner to the Public Service Commission for an extension of time given to begin and complete the actual construction of the grade separation. If it finds that the financial condition of the affected railroad would be adversely affected, the Public Service Commission is empowered to stay the order for any length of time, not to exceed two years.

If the affected railroad fails to comply with the Commissioner's order for grade separation or fails to avail itself of the opportunity to appeal the order within 60 days from the date of the service of the order, the Commissioner is empowered to proceed immediately with the construction of the separation and, upon completion, to assess one half of the cost of preparation of plans and estimates and one half of the cost of the work of construction against the affected railroad company. All costs as are assessed in this manner will constitute a lien upon the physical properties of the railroad recoverable by suit. See TENN. CODE ANN. § 65-11-109 (1994).

The Commissioner of Transportation may, by agreement or contract with a railroad company, apportion the work to be done in constructing a grade separation between the railroad company and contractors acting under the control and supervision of the Commissioner, provided that, when any of the Commissioner's contractors or employees are on the railroad's right-of-way, they are subject to railroad company rules and regulations for safety purposes. See TENN. CODE ANN. § 65-11-110 (1994).

When an overpass or underpass is constructed on any state highway, the railroad company will maintain it, the approaches on its right-of-way and any part of a structure not supported by fill, but not the surface of the highway. The flooring of the overpass supporting the surface of the highway or constituting the surface of the highway will be considered as a part of the structure to be maintained by and at the expense of the railroad company. The Commissioner of Transportation will maintain, out of public funds, any fill, approach to any crossing not on the railroad company's right-of-way and the entire surface of the highway at all points. See TENN. CODE ANN. § 65-11-112 (1994).

TEXAS

A railroad must construct a grade crossing at such times and places as may be demanded by any two or more citizens of Texas who either live on or own land within five miles of the place where the crossing is being demanded. The demand must be made in writing to the railroad and must state when and where such crossing is desired. See TEX. REV. CIV. STAT. ANN. art. 6322 (West 1994).

Every railroad company must place and keep that portion of its roadbed and right-of-way over or across any public county road in proper condition for the use of the traveling public. If it fails to do so for thirty days after written notice, it shall be liable to a penalty of ten dollars for each week the railroad company fails or neglects to comply. See TEX. REV. CIV. STAT. ANN. art. 6327 (West 1994).

A county or municipality must use standards developed by the Texas Department of Transportation to apply pavement markings or a stop bar at a grade crossing if the cost of the markings or stop bar is paid either entirely or partly from state or federal funds. The Department is to develop its standards by following those in the Manual on Uniform Traffic Control Devices issued by the U.S. DOT, Federal Highway Administration. The Department may also require the use of retroreflectorized materials where it deems such materials appropriate. A stop bar is defined in this article as the marking that is applied or attached to the surface of a roadway, on either side of a grade crossing, indicating that a vehicle must stop at the grade crossing. Pavement markings are defined as markings applied or attached to the surface of a roadway for the purpose of regulating, warning or guiding traffic. See TEX. REV. CIV. STAT. ANN. art. 6370c (West 1994).

All railroad corporations in Texas which have fences around their right-of-way may be required to make openings or crossings through their fence and over their roadbed every one and one-half miles. See TEX. REV. CIV. STAT. ANN. art. 6321 (West 1994).

Every incorporated city or town (including a Home Rule city) is authorized to purchase, build, construct, acquire, improve, enlarge, extend, maintain, repair and replace any and all properties, improvements and facilities which the governing body deems to be necessary for the elimination of at-grade crossings of the streets in such city by railroad lines and for the relocation of railroad lines within the city so that the hazards to life and property will be decreased. See TEX. REV. CIV. STAT. ANN. art. 1105c (West 1994).

All driving safety courses approved by the Department of Public Safety or by a court as authorized by law must include instruction on highway-rail grade crossing safety. It is the responsibility of the Department of Public Safety to provide minimum standards of course content concerning the operation of vehicles at highway-rail grade crossings. See TEX. REV. CIV. STAT. ANN. art. 6701j-2 (West 1994).

UTAH

The Department of Transportation has exclusive authority over highway-rail grade crossings in the state. This authority includes complete power to determine and prescribe the manner, including the location, of the crossing and the terms of installation, operation, maintenance, use and equipping of each crossing of one railroad by another railroad or street railroad and of each crossing of a street, public road or highway by a railroad. In addition to the authority to abolish crossings, the Department may order a separation of grades, the manner and

terms upon which such separation shall be made and the division of expenses, whether it be between the affected railroads or between the railroads and the state, county, municipality or other public authority in interest. See UTAH CODE ANN. § 54-4-15 (1994).

VERMONT

A railroad may be laid out to cross a turnpike or other way if the Transportation Board judges it necessary. The railroad may raise or lower the turnpike or way but must restore the turnpike or way as much as practicable so that it remains useful. See VT. STAT. ANN. tit. 30, § 1363 (1994).

When a railroad corporation has constructed a railroad upon, over or under the path of a town or state highway, the railroad will maintain and rebuild bridges, culverts, crossings and other constructions, except bridges made for the accommodation, safety and convenience of public travel. Installations of new at-grade crossings, extensions of existing crossings or the rebuilding of existing crossings required as a result of the building of any such extensions, when required for the accommodation, safety and convenience of the public travel or for any reason except the accommodation of the railroad, will be done by the railroad corporation at the expense of the state. See VT. STAT. ANN. tit. 30, § 1366 (1994).

When it becomes necessary to rebuild any existing bridge on a state highway that carries the public over railroad tracks, the state will rebuild the bridge and pay one-half the cost. The railroad whose track lies under the bridge will pay the other half. The state is responsible for maintaining, rebuilding and repairing the bridge at its expense. If the rebuilding or reconstruction is made at the request of and for the benefit of the railroad, the railroad is responsible for the entire cost.

Construction of new bridges carrying public highways over railroad tracks and the rebuilding of existing bridges made necessary by highway improvement, increased usage or speed of motor traffic, shall be made by the state at its own expense, except when the additions and improvements are made at the request of and for the benefit of the railroads, in which case the added cost shall be borne by the railroad. See VT. STAT. ANN. tit. 30, § 1367 (1994).

When a railroad has constructed its track across a public highway at-grade, the railroad is responsible for keeping the bridge and abutments in good repair and rebuilding them when necessary. If however, the improvement or rebuilding is necessitated by reason of highway improvement incident to increased load, usage or speed of motor vehicle traffic, the improvement or rebuilding shall be made by the railroad at state expense. See VT. STAT. ANN. tit. 30, § 1368 (1994).

When the Transportation Board, without any application from other parties, is of the opinion that the public safety requires an alteration in any highway crossed at-grade by a railroad, it may order alterations and determine and direct by whom, to whose expense and within what time the alterations will be made. See VT. STAT. ANN. tit. 30, § 1906 (1994).

A railroad corporation may alter the course of a highway where it is crossed by its railroad if it can agree with the selectboard of the town when the road is a town highway or the Agency of Transportation when the road is a state highway as to the alteration or manner of the crossing. If no agreement can be reached, the Transportation Board will make the determination. See VT. STAT. ANN. tit. 30, § 1328 (1994).

A written petition may be brought to the Transportation Board by either the selectboard of a town within which a public highway and a railroad cross at-grade or the general manager or attorney of a railroad corporation alleging that public safety requires an alteration in the crossing, its approaches, the method of crossing, the location of the public highway, the elimination of the crossing, a grade separation or the removal of obstructions to the sight at the crossing. The board selects a time and place for a hearing with not less than ten days' notice to the petitioners, the railroad, the municipality and the owners of the land adjoining the crossing and adjoining that part of the highway to be changed. The Attorney General of Vermont or the state's attorney of the affected county will represent the interests of the state at any such hearing. After the hearing, the board shall determine what alterations, changes or removals, if any, shall be made and by whom. See VT. STAT. ANN. tit. 30, § 1901 (1994).

VIRGINIA

When a new county road is projected to cross a railroad or an existing county road is to be changed to require a railroad crossing and the public safety or convenience at such a crossing requires a grade separation, the board of supervisors or other governing body of the county is required to make application to the affected railroad company. It is the duty of the railroad to make such provision(s) and to do such work on its right-of-way so as to bring about grade separation. If the railroad refuses or fails to begin the work required within a period of sixty days, the board of supervisors or other governing body may apply to the State Corporation Commission. After proper hearing, the Commission may order the required work. After such a crossing has been constructed, it is the responsibility of the railroad to maintain the same. See VA. CODE ANN. § 56-364 (Michie 1994).

When the closure of an existing highway-rail crossing becomes necessary, the railroad, upon application from the authorities involved, must abolish the crossing within sixty days after the application. If the railroad refuses, the authorities may petition the commission, who will then decide on the elimination. When any such improvement is made in any railroad, the whole expense for same is paid by the railroad. When any such improvement is to be made in a county road or street, it shall be made by the railroad and the expense borne equally by the railroad and the county, city or town having control of the road. After any such crossing has been constructed, the railroad company will maintain it. See VA. CODE ANN. § 56-365 (Michie 1994).

At every highway-rail grade crossing, it is the duty of the railroad company to maintain the crossing to the full width of the public road. The railroad must also maintain that portion of the highway located within two feet on either side of the extreme rail. See VA. CODE ANN. § 56-405 (Michie 1994).

WASHINGTON

The Washington State Utilities and Transportation Commission will conduct an investigation of a proposed at-grade crossing upon written petition from a railroad company, county or municipal authority describing why the particular crossing cannot be grade separated upon at least ten days' notice to the railroad and the county or city affected of the time and place of the investigation. If the highway involved is a state road or parkway, the Secretary of Transportation or the State Parks and Recreation Commissioner shall be notified of the time and place of the hearing. If the Commission finds that it is not practicable to cross the railroad or

highway either above or below grade, it shall enter a written order either granting or denying the right to construct a grade crossing at the point in question.

In its order authorizing a grade crossing or at any subsequent time, the Commission may also provide that the railroad company install and maintain proper signals, warnings, flagmen, interlocking devices or other means to secure public safety. See WASH. REV. CODE § 81.53.030 (1994).

When the Secretary of Transportation, the governing body of any city, town or county or any railroad company whose track is crossed by any highway determines that public safety requires signals or warning devices other than sawbuck signs (crossbucks) at any at-grade crossing of a railroad by any highway, road, street, alley, avenue, boulevard, parkway or other public place currently open and in use or to be opened, they may file a petition in writing with the Utilities and Transportation Commission alleging that public safety requires the installation of specified signals, other warning devices or specified changes in the method and manner of existing crossing warning devices. After receiving any petition, the Commission will set the matter for hearing, giving at least twenty days' notice to the parties in interest. As a result of the hearing, the Commission may decide for or against the requested changes. If the Commission determines that public safety requires the installation of such signals or other warning devices or some form of modification in the existing warning device is needed, it may enter an order to that effect. The Commission may also apportion the entire cost of installation and maintenance of any signals or other warning devices. See WASH. REV. CODE § 81.53.271 (1994).

No railroad shall be required to install any such signal or other warning device until the affected public body has either paid or executed its promise to pay to the railroad its portion of the estimated cost. See WASH. REV. CODE § 81.53.261 (1994). See also this section in the chapter on active warning devices.

Section 81.53.281 establishes, within the state treasury, a Grade Crossing Protection Fund. The law provides for a definite division of costs relative to installing and maintaining automatic grade crossing signals or other warning devices on new and existing grade crossings between the Fund, the city, town, county or state highway authorities and the railroad companies. It further provides a definite division of costs between the Fund and the railroad companies for the maintenance of same on an annual basis. If the Commission directs the installation of a grade crossing warning device and a federal-aid funding program is not available, it shall apportion the cost of installation and maintenance in the following manner:

- 1) Installation: sixty percent to the Grade Crossing Protective Fund, thirty percent to the city, town, county or state and ten percent to the railroad.
- 2) Maintenance: twenty-five percent to the Grade Crossing Protective Fund and seventy-five percent to the railroad.

If the proposed installation is located at a new crossing requested by the railroad, then the entire cost is to be apportioned to the railroad. See WASH. REV. CODE § 81.53.281 (1994). Also see WASH. REV. CODE § 81.53.275 (1994).

WEST VIRGINIA

When a railroad crosses any state road, the railroad corporation is required to keep its own roadbed and the bed of the road or highway at such crossing in proper repair or else to construct and maintain an overhead or undergrade crossing subject to the approval of the State Road Commissioner. The tracks at such crossings are to be constructed so as to give a safe approach to the crossing. When the construction of such approaches is made necessary by a change in the railroad grade at the crossing, the cost will be borne by the railroad company. See W. VA. CODE § 17-4-8 (1994).

After the construction of a grade separation where a state highway is carried over a railroad, the state will maintain the highway and structures supporting it and the railroad will maintain its tracks. Where a state highway passes under a railroad, the state will maintain the highway and the railroad company will maintain its roadbed, the tracks and the structures supporting the same. The state will pay for repair or replacement of any part of the supporting structure which is damaged or destroyed by highway traffic and the railroad company will bear the cost of repairing or replacing any part of the supporting structure which is damaged or destroyed by railroad traffic. See W. VA. CODE § 17-4-17 (1994).

The State Road Commissioner has the same authority and may follow the same procedure in the relocation and reconstruction of existing grade separation structures. The cost and maintenance provisions shall be the same. See W. VA. CODE § 17-4-17a (1994).

Every railroad company which has changed or will change the grade or location of any county-district road is responsible for putting the road in as good condition and repair and on as practical a grade as the road was before its change. If the road, after construction, becomes damaged or is caused to be damaged by reason of the construction of any railroad, the railroad company responsible shall be liable for all damages occasioned thereby and for all costs incurred in repairing and keeping in repair the road so damaged. See W. VA. CODE § 17-16-8 (1994).

WISCONSIN

The Wisconsin Department Of Transportation, upon petition by the city council, village board, town board, superintendent of highways, five or more electors in any town, village or city or any railroad corporation or railroad historical society, has the authority to determine whether a public highway-railroad grade crossing provides for and promotes public safety. The Office of the Commissioner of Railroads may investigate and issue an appropriate order without a public hearing. If any of the parties in interest object to the order, they may request a hearing within twenty days from the order. During the hearing, the office shall determine whether the existing warning devices at such crossing are adequate to protect and provide for public safety. If the office determines, either without or after a hearing, that the existing devices are not adequate, it may order the railroad company or railroad historical society to keep a flagman at the crossing or to install automatic signals or other suitable safety devices at specific locations at such crossing. The office may also order the relocation of existing signals and devices to improve safety at a crossing.

The cost of purchasing and installing any signal or other crossing warning device is to be borne by the Department of Highways. The cost of maintaining ordered crossing warning devices is the responsibility of the railroad or railroad historical society. However, any railroad or railroad historical society that incurs expenses for maintenance of signals or other safety devices may file a

claim for reimbursement with the Department of Highways regardless of the date of installation of the signals or devices. The Department shall, at the close of each fiscal year, reimburse claimants for fifty percent of the costs as determined by the office, incurred for maintenance of railroad crossing warning devices. See WIS. STAT. § 195.28 (1993). See also § 20.395 [2] [gq] on appropriations.

If the Department of Highways determines that the construction or reconstruction of a grade separation or the rearrangement or elimination of a crossing is necessary in the interest of public safety or convenience, it will make a plan for the proposed construction, make an estimate of the costs and try to reach an agreement with all interested parties as to a division of costs. If the Department is unable to agree with the parties as to payment of cost, work or maintenance of the same, it will present the matter to the Office of the Commissioner of railroads. The Commissioner, after proper notice and hearing, shall specify the portion of the cost for construction and maintenance which is to be paid by the persons or corporations concerned and the portion of the cost, if any, to be paid by the public from the transportation fund. The Office of the Commissioner of Railroads shall determine the benefits, if any, to other highways and apportion and charge to the units of government responsible for the construction of such other highways a fair portion of the cost. See WIS. STAT. § 84.05 (1993).

WYOMING

The Wyoming Transportation Commission, after receiving application from duly authorized agents of the cities, counties, other government entities, the affected railroad or upon its own motion when public interest clearly indicates that action must be taken, will hear evidence and, based upon a priority rating from the applications, will assign priority to the most dangerous crossings and order grade crossing safety improvements. The order is to include the type of crossing warning devices required and whether the crossing is to be at-grade or grade separated. If the crossing is at-grade, the Commission will determine the kind and type of grade crossing warning signals and devices required. If the crossing is to be grade separated, the Commission will determine the type of grade separation structure. See WYO. STAT. § 37-10-102 (1994).

The Commission has a duty to apportion the costs and expenses of installing or reconstructing such crossings and safety devices between the railroads and the state highway department or the county, city or other entity affected in proportion to the respective benefits to be derived. The Commission will limit the amount charged against the railroad to a maximum of thirty-three and one third percent of the costs of the total project for installing or reconstructing such crossings and safety devices. With respect to the initial installation of grade separation structures at existing railroad public highway crossings, the commission first determines if all federal sources of funding have been exhausted. The Commission apportions the remaining costs between the railroad and the State Highway Department or the county, city or other entity involved, based upon the causes resulting in the need for such grade separation structures. See WYO. STAT. § 37-10-103 (1994).

A railroad company has the authority to raise or lower any county road or other public highway for the purpose creating a grade separation. Repair or reconstruction of roads or highways is to be expeditiously completed. While so engaged in grade separation or in making any other alteration which may obstruct the public way, the railroad company is responsible for providing and maintaining suitable temporary ways to enable travelers to avoid or pass obstructions. See WYO. STAT. § 1-26-811 (1994).

In order to compensate for the use of crossings by the public, the Transportation Commission may order that the part of the cost of installing, reconstructing or improving signals or devices as will not be paid by the railroad corporation, be divided between the state highway crossing protection account and the DOT or the city, town, county or other political entity in which the crossing is located. In each case, the Commission has the authority to fix the amounts to be paid from the crossing protection account and the DOT or city, town, county or other political entity. The railroad company(s) are responsible for all costs of maintaining, in good operating condition, all such safety devices.

The government agency or city, town, county or other political entity with jurisdiction over the grade separated crossing has the responsibility for all maintenance costs for grade separation structures. See WYO. STAT. § 37-10-104 (1994).

CHAPTER 4: BLOCKED CROSSINGS

CHAPTER OVERVIEW

This chapter provides a state by state survey of statutory provisions concerning the blocking of crossings by railroads, the exceptions to the law and the penalties imposed. The majority of states place restrictions on the amount of time a highway-rail crossing can be blocked. The laws and regulations vary but never do they exceed more than ten minutes. A number of states list an exception for emergencies or circumstances beyond the control of the railroad company. That is not to say that the individual cities and towns within those states with no relevant statute do not have an ordinance restricting the blocking of highway-rail crossings within their jurisdictions. Most of them do, but to list them would extend beyond the scope of this book.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama has no specific statute. However, one section does provide that train crews may not be found personally responsible for violation of any ordinance regulating the occupying or blocking of streets or roads if it was necessary to comply with orders from the employer or officers of the railroad. See ALA. CODE § 37-8-115 (1994).

ALASKA

Alaska has no applicable statute.

ARIZONA

Arizona allows a train to block a crossing for fifteen minutes. It makes an exception for emergencies, unavoidable accidents or circumstance beyond the control of the railroad company. See ARIZ. REV. STAT. ANN. § 40-852 (1994).

ARKANSAS

Arkansas has no applicable statute.

CALIFORNIA

California has no special provision concerning blocked crossings. The state permits municipalities to regulate blocked crossings although standing or moving trains are not specified.

COLORADO

Colorado has no applicable statute.

CONNECTICUT

Blockage for more than five minutes is forbidden. See CONN. GEN. STAT. §13b-338 (1994).

DELAWARE

Delaware allows trains to block crossings for no more than ten minutes at a time, although exceptions may be made for emergencies. See DEL. CODE ANN. tit. 17, § 701 (1994).

DISTRICT OF COLUMBIA

District of Columbia law states that the directing officer or operator of any railroad train may not block any street for more than five minutes at a time. This does not apply to trains or cars in motion other than those engaged in switching. See D.C. Mun. Regs. tit. 18, § 2211.7 (1994).

FLORIDA

Florida allows trains to block a crossing for a reasonable period of time. However, the state does make exceptions for emergencies or circumstances beyond the control of the railroad company.

State law provides that, whenever a railroad train is engaged in a switching operation or stops so as to block a public highway, street or road at any time from one-half hour after sunset to one-half hour before sunrise, the crew of the train has the responsibility to place a lighted fusee or other visual warning device in both directions from the train or at the edge of the pavement of the highway, street or road to warn approaching motorists. This requirement does not apply to grade crossings where automatic warning devices are properly functioning or at which there is adequate lighting. See FLA. STAT. ANN. § 351.03 (West 1994).

GEORGIA

Georgia statutes make no mention of blocked crossings. The state permits municipalities to regulate blocked crossings.

No member of a train, yard or engine crew of a railroad will be held personally responsible for or found guilty of violating any laws or ordinances regarding the blocking of roads or streets upon reasonable proof that any blocking was necessary to comply with the orders or instructions of the employer or supervisory officials of the railroad company. See GA. CODE ANN. § 46-8-197 (1994).

HAWAII

Hawaii has no applicable statute.

IDAHO

Idaho law provides that no person or government agency operating a train will do so in a manner so as to prevent vehicular use of any highway for a period of time in excess of fifteen consecutive minutes. See IDAHO CODE § 49-1425 (1994).

The statute provides for a number of exceptions:

- 1) When necessary to comply with signals affecting the safety of the movement of trains.
- 2) When necessary to avoid striking any object or person on the track.
- 3) When the train is stopped to comply with a government safety regulation.
- 4) When the train is disabled.
- 5) When the train is in motion, except while engaged in switching operations.
- 6) When there is no vehicular traffic waiting to use the crossing.

ILLINOIS

It is unlawful for a railroad to permit any train, railroad car or engine to obstruct public travel at a highway-rail grade crossing for a period in excess of ten minutes, except where the train is continuously moving or cannot be moved due to circumstances beyond the railroad's control. See 625 ILCS 5/18c-7402 (b).

Every railroad has the responsibility to operate in such a manner as to minimize obstructions of emergency vehicles at crossings. If any such obstruction occurs and the train crew is aware of the obstruction, the crew is to take immediate action, consistent with safe operating procedures, to remedy the situation. See 625 ILCS 5/18c-7402 (a).

INDIANA

Indiana prohibits trains from blocking crossings for more than ten minutes, except in circumstances where the train, railroad car or engine cannot be moved and for which the railroad company has no control. See IND. CODE ANN. § 8-6-7.5-1 (Burns 1994).

Indiana requires that there be vehicular traffic waiting to use the crossing. It is unlawful to permit successive train movements to obstruct vehicular traffic previously delayed by train movements that has been cleared for a period of five minutes between train movements. See IND. CODE ANN. § 8-6-7.5-2 (Burns 1994). A violation is a Class C infraction. See IND. CODE ANN. § 8-6-7.5-3 (Burns 1994).

IOWA

Iowa prohibits the blocking of a crossing by a railroad corporation or its employees for a period of time in excess of ten minutes except in the following circumstances:

- 1) When necessary to comply with signals affecting the safe movement of trains.
- 2) When necessary to avoid striking an object or person on the track.
- 3) When the train is disabled.
- 4) When necessary to comply with government safety regulations, including but not limited to, speed ordinances and regulations.

Iowa also permits a political subdivision to pass an ordinance regulating the length of time a specific crossing may be blocked provided the political subdivision can demonstrate that such an ordinance is necessary for public safety or convenience. See IOWA CODE § 327G.32 (1993).

KANSAS

Kansas prohibits trains from blocking crossings for more than ten minutes without leaving an opening in the traveled portion of the roadway of at least thirty feet. See KAN. STAT. ANN. § 62-273 (1993).

KENTUCKY

Kentucky permits trains to block crossings for five minutes at any one time. Moving trains are exempted and other exceptions are made for emergencies or circumstances beyond the control of the railroad. See KY. REV. STAT. ANN. § 277.200 (Baldwin 1994).

LOUISIANA

Louisiana has no applicable statute.

MAINE

Maine has no applicable statute.

MARYLAND

Maryland has no applicable statute.

MASSACHUSETTS

Massachusetts expressly prohibits trains from blocking crossings for more than five minutes. See MASS. ANN. LAWS ch. 160, § 151 (Law. Co-op. 1994).

MICHIGAN

Michigan prohibits trains from obstructing vehicular traffic at a public street or highway for longer than five minutes at any one time. It allows an exception for continuously moving trains at not less than ten miles per hour in the same direction for a period up to seven minutes. Exceptions are also made when the railroad can show that the blocking occurred because of a verifiable accident, mechanical failure or unsafe condition. See MICH. STAT. ANN. § 22.1263 (391) (Law. Co-op. 1993).

MINNESOTA

Minnesota has no applicable statute.

MISSISSIPPI

Mississippi allows a blocked crossing for a maximum of five minutes. See MISS. CODE ANN. § 77-9-235 (1994). Also see MISS. CODE ANN. § 77-9-236 (1994) which provides that no train crew shall be held criminally responsible for the blocking of the crossing providing it was under orders from their employer or officers of the railroad company.

MISSOURI

Missouri permits operation of a train to block a crossing for an unspecified period of time. It exempts moving trains and makes exceptions for emergencies or circumstances beyond the control of the railroad company. See MO. REV. STAT. § 71.013 (1993).

MONTANA

Montana permits operation of a train to block a crossing for no more than fifteen minutes at any one time. See MONT. CODE ANN. § 69-14-626 (1994).

NEBRASKA

Nebraska permits operations of a train to block a highway-rail crossing for an unspecified period of time. See NEB. REV. STAT. § 74.594 (1994).

NEVADA

Nevada has no applicable statute.

NEW HAMPSHIRE

With authority from the Department of Transportation, New Hampshire permits a train to block a crossing for no more than five minutes at one time. See N.H. REV. STAT. ANN. § 373:15 (1993). See N.H. REV. STAT. ANN. § 373:17 (1993) regarding penalty.

The Department of Transportation, upon petition, notice and hearing, may fix the maximum time for the occupancy of a highway-rail grade crossing, but in any case it will not exceed nine minutes. The time for maximum occupancy may also be set by the Railroad Commissioner. See N.H. REV. STAT. ANN. § 373:16 (1993).

NEW JERSEY

New Jersey statute provides that: "No employee of a steam or electric railroad company shall operate a locomotive, train or crossing gate in such a manner as to unnecessarily prevent or interfere with the use of a highway for the purpose of travel." See N.J. REV. STAT. § 39:4-94 (1993).

NEW MEXICO

New Mexico has no applicable statute.

NEW YORK

New York permits a train to block a highway-rail crossing for no more than five consecutive minutes, except in situations where the railroad has no control or where the train cannot be moved without endangering the safety of the passengers, public or freight. See N.Y. [R.R.] LAW § 53-c (McKinney 1994).

NORTH CAROLINA

North Carolina has no applicable statute.

NORTH DAKOTA

North Dakota allows a train to block a crossing for no more than ten consecutive minutes. Exceptions include the following situations:

- 1) When necessary to comply with safety signals.
- 2) In order to avoid striking any object or person on the track.
- 3) When the train is disabled by accident or otherwise.
- 4) While in motion, except for switching operations.
- 5) When no vehicular traffic is waiting to use the crossing.
- 6) When in compliance with a government statute or regulation. See N.D. CENT. CODE § 40-11-19 (1993).

See also N.D. CENT CODE § 49-11-19.1 (1993).

OHIO

Ohio permits a train to block a crossing for five minutes when vehicles are waiting to use the crossing. Ohio exempts moving trains not engaged in switching operations from the blocked crossing rule. Exceptions are also made for emergencies or circumstances beyond the control of the railroad. See OHIO REV. CODE ANN. § 5589.21 (Baldwin 1994).

OKLAHOMA

Oklahoma lists no applicable statute.

OREGON

The length of time that a crossing may be blocked is unspecified. The statutes say the authority to fix and regulate the length of time a public highway-rail grade crossing may be blocked by railroad equipment is vested exclusively in the state through its Public Utility Commission. See OR. REV. STAT. § 763.120 (1994).

PENNSYLVANIA

Pennsylvania does not specify the amount of time that a crossing is permitted to be blocked.

Pennsylvania makes it a summary offense for any railroad to continue to block a private crossing used by nearby occupants of land or farms for work trips. The railroad must be given at least fifteen minutes notice to remove its rolling stock. See 18 PA. STAT. ANN. § 6908 (1994).

Pennsylvania makes it a summary offense for any railroad to obstruct or block the passage of a highway or obstruct any crossing with its rolling stock. See 18 PA. STAT. ANN. § 6907 (1994).

RHODE ISLAND

Rhode Island expressly prohibits trains from blocking crossings for more than five minutes. See R.I. GEN. LAWS § 39-8-4 (1994).

SOUTH CAROLINA

South Carolina permits standing trains to block crossing for a maximum of five minutes. The person in charge of the train must be notified before the five minutes commence. See S.C. CODE ANN. § 57-7-240 (1993). A violation of this statute brings a fine to the offending person of not less than five dollars nor more than twenty dollars and said violator shall be liable for all damages. See S.C. CODE ANN. § 58-17-4080 (1993).

SOUTH DAKOTA

South Dakota prohibits trains from blocking any street, road or highway-rail crossing for more than twenty consecutive minutes if it is blocking the path of an emergency vehicle. The state makes exceptions if the train is disabled by accident or otherwise, or if it cannot be moved without striking an object or a person on the track. See S.D. CODIFIED LAWS ANN. § 49-16A-119 (1994). No railroad employee may be held liable for any blocking if blocking was necessitated or required in compliance with a federal or state regulatory order. See S.D. CODIFIED LAWS ANN. § 49-16A-94 (1994).

TENNESSEE

Tennessee law provides that no member of a train crew shall be held personally guilty of violating a municipal ordinance regulating the blocking of street crossings on proof that such action was necessary to comply with the instructions of the employer or officer of the railroad. See TENN. CODE ANN. § 65-11-106 (1994).

TEXAS

Texas law prohibits a blocked crossing for more than five minutes. This law applies only to a stopped train and is addressed to any officer, agent, servant or receiver of a railroad corporation. Local ordinances may allow trains to stand for more than five minutes for certain purposes but not on state highways. Moving trains are exempted from this law. See TEX. REV. CIV. STAT. ANN. art. 6701d-5 (West 1995). Also see art. 6701d-6 (West 1995).

UTAH

Utah prohibits a crossing from being blocked for more than five consecutive minutes. Exceptions are made for the following situations:

- 1) When complying with signals affecting safety of movement.
- 2) When avoiding striking any object or person on the tracks.
- 3) When the train is disabled.
- 4) When the train in motion is engaged in switching operations.
- 5) When there is no vehicular traffic waiting.
- 6) When complying with government safety regulations. See UTAH CODE ANN. § 41-6-95.5 (1994).

VERMONT

Vermont expressly prohibits trains from blocking crossings for more than five minutes at a time. See VT. STAT. ANN. tit. 30, § 1382 (1994).

Vermont has a second statute that deals with willful or negligent obstruction of a public highway or farm crossing, but it specifies no time limit. See VT. STAT. ANN. tit. 30, § 1381 (1994).

VIRGINIA

Virginia prohibits trains from blocking crossings for more than five minutes at a time. It allows exceptions for breakdown, mechanical failure or emergencies. See VA. CODE ANN. § 56-412-1 (Michie 1994).

WASHINGTON

Washington has no applicable statute.

WEST VIRGINIA

West Virginia prohibits trains from blocking crossings for longer than ten minutes, except in an emergency when the train is continuously moving or in the event of circumstances beyond the control of the railroad. However, this rule does not preempt any local ordinances. See W. VA. CODE § 31-2A-2 (1994).

WISCONSIN

Except outside cities, it is unlawful for a railroad train to block a crossing in Wisconsin longer than ten minutes. See WIS. STAT. § 192.292 (1993).

WYOMING

Wyoming has no applicable statute.

PENALTIES

This section provides an overview of the kinds and nature of penalties that may be imposed by the states when a railroad is in violation of their statutes concerning blocked crossings.

ALABAMA

Alabama law lists no penalty.

ALASKA

Alaska law lists no penalty.

ARIZONA

A violation of this section is a Class 2 misdemeanor. See ARIZ. REV. STAT. ANN. § 40-852 (1994).

ARKANSAS

Arkansas law lists no penalty.

CALIFORNIA

California law lists no penalty.

COLORADO

Colorado law lists no penalty.

CONNECTICUT

Connecticut law lists no penalty.

DELAWARE

A railroad can receive a fine of not less than five hundred and not more than one thousand dollars for the first conviction and not less than one thousand nor more than two thousand dollars for each subsequent conviction which occurs within one year after a previous conviction. See DEL. CODE ANN. tit. 17, § 701 (c) (1992).

DISTRICT OF COLUMBIA

The District of Columbia lists no penalty.

FLORIDA

A violation is a misdemeanor of the second degree and is punishable by imprisonment not exceeding sixty days. See FLA. STAT. ANN. § 351.03 (West 1994). Also see FLA. STAT. ANN. § 775.082 or 775.083 (West 1994) regarding punishment.

GEORGIA

Georgia law lists no penalty.

HAWAII

Hawaii statute lists no penalty.

IDAHO

Idaho statute lists no penalty.

ILLINOIS

A violation is a petty offense and a fine is affixed of not less than two hundred nor more than five hundred dollars if the duration of the obstruction is in excess of ten minutes but no longer than fifteen minutes. If the duration exceeds fifteen minutes, the violation shall be a business offense and the following fines may be imposed:

- 1) If the duration of the obstruction is in excess of fifteen minutes but no longer than twenty minutes, the fine is five hundred dollars.
- 2) If the duration is in excess of twenty minutes but no longer than twenty-five minutes, the fine shall be seven hundred dollars.
- 3) If the duration is in excess of twenty-five minutes, but no longer than thirty minutes, the fine shall be nine hundred dollars.
- 4) If the duration is in excess of thirty minutes but no longer than thirty-five minutes, the fine shall be one thousand dollars.
- 5) If the duration of the obstruction is in excess of thirty-five minutes, the fine shall be one thousand dollars plus an additional five hundred dollars for each five minutes of obstruction in excess of twenty-five minutes. See ILCS 5/18c-7402 (1994).

INDIANA

Any railroad corporation, conductor or engineer who violates the statute commits a Class C infraction. However, no conductor or engineer acting under orders or within the rules of the railroad corporation, may be prosecuted for such a violation. See IND. CODE ANN. § 8-6-7.5-3 (Burns 1994).

IOWA

Any employee found guilty of violating the section is, upon conviction, subject to a penalty. See IOWA CODE § 327G.32 (1993) for section on blocking and IOWA CODE § 327G.14 (1993) for penalty.

KANSAS

Violation is a misdemeanor and the punishment is a fine as follows:

- 1) Fifty dollars if the blocking is for more than ten minutes but less than twenty minutes.
- 2) One hundred fifty dollars if the blocking is for more than twenty minutes but less than thirty minutes.
- 3) Three hundred dollars if the blocking is for more than thirty minutes.

The statute provides that no one is to be held personally responsible if it can be shown that he was acting due to circumstances beyond his control or as a result of orders issued by a superior or the railroad. See KAN. STAT. ANN. § 66-274 (1993).

KENTUCKY

The penalty is outlined in KY. REV. STAT. ANN. § 277.990 (7) (Baldwin 1993).

LOUISIANA

Louisiana law lists no penalty.

MAINE

Maine law lists no penalty.

MARYLAND

Maryland law lists no penalty.

MASSACHUSETTS

A railroad corporation or employee thereof who violates the statute shall forfeit not less than two hundred nor more than five hundred dollars. See MASS. ANN. LAWS ch. 160, § 151 (Law. Co-op. 1994).

MICHIGAN

Each offense under the section is a separate violation punishable by a fine of not more than five hundred dollars unless the railroad is willfully, deliberately and negligently blocking the crossing, in which case the fine shall be not more than one thousand dollars plus the cost of prosecution. See MICH. STAT. ANN. § 22.1263 (391) (Law. Co-op. 1993).

MINNESOTA

Minnesota law lists no penalty.

MISSISSIPPI

A railroad company may be liable for a fine of fifty dollars for each offense. The conductor in charge of a train may be liable for a fine of not less than twenty-five nor more than fifty dollars if convicted. See MISS. CODE ANN. § 77-9-235 (1994).

MISSOURI

Missouri law lists no penalty.

MONTANA

Montana considers this offense a misdemeanor and any corporation, association or company found guilty may be punished by a fine of not less than twenty five nor more than one hundred dollars. See MONT. CODE ANN. § 69-14-626 (1994).

NEBRASKA

Nebraska law lists no penalty.

NEVADA

Nevada law lists no penalty.

NEW HAMPSHIRE

The New Hampshire statute is somewhat unclear. "Any person who violates the provisions of any preceding sections (373:15 and 373:16) or of any order of the Department of Transportation made hereunder, shall be guilty of a violation if a natural person or guilty of a misdemeanor if any other person, unless otherwise specifically provided." See N.H. REV. STAT. ANN. § 373:17 (1993).

NEW JERSEY

New Jersey law lists no penalty.

NEW MEXICO

New Mexico law lists no penalty.

NEW YORK

If guilty of a violation in New York, it is punishable by a fine of not more than one hundred dollars or imprisonment for not more than fifteen days or both. Provided however, that no owner, officer or employee of a railroad corporation will be subject to a criminal or civil penalty if he had no control over the situation causing the obstruction or the train could not be moved without endangering the safety of the passengers, public or freight. See N.Y. [R.R.] LAW § 53-c (McKinney 1994).

NORTH CAROLINA

North Carolina law lists no penalty.

NORTH DAKOTA

In North Dakota, any person who violates the statute is guilty of an infraction. The relevant code section has no application to cities having pre-existing obstruction ordinances. See N.D. CENT. CODE § 40-11-19 (1993).

OHIO

The code section mentions no specific penalty, but does specify the manner of service and to whom service of summons can be served for violation. See OHIO REV. CODE ANN. § 5589.21 (Baldwin 1994).

OKLAHOMA

Oklahoma law lists no penalty.

OREGON

Violators are punishable, if convicted, by a fine of not less than one hundred nor more than three thousand for each offense. See OR. REV. STAT. § 763.120 (1994).

PENNSYLVANIA

Pennsylvania makes it a summary offense for any railroad to obstruct the passage of a highway or any crossing with its rolling stock. See 18 PA. CONS. STAT. § 6907 (1994).

It is also a summary offense in Pennsylvania for any railroad to continue to block a private crossing where the crossing is used by nearby occupants of land or farms for work related trips. The railroad must be given at least fifteen minutes notice to remove its rolling stock. See 18 PA. CONS. STAT. § 6908 (1994).

RHODE ISLAND

For each violation, a railroad corporation may be fined not less than twenty five nor more than one hundred dollars. See R.I. GEN. LAWS § 39-8-4 (1994).

SOUTH CAROLINA

For every such offense, a person shall pay not less than five nor more than twenty dollars. It is considered a new offense for every twenty-four hour period the blockage continues. See S.C. CODE ANN. § 58-17-4080 (Law. Co-op. 1993).

SOUTH DAKOTA

South Dakota considers a violation of this section a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 49-16A-119 (1994).

The state exempts railroad employees from liability if the blockage was necessary under state and federal rules. See S.D. CODIFIED LAWS ANN. § 49-16A-94 (1994).

TENNESSEE

Tennessee law lists no penalty.

TEXAS

Violators are responsible for a fine of not less than five nor more than one hundred dollars. See TEX. REV. CIV. STAT. ANN. art. 6701d-5(1)-(2)-(3)-(4) (West 1955).

UTAH

Utah law lists no penalty.

VERMONT

If convicted of a violation of this section, a person or corporation may be fined not less than five nor more than fifty dollars. See VT. STAT. ANN. tit. 30, § 1382 (1994).

Vermont has a second statute section that prohibits blocking a public highway or farm crossing but gives no specific time limit. If a violator is convicted, the fine may be not less than five nor more than twenty dollars. See VT. STAT. ANN. tit. 30, § 1381 (1994).

VIRGINIA

Upon conviction, a railroad company or individual may be fined not less than one hundred nor more than five hundred dollars, with an additional proviso that the fine could be one hundred dollars for each minute beyond the permitted time. In any case, the total may not exceed five hundred dollars. VA. CODE ANN. § 56-412.1 (Michie 1994).

WASHINGTON

Washington law lists no penalty.

WEST VIRGINIA

West Virginia law lists no penalty.

WISCONSIN

A violation of the statute may result in a fine not to exceed twenty-five dollars or imprisonment of not more than fifteen days. See WIS. STAT. § 192.292 (1993).

WYOMING

Wyoming law lists no penalty.

CHAPTER 5: WARNING DEVICES - PASSIVE

CHAPTER OVERVIEW

This chapter presents a state-by-state survey of laws and regulations concerning the use of passive warning devices at highway-rail crossings.

Approximately seventy-eight percent of the reported 280,503 highway-rail crossings in the United States have passive warning devices or traffic control devices as opposed to automatic gates, flashing lights or other train-activated devices.

These passive devices are designed to direct the attention of the driver to the location of highway-rail crossings so they may exercise caution when traversing the crossing. The messages conveyed by these devices are intended to provide warning and guidance, but they also may direct some mandatory action by the driver. These devices consist of regulatory, warning and guide signs as well as pavement markings. All states require that these devices conform with the Manual on Uniform Traffic Control Devices.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama statute provides that every railroad company must erect a warning sign that gives notice of the proximity of a railroad crossing. The type of sign is not specified, except to say that it should have large and distinct letters. See ALA. CODE § 37-2-80 (1994).

ALASKA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

ARIZONA

The Director of the Department of Transportation and local authorities with the approval of the Director are authorized to identify and erect STOP signs at particularly dangerous highway-rail crossings. See ARIZ. REV. STAT. ANN. § 28-852 (1994). Also see chapter on driver action.

ARKANSAS

The State Highway Commission and local authorities are authorized to identify and erect STOP signs at particularly dangerous state highway grade crossings. See ARK. CODE ANN. § 27-51-706 (Michie 1993).

CALIFORNIA

At every farm or private grade crossing of a railroad where no automatic grade crossing warning device is in place, there must be installed one or more STOP signs of the type described in § 21400 of the Vehicle Code, or of such other design as the Public Utility Commission prescribes. Signs will not be required if the Commission determines, after a hearing, that the signs would create a dangerous condition which would not otherwise exist. See CAL. [PUB. UTIL.] CODE § 7538 (West 1994).

Local authorities are required to erect railroad warning signs at a reasonable distance from the crossing. See CAL. [VEH.] CODE § 21362 (Bancroft-Whitney 1995).

COLORADO

Colorado has no applicable statute.

CONNECTICUT

Connecticut requires that each railroad company maintain, at each crossing where there is no gate, warning boards of the type and nature as the Commissioner of Transportation may approve. See CONN. GEN. STAT. § 13b-347 (1992).

The Commissioner of Transportation may require every railroad company to erect and maintain at each of their crossings within their right-of-way, a STOP, caution or other sign of a type approved by the Commissioner. If the tracks cross a state highway at-grade, the Traffic Commission is responsible for prescribing the kind and nature of traffic control devices and measures to be installed.

The Commissioner may also require every railroad company to erect and maintain a sign advising the public to call 911 to report malfunctioning grade crossing gates or signals. The type of sign must be approved by the Commissioner. See CONN. GEN. STAT. § 13b.345(a)-(b) (1992).

Any town, city or borough may also petition the Department of Transportation to provide a mandatory stop at any municipal or state highway approaching a crossing at-grade. The Department must set a specified time for the hearing and provide proper notice. The Department must then rule on the petition within sixty days after the hearing. See CONN. GEN. STAT. § 13b-345(a) (1994).

DELAWARE

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

DISTRICT OF COLUMBIA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

FLORIDA

Every railroad company must exercise reasonable care for the safety of the motoring public whenever its tracks cross a highway. The railroad company is responsible for erecting and maintaining crossbuck warning signs in accordance with the uniform system of traffic control devices adopted pursuant to § 316.0745 of the Florida Annotated Statutes. The crossbuck signs must be erected and maintained at all public and private crossings.

Advance railroad warning signs and pavement markings must be installed and maintained at public highway-rail grade crossings in accordance with the uniform system of traffic control devices, by the government agency which has jurisdiction over and maintenance responsibility for the highway or street. See FLA. STAT. ANN. § 351.03 (West 1994).

Every railroad company operating or leasing any track intersecting a public road at-grade and upon which railroad trains are operating, is responsible for erecting any traffic control devices which are necessary to conform with the requirements of § 316.745 of the Florida Annotated Statutes. Pavement markings and advance warning signs are the responsibility of the government entity having jurisdiction over the crossing. See FLA. STAT. ANN. § 316.171 (West 1994).

Every railroad company maintaining a highway-rail crossing must, upon reasonable notice from the Department of Transportation, install, maintain and operate traffic control devices to warn motorists of approaching trains. See FLA. STAT. ANN. § 335.141 (West 1994).

GEORGIA

Each railroad company is to erect and maintain a reflectorized railroad crossbuck at each grade crossing where such a sign is required by state law. The signs must conform to standards established by the Georgia Department of Transportation. See GA. CODE ANN. § 46-8-194 (1994). Also see GA. CODE ANN. § 46-8-195 (1994).

Every railroad company in Georgia is required to erect and maintain a signboard at least four feet six inches in height to warn approaching rail traffic of the existence of drawbridges, grade crossings and stations at which there are switches. The signboard must be located at a point on the right-of-way not less than one-half mile nor more than one mile on each side of every station or grade crossing at which there is a switch. Signboards must be placed where they can be clearly seen by persons operating locomotives and must be placed on the right-hand side of the track approaching the station or grade crossing. Failure to comply with this section is a misdemeanor punishable by a fine of one hundred dollars for each offense. See GA. CODE ANN. § 46-8-198 (1994).

A railroad company is required to erect a blowpost (whistlepost) on each side of the crossing to indicate its existence. The location of the blowpost is to be at a point 400 yards from the center of its intersection with any public road or street at-grade. Failure to comply with this section is a misdemeanor. See GA. CODE ANN. § 46-8-190 (1994).

The Department of Transportation and local authorities are authorized to identify and erect STOP signs at particularly dangerous grade crossings. See GA. CODE ANN. § 40-6-141 (1994).

HAWAII

The Director of Transportation and the individual counties are authorized to identify and erect STOP signs at particularly dangerous highway-rail crossings. See HAW. REV. STAT. § 291C-92 (1994).

IDAHO

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

ILLINOIS

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

INDIANA

The Indiana Department of Transportation has responsibility for determining whether there is a need to install STOP signs at public crossings without automatic warning devices. After consultation with the local highway unit and affected railroad, the Department may order the installation of STOP signs. The Department of Transportation is responsible for sign installation, maintenance, repair and replacement. The railroad must reimburse the Department of Transportation for installation costs within forty-five days. See IND. CODE ANN. § 9-21-4-15 (Burns 1994).

Any person who owns or operates any line of steam or interurban railroad is responsible for installing and maintaining at each grade crossing, signs (crossbucks) and any number of other track signs if required. These signs should be placed at right angles with the highway where possible. The signs must conform to the Manual on Uniform Traffic Control Devices adopted under IC 9-21-2-1. A violation of this section is a Class C infraction. See IND. CODE ANN. § 8-6-6-1 (Burns 1994).

IOWA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

KANSAS

The Secretary of Transportation and local authorities, with the approval of the Secretary, are authorized to identify and erect STOP signs at dangerous highway-rail crossings. See KAN. STAT. ANN. § 8-1552 (1993). Also see § 8-2002 (Power of Local Authorities).

Every railroad corporation must place crossbucks at highway-rail crossings. Each side of the sign shall have a white reflectorized background, with the words "RAILROAD CROSSING" in black lettering. If the crossing consists of two or more tracks, the number of tracks shall be indicated on an auxiliary sign of inverted T-shape mounted below the crossbuck. This section is not applicable to streets in cities unless the railroad is required to do so by local ordinance. See KAN. STAT. ANN. § 66-2,121 (1993).

KENTUCKY

The Public Protection and Regulation Cabinet may identify unsafe crossings and shall place and maintain on each side of the tracks and on the right side of the highway, an octagonal sign of a type and size currently approved for use by the cabinet bearing the word "STOP" in white letters not less than ten inches in height. The cabinet must install the signs within sixty days after the crossing is declared unsafe. The statute does not apply to those crossings that have gates, automatic audible signals or electric warning signals. See KY. REV. STAT. ANN. § 189.560 (2)(3)(4)(5) (Baldwin 1994).

Every railroad company is required to place and maintain signalboards at each public highway where it is crossed by a railroad track. Each side of the board is to contain, in capital letters at least five inches high, the words "RAILROAD CROSSING". See KY. REV. STAT. ANN. § 277.160 (Baldwin 1994).

LOUISIANA

All railroads must install and maintain at highway-rail crossings a reflectorized crossbuck sign which shall be inscribed "RAILROAD CROSSING", except at those contained in the maintenance system of the Office of Highways. If there are two or more tracks, that fact shall be indicated by an auxiliary sign of inverted "T" shape mounted below the crossbuck.

A railroad may, with the approval of the Office of Highways, erect STOP signs at any grade crossing on highways not contained in the state maintenance system. Where the STOP signs are erected, the railroads are also responsible for the erection and maintenance of a railroad advance warning sign on the right side of the road not less than one hundred feet nor more than three hundred feet from the nearest rail of the crossing. See LA. REV. STAT. ANN. § 32:169 (A)-(B) (West 1993).

MAINE

Every railroad is responsible for the erection and maintenance of warning signs at highway-rail crossings. Signs should be of the size, design and color ordered by the Maine Department of Transportation. See ME. REV. STAT. ANN. tit. 23, §§ 1251-1252 (West 1994).

Every railroad shall be responsible for the erection of signboards with the words "RAILROAD CROSSING" painted on each side by the side of highway and town ways where they are crossed at-grade.

The Commissioner of Transportation may temporarily erect experimental signs at certain grade crossings instead of the signboards required in this section. The erection of the experimental signs by the Department relieves the railroad company using the crossing of any liability in damages. See ME. REV. STAT. ANN. tit. 23, § 7214 (West 1994).

The Department is authorized to designate any highway-rail crossing as a "stop intersection" and to install and maintain STOP signs at such crossing. Municipalities, when ordered by the Department, will install and maintain STOP signs. See ME. REV. STAT. ANN. tit. 23, § 1253-A (West 1994).

MARYLAND

The Maryland State Highway Administration or any local authority with the approval of the administration may place a STOP sign at any highway-rail crossing designated as a dangerous crossing. See MD. ANN. CODE art. 21, § 702 (1994).

MASSACHUSETTS

Every railroad is responsible for placing and maintaining boards (signs) across each crossing of their tracks by a public road. The boards must be clearly visible and contain the inscription: "Railroad Crossing--Look out for the Engine." The railroad may, if it chooses, use a substitute board, the size and description of which must be approved by the state Department of Transportation. See MASS. ANN. LAWS ch. 160, § 140 (Law. Co-op. 1994).

"The board of aldermen of a city or the selectmen of a town where a traveled place is crossed by a railroad at the same level, if of opinion that it is necessary for the better security of the public that boards such as are described in the preceding section should be maintained at such traveled place, may in writing request the railroad to erect and maintain them...." See MASS. ANN. LAWS ch. 160, § 141 (Law. Co-op. 1994).

Every county, city, and town and the Department of Highways may place and maintain warning signs at public ways which are crossed at-grade in its jurisdiction by a railroad. See MASS. ANN. LAWS ch. 160, § 142 (Law. Co-op. 1994).

MICHIGAN

The state Transportation Department, the county road commission and local authorities may designate certain grade crossings as "stop" crossings and place signs there notifying drivers to come to a complete stop before crossing the tracks.

These same authorities may place signs at grade crossings designated "yield" crossings. See MICH. STAT. ANN. § 9.2368 (1)-(2) (Law. Co-op. 1993).

The road authority, at its own expense, must furnish, renew and maintain all passive traffic control devices on public streets and highways that cross railroad tracks at-grade. All signs must conform to the specifics prescribed by the Michigan Manual on Uniform Traffic Control Devices. See MICH. STAT. ANN. § 22.1263(311) (Law. Co-op. 1993).

MINNESOTA

Every railroad must maintain a proper and conspicuous sign indicating the presence of a highway-rail crossing. If the railroad fails to comply with this section, they shall forfeit to the town or municipality, ten dollars for each day the failure continues. See MINN. STAT. § 219.06 (1993).

When any government entity in the state deems it necessary to install STOP signs at a crossing for which they are responsible, they may petition the Commissioner of Transportation to order the installation of a STOP sign. See MINN. STAT. § 219.20 (1993).

The Commissioner shall require that uniform warning signs be placed at highway-rail crossings throughout the state. There shall be at least three distinct types, a home warning sign for use in the immediate vicinity of the crossing, an approach crossing sign, and when deemed necessary, a STOP sign with the word "STOP" on it. See MINN. STAT. § 219.17 (1993).

MISSISSIPPI

"The Mississippi Highway Department is authorized to construct protective or warning devices at or in the vicinity of any railroad crossing of a public highway under the jurisdiction of any county or incorporated municipality." See MISS. CODE ANN. § 65-1-70 (1994).

Every railroad corporation, at the intersection of a public road or street and railroad crossing, must install and maintain the standard sign known as a "Railroad Crossbuck". See MISS. CODE ANN. § 77-9-247 (1993).

MISSOURI

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

MONTANA

The Department of Highways and local authorities may identify dangerous highway-rail crossings and install STOP signs at these crossings. See MONT. CODE ANN. § 61-8-348 (1994).

Beginning April 9, 1987, and within two years from that date, all railroad companies will have installed and be currently maintaining reflectorized material on the front and back sides of crossbuck blades at all public crossings. See MONT. CODE ANN. § 69-14-612 (1994).

NEBRASKA

The Department of Roads and local authorities, on highways under their jurisdiction, may identify and install STOP signs at dangerous highway-rail crossings. See NEB. REV. STAT. § 60-6,171 (1994).

NEVADA

The Department of Transportation and local authorities, with the approval of the Department of Transportation, may designate dangerous grade crossings and install official traffic control devices at such crossings. See NEV. REV. STAT. § 484.351 (Michie 1993).

NEW HAMPSHIRE

"The governmental authority responsible for maintaining a highway shall place and maintain warning signs on every highway approaching a crossing at-grade of such highway and the tracks of a railroad...". The Department of Transportation may prescribe the standards for warning signs for highway-rail crossings. See N.H. REV. STAT. ANN. § 373.11 (1993).

NEW JERSEY

It is the duty of every railroad to install and maintain at each at-grade crossing a conspicuous sign with an inscription, design and standard approved by the Board of Public Utility Commissioners. See N.J. STAT. ANN. § 48:12-58 (West 1993).

NEW MEXICO

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

NEW YORK

Each municipality or political subdivision which has responsibility for maintaining highways at places where they intersect with a railroad at-grade, or the Department of Transportation in the case of state highways, shall install and maintain an approach warning sign on each side of the crossing. In the event the municipality, political subdivision or railroad does not comply with this requirement, the Commissioner of Transportation may institute proceedings to force compliance.

The design, location and manner of installation must be in agreement with the manual for a uniform system of traffic control devices adopted by the Department of Transportation. See N.Y. [R.R.] LAW § 53-a (McKinney 1994).

It is the duty of every Class 1 railroad to install a whistle sign made of retroreflective material as specified by the Commissioner of Transportation on the approach to each highway-rail crossing. See N.Y. [R.R.] Law § 71-a (McKinney 1994).

NORTH CAROLINA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

NORTH DAKOTA

The North Dakota Public Utility Commission prescribes three distinct types of warning signs for use at highway-rail crossings, the home crossing sign, the STOP sign, and the approach crossing sign. See N.D. CENT. CODE § 24-09-02 (1993).

The railroad company is responsible for erecting and maintaining one or more of such uniform crossing signs at each grade crossing in the state. See N.D. CENT. CODE § 24-09-03 (1993).

The road authority, except as otherwise provided for, is responsible solely for the erection and maintenance of advance warning signs at public grade crossings in accordance with the Manual on Uniform Traffic Control Devices. See N.D. CENT. CODE § 24-09-04 (1993).

The Department of Transportation, may designate any crossing requiring additional protection as a "stop" crossing and make notification to the appropriate road authority. Within thirty days after notification the road authority shall erect STOP signs. See N.D. CENT. CODE § 24-09-05 (1993).

OHIO

All railroad companies are required to erect crossbuck signs at all highway-rail crossings. The Director of Transportation may install experimental signs at certain crossings in lieu of the above required signs for the purpose of research for the development of better signing systems. The installation of an experimental sign relieves the railroad company of any liability in damages which might otherwise arise under this section.

The railroad may also erect experimental signs and warning devices, with prior approval of the Director, for the purpose of conducting research. Such signs or warnings may be erected on an interim or permanent basis. Under these circumstances, the railroad or local authority is relieved from liability. See OHIO REV. CODE ANN. § 4955.33 (Baldwin 1994).

OKLAHOMA

The Oklahoma Corporation Commission has authority, after proper investigation, to identify grade crossings that are extra hazardous. Once a designation is made, the Commission has the authority to order the installation of appropriate warning devices. The type, location and number of devices is to be determined by the Commission, as is the division of costs. The devices are to conform as near as possible to national standards. See OKLA. STAT. tit. 17, § 86 (1994).

Every railroad corporation in the state has a duty to erect suitable warning signs at each crossing of its tracks by a public highway. See OKLA. STAT. tit. 66, § 124 (1994).

The Commission is also vested with the authority to promulgate rules and regulations concerning the design, installation, construction, maintenance, inspection and testing of warning signal devices at highway-rail crossings. See OKLA. STAT. tit. 66, § 130 (1994).

OREGON

All railroads in the state must install and maintain STOP signs at every farm or private grade crossing. The Oregon Public Utility Commission has the authority to prescribe the number, type and location of the STOP signs and may exempt a crossing if the Commission determines that an even more dangerous condition would be created by the installation of the sign. See OR. REV. STAT. § 763.130 (1994).

The Commission may prescribe the number, kind and location of advance warning signs to be installed on the highway before each highway-rail crossing. Such signs must conform to standards adopted by the Department of Transportation. See OR. REV. STAT. § 763.110 (1994). Also see OR. REV. STAT. § 763.170 (1994).

PENNSYLVANIA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

RHODE ISLAND

Every railroad corporation must install and maintain at every highway-rail crossing a suitable signboard for the purpose of warning traffic of approaching trains. See R.I. GEN. LAWS § 39-8-13 (1994).

Railroad corporations neglecting or refusing to comply with the provisions of § 39-8-13 may be fined an amount not to exceed one thousand dollars and may be liable for all damages due to neglect or refusal to comply. See R.I. GEN. LAWS § 39-8-15 (1994).

The State Traffic Commission and local authorities with the approval of the commission may designate a highway-rail crossing as dangerous and erect STOP signs thereat. See R.I. GEN. LAWS § 31-20-3 (1994).

SOUTH CAROLINA

All railroad companies must install and maintain standard crossbuck signs at every crossing in accordance with the requirements of the Manual on Uniform Traffic Control Devices. See S.C. CODE ANN. § 56-5-1010 (Law. Co-op. 1993).

Every railroad corporation must install and constantly maintain railroad crossing signs. This does not apply to streets in cities, towns and villages unless the railroad is required to do so by the officers in charge of such streets. See S.C. CODE ANN. § 58-17-1390 (Law. Co-op. 1993).

Every railroad company must install and maintain warning boards (signs) near drawbridges and highway-rail crossings. See S.C. CODE ANN. § 58-17-3380 (Law. Co-op. 1993).

SOUTH DAKOTA

Except within the limits of a municipality, the Department of Transportation and county commissioners have the authority to designate any hazardous highway-rail crossing as a "stop" crossing by placing a STOP sign preceded by a warning sign at the crossing. See S.D. CODIFIED LAWS ANN. § 31-28-17 (1994).

At all points where the railroad tracks cross a public road, the railroad owning the tracks is responsible for the erection of a sign with large and distinct letters warning drivers to use caution when crossing the upcoming track. See S.D. CODIFIED LAWS ANN. § 49-16A-87 (1994).

The public board or officer who is responsible for the repair and maintenance of a public highway shall erect and maintain a standard railroad advance warning sign at a distance from the crossings as specified by the Department of Transportation or other controlling body. See S.D. CODIFIED LAWS ANN. § 31-28-7 (1994).

TENNESSEE

The Public Service Commission of the state and the Commissioner of Transportation or his designee have the power and authority to determine the type of railroad crossing sign which shall be uniform throughout the state. See TENN. CODE ANN. § 65-11-105 (1994).

"Boards, well supported by posts or otherwise, shall be placed and constantly kept, across each public road, when the same is crossed on the same level by the track of the railway, the boards are to be elevated so as not to obstruct travel and, on each side of such board, there shall be printed in large letters, easily to be seen by the traveler, the words 'Railroad Crossing -- Look Out for the Cars'" See TENN. CODE ANN. § 65-18-104 (1994).

TEXAS

Every railroad in the state is responsible for erecting a sign with large and distinct letters at a railroad to warn drivers to use caution when crossing the upcoming tracks. See TEX. REV. CIV. STAT. ANN. art. 6370 (West 1995).

The Texas Department of Highways and Transportation is responsible for the development of material for the installation and maintenance of retroreflectorized material at all public grade crossings not provided with active warning devices. The retroreflectorized material will be affixed to the backs of crossbucks and their support posts. See TEX. REV. CIV. STAT. ANN. art. 6370b (West 1995).

UTAH

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

VERMONT

Each railroad must maintain railroad crossing (crossbuck) signs conforming to the Federal Highway Administration's Manual on Uniform Traffic Control Devices at every crossing of a railroad by a public highway. See VT. STAT. ANN. tit. 30, § 1376 (1994).

Certain crossings may be considered exempt from the requirement in § 1376. The Transportation Board may determine, upon recommendation of the local transportation agency, that a crossing is exempt and may impose such conditions as the interests of safety dictate. However, a flagperson must be present at these exempt crossings whenever a train is traversing the crossing. See VT. STAT. ANN. tit. 30, § 1376 (1994).

The Traffic Committee may designate highway-rail grade crossings as particularly dangerous and erect STOP signs at each such crossing. See VT. STAT. ANN. tit. 23, § 1006 (1994).

VIRGINIA

Every railroad in Virginia is required to place crossbucks at highway-rail crossings so as to be seen by travelers from both directions of the highway. The railroad is also responsible for the maintenance of the crossbucks. If one is being installed for the first time, it must be paid for or supplemented from federal funds when available at the sole discretion of the Commonwealth Transportation Commissioner. See VA. CODE ANN. § 56-405.2 (Michie 1994).

WASHINGTON

It is the duty of the railroad corporation to install and maintain at every highway-rail crossing, a sign known as a saw buck crossing sign with the lettering "RAILROAD CROSSING" and an inscription indicating the number of tracks. See WASH. REV. CODE ANN. § 47.36.050 (West 1994).

The Transportation Department may install approach and warning signs on the approach of any state highway to a highway-rail crossing, situated at a sufficient distance from the crossing as to make the warning effective. See WASH. REV. CODE § 47.36.080 (1994).

The Department must place and maintain any such traffic device conforming to the manual and specifications adopted upon all state highways and railroad crossings. See WASH. REV. CODE ANN. § 47.36.053 (West 1994).

WEST VIRGINIA

Every railroad company must erect and maintain suitable signboards or notices at each of its highway-rail crossings giving warning of danger in crossing its tracks. All such signs will be of the required design and construction and be placed at the location required by the state Road Commission. Any railroad company that violates this provision shall be fined five dollars for each week the violation continues. See W. VA. CODE § 31-2-9 (1994).

WISCONSIN

When it is deemed necessary for public safety, any local authority may, by ordinance, install official STOP signs at grade crossings. See WIS. STAT. § 349.085 (1993).

Railroads are required to provide to each county in which they operate, a sufficient quantity of advance warning signs. The county will immediately install and maintain such signs in good condition. This section shall not apply to state trunk highways and crossings within the limits of cities and incorporated villages. See WIS. STAT. § 195.286(1) (1993).

The penalty for violation by a railroad of this section is a fine of not less than ten nor more than fifty dollars for each violation. See WIS. STAT. § 195.286(7) (1993).

WYOMING

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

CHAPTER 6: WARNING DEVICES - TRAIN BORNE

CHAPTER OVERVIEW

This chapter presents a state-by-state survey of the legal and regulatory requirements for trains operating within the respective states and the District of Columbia to provide some type of auditory alarm as they approach grade crossings. A state may require that a train carry a bell, whistle or a horn and require the repeated use of that bell, whistle or horn at an initial point before reaching crossings. State laws may also require that trains be equipped with headlights of a certain candlepower while operating at night. As with any law, failure to comply brings penalties. If a state has a penalty codified, it is presented here. A specific citation for each individual law or regulation is included.

STATE LAWS, REGULATIONS AND PENALTIES

ALABAMA

Alabama law provides that it shall be the duty of each engineer or other person operating a locomotive to blow the horn or whistle or ring the bell under certain conditions:

- 1) At least one quarter of a mile before reaching any public road crossing or station, and continue with the signal at short intervals until the crossing or station has been passed.
- 2) Immediately before arriving or leaving a station and before entering any curve crossed by a public road where the engineer cannot see at least one quarter of a mile ahead.
- 3) At short intervals on entering a village, town or city, or while moving within that village, town or city. See ALA. CODE § 37-2-81 (1994).

If any engineer, conductor or other person operating the train fails to use proper precautions to prevent accidents and ignores the dictates of ALA. CODE § 37-2-81 (1994), he or she may be found guilty and receive a fine of not less than one hundred nor more than one thousand dollars and may be imprisoned in jail or sentenced to hard labor in the county for not more than six months. See ALA. CODE § 37-8-114 (1994).

Alabama also provides for punishment of a superintendent of a railroad who fails to instruct the engineers and conductors regarding their responsibilities for blowing the horn or whistle. If convicted, the punishment shall be a fine of not less than one thousand dollars and imprisonment or hard labor for not more than twelve months. See ALA. CODE § 37-8-113 (1994). See also ALA. CODE § 37-8-112 (1994).

Alabama law requires railroads operating in the state to equip and maintain in each and every locomotive being used in the nighttime a power headlight of not less than fifteen hundred candlepower brilliancy measured with the aid of a suitable reflector. See ALA. CODE § 37-2-90 (1994). Failure to comply with the headlight requirements brings a penalty of three hundred dollars for each separate offense, with all fines collected going to the public school fund. See ALA. CODE § 37-8-117 (1994).

ALASKA

Alaska law has no applicable statute.

ARIZONA

Under Arizona law, each railroad must equip its locomotives with a bell weighing not less than twenty pounds. Any railroad which fails to comply with this section is liable for a penalty of one hundred dollars recoverable in an action filed by the attorney general in the name of the state. A separate action may be filed for each violation. In addition to the one hundred dollar penalty, the railroad may be liable for all damages sustained by any person for failure of the corporation to comply with this section. See ARIZ. REV. STAT. ANN. § 40-847 (1994).

It is unlawful for any locomotive not equipped with an automatically operated bell ringer which will cause the bell on the engine to continue to ring after being set in motion by the engineer or fireman to operate in the state. The starting and stopping device for the bell ringer must be placed in a position where it can be operated by the engineer or fireman. A violation of this section makes the railroad guilty of a petty offense for each day the locomotive is used in violation of this section. If the ringer should become inoperable while the engine is in use, the engine may complete its trip. See ARIZ. REV. STAT. ANN. § 40-848 (1994).

Any person in charge of a railroad locomotive who, before crossing any traveled way, does not cause the bell to ring or a whistle, siren or other sounding device to sound at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from a crossing until it is reached is guilty of a Class 2 misdemeanor. See ARIZ. REV. STAT. ANN. § 40-854 (1994).

Arizona requires a headlight brilliancy of not less than fifteen hundred candlepower measured without the aid of a reflector. Failure to comply with this section makes the railroad liable to the state for not less than one hundred nor more than one thousand dollars for each offense. See ARIZ. REV. STAT. ANN. § 40-846 (1994).

ARKANSAS

Arkansas requires locomotives or engines to have a bell of at least thirty pounds weight or a steam whistle. The bell or whistle must be sounded at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from the place where the track crosses any road or street and shall sound continuously until through the crossing. A violation of this section will result in a penalty of two hundred dollars for each incident of neglect plus possible liability for all damages sustained by any person as a result of such neglect. See ARK. CODE ANN. § 23-12-410 (Michie 1994).

Arkansas law requires any company owning or operating a locomotive over fifty miles in length to equip all their locomotives being operated at night with a headlight of power and brilliancy equal to fifteen hundred candlepower. A violation of this section will subject the offending railroad to a penalty of not less than three hundred or more than five hundred dollars for each separate offense. See ARK. CODE ANN. § 23-12-402 (Michie 1994).

CALIFORNIA

California law requires the installation of an automatic bell ringer apparatus to be in a location which allows operation from either or both sides of the locomotive cab. Violation of this section is punishable by a fine of not less than one hundred or more than one thousand dollars for each offense. See CAL. [PUB. UTIL.] CODE § 7605 (West 1994).

California law requires trains to give audible warning of their approach to a crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing and continuously while passing through it.

If a bell is used for audible warning, the bell must weigh twenty pounds. Any railroad corporation violating this section is subject to a penalty of one hundred dollars for every violation. See CAL. [PUB. UTIL.] § 7604 (West 1994).

California law requires trains operating at night to be equipped with headlights. The headlights should project sufficient light to enable the engineer to see an object the size of a man at a distance of eight hundred feet on a dark night when the train is traveling at least thirty miles per hour. A violation of this section results in a penalty of not less than one hundred or more than one thousand dollars for each offense. See CAL. [PUB. UTIL.] § 7607 (West 1994).

Any person in charge of a locomotive engine who, before crossing any traveled public way, fails to give an audible warning at least thirteen hundred twenty feet (eighty rods) from the crossing and continuously up to it, is guilty of a misdemeanor. See CAL. [PUB. UTIL.] § 7678 (West 1994).

COLORADO

The Colorado statutes do not require any audible warning upon the approach to a highway-rail crossing.

State law does require locomotives operating at night to be equipped with headlights of such construction and with sufficient candlepower to render plainly visible at a distance of not less than three hundred feet in advance, any track obstruction or grade crossing, and a red rear electric light of sufficient strength as to be visible at a distance of three hundred feet.

Violation of this section will result in a penalty of one hundred dollars for each violation, recovered in suits brought by the attorney general. See COLO. REV. STAT. §§ 40-29-108 -109 (1994).

CONNECTICUT

Connecticut law requires an audible signal of sufficient amplification for existing circumstances. The audible signal is to be sounded when the engine is approaching and is within eighty rods of a crossing and is to be sounded occasionally until the engine is through the crossing. In cities and towns, if the public safety requires it, the distance may be adjusted but in no case be less than twenty-seven rods from the crossing.

The State Commissioner of Transportation may establish the maximum decibel levels which may be emitted by the audible signal, provided that such level not be less than eighty-seven decibels. Any railroad operating a train with an audible signal which produces noise emissions in excess of the maximum is in violation of this section. See CONN. GEN. STAT. § 13b-329(a)-(b)-(c) (1992).

DELAWARE

Delaware law requires a number of whistle blasts beginning 300 yds. before crossing. See DEL. CODE ANN. tit. 17, § 701 (1994).

DISTRICT OF COLUMBIA

District of Columbia law has no applicable statute.

FLORIDA

Except as provided in subsection (4), any railroad train approaching within fifteen hundred feet of a public highway-rail grade crossing must emit a signal audible for such distance.

"(4) (a) The Department of Transportation and the Federal Railroad Administration may authorize a municipality or county to implement a whistle ban provided the following conditions are met:

- 1) A traffic operations system is implemented to secure highway-rail crossings for the purpose of preventing vehicles from going around, under or through lowered railroad gates.
- 2) The municipality has an ordinance which unconditionally prohibits the sounding of railroad train horns and whistles during the hours of ten p.m. and six a.m.

(4) (b) Upon final approval and verification by the Department of Transportation and the FRA that such traffic systems' operations meet all state and federal safety and traffic regulations and that the highway-rail crossing can be secured, the municipality or county may pass an ordinance prohibiting the sounding of audible warning devices by trains during the hours of ten p.m. and six a.m...." See FLA. STAT. ANN. § 351.03 (West 1994). Also see Emergency Order Number 15, Notice Number 4 issued by the Federal Railroad Administration on August 31, 1993.

GEORGIA

An engineer operating a locomotive moving over the tracks is required, when he reaches the blowpost (whistlepost), to blow through the whistle two long blasts, one short blast and one long blast. Violations are a misdemeanor. See GA. CODE ANN. § 46-8-190 (1994).

Within the corporate limits of cities, a railroad is not required either to erect a blowpost or to blow the whistle when approaching a crossing. Instead, the engineer is required to signal the approach of the train to such crossing by constantly tolling the bell of the locomotive. Failure to comply with this section is a misdemeanor. See GA. CODE ANN. § 46-8-191 (1994).

Each locomotive must be equipped with a signal bell and a signal whistle or horn. Additionally, each locomotive operated on a railroad line after dark must have a good and sufficient headlight which shall consume no less than three hundred watts at the arc and with a reflector no less than twenty-three inches in diameter. See GA. CODE ANN. § 46-8-170 (1994).

Each railroad company operating in the state is required to erect and maintain a signboard to warn rail traffic of the existence of drawbridges, grade crossings and stations at which there is a switch. Such a sign must be between one-half and one mile from each side of every highway-rail crossing. See GA. CODE ANN. § 46-8-198 (1994).

HAWAII

Hawaii law has no applicable statute.

IDAHO

A bell of at least twenty pounds weight is required on each locomotive.

Idaho requires trains to give audible warning of their approach to crossings at least eighty rods before the crossing and allows repeated use of either the horn or the whistle if continuous use of the bell is not used between the initial signal point and the crossing.

Idaho forbids the use of the horn or whistle within city or town limits. A violation of this section results in a penalty of one hundred dollars for each offense. See IDAHO CODE § 62-412 (1994). Also see § 18-6002 concerning the misdemeanor of failure to sound the audible warning.

ILLINOIS

Illinois requires trains to give audible warning of the approach of a train at least thirteen hundred twenty feet before the crossing. The warning must be sounded until the crossing is reached. See ILCS 5/18c-7402 (1994).

INDIANA

Indiana law requires the use of an audible warning beginning not less than one quarter of a mile from the crossing. The engineer or other person operating the locomotive shall sound the whistle on the engine not less than four distinct times. The sounding shall be prolonged or repeated until the crossing is reached. The operator must also ring the bell continuously from the time of sounding the whistle until the engine has fully passed through the crossing.

It is unlawful for an engineer or other person in charge to move a locomotive over or across a turnpike, public highway or street crossing if the whistle and bell are not working. If the whistle and bell are not working, the locomotive must stop before each crossing and proceed only after manual warning is provided (i.e. by a flagger).

An Indiana city or town may adopt its own ordinance regulating the sounding of warning devices but only after receiving permission from the state Department of Transportation. See IND. CODE ANN. § 8-6-4-1 (a)-(b)-(c) (Michie 1994).

Failure to comply with the provisions of 8-6-4-1 brings a fine of not less than ten dollars nor more than fifty dollars. See IND. CODE ANN. § 8-6-4-2 (Michie 1994)

IOWA

Iowa requires an audible warning one thousand feet from the crossing and the continuous use of such warning between the initial signal point and the crossing. The statutes do not specify the number of blasts, only that use of the whistle or horn is required at the initial signal point.

Iowa statutes forbid the use of any audible signal within city or town limits unless local ordinances require it. See IOWA CODE § 327G.13 (1993). Any officer or employee of the railroad that violates any part of § 327G.13, shall be subject to a schedule "2" penalty. See IOWA CODE § 327G.14 (1993).

KANSAS

Kansas law requires locomotives operating at night to be equipped with headlights. These headlights are required to have sufficient power to illuminate an object the size of a man at a distance of eight hundred feet. Violation of this section is a misdemeanor, and conviction brings a fine of not less than one hundred or more than five hundred dollars for each offense. See KAN. STAT. ANN. §§ 66-261-262 (1993).

Kansas requires trains to give an audible warning (air whistle) at least four times (two long, one short and one long blast) beginning at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from the crossing. The warning is to be prolonged or repeated until the crossing is occupied by the train. This does not apply in cities or villages. The penalty is a fine to be paid by the railroad of not more than twenty dollars for every violation. One half of the money collected for the penalty shall go to the informer. See KAN. STAT. ANN. § 66-2-120 (1993).

KENTUCKY

Each locomotive must have a whistle and a bell of ordinary size. The whistle and bell must be sounded at a distance of at least fifty rods (753 feet), and either shall be sounded continuously or alternately until the engine has reached the crossing.

A city, county, urban-county or charter county government may regulate the sounding of train whistles at night if any such body enacts an ordinance adopting the provisions of Emergency Order Number 15, Notice Number 4, issued by the Federal Railroad Administration on August 31, 1993. See KY. REV. STAT. ANN. § 277.190(1)-(2) (Baldwin 1994). Also see motor vehicles, duty when approaching railroad crossings, § 189.560, and passenger vehicles required to stop at railroad crossings, § 281.745 in Chapter 8.

LOUISIANA

Louisiana requires trains to use an audible warning (either a bell or a whistle) at a distance of three hundred yards from a highway-rail crossing up to the crossing itself. See LA. REV. STAT. ANN. § 32:168 (West 1993).

MAINE

Maine law requires a train to give an audible warning nine hundred ninety feet from a highway-rail crossing. The state requires continuous use of a bell between the initial signal point and the crossing although it allows repeated use of either the horn or the whistle instead. Maine does not specify the number of blasts, only that use of the whistle or horn is required at the initial signal point. See ME. REV. STAT. ANN. tit. 23, § 7214 (West 1994).

MARYLAND

Maryland law lists no applicable statute.

MASSACHUSETTS

Massachusetts requires a whistle and a bell of at least thirty-five pounds in weight be placed on each locomotive. The whistle is to be sounded or the bell is to be rung for at least three separate and distinct blasts at the distance of at least eighty rods from the crossing. The whistle and bell shall be sounded continuously or alternately until the engine has passed through the crossing. See MASS. ANN. LAWS ch. 160, § 138 (Law. Co-op. 1994). The state however may regulate or limit the sounding of whistles at specified crossings. See MASS. ANN. LAWS ch. 160, § 139 (Law Co-op. 1994).

MICHIGAN

Michigan law lists no applicable statute.

MINNESOTA

"An engineer driving a locomotive on a railway who fails (1) to ring the bell or sound the whistle on the locomotive, or have rung or sounded, at least eighty rods from a place where the railway crosses a traveled road or street on the same level, except in cities, or (2) to continue ringing the bell or sounding the whistle at intervals until the locomotive and attached train have completely crossed the road or street, is guilty of a misdemeanor". See MINN. STAT. § 219.567 (1993).

MISSISSIPPI

Mississippi law requires the use of an audible warning, such as a whistle, horn or thirty pound bell, at an initial signal point three hundred yards from the crossing. Mississippi allows

repeated blasts of the horn or whistle if a continuous bell is not used. See MISS. CODE ANN. § 77-9-225 (1994).

MISSOURI

State law requires trains to give audible warnings of their approach to a crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing is reached, and at regular intervals until the train is through the crossing. Failure to comply brings a penalty of twenty dollars for each violation. See MO. REV. STAT. § 389.990 (1993).

MONTANA

Montana does not specify when locomotive headlights or other lights must be used, but it requires headlights that have at least fifteen hundred candlepower measured without the aid of a reflector. A violation of this section is a misdemeanor and carries a fine of not less than one hundred or more than one thousand dollars for each offense. See MONT. CODE ANN. § 69-14-236 (1994).

NEBRASKA

Nebraska law requires locomotives operating at night to be equipped with headlights. They must be of sufficient candlepower to render plainly visible a grade crossing, warning sign, landmark or track obstruction at a distance of not less than three hundred feet. See NEB. REV. STAT. § 74-592 (1994).

NEVADA

Nevada law requires locomotives operating at night to be equipped with headlights. They must have at least fifteen hundred candlepower measured without the aid of a reflector. Any railroad that violates this section is liable to the public service commission of Nevada for a penalty of not more than one thousand dollars for each violation. See NEV. REV. STAT. § 705.360 (1993).

The state requires the sounding of a bell or whistle at least 80 rods from a highway-rail crossing. See NEV. REV. STAT. § 705.430 (1993).

NEW HAMPSHIRE

New Hampshire law requires locomotives operating at night to be equipped with an electric headlight with sufficient candlepower to be able to render anything plainly visible at a distance of three hundred feet. See N.H. REV. STAT. ANN. § 367:57 (1993).

NEW JERSEY

The law in New Jersey specifies a distance of three hundred yards from a highway-rail crossing for a train to give audible warning of its approach. If a bell is used for this purpose, it

must weigh thirty pounds. New Jersey law requires continuous use of the whistle or horn, if the continuous bell is not used, from the initial signal point to the crossing. If in default, the railroad company shall pay a penalty of one hundred dollars to be sued for by any informer within ten days after the infraction. See N.J. REV. STAT. § 48:12-57 (1993).

New Jersey requires headlights on trains but does not specify size or illumination. See N.J. REV. STAT. § 48:12-90.1 (1993).

NEW MEXICO

New Mexico statutes require trains to give audible warnings of their approach to a highway-rail crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before it. If a bell is used for this purpose, the weight of the bell must be twenty pounds. See N.M. STAT. ANN. § 63-3-34 (Michie 1994).

Trains are required to use headlights with sufficient power to permit visibility of an object the size of a man from a distance of at least eight hundred feet with the aid of a reflector. See N.M. STAT. ANN. §§ 63-3-29 (Michie 1994).

Violation of these sections will result in a penalty of one hundred dollars but not more than one thousand dollars for each and ever locomotive not equipped and liability for damages. See N.M. STAT. ANN. §§ 63-3-30 (Michie 1994).

NEW YORK

New York law requires the ringing of a bell or blowing of the whistle on the locomotive at least eighty rods (thirteen hundred twenty feet) from a highway-rail crossing and continuing at intervals until completely through the crossing. See N.Y. [R.R.] § 53-b (Law. Co-op. 1994).

NORTH CAROLINA

North Carolina law lists no applicable statute.

NORTH DAKOTA

North Dakota requires trains to give audible warning of their approach to a highway-rail crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing. If a bell is used for this purpose, North Dakota requires the bell to weigh thirty pounds. The law requires continuous use of the whistle or horn, if a continuous bell is not used, from the initial signal point to the highway-rail crossing. See N.D. CENT. CODE § 49-11-21 (1993). A violation of the preceding section by either the owner of the railroad or the locomotive engineer is an infraction. See N.D. CENT. CODE §§ 49-11-22 -23 (1993).

OHIO

State law requires locomotives to be equipped with a bell of ordinary size in use on such engines and a steam or compressed air whistle. When approaching a crossing, the engineer or person in charge of the train shall sound the whistle at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) and ring the bell continuously until the engine passes the crossing. See OHIO REV. CODE ANN. § 4955.32 (Baldwin 1994). Failure to comply with the requirements of OHIO REV. CODE ANN. § 4955.32 (Baldwin 1994) brings a personal liability of not less than fifty nor more than one hundred dollars to be recoverable by civil action. See OHIO REV. CODE ANN. § 4955.34 (Baldwin 1994).

If a person in charge of a locomotive fails to sound the locomotive whistle at frequent intervals beginning not less than thirteen hundred twenty feet from a crossing, that person is guilty of a misdemeanor of the fourth degree. If the violation causes physical harm to any person, then the offender is guilty of a misdemeanor of the third degree. See OHIO REV. CODE ANN. § 4999.04 (Baldwin 1994).

OKLAHOMA

Oklahoma law requires that trains give audible warning of their approach eighty rods (thirteen hundred twenty feet or four hundred forty yards) before a crossing. The state requires continuous use of the whistle or horn, if a continuous bell is not used, from the initial signal point to the crossing. The bell used must weigh thirty pounds.

Oklahoma requires locomotives operating at night to be equipped with headlights whose candlepower is at least fifteen hundred measured without the aid of a reflector. See OKLA STAT. tit. 66, §§ 95 -126 (1994).

A train operator who fails to ring the bell or sound the whistle upon approaching a crossing is punishable by a fine not exceeding fifty dollars or by imprisonment in the county jail for a period not exceeding sixty days. See OKLA. STAT. ANN. tit. 21, § 1253 (West 1994).

OREGON

Oregon law requires locomotives operating at night to be equipped with headlights with enough power to distinguish a man-sized object at night at a distance of eight hundred feet. See OR. REV. STAT. §§ 761.310-320 (1994). Also see § 761.990 concerning penalties.

PENNSYLVANIA

Pennsylvania law lists no applicable statute.

RHODE ISLAND

Rhode Island requires that trains have a bell weighing at least thirty-two pounds. The operator must ring the bell at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from the grade crossing and continue ringing the bell through the crossing. Failure to comply with this section may bring a fine not exceeding one thousand dollars and the railroad shall be liable for all damages as a result of failure to comply. See R.I. GEN. LAWS §§ 39-8-14-15 (1994).

SOUTH CAROLINA

The statutes prescribe the continuous use of a warning sound such as a bell, steam or air whistle starting at a distance of at least five hundred yards from the crossing until the engine is through the crossing. South Carolina requires the bell to weigh thirty pounds. See S.C. CODE ANN. § 58-15-910 (Law. Co-op. 1993).

SOUTH DAKOTA

South Dakota law lists no applicable statute.

TENNESSEE

Tennessee law requires repeated use of a bell or whistle for a distance of one quarter of a mile from the crossing and at short intervals until the train has passed the crossing. See TENN. CODE ANN. § 65-12-108 (1994).

An additional section in the Tennessee code requires that the whistle be blown at a distance of not less than two hundred fifty yards from every crossing of a public road where there are sidings and switches within cities, towns or villages. See TENN. CODE ANN. § 65-18-105 (1994).

TEXAS

Trains are required to give audible warning of their approach eighty rods (thirteen hundred twenty feet or four hundred forty yards) before a crossing. If a bell is used for this purpose, it must weigh thirty pounds. A horn or whistle (used for repeated blasts) may also serve this purpose. See TEX. REV. CIV. STAT. ANN. art. 6371 (West 1995).

Texas law requires trains to have headlights of not less than fifteen hundred candlepower. Violation of this section brings a fine of not less than one hundred or more than one thousand dollars for each offense. See TEX. REV. CIV. STAT. ANN. art. 6372 (West 1995).

UTAH

Utah requires continuous use of a bell or other audible warning between an initial signal point and the crossing. Trains are required to give audible warning of their approach to a crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing, except in towns when the distance shall be one quarter of a mile. See UTAH CODE ANN. § 56-1-14 (1994).

Utah law requires railroads to equip their track motor cars with an electric headlight of such construction and with sufficient candlepower to render any obstruction, landmark, warning sign or grade crossing plainly visible at a distance of not less than three hundred feet. See UTAH CODE ANN. § 56-1-25 (1994).

VERMONT

Vermont requires trains to sound an audible warning device in advance of each public crossing. The device must be of the type approved by the Federal Railroad Administration. No distance is specified. It must be continuous up to and through the crossing. See VT. STAT. ANN. tit. 30, § 1377 (1994).

Three or more freeholders of a town, city or village may petition the public service board to forbid or regulate the sounding of whistles and ringing of bells in such town, city or village when approaching a specified station or at-grade crossing. See VT. STAT. ANN. tit. 30, § 1621 (1994).

VIRGINIA

Virginia requires audible warning be given between three hundred and six hundred yards of the crossing. Local governments in Virginia may require the sounding of the whistle upon approaching designated railroad trestles or bridges having lengths of one hundred feet or more. See VA. CODE ANN. § 56-414 (Michie 1994).

Virginia law requires locomotives operating at night to be equipped with headlights. The headlights must have a brilliance of at least five hundred candlepower measured with the aid of a reflector. See VA. CODE ANN. § 56-413 (Michie 1994).

WASHINGTON

It is unlawful in the State of Washington to fail to ring a bell or sound a whistle upon approaching a crossing from at least eighty rods (thirteen hundred twenty feet or four hundred forty yards), except in cities. Violation of this section is a misdemeanor. See WASH. REV. CODE § 81.48.010 (1994).

WEST VIRGINIA

West Virginia requires the continuous use of a bell, horn or whistle for a distance of at least sixty rods from a crossing up to and through the crossing. Failure to do so is a misdemeanor and is punishable by a fine not to exceed one hundred dollars. W. VA. CODE § 31-2-8 (1994).

WISCONSIN

State law requires that engines be equipped with whistles or horns mounted to face the direction in which the engine is moving. Such whistles or horns must be placed to emit warning sounds at sound levels which are in accord with established practices to warn employees and the public of the approach of the engine. See WIS. STAT. § 192.15 (1993).

All trains operating at night must be equipped with an electric headlight of sufficient candlepower to render plainly visible anything in advance of the train at a distance of two hundred feet. See WIS. STAT. § 192.266 (1993).

Anyone found guilty of neglecting or omitting to ring or cause to be rung the bell on the engine of any train, or to blow the whistle as required shall be imprisoned for not more than six months or fined not more than one hundred dollars. See WIS. STAT. §§ 192.295 and 192.29 (1993).

WYOMING

Wyoming law lists no applicable statute.

CHAPTER 7: WARNING DEVICES - ACTIVE

CHAPTER OVERVIEW

This chapter surveys the various state laws and regulations concerning active warning devices. Not all of the states have laws or regulations covering these specific topics. If a state does not have a pertinent law or regulation, it is listed as such.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama has no requirement concerning active warning devices.

ALASKA

Alaska has no requirement concerning active warning devices.

ARIZONA

The Arizona Corporation Commission determines by Feb. 15th of each year which highway-rail crossings should be considered for the installation of automatic warning signals. See ARIZ. REV. STAT. ANN. § 40-337.03 (Michie 1994). Also see § 40-337.01 concerning apportionment of costs. Also see § 40-336 concerning powers of the Commission.

ARKANSAS

Arkansas has no requirement concerning active warning devices.

CALIFORNIA

California has no requirement concerning active warning devices.

COLORADO

Colorado has no requirement concerning active warning devices.

CONNECTICUT

Connecticut has no requirement concerning active warning devices.

DELAWARE

Delaware has no requirement concerning active warning devices.

DISTRICT OF COLUMBIA

The District of Columbia has no requirement concerning active warning devices.

FLORIDA

Florida has no requirement concerning active warning devices.

GEORGIA

Georgia has no requirement concerning active warning devices.

HAWAII

Hawaii has no requirement concerning active warning devices.

IDAHO

Idaho has no requirement concerning active warning devices.

ILLINOIS

Illinois has no requirement concerning active warning devices.

INDIANA

The Indiana Department of Transportation, in authorizing the construction of new highway-rail crossings under the provisions of IC 8-6-1-7, has statutory authority to order the installation of automatic train-activated warning devices at the crossing. The Department also has authority to order the installation, replacement, relocation, modernization or improvement of automatic train-activated warning devices at any highway-rail crossing in the state. This authority is exclusive of and supersedes the power of any other state or local government agency. See IND. CODE ANN. §§ 8-6-1-7 and 8-6-7.7-2 (Burns 1994).

IOWA

Whenever a railroad track crosses, or is planned to cross a highway, street or alley, the affected railroad and the Department of Transportation in the case of a primary highway, the Board of Supervisors of the county in the case of secondary roads or the City Council in the case of

streets or alleys, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing and flasher lights or gate arm signals and the allocation of costs. The Iowa Department of Transportation may be a party to any agreement if grade crossing safety funds are to be used. Up to seventy-five percent of the maintenance cost of flasher lights or gate arm signals and an unlimited portion of the costs associated with installation may be paid from the grade crossing safety fund. See IOWA CODE § 327G.15 (1993). Also see chapters titled Crossing Consolidations and Closings and Crossing Treatment Procedures.

KANSAS

Upon request by the governing body of any city, county or township, and after a proper investigation is made in cooperation with the secretary of transportation, the Kansas State Corporation Commission has authority to indicate those railroad grade crossings which are dangerous. The state corporation commission may, at a crossing so designated, order that appropriate safety devices be installed and maintained by the railroad(s) and set a completion date. The commission has the authority to determine the number, type and location of such safety devices, which must conform with generally recognized national standards, and to require a portion of the installation cost of the safety devices be paid by the railroad(s) involved provided that the cost to the railroad(s) shall not be less than twenty percent nor more than fifty percent of the total installation costs. See KAN. STAT. ANN. § 66-231a (1993).

KENTUCKY

If, at any time, a warning device at a highway-rail crossing is activated for thirty minutes or more in the absence of an approaching train and this activation is due to track maintenance or train movements in the vicinity, and the affected railroad is unable to disengage the device, then the railroad must position a flagman at the crossing. See KY. REV. STAT. ANN. § 189.562 (1994).

LOUISIANA

The Louisiana Department of Transportation and Development may contribute to the railroad up to one-half of the cost of maintenance of flashing light signals at highway-rail crossings during the fiscal year for which the funds are appropriated. See LA. REV. STAT. ANN. § 48:387 (1993).

MAINE

The Maine Department of Transportation may require each railroad to install, operate and maintain an automatic signal, crossing gate or other protective device at any highway-rail crossing if, after proper notice and hearing, the Department decides that public safety concerns warrant such action. Notice and hearing are not required if such automatic grade crossing protection is funded and installed under the Federal program. The affected railroad will pay all costs, except at any crossing with state highways and state aid highways where the installation costs are to be split between the railroad and the state as determined by the Department of Transportation. See ME. REV. STAT. ANN. tit. 23, § 7221 (West 1994).

MARYLAND

Maryland has no requirements concerning active warning devices.

MASSACHUSETTS

Massachusetts law requires a railroad to install at their own expense, a hand-activated warning device at a highway-rail crossing. The device should be capable of audibly or visibly warning an approaching train of danger at any crossing so designated by the Massachusetts Department of Transportation. See MASS. ANN. LAWS ch. 160, § 138A (Law. Co-op. 1994).

The Department has authority to order at any crossing of a railroad and public way, gates, a flagman, flashing lights or such other protective measures. The costs of installing, maintaining and operating any such protection shall be apportioned by the Department between the affected railroad, the town or city if appropriate, the county or the state. See MASS. ANN. LAWS ch. 160, § 147 (Law. Co-op. 1994).

MICHIGAN

The Michigan Department of Transportation, by order, may prescribe active traffic control devices at highway-rail crossings. See MICH. STAT. ANN. § 22.1263(315) (Law. Co-op 1993).

MINNESOTA

If the Transportation Regulation Board finds that conditions at a highway-rail crossing require additional safeguards such as crossing gates or other suitable devices, the Board may specify any such device and order the affected railroad to install them. See MINN. STAT. § 219.24 (1994). Also see MINN. STAT. § 219.40 (1994).

MISSISSIPPI

Mississippi has no requirement concerning active warning devices

MISSOURI

The Missouri Division of Transportation of the Department of Economic Development have exclusive power to determine the use and type of warning devices at each crossing of a public road by a railroad. The same is true at any private crossing where the Division has determined that the crossing is or will be utilized by the public to the extent that it is necessary to protect the safety of the public. See MO. REV. STAT. § 389.610 (1994).

MONTANA

Montana has no requirement concerning active warning devices.

NEBRASKA

Nebraska has no requirement concerning active warning devices.

NEVADA

Nevada has no requirement concerning active warning devices.

NEW HAMPSHIRE

New Hampshire law requires all railroads to operate and maintain at every highway-rail crossing such warning signs, gates or other protection as the state Department of Transportation may find necessary. See N.H. REV. STAT. ANN. § 373:10 (1993).

NEW JERSEY

New Jersey law requires that every railroad shall provide protection to pedestrians and the traveling public at every highway-rail crossing. Such protection may take the form of safety gates, flagmen, electric bells, electric signs or other recognized systems of alarm or protection approved by the Department of Transportation. See N.J. REV. STAT. §§ 48:12-54, 12-29 (1994). Also see N.J. REV. STAT. § 48:12-55 (1994) concerning compelling protection.

NEW MEXICO

New Mexico has no requirement concerning active warning devices.

NEW YORK

New York has no requirement concerning active warning devices.

NORTH CAROLINA

North Carolina has no requirement concerning active warning devices.

NORTH DAKOTA

The North Dakota Public Service Commission, upon written application made to it by the Director, the Board of County Commissioners of any county, the Board of Supervisors of any township, any municipality, the railroad company or upon its own motion, shall investigate and determine whether any highway-rail crossing over any state, county, township or municipal highway in the state is a danger to life and property and needs protection beyond what is set out in this chapter (crossbucks, advance warning signs and STOP signs). The Commission may then order that the protection be installed. See N.D. CENT. CODE § 24-09-08 (1994).

Generally, the North Dakota Department of Transportation has authority to apportion the cost of automatic grade crossing protection devices. However, in the event such protection devices are ordered by the Public Service Commission in accordance with § 24-09-08, the Commission, as a part of its order may apportion the costs of installation between the affected railroad, the political subdivision having jurisdiction of the highway involved and the state of North Dakota. "Such cost must be apportioned to such parties or to any one or more of the parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device." The cost attributable to the benefit of the highway users must be apportioned to the state of North Dakota. See N.D. CENT. CODE § 24-09-08.1 (1994).

OHIO

The Ohio Public Utility Commission shall conduct a survey and devise a formula for the classification of all public crossings and using such formula will prioritize crossings, giving highest priority to the crossings at which the Commission finds the highest probability of accidents occurring. Applying the formula, the Commission may then designate as dangerous and hazardous any highway-rail crossing it deems to be in need of additional protective devices. Once a crossing has been designated high priority, the Commission may negotiate with the affected railroad and with the state agency or political subdivision having jurisdiction over the crossing in question for the installation of such devices as 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 devices will be determined by agreement among the Commission, the affected railroad and the state agency or political subdivision.

The Commission may assign the costs among all parties in any proportion it determines proper, taking into consideration such things as volume of vehicular traffic, volume of train traffic, train type and speed, limitations of view, savings, if any, which will inure to the railroad as a result of the installation, benefits to the public, the cost of initial installation and maintenance costs over time.

The affected railroad may disagree as to the need for installation of additional protective devices, or to the type or location. In the event that an agreement cannot be reached with the railroad, the Commission may hold a public hearing with written notice being given to the railroad at least thirty days in advance. If the Commission determines that the safety of the public requires additional protective devices, it may order the railroad to comply. The railroad may, if acceptable to the Commission, offer its agreement to maintain the protective devices as its share of the costs. See OHIO REV. CODE ANN. § 4907.47.1(A)(B)(C) (Anderson 1994).

Any gates, bells or devices ordered erected by the Public Utilities Commission must be built within the time, in the manner and of materials approved by the Commission. If the Commission has ordered automatic bells at any crossing, the bells must be constructed to ring in advance of the approach of a train within three hundred or more feet of the crossing and continue to ring until a train has reached the crossing. See OHIO REV. CODE ANN. § 4907.48 (Anderson 1994).

OKLAHOMA

The Oklahoma Corporation Commission has statutory authority to promulgate rules and regulations covering the design, installation, construction, maintenance, inspection and testing of active warning devices at highway-rail crossings in the state. See OKLA. STAT. tit. 60, § 130.

In the state of Oklahoma, a public authority having jurisdiction and control over any public highway or street in the state may determine that the safety of lives and property requires the installation of an automatic or mechanically operated barricading device, and any such public authority with appropriate jurisdiction, may construct and install such a barrier or they may order the affected railroad to construct, install and maintain the barrier. Before any such construction or installation begins, the detailed plans, including the proposed mode of operation of the devices and a map showing the proposed location, must be submitted to and approved by the State Highway Commission of Oklahoma. See OKLA STAT. tit. 66 § 125a (1994). Also see chapter on Driver Action.

OREGON

Oregon law vests exclusive authority to control and regulate the protection of highway-rail crossings in the state with the Public Utility Commission. The Commission has authority to determine the kind and location of protective devices to be installed and the allocation of costs, and may order the alteration of existing protective devices. See OR. REV. STAT. § 763.020 (1994).

For devices to be installed at or in advance of the crossing and which are activated immediately in advance of and during each train movement, the installation costs are to be apportioned by the Commission as follows:

- 1) Seventy-five percent to the Grade Crossing Protection Account.
- 2) Five percent to the public authority in interest having jurisdiction.
- 3) Twenty percent to the railroad company. See OR. REV. STAT. § 763.271(1)(A) (1994).

PENNSYLVANIA

Pennsylvania has no requirement concerning active warning devices.

RHODE ISLAND

At any highway-rail crossing not protected by a gate or flagman, the Public Utility Commission may, after proper notice and hearing, direct that the crossing be furnished with an electric signal(s). If any affected railroad refuses or neglects to comply with the order of the Commission within three months from the date of the order, the railroad may be fined twenty-five dollars for each day that the refusal or neglect continues, unless the railroad can furnish a satisfactory explanation to the Commission for the refusal or neglect. See R.I. GEN. LAWS § 39-8-11 (1994).

Every railroad corporation which has at-grade crossings within the city of Providence must, on receiving notice from the city council, install, maintain and operate gates and must fence its

track within the city limits according to council requirements. A violation of this section carries a fine of fifty dollars for each day of neglect after twenty days from notice, one-half for the use of the state and the other half for the use of the complainant. See R.I. GEN. LAWS § 39-8-12 (1994). The Director of Transportation in Rhode Island has the power and authority to improve highway-rail crossings with automatic protection devices. See R.I. GEN. LAWS § 24-8-10 (1994).

SOUTH CAROLINA

South Carolina has no requirement concerning active warning devices.

SOUTH DAKOTA

South Dakota has no requirement concerning active warning devices.

TENNESSEE

Tennessee law requires that, within six months after the occurrence of a fatality resulting from a collision between a train and a vehicle or pedestrian at an unmarked highway-rail crossing where there are regularly scheduled trains, one hundred or more vehicles cross daily and a regular school bus crossing, and/or upon the order of the Commissioner of Transportation, the affected railroad company shall install a marker with automatic flashing signal lights and a bell on either side of the tracks along the street, road or highway crossing the tracks. Installation costs are to be apportioned equally to the railroad company, the state of Tennessee and the county, municipality or the metropolitan government in accordance with the fiscal procedures of each unit. See TENN. CODE ANN. § 65-11-113 (1994).

TEXAS

Texas has no requirement concerning active warning devices.

UTAH

The Utah Department of Transportation has the authority to prescribe automatic and other safety appliances, signals and devices at highway-rail crossings. See UTAH CODE ANN. §§ 54-4-15.1, -15.3 (1994).

VERMONT

When three or more freeholders or registered voters of a city, town or village request in writing that a gate or electric signal be installed or a flagman be stationed at any highway-rail crossing within their city, town or village, the Transportation Board will visit the location and give notice to all concerned. If the public safety requires it, the Board will order the affected railroad to install the needed device and direct the state, municipality and the railroad to pay costs as the Board finds equitable. See VT. STAT. ANN. tit. 30, § 1379 (1994).

VIRGINIA

When required by the State Highway and Transportation Commissioner or by the governing body of any county, city or town, every railroad company will place and maintain, a highway-rail crossing protective device, including flashing electric lights, at each state highway-rail crossing. The device is to be automatically activated by an approaching train so as to be clearly discernible to travelers approaching the highway-rail crossing from each direction at a distance of two hundred feet. These lights will be installed at the initiative of counties, cities or towns only when required by ordinance or resolution adopted by the governing body stating that such political subdivision will pay the initial installation costs and that such cost and maintenance costs will be fixed as provided by this article. The costs of installation and maintenance of the lights may be apportioned by agreement between the railroad company and the governing body, or the Highway and Transportation Commissioner when he initiates it. If no agreement can be reached among the parties, any one of the parties may petition the State Corporation Commission for a decision on the costs. See VA. CODE ANN. § 56-405.3 (Michie 1994). Also see § 56-406.1.

When, in the opinion of the State Highway and Transportation Commissioner or the governing body of any county that has withdrawn its roads from the secondary system of state highways as to roads maintained by such county, or the council of any city or incorporated town, the public interest requires that automatically operated gates, wigwag signals or other electrical or automatic protection devices be installed at any highway, road or street crossing of one or more railroads at-grade, agreement may be made between any of these bodies and the affected railroad regarding the plans and specifications, the method of construction and the division of cost of installing such crossing protection devices. In the event that such governing bodies and the railroad company(s) are unable to agree, they may petition the State Corporation Commission which shall determine what share of the costs of the project to be borne by the affected railroad is fair and reasonable. See VA. CODE ANN. § 56-406.1 (Michie 1994).

When any automatically operated gate, wigwag signal or other electrical or automatic crossing protection device has been installed at any highway-rail crossing by a railroad company outside the corporate limits of any city or inside the corporate limits of any incorporated town having a population of thirty-five hundred or less where the street involved is maintained by the State Highway and Transportation Board, the State Highway and Transportation Commissioner or the governing body may agree with the affected railroad company as to the division of cost of future maintenance of the devices. If the concerned parties are unable to agree, then the State Highway and Transportation Commissioner or the governing body may petition the State Corporation Commission which shall determine what share of the costs of the future maintenance is to be borne by the railroad company and/or the State Highway and Transportation Commission or the county, with regard to the benefits accruing to the railroad from the continued maintenance of such protection of the crossing. See VA. CODE ANN. § 56-406.2 (Michie 1994).

WASHINGTON

When the Secretary of Transportation or the governing body of any city, town or county, or any railroad company deems that the public safety requires signals or other warning devices, other than sawbuck signs (emphasis mine), at any highway-rail crossing (state, city, town or county highway, road, street, alley, avenue, boulevard, parkway or other), it may petition the Utilities and Transportation Commission. The Commission will decide on the necessity for such protection and apportion the entire cost of installation and maintenance. No railroad is required to install any signal or other warning device until the public body involved has either paid or executed its promise to pay its portion of the estimated cost to the railroad. See WASH. REV. CODE ANN. § 81.53.261 (West 1994).

If the Utilities and Transportation Commission directs the installation of a grade crossing protection device, and a federal-aid funding program is available to participate in the costs of the installation, both installation and maintenance cost of the device shall be apportioned according to § 81.53.295. Otherwise, if installation is ordered by the Commission, it shall apportion the cost of installation and maintenance as provided in this section and described below:

Installation: Sixty percent to the Grade Crossing Protective Fund, thirty percent to the city, town, county or state, and ten percent to the railroad. However, if the installation is to be located at a new crossing requested by a city, town, county or the state, forty percent shall be paid by unit and none by the railroad. If the new crossing has been requested by the railroad, the entire cost must be borne by the railroad.

Maintenance: Twenty-five percent to the Grade Crossing Protective Fund, seventy-five percent to the railroad. If the crossing is a new crossing requested by the railroad, the entire cost is apportioned to the railroad. See WASH. REV. CODE ANN. § 81.53.271 (West 1994). Also see WASH. REV. CODE ANN. § 81.53.295 (West 1994).

If a city, town, county or the state petitions the Commission for closure of an existing crossing in proximity to the crossing for which installation of signals is described above, the share paid by the petitioning city, town, etc., will be reduced by ten percent of the total cost for each crossing ordered closed and the share paid by the Grade Crossing Protective Fund will be increased accordingly. See WASH. REV. CODE ANN. § 81.53.271 (West 1994).

"In the event funds are not available from the Grade Crossing Protective Fund, the Commission shall apportion to the parties on the basis of the benefits to be derived by the public and the railroad respectively, that part of the cost which would otherwise be assigned to the Grade Crossing Protective Fund. Provided, that in such instances the city, town, county or state shall not be assessed more than sixty percent of the total costs of installation on other than federal-aid designated highway projects; and provided further, that the entire cost of maintenance be borne by the railroad." See WASH. REV. CODE ANN. § 81.53.275 (West 1994). Also see § 81.53.281 concerning creation of the Grade Crossing Protective Fund.

WEST VIRGINIA

West Virginia has no requirement concerning active warning devices.

WISCONSIN

If the Wisconsin Department of Transportation determines, either without or after a hearing, that protection is not adequate at a public highway-rail crossing, it may order the railroad company to keep a flagman at the crossing or to install automatic signals or other suitable safety devices at specific locations at such crossings. The costs of such protection will be apportioned by the Department between the railroad and the State on the basis of benefits received by the railroad and the public respectively. See WIS. STAT. § 195.28 (1994).

WYOMING

The Wyoming Public Service Commission, on the basis of a priority rating assigning priority first to the most hazardous highway-rail crossings, shall determine the type of crossing protection signals and devices required. See WYO. STAT. § 37-10-102 (1994).

Under the direction of the affected railroad, "it shall be the duty of the Wyoming Public Service Commission to apportion the costs and expenses of installing or reconstructing such crossings and safety devices between the railroads and the State Highway Department or the county, city or other governmental entity involved in proportion to the respective benefits to be derived." But, in any case, the Commission must limit the amount to be charged to the railroad to a maximum of thirty-three and one-third percent of the cost of the total project for installing or reconstructing any crossings or safety devices. See WYO. STAT. § 37-10-103 (1994).

The Public Service Commission shall fix in every case the amount to be paid from the Crossing Protection Account, which it administers, and the amount to be paid by the Highway Department or by the city, town, county or other political entity. The railroads will bear all costs of maintaining in good operating condition all such safety devices. See WYO. STAT. § 37-10-104 (1994).

CHAPTER 8: SLOW, LOW AND SPECIAL VEHICLES AND EXEMPT CROSSINGS

CHAPTER OVERVIEW

This chapter presents a state-by-state examination of regulations concerning slow, low and special vehicles and exempt crossings at highway-rail grade crossings.

"Slow and low vehicles" are variously referred to in the statutes as types of heavy equipment, e.g. any crawler-type tractor, steam shovel, derrick, roller or any other equipment or structure having a normal operating speed of ten miles per hour or less. Some statutes specifically mention six miles per hour or less and one as low as four miles per hour in this category of vehicles. The majority of states define "low" as a structure with a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches measured above the level surface of a roadway, upon or across the track.

"Special Vehicles" as they are referred to in the statutes are vehicles carrying usually passengers for hire and school buses carrying children. Also included under this category are vehicles carrying explosive substances, flammable materials or other types of hazardous materials.

With the exception of Alaska, all of the states require one or more of the vehicles in these two categories to come to a full stop before traversing a highway-rail crossing. Federal regulations require every bus transporting passengers and vehicles carrying hazardous materials to stop and to listen and look in both directions along the tracks for an approaching train. When it is safe to do so, drivers may cross. However, Federal regulations prohibit the drivers from manually shifting gears while moving across the tracks. For a complete listing of vehicles required to stop under Federal regulations, see 49 CFR 392.10 (1992).

This chapter also contains a state-by-state summary of "Exempt Crossings" at which the requirements for slow, low or special vehicles have no application. The majority of the requirements are based on Federal regulations which exempt the following crossings from the stopping requirements:

- 1) A streetcar or railroad crossing which is used exclusively for industrial purposes within a business district.
- 2) A crossing where a police officer or flagman directs traffic to proceed.
- 3) A crossing controlled by a functioning highway traffic signal which directs traffic to proceed across the tracks without slowing or stopping.
- 4) A clearly marked abandoned crossing.
- 5) An industrial or spur line railroad grade crossing marked with a sign reading "EXEMPT". The "exempt" sign in all examples must have been erected by or with the consent of local authority. "Exempt" requirements are generally copied from federal regulations. The reader may view them by perusing the Code of Federal Regulations 49 CFR 392.10(b)-1 to -5 (1992).

As is the case throughout this book, all citations pertaining to the topics outlined in this chapter are included in the text.

STATE LAWS, REGULATIONS AND PENALTIES

ALABAMA

Slow and Low Vehicles - Alabama defines vehicles in this category as "any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across the tracks."

Alabama state law requires persons operating slow and low vehicles to stop before moving over a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail, the operator must look and listen for trains and train signals, and the operator may cross only when it is safe to proceed. See ALA. CODE § 32-5A-152 (1994).

Special Vehicles - Alabama law does not specifically mention types of vehicles in this category. The law does provide however, that the Director of Highways shall adopt regulations as may be necessary describing the vehicles which must comply with special stopping requirements. The director must formulate the regulations on the basis of the number of passengers carried by the vehicle and the hazardous nature of any substance carried.

Before crossing any highway-rail crossing, the driver must stop the vehicle within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver shall not proceed until it is safe to do so. While moving over the crossing, the driver is prohibited from manually shifting gears. See ALA. CODE § 32-5A-151(a)-(c) (1994).

Exempt Crossings - The stopping regulations do not apply at highway-rail crossings where traffic is controlled by a police officer, flagman or traffic control signal. They also do not apply at crossings which are equipped with crossing gates or any alternately flashing light signals which are intended to give warning of an approaching train or at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See ALA. CODE § 32-5A-151(b)-1 to-4 (1994).

ALASKA

Slow and Low Vehicles - Alaska law prohibits drivers of crawler-type tractors, steam shovel, derricks, rollers, or any other equipment or device having a normal operating speed of ten or less miles per hour or a vertical body or load clearance to less than one-half inch per foot or a vertical distance between any two adjacent axles or in any event of less than nine inches measured from the surface of a roadway from driving across a highway-rail crossing without first stopping within fifteen to fifty feet from the nearest rail of the railroad. After complying with the stopping requirements, the driver may then proceed only when it can be done safely.

Before making any such crossing, Alaska law requires that notice of the intended crossing be given to a station agent of the affected railroad allowing a reasonable period of time for railroad to provide proper protection at the crossing.

The stopping requirements do not apply at any highway-rail crossing where warning of the immediate approach of a train is being given. If a flagman is provided by the railroad, movement over the crossing must be done at his direction. See ALASKA ADMIN. CODE tit. 13, § 02.255 (1994). Also see 13 AAC 02.240 concerning stopping distance.

Special Vehicles - Alaska requires mandatory stops at within fifteen to fifty feet of the nearest rail of the railroad at a highway-rail crossing by drivers of vehicles carrying passengers for hire, a school bus, or a vehicle carrying an explosive substance or a flammable liquid as a cargo or part of a cargo.

While stopped, the drivers of these vehicle must listen and look in both directions along the track for approaching trains and for a signal indicating the approach of a train, and may not proceed until the crossover can be made safely.

The driver of a school bus approaching a highway-rail crossing must activate the vehicle's amber lights for a distance of not less than three hundred feet before stopping.

After complying with the stopping and proceeding safely, drivers of these special vehicles are not allowed to shift gears while moving across the crossing. See ALASKA ADMIN. CODE tit. 13, § 02.250 (1994). Also see 13 AAC 02.240 concerning stopping distance.

Exempt Crossings - The stopping requirements do not apply at highway-rail crossing where traffic is being directed by a police officer, an authorized flagman, or an official traffic control device. See ALASKA ADMIN. CODE tit. 13, § 02.250 (1994).

ARIZONA

Slow and Low Vehicles - No person in Arizona may operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten miles per hour or less, without first coming to a complete stop fifteen to fifty feet from the nearest rail. After stopping, the operator must look and listen for trains and train signals. Before making the crossing, notice of intent must be given to a station agent.

If the railroad provides a flagman for the crossing of slow and low vehicles, the crossing must be under the flagman's direction. See ARIZ. REV. STAT. ANN. § 28-854 (1994).

Special Vehicles - Arizona law requires drivers of motor vehicles carrying passengers for hire, school buses carrying any children, and vehicles carrying hazardous materials as cargo or part of a cargo while carrying it to or returning from a delivery to stop at crossings.

Drivers of these special vehicles must stop within fifteen to fifty feet of the nearest rail at all highway-rail crossings. After the stop is made, the driver must listen and look in both directions for approaching trains and for signals indicating the approach of a train and may not proceed until it is safe to do so. The driver may not manually change gears while crossing the tracks. See ARIZ. REV. STAT. ANN. § 28-853 (1994).

Exempt Crossings - Drivers are not required to stop at crossings where a police officer or a traffic control signal is directing traffic to proceed. Also exempt from this section are highway-rail grade crossings within a business or a residential district. See ARIZ. REV. STAT. ANN. § 28-853 (1994).

ARKANSAS

Slow and Low Vehicles - It is unlawful for a person to operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of up to ten miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or, in any event, of less than nine inches measured above the level surface of a roadway without first giving notice to a station agent of the railroad. Any notice should allow reasonable time for the railroad to provide proper protection at the crossing. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction.

Before crossing, the driver of the slow or low vehicle must first stop not less than fifteen or more than fifty feet from the nearest rail of the tracks. While stopped, the driver is required to listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver may not proceed until the crossing can be accomplished in a safe manner. See ARK. CODE ANN. § 27-51-705 (Michie 1993).

Special Vehicles - Arkansas requires drivers of motor vehicles carrying passengers for hire and any school bus transporting any children to stop within fifty but not less than fifteen feet from the nearest rail of the tracks. While stopped, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train and may not proceed until it is safe to do so.

The law imposes the same requirement for a driver of any vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo. See ARK. CODE ANN. § 27-51-703 (Michie 1993).

In addition to vehicles carrying hazardous materials or cargo, Arkansas law imposes stopping requirements on trucks carrying explosive substances or flammable liquids or gasses as cargo or part of a cargo. While the distance parameters are the same, the driver has the additional requirement of opening the driver's side door of the truck or rolling down the window at least 12" in order to remove any obstruction of the sound of a train whistle. The driver must also listen and look along the track in both directions for any approaching train or signals indicating the approach of a train and may proceed to cross the tracks only after it is safe to do so.

Penalty - A violation of this particular section subjects the driver to the following penalties: 1) The first conviction results in a fine of not less than one hundred or more than three hundred dollars and suspension of the chauffeur's license of the operator for thirty days; 2) For the second offense, the operator may be fined not less than one hundred or more than three hundred dollars and have his chauffeur's license suspended for one year. See ARK. CODE ANN. § 27-51-704 (Michie 1993).

Exempt Crossings - The special vehicle stopping requirements do not apply to school buses and vehicles carrying passengers for hire at a crossing where there is a police officer or a traffic control signal directing traffic to proceed. The stopping requirements also do not apply at highway-railway grade crossings within a business or residential district. See ARK. CODE ANN. § 27-51-703 (Michie 1993). This exemption does not apply to trucks carrying explosive cargo or flammable liquids.

CALIFORNIA

Slow and Low Vehicles - California law does not have requirements concerning stops at highway-rail crossings by drivers of slow and low vehicles.

Special Vehicles - California law requires drivers of school buses, school activity buses, buses carrying passengers for hire, trucks transporting employees outside the cab, buses transporting employees and buses transporting minors on any outing organized on a group basis to stop at crossings. Also covered under the statute are vehicles carrying explosive substances as cargo or part of a cargo, tank vehicles whether loaded or empty and vehicles transporting more than one hundred twenty gallons of flammable liquids or liquefied petroleum gas in containers having a capacity of more than twenty gallons as cargo or the major portion of a cargo.

Each vehicle for which a stop is required must do so within fifteen to fifty feet of the nearest rail at all highway-rail crossings. When stopped, the driver is required to listen and look along the track in both directions for any approaching train and must not proceed until it is safe to do so. Upon proceeding, the gears may not be shifted manually while crossing the tracks. See CAL. [VEH.] CODE § 22452 (West 1994).

If a driver fails to stop as required by this section, his driver's license may be suspended for not more than six months. See CAL. [VEH.] CODE § 13201 (West 1994).

Exempt Crossings - California does not require drivers to stop at tracks running upon and along the roadway in business or residential districts or where a traffic officer or an official traffic control signal directs traffic to proceed. Also, stops are not required at crossings where an official railroad crossing stop exempt sign has been placed by the California Department of Transportation, (see § 21400), or by local authority (see § 22452.5). School buses and school pupil activity buses are not part of the exemption. See CAL. [VEH.] CODE § 22452 (West 1994). Also see CAL. [VEH.] CODE § 22452.2 (West 1994).

COLORADO

Slow and Low Vehicles - Colorado law considers low clearance as less than nine inches above the level surface of the roadway upon or across the tracks. Slow vehicles are described as those with a normal operating speed of ten miles per hour or less. Before moving slow and low vehicles across a highway-rail crossing, the law requires that reasonable notice be given to a superintendent of the railroad.

Colorado law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail, the operator must look and listen for trains and train signals, and the operator may cross only when possible to proceed safely.

No such crossing is to be made when warning is given by an automatic signal, crossing gate or flagman of the immediate approach of a train. See COLO. REV. STAT. § 42-4-708 (1)-(2)-(3)-(4) (1994). Also see subparagraph (5) under exempt crossings. [Editor's Note: This entire title was amended in 1994, effective January 1, 1995, resulting in the relocation of provisions.]

Special Vehicles - Colorado law requires drivers of school buses and vehicles carrying passengers for hire which are carrying more than six passengers to stop within fifteen to fifty feet of the nearest rail at all non-exempt crossings.

Any vehicle carrying explosives or hazardous materials as cargo or part of a cargo or any vehicle designed to carry flammable liquids whether empty or loaded are to stop at crossings.

After requiring drivers of special vehicles to stop, Colorado requires that the driver listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver may then proceed to cross if it is safe to do so but they may not manually shift gears while crossing the tracks. See COLO. REV. STAT. § 42-4-707 (1994).

Exempt Crossings - Under Colorado law, drivers of slow and low vehicles do not have to stop at crossings where state or local road authorities have determined that trains are not operating during certain periods or seasons of the year and have erected an official "EXEMPT" sign. See COLO. REV. STAT. § 42-4-708 (5) (1994).

Drivers of special vehicles are not required to stop at crossings marked with an "EXEMPT" sign or at any crossing where traffic is controlled by a police officer or a traffic control signal. Stopping requirements also do not apply at crossings protected by crossing gates or alternately flashing lights intended to give warning of an approaching train. See COL. REV. STAT. § 42-4-608(5)-a to -d (1994).

CONNECTICUT

Slow and Low Vehicles - Connecticut has no requirements regulating stops by slow and low vehicles.

Special Vehicles - Connecticut law specifically mentions taxicabs under this category.

Operators of commercial motor vehicles carrying passengers, taxicabs, motor vehicles in livery service, motor buses, service buses or other motor vehicles carrying school children, vehicles carrying hazardous materials as cargo or part of a cargo and vehicles transporting inflammable or corrosive liquids in bulk, whether loaded or empty, are required to stop at highway-rail crossings.

Connecticut sets a different minimum stopping distance than most states. Connecticut requires that stops be made within ten to fifty feet of the nearest rail of the tracks. After stopping, the operator is required to listen and look in both directions for an approaching train.

No crossing is to be made at crossings where warning of an approaching train is given by an automatic signal, crossing gates, a flagman or other device. See CONN. GEN. STAT. § 14-250 (1994).

Penalty- A violation of any provision of § 14-250 will result in a fine of not less than one hundred fifty nor more than two hundred fifty dollars. See CONN. GEN. STAT. § 14-250 (1994).

Exempt Crossings - Connecticut has no provision for exempt crossings.

DELAWARE

Slow and Low Vehicles - The Delaware statute defines slow and low vehicles as those having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches. See DEL. CODE ANN. tit. 21, § 4167 (1994).

Delaware law requires persons operating slow and low vehicles to stop before traversing highway-rail crossings. The stop must be made fifteen to fifty feet from the nearest rail. The operator must look and listen for trains and train signals and may cross only when it is possible to do so safely. Delaware requires that, if the railroad provides a flagman, movement of slow and low vehicles must be made under the direction of such flagman.

Reasonable notice of any intended crossing must be given to a station agent of the railroad so as to allow the affected railroad to provide protection at the crossing.

Delaware prohibits such crossing when an automatic signal, gates, flagman or other warning indicates an approaching train.

Special Vehicles - Delaware requires drivers of a school bus carrying any children, a motor vehicle carrying passengers for hire or a vehicle transporting hazardous materials to stop at crossings. The required stop is to be within fifteen to fifty feet of the nearest rail of the crossing. When stopped, the driver of the special vehicle is to listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. Drivers may not proceed until it is safe to do so and may not manually shift gears while crossing the tracks. See DEL. CODE ANN. tit. 21, § 4163 (1994).

Exempt Crossings - Drivers of school buses, vehicles transporting passengers for hire, and vehicles with hazardous materials are not required to stop at crossings that are controlled by a police officer or flagman. Stops are also not required at crossings which are regulated by a traffic control signal, crossings where crossing gates or alternately flashing lights have been installed for the purpose of warning of the approach of a train or crossings at which an official traffic control device gives notice that the stopping requirement does not apply. See DEL. CODE ANN. tit. 21, § 4163 (1994).

DISTRICT OF COLUMBIA

Slow and Low Vehicles - The District of Columbia does not have sections in its vehicle code requiring stops by drivers of slow and low vehicles.

Special Vehicles - The District of Columbia has no provisions concerning special vehicles.

Exempt Crossings - Exempt crossings are not mentioned in the District of Columbia vehicle code.

FLORIDA

Slow and Low Vehicles - The Florida statutes define slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical

body or load clearance of less than nine inches measured above the level surface of the roadway upon or across the tracks. See FLA. STAT. ANN. § 316-170 (West 1994).

Florida law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail and the operator must listen and look in both directions for trains and train signals and may cross only when it is safe to do so.

Before moving slow and low vehicles across a highway-rail crossing, Florida law requires that reasonable notice be given to a station agent or other proper authority of the railroad.

No crossing is to be made when warning is being given by automatic signal, crossing gate, flagman or other device of the immediate approach of a railroad train or car. If a flagman is present, movement over the crossing is to be under his direction. See FLA. STAT. ANN. § 316-170 (West 1994).

Special Vehicles - Florida law requires drivers of school buses carrying any children, vehicles carrying passengers for hire and vehicles carrying explosive substances or flammable liquids as cargo to stop at crossings.

Drivers of special vehicles must stop within fifteen to fifty feet of the nearest rail of the crossing. After making the required stop, the driver must listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. Drivers may not proceed until it is safe to do so and may not manually shift gears while crossing the tracks. See FLA. STAT. ANN. § 316-159 (West 1994).

Exempt Crossings - Drivers of special vehicles are exempt from the stop requirement at crossings where a police officer, a traffic control signal or a sign directs traffic to proceed. School buses must stop unless directed to proceed by a police officer. See FLA. STAT. ANN. § 316-159 (West 1994).

GEORGIA

Slow and Low Vehicles - Georgia law defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of a roadway upon or across any tracks. See GA. CODE ANN. § 40-6-143 (1994).

Georgia law requires drivers of slow and low vehicles to stop not less than fifteen or more than fifty feet from the nearest rail of the tracks and while stopped, must listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver may not proceed until the crossing can be accomplished safely. Reasonable notice of any such intended crossing must be given to a station agent of the railroad so as to give the railroad time to provide proper protection at the crossing.

No such crossing may be made where warning is given by an automatic signal, crossing gate, flagman or other device of the immediate approach of a railroad train or car. If a flagman is present, movement over the crossing must be made under the flagman's direction.

Special Vehicles - Georgia law requires drivers of school buses whether carrying passengers or empty, vehicles carrying passengers for hire and vehicles transporting explosive substances, flammable liquids, hazardous waste or constituents, or hazardous acidic liquids as cargo or part of a cargo to stop at crossings. Drivers of school buses and vehicles with hazardous materials must stop within fifteen to fifty feet of the nearest rail. When stopped, the drivers of such vehicles are required to listen and look in both directions along each track for any approaching train and for signals indicating the approach of a train. Drivers may not proceed until they can do so safely. The driver may not manually shift gears while crossing the tracks. See GA. CODE ANN. § 40-6-142 (1994). Also refer to the driver action section under the State of Georgia.

Exempt Crossings - Drivers of special vehicles are not required to stop at a crossing where a police officer or a traffic control signal directs traffic to proceed. See GA. CODE ANN. § 40-6-142 (1994).

HAWAII

Slow and Low Vehicles - Hawaii has no requirements concerning stops by slow and low vehicles.

Special Vehicles - Hawaii requires drivers of school buses carrying children, vehicles carrying passengers for hire or any vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo to stop at crossings. The stops are to be made within fifteen to fifty feet of the nearest rail. The driver, while stopped, shall listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver shall proceed only when it is considered safe to do so. The driver must not manually shift gears while traversing the track. See HAW. REV. STAT. § 291C-93(a) (1994).

Exempt Crossings - The stopping requirements for special vehicles does not apply at crossings where a police officer or traffic control signal directs traffic to proceed. The stopping requirements for special vehicles also do not apply at highway-rail grade crossings within a business or residential district. See HAW. REV. STAT. § 291C-93(b)-(C) (1994).

IDAHO

Slow and Low Vehicles - Idaho's Code defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or a vertical or load clearance of less than nine inches measured above the level surface of a highway, upon or across the tracks.

Before moving slow and low vehicles across a highway-rail crossing in Idaho, reasonable notice must be given to a station agent of the railroad.

Idaho law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping, the operator must listen and look for trains and train signals, and cross only when it is possible to proceed safely.

Idaho law expressly prohibits crossing when an automatic signal, gate, flagman or other warning indicates the approach of a train. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction. See IDAHO CODE § 49-650 (1994).

Special Vehicles - Although Idaho does not mention any specific vehicles under the special category, it requires that drivers of any vehicle stopped at a highway-rail crossing listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers shall not proceed until it can be done safely and may not manually shift gears while moving through the crossing. See IDAHO CODE § 49-649 (1994).

Exempt Crossings - Drivers of special vehicles are not required to stop at crossings where traffic is controlled by a police officer or flagman, by a traffic control signal, or by crossing gates or an alternately flashing light signal intended to warn of the approach of a train, or at any grade crossing at which a traffic control device gives notice that the stopping requirements do not apply. See IDAHO CODE § 49-649(a) to (d) (1994). Also see section dealing with driver action.

ILLINOIS

Slow and Low Vehicles - Illinois law defines "slow" vehicles as those with a normal operating speed of ten miles per hour or less. Also, the statutes refer to "power" and not "steam" shovels. As to vehicles with low clearances, Illinois applies the nine inch height to axles that are eighteen feet or less apart. If the axles are more than eighteen feet apart, the one half inch per foot measure is used.

Before moving slow and low vehicles across a highway-rail crossing, Illinois law requires that reasonable notice be given to a superintendent of the railroad.

Illinois law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping, the operator must look and listen for trains and train signals, and cross only when it is safe to proceed.

Exempt Crossings - No such crossing may be made at a crossing where warning of the approach of a train is given by an automatic signal, crossing gate, flagman or other device. See 625 ILCS 5/11-1203 (1994).

Special Vehicles - Illinois requires drivers of school buses carrying any children, vehicles carrying passengers for hire and vehicles transporting hazardous materials to stop at highway-rail crossings.

Illinois law requires stops to be made within fifteen to fifty feet of the nearest rail of the tracks. After making the required stop, drivers of special vehicles are instructed to listen and look in both directions for an approaching train and may not move over the crossing until it can be done safely.

After determining that it is safe to traverse a crossing, drivers of vehicles with passengers for hire or those carrying hazardous materials may proceed but may not manually shift gears while crossing the tracks. See 625 ILCS 5/11-1202 (1994).

Exempt Crossings - An exception is provided for drivers of vehicles with passengers or hazardous material cargos at crossings where a traffic control signal, police officer or flagman regulates traffic.

Additionally, Illinois law exempts drivers of special vehicles from the stopping requirements at crossings where crossing gates or alternately flashing lights have been installed. However, this exemption does not apply to drivers of school buses.

Stopping requirements are also not applicable at any streetcar grade crossing within a business or residential district and at any clearly marked abandoned track. See 625 ILCS 5/11-1201(b) -1 to -4 (1994).

INDIANA

Slow and Low Vehicles - When defining slow and low vehicles, the Indiana code omits "crawler-type" and instead mentions "caterpillar" tractors. Indiana law describes slow and low vehicles as vehicles or structures weighing more than ten tons and having a normal operating speed of not more than six miles per hour. "Low" is defined as a vertical body or load clearance of less than nine inches above the level surface of a roadway.

Before moving slow and low vehicles across a highway-rail crossing, Indiana law requires that reasonable notice be given to a superintendent of the railroad.

Indiana law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made not less than ten or more than fifty feet from the nearest rail, and while stopped, the operator must listen, look and then cross only when it is possible to do so safely.

Indiana expressly prohibits crossings by slow and low vehicles when an automatic signal, gate, flagman or other device indicates an approaching train. See IND. CODE ANN. § 9-21-8-40 (Burns 1994).

Special Vehicles - Indiana has two separate code sections regulating stopping and traversing crossings by special vehicles. Indiana law requires drivers of school buses carrying any children to stop at crossings. The stop shall be made within fifty but not less than ten feet of the nearest rail. While the bus is stopped, the driver must open the door and listen and look in both directions for a train or signals indicating the approach of a train. After all requirements are complied with, the driver may then proceed when it is safe to do so but may not manually shift gears while crossing.

Penalty - If an operator of a school bus is convicted of a violation of this section, the operator may have his driver's license suspended for a period of not less than sixty days in addition to penalties provided by Indiana Code § 20-9.1-5-22. See IND. CODE ANN. § 20-9.1-5-11(a)-(b) (Burns 1994).

A driver of a motor vehicle carrying passengers for hire or a vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo must stop not more than fifty and not less than ten feet from the nearest rail of the crossing.

While stopped, the driver shall listen through an open door or window and look along the track in both directions for an approaching train and for signals indicating the approach of a train. The driver may then proceed only when it is safe to do so but may not manually shift gears while traversing the crossing.

If a police officer or a traffic control signal is directing traffic at a crossing, the driver of a special vehicle may proceed in accordance with the instructions provided by the police officer or the traffic control signal. See IND. CODE ANN. § 9-21-12-5(a)-(b)-(c)-(d) (Burns 1994).

Penalties- A conviction for a violation of this section will result in a fine and a suspension of driving privileges for a period of not less than sixty days. See IND. CODE ANN. § 9-21-12-8 (Burns 1994).

Exempt Crossings - Indiana exempts drivers of special vehicles only (not slow and low vehicles) from stopping at highway-rail grade crossings within a business or residential district, at an abandoned or unused crossing and at crossings where traffic is controlled by a police officer or a traffic control signal. See IND. CODE ANN. § 9-21-12-5(a)-(d) (Burns 1994).

IOWA

Slow and Low Vehicles - Iowa refers to "caterpillar" rather than "crawler-type" tractors. It describes slow vehicles as those with an operating speed of six miles per hour or less and low vehicles as those with a vertical body or load clearance of less than nine inches above the level surface of a roadway upon or across any tracks.

Before moving slow and low vehicles across a highway-rail crossing in Iowa, state law requires that reasonable notice be given to a superintendent of the affected railroad.

Iowa law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within ten to fifty feet of the crossing. After stopping, the operator must listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and may cross only when it is safe to do so.

Iowa expressly prohibits any crossing when an automatic signal, gate, flagman or other warning indicates an approaching train. See IOWA CODE § 321.344 (1993).

Special Vehicles - Iowa requires drivers of school buses, vehicles carrying passengers for hire and vehicles carrying hazardous materials to stop at highway-rail crossings. Iowa requires stops to be within fifty but not less than fifteen feet of the nearest rail of the crossing. After stopping, a driver must listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may proceed only when it is safe to do so. See IOWA CODE § 321.343 (1993). Also see § 321.449 (Motor Carrier Safety Rules).

Exempt Crossings - Drivers of special vehicles are exempt from stopping requirements at a crossing where a police officer or a traffic control device directs traffic to proceed. Also, no stop need be made at a crossing with an "EXEMPT" sign. The statute indicates that the "EXEMPT" sign shall be posted only where the tracks have been partially removed on either side of the roadway. See IOWA CODE § 321.343 (1993).

KANSAS

Slow and Low Vehicles - Kansas law describes slow and low vehicles as those having a normal operating speed of ten miles per hour or less or load clearance of less than nine inches measured above the level surface of a roadway, upon or across the tracks.

Before moving slow and low vehicles across a highway-rail crossing, Kansas law requires that reasonable notice be given to a station agent of the affected railroad.

Kansas law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. The operator must then listen and look for trains and train signals, and shall cross only when it is safe to proceed.

A crossing may not be made when warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, movement over the crossing is to be made under the flagman's direction. See KAN. STAT. ANN. § 8-1554 (1993).

Special Vehicles - Kansas law requires that the Kansas Secretary of Transportation, in conjunction with the corporation commission, adopt rules and regulations as are necessary describing the types of vehicles which must comply with the stopping requirements. The statute does not mention specific vehicles that might fall under this category.

Kansas law requires drivers of school buses and vehicles with hazardous materials to stop within fifteen but not more than fifty feet of the nearest rail.

After complying with the stopping requirements, drivers of special vehicles must listen and look in both directions for any approaching train and for signals indicating the approach of a train. No crossing shall be made until it is determined that it is safe to do so. The driver must then cross in an appropriate gear and must not manually shift gears while crossing the tracks. See KAN. STAT. ANN. § 8-1553 (1993).

Exempt Crossings - Under Kansas law, the drivers of special vehicles are not required to stop at crossings where traffic is controlled by a police officer or human flagman, any crossing at which traffic is controlled by a highway traffic signal transmitting a green indication, any abandoned crossing which is marked with a sign indicating such, any industrial or spur line crossing marked with a state or local authority approved "EXEMPT" sign and crossings used exclusively for industrial switching purposes within a business district. See

KAN. STAT. ANN. § 8-1553 (1993).

KENTUCKY

Slow and Low Vehicles - Kentucky does not have a specific statute concerning stops by slow and low vehicles at highway-rail crossings.

Special Vehicles - Kentucky statutes contain a separate section concerning stopping requirements for drivers or chauffeurs of any motor vehicle transporting passengers for hire.

Stops by drivers or chauffeurs of any such vehicle shall stop not less than ten or more than thirty feet from the nearest rail of the track. After the stop is made, the driver or chauffeur must look carefully in each direction for an approaching car or train, and shall not cross until it is ascertained that no car or train is approaching. See KY. REV. STAT. ANN. § 281.745 (Baldwin 1993). For penalty if convicted of violating this section, see 281.990 [1] [3].

Kentucky law requires drivers of buses and motor vehicles used for transporting children to come to a stop within ten and not more than thirty feet of the nearest track over the highway. After the stop is made, the law requires that operators open the service door and carefully look in both directions for approaching trains or maintenance vehicles. See KY. REV. STAT. ANN. § 189.550 (Baldwin 1993).

Kentucky law requires drivers of any motor vehicle used in the transportation of inflammable liquids or explosives to stop not less than ten feet or more than twenty feet from the nearest rail of the track. After making the required stop, the driver shall look carefully in each direction for any approaching trains and may not move over the crossing until it has been ascertained that no trains or cars are approaching in either direction. See KY. REV. STAT. ANN. § 189.565 (Baldwin 1993).

Exempt Crossings - Kentucky exempts drivers of buses and motor vehicles used for transporting children and vehicles carrying passengers for hire from the stopping requirements at crossings which are protected by gates or a flagman employed by the railroad. See KY. REV. STAT. ANN. § 189.550 (Baldwin 1993). Also see the section on special vehicles.

LOUISIANA

Slow and Low Vehicles - Louisiana defines slow and low vehicles as those that have an operating speed of ten miles an hour or less or a clearance of less than nine inches measured above the level surface of a roadway, upon or across any tracks.

Louisiana law requires that, before moving slow and low vehicles across a highway-rail crossing, reasonable notice be given to a station agent of the affected railroad.

Louisiana law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. During the stop, the operator must listen and look in both directions, proceeding only when it is safe to do so.

These procedures have no applicability at a crossing where warning of the approach of a railroad train or car is given by automatic signals, crossing gates, a flagman or other device. If a flagman is provided by the railroad, any crossing attempted shall be under the flagman's direction. See LA. REV. STAT. ANN. § 32:174 (West 1993).

Special Vehicles - Louisiana requires drivers of school buses carrying children or not, vehicles carrying passengers for hire and vehicles carrying explosive substances or flammable liquids as cargo or part of a cargo to stop at highway-rail crossings. Stops are to be made within fifteen to fifty feet of the nearest rail and while stopped, the driver is required to listen and look in both directions for any approaching train or for signals indicating the approach of a train. The driver of any school bus must open the door of the bus and leave it open while ascertaining that no train is approaching. See LA. REV. STAT. ANN. § 32:173 (West 1993).

The owner or operator of a vehicle transporting flammable liquids is forbidden to cross at a crossing without coming to a full stop. If the vehicle is transporting explosives, the driver may only move over a crossing under the protection of a competent flagman. See LA. REV. STAT. ANN § 251 (West 1993).

Exempt Crossings - The drivers of school buses and vehicles carrying hazardous materials are not required to comply with the stopping provisions at any crossing where a police officer or traffic control signal directs traffic to proceed. See LA. REV. STAT. ANN. § 32:173 (West 1993).

MAINE

Slow and Low Vehicles - Maine has no provisions concerning slow and low vehicles.

Special Vehicles - Maine law requires drivers of school buses to stop at crossings. The stop shall be made at a point within fifteen to fifty feet of the nearest rail. While stopped, the driver must ascertain beyond a reasonable doubt that no train, engine or conveyance is approaching. The driver is permitted to cross only when it is safe to do so. See ME. REV. STAT. ANN. tit. 29-A, § 2306 (West 1994).

Penalty - Maine law provides two separate penalties for violations of the stopping requirement by drivers of special vehicles. A violation of this section by a school bus driver is a Class E crime, and upon conviction of failure to stop or to yield the right-of-way to a train, the driver's license to operate the school bus must be revoked by the Maine Secretary of State for a period of not less than two years. See ME. REV. STAT. ANN. tit. 29-A, § 2306 (West 1994).

Maine has a second statute which covers stops by a variety of special vehicles. It includes a bus transporting passengers and a motor vehicle transporting any quantity of chlorine. See ME. REV. STAT ANN. tit. 29-A, § 2076 (West 1994).

Maine requires drivers of hazardous vehicles to stop at crossings. The pertinent section of the statute requires those vehicles that must be marked or placarded in accordance with 49 CFR 172(F) to stop at crossings. The statute further prescribes cargo tank vehicles used to transport a hazardous material as defined in 49 CFR 170 & 189 or a commodity under special permit in accordance with provisions prescribed by the CFR to stop whether loaded or not.

Another category of vehicle covered under the same section of the statute is described as a cargo tank vehicle transporting a commodity that, at the time of loading, has a temperature above its flash point as determined by 49 CFR 173.115. See ME. REV. STAT. ANN. tit. 29-A § 2076 (West 1994). The reader may also want to see 49 CFR 172(f), 49 CFR 170-189, and 49 CFR 173.115 (1994).

Penalty - Any driver of a vehicle covered under this section who fails to comply with the stopping requirements commits a Class D crime. See ME. REV. STAT. ANN. tit. 29-A § 2076(5) (West 1994).

Exempt Crossings - Drivers of vehicles under the special category with the exception of school buses, are exempt from the stopping requirements within a business district at streetcar crossings or railroad crossings used exclusively for industrial switching purposes, where a law enforcement officer or crossing flagman directs traffic to proceed, or at a clearly marked abandoned crossing and at an industrial or spur line railroad grade crossing marked with an "EXEMPT" sign. See ME. REV. STAT. ANN. tit. 29-A § 2076(4) (West 1994).

MARYLAND

Slow and Low Vehicles - Maryland's definition of slow and low vehicles is the same as most states with the exception that Maryland refers to "power" not "steam" shovels.

Prior to moving slow and low vehicles across a highway-rail crossing in Maryland, reasonable notice must be given to an agent of the affected railroad, thereby allowing the railroad time to provide proper protection.

Maryland law requires persons operating slow and low vehicles to stop within fifteen to fifty feet of the nearest rail before moving across a highway-rail crossing. While stopped, the operator is required to listen and look in both directions for an approaching or passing train and for signals indicating the approach or passage of a train. In any event, no crossing is to be made unless it is determined that it can be done safely.

Maryland law prohibits crossing if a warning of the immediate approach of a train is given by an automatic signal, crossing gate, flagman or other device. See MD. ANN. CODE art. 21, § 704 (1994).

Special Vehicles - Maryland law requires drivers of motor vehicles carrying passengers for hire, school vehicles carrying any passenger, buses owned or operated by a church and carrying any passenger, vehicles carrying flammable liquid or an explosive and vehicles carrying hazardous materials of a type and quantity requiring placarding under federal hazardous materials regulations, to stop at highway-rail crossings. Stops must be made within fifteen to fifty feet of the nearest rail of the tracks. Drivers must listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train. The driver may proceed only when it is safe to do so and may not manually shift gears while crossing. See MD. ANN. CODE art. 21, § 703(b)-(c)-(d) (1994). See also the section under driver action.

Exempt Crossings - In Maryland, the stopping requirements for drivers of special vehicles do not apply at any highway-rail crossing in a business or residential district. See MD. ANN. CODE art. 21, § 703(g) (1994).

MASSACHUSETTS

Slow and Low Vehicles - Massachusetts has no regulations concerning slow and low vehicles.

Special Vehicles - The law in Massachusetts requiring stops at highway-rail crossings does not specifically mention buses or vehicles transporting passengers for hire. Massachusetts law does require drivers of school buses and vehicles carrying explosive substances or flammable liquids as cargo or part of a cargo to stop within fifteen to fifty feet of the nearest rail. The statute also requires drivers of school buses to open the door while stopped. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994). Also see this section under the chapter on driver action.

Penalties - A violation of any provision of section 15 is punishable by a fine of not less than one hundred or more than two hundred dollars. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

Exempt Crossings - Massachusetts has no provisions for exempt crossings.

MICHIGAN

Slow and Low Vehicles - Michigan law refers to "caterpillar" not "crawler-type" tractors. Additionally, Michigan law adds as part of the slow and low category, boilers, machinery and objects upon rollers. Michigan law applies to equipment or structures having a normal operating speed of four miles per hour or less or a vertical load or body clearance of less than nine inches above the level surface of the roadway. See MICH. STAT. ANN. § 9.2370(1) (Law. Co-op. 1994).

In Michigan, the nearest agent or officer of the railroad must be notified and a reasonable period of time allowed for protection of the railroad's locomotives, cars and trains.

Persons operating slow or low vehicles must stop before moving over a highway-rail crossing. The stop must be made not less than ten but no more than fifty feet from the nearest rail and the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. After stopping, listening and looking, the operator may proceed only if it is safe to do so. See MICH. STAT. ANN. § 9.2370(2)-(3) (Law. Co-op. 1994).

Michigan law prohibits crossing when warning of the immediate approach of a railroad train or car is given by an automatic signal, crossing gate, flagman or other device. See MICH. STAT. ANN. § 9.2370(4) (Law. Co-op. 1994).

Special Vehicles - In Michigan, vehicles which must stop at highway-rail crossings include motor vehicles carrying passengers for hire, school buses and vehicles carrying explosive substances, flammable liquids or other hazardous materials on which a placard is required by Federal law.

Michigan statutes prescribe stopping requirements for school buses under a different section than for motor vehicles carrying passengers for hire and vehicles carrying hazardous materials. Drivers of school buses must stop within fifty but not less than ten feet of the nearest rail of the crossing. After coming to a stop, the driver of the school bus must "activate hazard warning lights, turn off all interior switches including fans, heaters, and radios, open the passenger door and driver-side window, and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely". The driver is prohibited from manually shifting gears while crossing. See MICH. STAT. ANN. § 9.3557(1) (Law. Co-op. 1994).

Drivers of motor vehicles carrying passengers for hire and vehicles carrying hazardous materials are required to stop within ten to fifty feet of the nearest rail and while stopped, must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may not proceed until it is possible to do so safely and may not manually shift gears while crossing. See MICH. STAT. ANN. § 9.2369(1) (Law. Co-op. 1994).

Exempt Crossings - The exemptions under Michigan law are the same for school bus drivers, drivers of vehicles carrying passengers for hire and for vehicles carrying hazardous materials. Michigan expressly exempts drivers of special vehicles from the stopping requirements at crossings where a police officer or a traffic control signal directs traffic to proceed. Exemptions also apply at crossings that are abandoned as determined by the State of Michigan. No stop is required at a grade crossing on a freeway or limited access highway where the crossing is protected by a signal, crossing gate or barrier at a time when the signal, crossing gate or barrier is not activated. See MICH. STAT. ANN. § 9.3557(4) (Law. Co-op. 1994).

MINNESOTA

Slow and Low Vehicles - Minnesota's description of slow and low vehicles refers to "caterpillar" rather than "crawler-type" tractors. It also defines the operational speed at six miles per hour or less. The clearance requirements are nine inches or less above the level surface of the roadway.

Minnesota law requires persons operating slow and low vehicles to stop before moving over a highway-rail crossing. The stop must be made not less than ten or more than fifty feet from the nearest rail, and the operator must listen and look for approaching trains and for signals indicating the approach of a train. The operator may only proceed when it is safe to do so.

No crossing is to be made where warning of the immediate approach of a train is given by automatic signals, crossing gates, a flagman or other device. See MINN STAT. § 169.29 (1993).

Exempt Crossings - The operator of a slow and low vehicle as defined in Minnesota must stop at a crossing which has been abandoned and is displaying an "EXEMPT" sign, unless directed otherwise by a flagman. See MINN. STAT. § 169.29 (1994).

Special Vehicles - Minnesota law adds "any Head Start Bus" to the category of special vehicles. A "Head Start Bus" is defined in the statute as one which must bear on its front and rear a plainly visible sign containing the words "Head Start Bus" in letters at least eight inches in height. See MINN. STAT. § 169.28 (1994).

Minnesota law requires drivers of motor vehicles carrying passengers for hire, school buses, including Head Start Buses, whether carrying passengers or not and any vehicle carrying explosive substances, flammable liquids or liquid gas under pressure as cargo or part of a cargo to stop at highway-rail crossings. The stop is to be made not less than ten feet from the nearest rail. The driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train and may then proceed only when it is safe to do so. See MINN. STAT. § 169.28 (1994).

Exempt Crossings - Minnesota law has a provision that allows the local school administrative officer to designate a crossing at which a school bus driver may be flagged across. Otherwise, a school bus will not be flagged across a railroad crossing. See MINN. STAT. § 169.28(1) (1994).

MISSISSIPPI

Slow and Low Vehicles - Mississippi defines slow and low vehicles as those with an operating speed of six miles per hour or less and a clearance of nine inches above the level surface of the roadway. Also, the statutes make reference to "caterpillar" and not "crawler-type" tractors.

Mississippi law requires that drivers of slow and low vehicles stop before moving over a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail and the operator must listen and look for approaching trains and signals indicating an approaching train. Movement across the crossing can be made after it is determined safe to do so by the operator.

Prior to moving slow and low vehicles over a highway-rail crossing, Mississippi law requires that reasonable notification be given to a superintendent of the affected railroad.

Moving over a crossing is prohibited at crossings where warning of an approaching train is given by automatic signals, crossing gates, a flagman or other device. See MISS. CODE ANN. § 63-3-1013.

Special Vehicles - Mississippi requires drivers of vehicles carrying passengers for hire and hazardous materials as cargo or part of a cargo and school buses carrying any children to stop at crossings.

The stop must be made within fifty but not less than ten feet of the nearest rail of the crossing. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating an approaching train. After complying with the requirements, the driver may proceed when it is determined that it is safe to do so. See MISS. CODE ANN. § 63-3-1011(1) (1994).

Exempt Crossings - Mississippi exempts drivers of special vehicles from stopping requirements at crossings where a police officer or traffic control signal directs traffic to proceed and at crossings within a business or residential district. See MISS. CODE ANN. § 63-3-1011(2)-(3) (1994).

MISSOURI

Slow and Low Vehicles - Missouri has no regulation regarding stops by slow and low vehicles.

Special Vehicles - The law in Missouri requires drivers of motor vehicles carrying passengers for hire, school buses, motor vehicles transporting high explosives or poisonous or compressed inflammable gases and motor vehicles used for the transportation of inflammable or corrosive liquids in bulk whether loaded or empty to stop at crossings.

The stop must be made within fifteen to fifty feet of the nearest rail. After the required stop is made, a driver shall not proceed until due caution has been taken to ascertain that it is safe to do so. See MO. REV. STAT. § 304.030 (1993).

Exempt Crossings - Drivers of special vehicles are exempt from the stopping requirements at streetcar crossings within a business or residential district and at railroad grade crossings protected by a watchman, an on-duty traffic officer or a traffic control signal (not railroad flashing signal) that is giving positive indication to approaching vehicles to proceed. Stops also need not be made at any crossing at which the Missouri Division of Transportation has ordered the placement of an "EXEMPT" sign. See MO. REV. STAT. § 304.030 (1993).

Penalty- A violation of MO. REV. STAT. § 304.030 is punishable as a misdemeanor. See MO. REV. STAT. § 304.040 (1993).

MONTANA

Slow and Low Vehicles - Montana defines slow and low vehicles as those having an operating speed of ten miles per hour or less and a clearance of less than nine inches measured above the level surface of a roadway.

Montana law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail, the operator must listen and look in both directions for approaching trains and train signals, and, when it is safe to do so, the operator may proceed over the crossing.

Before moving slow and low vehicles across a highway-rail crossing, Montana law requires that reasonable notice be given to a station agent of the affected railroad.

No stop is to be made at a crossing where warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If the railroad provides a flagman, movement over the crossing should be made under the flagman's direction. See MONT. CODE ANN. § 61-8-350 (1994).

Special Vehicles - Montana statutes concerning this category of vehicles define a vehicle carrying passengers for hire as one which contains seven or more passengers. A driver of a vehicle carrying passengers for hire, a school bus with or without passengers or a vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo must stop within fifteen to fifty feet of the nearest rail of the crossing. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train and may not proceed until it can be accomplished safely. The driver may not manually shift gears while crossing the tracks. In the case of a school bus, the driver must open the door when listening and looking for trains and train signals.

A stop is not required at any crossing where a police officer, highway patrol officer or traffic control signal directs traffic to proceed. A traffic control signal, as defined in the statute, does not include a railroad grade crossing signal. See MONT. CODE ANN. § 61-8-349 (1994).

Exempt Crossings - Montana exempts slow and low vehicles from the stopping requirements at highway-rail crossings in business or residential districts.

NEBRASKA

Slow and Low Vehicles - Nebraska law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator shall not traverse the crossing until it is safe to do so. See NEB. REV. STAT. § 60-6,174(2) (1994).

No such crossing is to be made at any crossing where warning of an immediate approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, movement over the crossing shall be under the flagman's direction. See NEB. REV. STAT. § 60-6,174(3) (1994).

Special Vehicles - In the vehicle code of Nebraska, drivers of any bus carrying passengers for hire or any school bus must stop at highway-rail crossings. The stop must be made within fifty but not less than fifteen feet of the nearest rail. While stopped, the driver must listen and look along the track in both directions for an approaching train and for signals indicating the approach of a train. Having accomplished all of this, the driver may then proceed when it is safe to do so. While proceeding across the tracks, the driver is prohibited from manually shifting gears. See NEB. REV. STAT. § 60-6,172(1).

The Nebraska law concerning vehicles transporting hazardous materials requires drivers to stop not less than fifteen or more than fifty feet from the crossing. Drivers of buses and vehicles with hazardous materials must listen and look in both directions and may cross only when it is safe to do so. The law prohibiting drivers from shifting gears does not apply to drivers of vehicles carrying hazardous materials. See NEB. REV. STAT. § 60-6,173 (1994).

Exempt Crossings - Drivers of any bus carrying passengers for hire or of any school bus do not need to stop at any crossing where a police officer or flagman directs traffic to proceed, or at an abandoned or exempt crossing which is clearly marked as such with the consent of competent authority when such markings can be read from the driver's position. See NEB. REV. STAT. § 60-6,172(2) (1994).

Drivers of vehicles carrying hazardous materials need not stop at abandoned or exempt crossings. See NEB. REV. STAT. § 60-6,173 (1994).

NEVADA

Slow and Low Vehicles - Nevada's definition of slow and low vehicles refers to a normal operating speed of ten miles per hour or less and a clearance of less than nine inches. Also, Nevada refers to "power" not "steam" shovels.

Nevada law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifty but not less than fifteen feet of the nearest rail of the crossing. Upon stopping, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train, and must not proceed until it is safe to do so. See NEV. REV. STAT. ANN. § 484.355(2) (Michie 1993).

Nevada law expressly prohibits crossing when an automatic signal, crossing gates, a flagman or other device indicates an approaching train. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction. See NEV. REV. STAT. ANN. § 484.355(3) (Michie 1993).

Special Vehicles - Nevada requires drivers of any motor vehicles carrying passengers for hire, school buses carrying any children or vehicles carrying any explosive or flammable liquid as cargo or part of a cargo to stop at highway-rail crossings. The stop must be made within fifteen to fifty feet of the nearest rail of the crossing. After stopping, the operator is required to listen and look in both directions for any approaching train and for signals indicating the approach of a train. The operator may not cross until it is safe to do so. Manual shifting of gears while traversing the crossing is prohibited. See NEV. REV. STAT. ANN. § 484.353(1)-(2) (Michie 1993).

Exempt Crossings - Nevada does not require drivers of special vehicles to stop at crossings where a police officer or traffic control device is controlling the movement of traffic, a

crossing marked with a device indicating that it is abandoned, a streetcar crossing or one used for industrial switching purposes in a designated business district, and a crossing marked with a sign identifying it as an exempt crossing. See NEV. REV. STAT. ANN. § 484.353(4)a-b-c-d (Michie 1993).

Nevada law forbids the erection of an "EXEMPT" sign unless:

- 1) The tracks are an industrial or spur line.
- 2) It is by or with the consent of the appropriate public authority with jurisdiction.
- 3) It is after the state or local authority has held a public hearing to determine whether the crossing should be designated an "exempt" crossing. See NEV. REV. STAT. ANN. § 484.353(d)(1)-(2)-(3) (Michie 1993).

NEW HAMPSHIRE

Slow and Low Vehicles - New Hampshire law defines slow and low vehicles as those with a normal operating speed of ten miles per hour or less and a vertical body or load clearance of nine inches above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, New Hampshire law requires that a stop be made within fifteen to fifty feet of the nearest rail of the crossing. Before proceeding through the crossing, the operator must listen and look in both directions for trains and for signals indicating an approaching train. The operator may traverse the crossing only when it can be done safely. See N.H. REV. STAT. ANN. § 265:51(I)-(III) (1994).

Advanced notice of any intended crossing must be given to a station agent of the affected railroad and a reasonable time allowed the railroad to provide proper protection at the crossing. See N.H. REV. STAT. ANN. § 265:51(II) (1994).

New Hampshire law expressly prohibits crossing when an automatic signal, crossing gate, flagman or other device indicates the approach of a train. See N.H. REV. STAT. ANN. § 265:51(IV) (1994).

Special Vehicles - Drivers of school buses carrying children, vehicles carrying passengers for hire and vehicles carrying hazardous materials are required to stop at crossings. New Hampshire divides hazardous vehicles into three separate categories within the same code section:

- 1) Vehicles carrying explosive substances.
- 2) Vehicles transporting flammable liquids in cargo tanks, whether loaded or empty.
- 3) Vehicles used to transport cylinders of liquefied petroleum gas. See N.H. REV. STAT. ANN. § 265:50(I)-(III) (1994).

New Hampshire requires that stops by all special vehicles be made within fifteen to fifty feet of the nearest rail of the crossing.

The law in New Hampshire specifies that drivers of school buses, vehicles carrying passengers for hire and vehicles carrying explosives must listen and look in both directions for any approaching train and for signals indicating the approach of a train.

The New Hampshire law applicable to school buses or vehicles with explosives allows drivers to traverse the crossing only when it is safe to do so, and prohibits drivers from manually shifting gears while moving over the crossing. Drivers of vehicles with flammable liquids or

cylinders of liquified petroleum gas must use due caution and ascertain that the course is clear before crossing and are exempt from the prohibition on shifting gears. See N.H. REV. STAT. ANN. § 265:50(I)-(II)-(III) (1994).

Exempt Crossings - New Hampshire law exempts vehicles carrying passengers for hire, school buses carrying children and vehicles carrying explosive materials from the stopping requirements at crossings where a police officer or traffic control signal directs traffic to proceed. The New Hampshire Commissioner of Transportation may also designate an exemption for these same vehicles. See N.H. REV. STAT. ANN. § 265:50(II) (1994).

Vehicles transporting flammable liquids in cargo tanks, whether loaded or empty, and vehicles transporting cylinders of liquified petroleum gas are not required to come to a full stop at crossings where a police officer or traffic control signal (not a railroad flashing signal) directs traffic to proceed or at abandoned or exempt crossings that are clearly marked. See N.H. REV. STAT. ANN. § 265:50(II)-(III) (1994).

Penalty - New Hampshire law provides a penalty for violations of §§ 265:50 or 265:51. The first offense is a violation. The second offense is considered a misdemeanor and may result in the loss of a driver's license for at least ninety days. See N.H. REV. STAT. ANN. § 265:52 (1994).

NEW JERSEY

Slow and Low Vehicles - New Jersey expands the definitions in this category to include a wheel tractor, engine with or without trailer(s) attached, a self-propelled concrete mixer or any self-propelled vehicle, all having a normal operating speed of ten miles per hour or less or a clearance of nine inches or less measured above the level surface of the roadway.

Before moving a slow or low vehicle over a highway-rail crossing, New Jersey law requires that notice be given to the nearest superintendent or trainmaster of the affected railroad. The notice must specify the approximate time of the crossing and a reasonable period of time must be allowed to provide protection at the crossing.

New Jersey law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop is required to be made between fifteen and fifty feet from the nearest rail. The operator is then required to listen and look in both directions for trains and for signals indicating the approach of a train, and may not proceed unless it is safe to do so.

New Jersey expressly prohibits traversing any crossing when warning of the approach of a train is given by automatic signal, crossing gates, a flagman or other device. If a flagman is used by the railroad, moving over the crossing will be under the flagman's direction. See N.J. REV. STAT. § 39:4-128(b) (1993).

Special Vehicles - New Jersey adds an "omnibus" under this category and defines it as one that is designed for carrying more than six passengers.

New Jersey law requires drivers of any omnibus, a school bus carrying any children or of any vehicle carrying explosive substance or flammable liquids as cargo or part of a cargo to stop before traversing a highway-rail crossing. The stop is to be made between fifteen and fifty feet of the nearest rail. After stopping, the operator is required to listen and look in both directions for any

approaching train and for signals indicating the approach of a train. The driver may proceed when it is safe to do so but may not manually shift gears while crossing. See N.J. REV. STAT. § 39:4-128(a) (1993).

Penalties - A violation of this section, either by drivers of slow and low vehicles, or of special vehicles is punishable by a fine of not more than fifty dollars for the first offense and, for the second offense, a fine of not more than one hundred dollars, imprisonment for not more than thirty days or both. See N.J. REV. STAT. § 39:4-128(c) (1993).

Exempt Crossings - Drivers of special vehicles are not required to stop at grade crossings which are no longer used for railroad traffic and that have been abandoned by the railroad, provided that it is clearly marked as such. Stop requirements are also not applicable at crossings where the tracks or warning signs have been removed or paved over. Stopping is not required at grade crossings marked with a sign reading "EXEMPT CROSSING".

New Jersey law vests exclusive authority with the Commissioner of Transportation to designate and mark any highway-rail crossing with an "EXEMPT CROSSING" sign. The Commissioner may not do so without holding a public hearing. "The Commissioner shall designate a grade crossing an exempt crossing when the potential for damage and injury from accidents between motor vehicles required to stop at grade crossings and other motor vehicles traveling in the same direction exceeds that between a train and the vehicles required to stop by law. Crossings designated as exempt crossings may include, but shall not be limited to, industrial, spur line and secondary crossings." See N.J. REV. STAT. § 39:4-128(a) (1993).

NEW MEXICO

Slow and Low Vehicles - New Mexico's definitions for slow and low vehicles are consistent with a majority of other states and include those with an operating speed of ten miles an hour or less and a clearance of nine inches or less.

New Mexico law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may then proceed only after it is safe to do so. See N.M. STAT. ANN. § 66-7-344(A) (Michie 1994).

Before moving slow and low vehicles across a highway-rail crossing, New Mexico law requires that notice be given to a station agent of the railroad and a reasonable time be given to the railroad to provide proper support. See N.M. STAT. ANN. § 66-7-344(B) (Michie 1994).

New Mexico expressly prohibits crossing by operators of slow and low vehicles at crossings where an automatic signal, crossing gates, flagman or other device indicates the approach of a train. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction. See N.M. STAT. ANN. § 66-7-344(D) (Michie 1994).

Special Vehicles - New Mexico law requires the driver of any motor vehicle carrying passengers for hire, any school bus carrying children, or any vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo to stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. The drivers must then listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers may move over the

crossing only when it is safe to do so and may not shift gears while traversing the crossing. See N.M. STAT. ANN. § 66-7-343(A) (Michie 1994).

A stop is not required at crossings where a police officer or a traffic control signal directs traffic to proceed. See N.M. STAT. ANN. § 66-7-343(B) (Michie 1994).

Exempt Crossings - Drivers of special vehicles are not required to stop at the following exempt crossings:

- 1) A streetcar crossing or railroad crossing used exclusively for industrial switching purposes.
- 2) A grade crossing where traffic is controlled by a "stop and go" traffic light.
- 3) A clearly marked abandoned crossing.
- 4) An industrial or spur line crossing clearly marked as an "exempt" crossing.

See N.M. STAT. ANN. § 66-7-343 C (1)-(2)-(3)-(4) (Michie 1994).

NEW YORK

Slow and Low Vehicles - New York law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping and before proceeding, the operator is required to listen and look in both directions for an approaching train and for signals indicating an approaching train and then proceed only when it is safe to do so. The driver is prohibited from manually switching gears while crossing the tracks. See N.Y. [VEH. & TRAF.] LAW § 1171(a) (McKinney 1994).

Special Vehicles - The law requiring drivers of special vehicles to stop is the same as the law concerning slow and low vehicles and is contained within the same section. See N.Y. [VEH. & TRAF.] LAW § 1171(a) (McKinney 1994).

New York requires drivers of any bus carrying passengers, any school bus and any vehicle carrying explosive substances or flammable liquids to stop at highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the crossing.

A listen and look requirement applies to drivers of special vehicles. Movement through the crossing may be commenced only when it is safe to do so. Drivers of special vehicles are also prohibited from shifting gears while crossing the tracks. See N.Y. [VEH. & TRAF.] LAW § 1171(a) (1994).

Exempt Crossings - Slow and low vehicles and special vehicles need not comply with stopping requirements at crossings where a police officer or a traffic control signal directs traffic to proceed or at a grade crossing within a business or residential district. See N.Y. [VEH. & TRAF.] LAW § 1171(b)-(c) (McKinney 1994).

NORTH CAROLINA

Slow and Low Vehicles - North Carolina defines slow vehicles as any equipment or structure having a normal operating speed of five miles per hour or less. See N.C. GEN. STAT. § 20-142.4(a) (1994).

Before moving slow or low vehicles across a highway-rail crossing, North Carolina law requires that notice be given to a superintendent of the railroad and a reasonable time be given to the railroad to provide protection at the intended crossing. See N.C. GEN. STAT. § 20-142.4(b) (1994).

Slow and low vehicles must stop within fifteen to fifty feet of the nearest rail of the tracks. The operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may proceed across the tracks only if it can be accomplished safely. See N.C. GEN. STAT. § 20-142.4© (1)-(2)-(3) (1994).

At no time shall a crossing be made at any crossing where warning of the approach of a train is given by automatic signals, crossing gates, a flagman or other device. See N.C. GEN. STAT. § 20-142.4(d) (1994).

Penalty - Any person violating the preceding sections shall be guilty of an infraction and punishment will be in accordance with N.C. GEN. STAT. § 20-176 (1994). See N.C. GEN. STAT. § 20-142.4(f). Also see N.C. GEN. STAT. § 20-176 concerning punishment.

Special Vehicles - North Carolina law contains a couple of different descriptions in the special vehicle category. Along with any school bus, the statute includes any motor vehicle carrying passengers for compensation, any property-hauling motor vehicle over ten thousand pounds which is carrying hazardous materials and any motor vehicle with a capacity of sixteen or more persons.

Drivers of special vehicles in North Carolina are required to bring their vehicles to a stop at a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is then required to listen and look in both directions for an approaching train. After complying with these requirements, the driver may proceed across the tracks only when it is safe to do so and may not manually shift gears while crossing. See N.C. GEN. STAT. § 20-142.3(a) (1994).

Exempt Crossings - Stopping requirements for drivers of slow and low vehicles are not applicable at any crossing "where the state or local authorities have determined that trains are not operating during certain periods or seasons of the year and have erected an official sign carrying the legend 'EXEMPT'."

Drivers of special vehicles, except for school buses, are not required to comply with the stopping provisions at crossings used exclusively for industrial switching purposes within a business district or at highway-rail crossings where a police officer or flagman directs traffic to proceed.

The stopping provisions are not applicable at any crossings protected by gates or flashing signals designed to stop traffic upon the approach of a train when the gates or flashing signs are not activated, at crossings which are clearly marked abandoned by the railroad and at an industrial or

spur line crossing marked with an "EXEMPT" sign erected by a competent local authority. See N.C. GEN. STAT. § 20-142.3 b-1 to -5 (1994).

NORTH DAKOTA

Slow and Low Vehicles - North Dakota defines slow vehicles those with a normal operating speed of ten miles per hour and low vehicles as those with a clearance of less than nine inches measured above the level surface of the roadway.

North Dakota law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. While stopped, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. Movement over the crossing may only be commenced when it is safe to do so.

Traversing a crossing is prohibited at any crossing where warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is provided by the railroad, movement over the crossing must be done at the flagman's direction. See N.D. CENT. CODE § 39-10-67(1)-(2)-(3) (1993).

Special Vehicles - North Dakota law requires drivers of school buses and buses carrying passengers for hire to stop within a distance of fifteen to fifty feet of the nearest rail of a highway-rail crossing.

North Dakota law includes in its definition of vehicles carrying hazardous materials "any vehicle used to transport dangerous articles or any liquid having a flash point below 200° Fahrenheit (93.3° Celsius), cargo tank vehicles transporting a commodity having a temperature above its flash point at the time of loading, (and) certain cargo tank vehicles transporting commodities under special permits issued by the hazardous material regulation board...". See N.D. CENT. CODE § 39-10-43(1) (1993).

After stopping, drivers of these special vehicles must listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may proceed only when it can be done safely. Drivers of special vehicles are prohibited from manually shifting gears while moving across a highway-rail crossing. See N.D. CENT. CODE § 39-10-43(1) (1993).

Exempt Crossings - No stop is required at any grade crossing where traffic is being controlled by a police officer. See N.D. CENT. CODE § 39-10-43(2) (1993).

North Dakota exempts drivers from the stopping requirements at a crossing which the Director of the South Dakota Department of Highways has designated as an "out-of-service" crossing and is marked by signs bearing the words "TRACKS OUT OF SERVICE". The "out-of-service" designation applies only to crossings where the track has been abandoned or is no longer in use. See N.D. CENT. CODE 39-10-43(3)-(4) (1993).

OHIO

Slow and Low Vehicles - Ohio defines the vehicles in this category as any equipment or structure having a normal operating speed of six miles an hour or less or with a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

Before moving slow and low vehicles across a highway-rail crossing, Ohio law requires that notice be given to a station agent of the affected railroad to allow the railroad reasonable time to provide proper protection at the crossing. No notice is required however if the normal operating speed of the vehicle or structure is above three miles an hour. Ohio law further states that if the vehicle or equipment is used in repair work which makes repeated crossings necessary, only one daily notice giving the hours of the work is required. See OHIO REV. CODE ANN. § 4511.64 (Anderson 1994).

Ohio law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The operator must listen and look for trains and train signals and may cross only when it is safe to proceed. Ohio law does not specify where the stop is to be made with respect to distance from the nearest rail. See OHIO REV. CODE ANN. § 4511.64(A) (Anderson 1994).

By statute in Ohio, an operator of a slow or low vehicle is expressly prohibited from crossing at any crossing where an automatic signal, gate, flagman or other device indicates an approaching train. See OHIO REV. CODE ANN. § 4511.64(B) (Anderson 1994).

Special Vehicles - Ohio law requires drivers of school buses, vehicles carrying passengers for hire and vehicles carrying hazardous materials to stop and listen through an open door and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers are instructed to proceed only after exercising due care. The manual shifting of gears is prohibited while moving over the crossing. See OHIO REV. CODE ANN. § 4511.63(A) (Anderson 1994).

Also included in this category are trackless trollies carrying passengers. Ohio does not specify where the stop must be made with respect to the nearest rail.

Exempt crossings - Stops under the preceding section are not required at crossings within a municipal corporation or at abandoned, spur, side or industrial tracks when such exemption has been approved by the Public Utility Commission.

Ohio law also exempts special vehicles from the stopping requirements at any street railway crossing where out-of-service signs are posted. Note: According to the code section, this exemption is applicable through June 30, 1995. See OHIO REV. CODE ANN. § 4511.63(B)-1-2 (Anderson 1994).

OKLAHOMA

Slow and Low Vehicles - Oklahoma has no provisions regulating stops by drivers of slow and low vehicles.

Special Vehicles - Oklahoma law requires drivers of any motor vehicle carrying passengers for hire, school buses carrying children and vehicles carrying hazardous materials to stop at

highway-rail crossings. Upon stopping, drivers of special vehicles are required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers of special vehicles may proceed only when it is safe to do so but may not shift gears while crossing. See OKLA. STAT. tit. 47, § 11-702(a) (1994).

Exempt Crossings - Drivers of special vehicles are not required to stop at any crossing where a police officer or a traffic control signal directs traffic to proceed. See OKLA. STAT. tit. 47 § 11-702(b) (1994).

OREGON

Slow and Low Vehicles - Oregon defines "slow" vehicles as equipment or structures having an operating speed of ten miles per hour or less and a vertical body or load clearance of less than one-half inch per foot of the distance between two adjacent axles or in any event of less than nine inches. Oregon law requires that prior notice be given to a responsible officer of the railroad before moving any slow or low vehicles across a highway-rail crossing. The notice must be given to the railroad in time for protection to be given. See OR. REV. STAT. § 811.470(1)a (1994). Also see OR. REV. STAT. § 811.470(2) (1994).

Oregon law requires stops at a clearly marked line or, absent any marked line, within fifteen to fifty feet from the nearest rail of the tracks. After stopping and before proceeding, an operator of a slow or low vehicle is required to listen and look in both directions for approaching trains. The driver may not proceed over the tracks until it is safe to do so. See OR. REV. STAT. § 811.470(A)-(B)-(C) (1994).

Penalty - A violation for improper movement of heavy equipment across a highway-rail crossing is a Class C traffic infraction. See OR. REV. STAT. § 811.470(3) (1994).

Special Vehicles - Oregon refers to vehicles in this category as "high-risk vehicles". Listed in this category are school buses, school activity vehicles with a loaded weight of ten thousand pounds or more, worker transport buses, buses used for transporting children to and from church or a function or activity authorized by the church and vehicles used to transport persons for hire by a non-profit entity. Additional vehicles under this category include commercial buses and vehicles carrying hazardous materials. See OR. REV. STAT. § 811.460(2)-a to -g (1994).

Operators of high-risk vehicles are required to stop at a clearly marked stop line or, if there is no marked stop line, within fifteen to fifty feet of the nearest rail of the tracks. After stopping, operators are required to listen and look in both directions for approaching trains and for signals indicating an approaching train. An operator may proceed only when it is safe to do so and may not manually shift gears while moving over the tracks. See OR. REV. STAT. § 811.460(1)-A to -C (1994).

Penalty - Failing to follow rail crossing procedures for high-risk vehicles is a Class C traffic offense under Oregon law.

Exempt Crossings - All high-risk vehicles are exempt from the stopping requirements at a street or highway and street railroad tracks, and at interurban electric crossings where traffic control signals or a police officer directs traffic to proceed. All high-risk vehicles are also exempt from the stopping requirements at crossings protected by crossing gates, at industry tracks within districts in which the designated speed for vehicles is twenty miles per hour or less and at industry track crossings across which trains are required to be operating under the control of a flagman. See

OR. REV. STAT. § 811.465(1) to -(8) (1994). School buses are not exempt from these requirements (see OR. REV. STAT. § 811.460 concerning school buses).

Additional highway-rail crossings for which stopping requirements do not apply include tracks upon which operation has been abandoned and for which the Public Utilities Commission has plainly marked that no stop be made. Commercial buses need not stop under the same conditions as above, except in the case of an approaching train. See OR. REV. STAT. ANN. § 811.465 (3) (1994).

PENNSYLVANIA

Slow and Low Vehicles - In the statutory definition of slow and low vehicles, Pennsylvania refers to "power" not "steam" shovels. See 75 PA. CONS. STAT. ANN. § 3343(a) (1994).

Before moving slow and low vehicles across a highway-rail crossing, Pennsylvania law requires that reasonable notice be given to an authorized representative of the railroad so as to allow the affected railroad time to protect the crossing. See 75 PA. CONS. STAT. ANN. § 3343(b) (1994).

Pennsylvania law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. The operator must listen and look for trains and train signals, and may move over the crossing only when it can be done safely. See 75 PA. CONS. STAT. ANN. § 3343© (1994).

Pennsylvania expressly prohibits moving over crossings where a warning of an approaching train is indicated by an automatic signal, crossing gates, a flagman or other device. If the railroad supplies a flagman, movement over the crossing must be at the flagman's direction. See 75 PA. CONS. STAT. § 3343(d) (1994).

Special Vehicles - Pennsylvania law requires operators of school buses, whether or not they are carrying passengers, and every truck tractor combination transporting gasoline, diesel fuel, fuel oil, explosives or radioactive materials to stop within fifteen to fifty feet of the nearest rail of the tracks. After stopping, drivers of special vehicles are required to listen and look in both directions for an approaching train and for signals indicating an approaching train, and may proceed only when it is safe to do so. Operators of special vehicles are prohibited from manually shifting gears while traversing this crossing. See 75 PA. CONS. STAT. § 3342(b)(e) (1994).

Penalty- A violation of 75 PA. CONS. STAT. § 3342 is a summary offense punishable by a fine of from fifty to one hundred dollars, except for a violation by drivers of vehicles carrying explosives or flammable liquids, in which case the punishment is a fine of one hundred to three hundred dollars. See 75 PA. CONS. STAT. § 3342(e) (f) (1994).

Exempt Crossings - Pennsylvania exempts operators of special vehicles from stopping at crossings where traffic is controlled by a police officer, flagman or traffic control signal. Stops are also not required at any railroad grade crossing where a traffic control device gives notice that a stop is not necessary. See 75 PA. CONS. STAT. § 3342© 1-2-3 (1994).

RHODE ISLAND

Slow and Low Vehicles - Before moving slow and low vehicles across a highway-rail crossing, Rhode Island requires that reasonable notice be given to a station agent of the affected railroad so proper protection can be provided.

Rhode Island law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail of the tracks. After complying with the stopping requirements, operators are required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may then proceed only when it is safe to do so. See R.I. GEN. LAWS § 31-20-5(a)-(b)-(c) (1994).

Rhode Island law expressly prohibits crossing when warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is used, movement over the crossing must be done under the flagman's direction. See R.I. GEN. LAWS § 31-20-5(d) (1994).

Special Vehicles - Rhode Island requires drivers of school buses carrying children, vehicles carrying passengers for hire and vehicles transporting hazardous materials to stop at crossings. Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks. Drivers of special vehicles are required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may then proceed only when it is safe to do so and is prohibited from manually shifting gears while traversing the crossing. See R.I. GEN. LAWS § 31-20-4(a) (1994).

Exempt Crossings - Drivers of special vehicles need not stop at crossings where traffic is controlled by a traffic-control signal or a police officer, or at crossings located in a business or residential district. See R.I. GEN. LAWS § 31-20-4(b)(c) (1994).

SOUTH CAROLINA

Slow and Low Vehicles - South Carolina's definition of slow and low vehicles is any equipment or structure with a normal operating speed of ten miles an hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

South Carolina requires that reasonable notice be given to a station agent of the affected railroad before moving slow and low vehicles over highway-rail crossings.

South Carolina laws requires persons operating slow and low vehicles to stop at highway-rail crossings. The stops must be made within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may not move over the crossing until it is safe to do so. See S.C. CODE ANN. § 56-5-2725(a)-(b)-(c) (Law. Co-op. 1993).

Crossings are prohibited where warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, any movement over the crossing must be done under the flagman's direction. See S.C. CODE ANN. § 56-5-2725 (Law. Co-op. 1993).

Special Vehicles - South Carolina law requires drivers of school buses, motor vehicles with a capacity of sixteen or more persons and vehicles transporting hazardous materials to stop at crossings. Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, South Carolina law requires drivers to listen and look in both directions for an approaching train and for signals indicating an approaching train. The driver may proceed across the crossing only when it is safe to do so. See S.C. CODE ANN. § 56-5-2720(A) (Law. Co-op. 1993). Also see S.C. CODE ANN. § 59-67-230 (Law. Co-op. 1993).

Exempt Crossings - Drivers of special vehicles, with the exception of school buses, are exempt from the stopping requirements at crossings where traffic is controlled by a police officer or flagman, at crossings where there is a traffic control signal, at crossings with crossing gates or alternating flashing light signals where the gates or signals do not indicate the approach of a train and at crossings where an official traffic control device gives notice that stopping requirements do not apply. See S.C. CODE ANN. § 56-5-2720(B) 1- to -4 (Law. Co-op. 1993).

SOUTH DAKOTA

Slow and Low Vehicles - South Dakota defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. See S.D. CODIFIED LAWS ANN. § 32-29-8 (1994).

Before moving slow and low vehicles across a highway-rail crossing, South Dakota law requires that reasonable notice be given to a station agent of the affected railroad in order to allow a reasonable period of time to provide proper protection at the crossing.

South Dakota law requires drivers of slow and low vehicles to stop within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the driver must listen and look in both directions for an approaching train, and for signals indicating the approach of a train. The driver may proceed only when it can be done safely.

Moving over a crossing is prohibited at any crossing where warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, movement over the crossing is to be done under the flagman's direction. See S.D. CODIFIED LAWS ANN. § 32-29-9 (1994).

Penalty - Any violation of requirements by drivers of slow and low vehicles is a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-29-9 (1994).

Special Vehicles - South Dakota requires drivers of motor vehicles carrying passengers for hire, school buses carrying passengers, any vehicle carrying passengers owned or operated by a non-profit organization requiring inspection pursuant to § 32-21-3.1 of South Dakota Codified Laws or any vehicle carrying explosive substances or combustible or flammable liquids as cargo or part of a cargo to stop at highway-rail crossings. South Dakota law mandates stops be within fifty feet of the nearest rail of the tracks. Drivers may not proceed until it is safe to do so. See S.D. CODIFIED LAWS ANN. § 32-29-5 (1994).

Penalty- Drivers of special vehicles found in violation of these requirements are guilty of a Class 2 misdemeanor.

Exempt Crossings - The stopping requirements for special vehicles do not apply at crossings where a police officer or traffic control signal directs traffic to proceed or at crossings clearly marked with a special sign as provided in § 31-28-7. See S.D. CODIFIED LAWS ANN. § 32-29-5 (1994).

TENNESSEE

Slow and Low Vehicles - Tennessee defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

Tennessee law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may not proceed until it is safe to do so.

Tennessee law prohibits crossing when an automatic signal, crossing gates, a flagman or other device gives warning of an approaching train. If a flagman is used by the railroad, any movement over the crossing must be done under the flagman's direction. See TENN. CODE ANN. § 55-8-148 (1994).

Special Vehicles - Tennessee law requires drivers of school buses carrying any children, vehicles carrying passengers for hire and vehicles transporting explosive substances or flammable liquids as cargo or part of a cargo to stop at crossings. The stops must be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may then proceed only when it is safe to do so. While proceeding over the highway-rail crossing, the driver is prohibited from shifting gears. See TENN. CODE ANN. § 55-8-147(a) (1994).

Penalty - A violation of the requirement by drivers of special vehicles is a Class B misdemeanor. See TENN. CODE ANN. § 55-8-147© (1994).

Exempt Crossings - Drivers of special vehicles are exempt from the stopping requirements at crossings where a police officer or a traffic control signal directs traffic to proceed. See TENN. CODE ANN. § 55-8-147(b).

TEXAS

Slow and Low Vehicles - Texas defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, Texas law requires that notice be given to a station agent so as to allow the affected railroad a reasonable period of time to provide proper protection at the crossing. See TEX. REV. CIV. STAT. ANN. art. 6701d § 90(b) (West 1994).

Texas law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail of the

tracks. After stopping, the operator must listen and look in both directions for the approach of a train and for signals indicating the approach of a train. The operator may then proceed over the tracks when it is safe to do so. See TEX. REV. CIV. STAT. ANN. art. 6701d § 90© (West 1993).

Traversing a crossing is prohibited at crossings where warning of an approaching train is given by automatic signals, crossing gates, a flagman or other device. If a flagman is used by the railroad, movement over the crossing must be made under the flagman's direction. See TEX. REV. CIV. STAT. ANN. art. 6701d § 90(d) (West 1994).

Special Vehicles - Drivers of school buses and vehicles carrying passengers for hire must stop fifteen to fifty feet from the nearest rail of the tracks. Texas law allows drivers of special vehicles to proceed only when it is possible to do so safely. See TEX. REV. CIV. STAT. ANN. art. 6701d § 88(a) (West 1994).

Another law applicable to drivers of vehicles carrying hazardous materials requires stops but only in cities and towns. Outside cities and towns, drivers of these vehicles must slow to twenty miles per hour before coming within two hundred feet of the nearest rail and listen and look for an approaching train and for signals indicating the approach of a train. See TEX. REV. CIV. STAT. ANN. art. 6701d § 89(a)(b) (West 1994).

In Texas, bus drivers are prohibited from shifting gears while moving over a highway-rail crossing. Laws applicable to drivers of vehicles with hazardous materials do not have this prohibition. See TEX. REV. CIV. STAT. ANN. art. 6701d § 88 (West 1994).

Exempt Crossings - Texas does not require school buses, buses or vehicles carrying hazardous materials to stop at highway-rail crossings where a traffic control signal or a police officer directs traffic to proceed.

Stops are not required at crossings which are abandoned or exempt and are clearly marked as such. This exception does not apply to school buses. Stops are also not required at industrial tracks in business districts. See TEX. REV. CIV. STAT. ANN. art. § 6701d § 89(c)-1 to-5 (West 1994).

UTAH

Slow and Low Vehicles - Utah defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Utah refers to "power" and not "steam" shovels. See UTAH CODE ANN. § 41-6-98(1) (1994).

Before moving slow and low vehicles across a highway-rail crossing, Utah law requires that notice be given to a station agent of the affected railroad. It also provides that the railroad be given reasonable time to provide proper protection at the crossing. See UTAH CODE ANN. § 41-6-98(2) (1994).

Utah requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within ten to fifty feet of the nearest rail of the tracks and the operator must listen and look for approaching trains and for signals indicating the approach of a train. Having complied with these requirements, the operator may then proceed only if it is safe to do so. See UTAH CODE ANN. § 41-6-98(3) (1994).

Crossing is prohibited at any crossing where warning is given of an approaching train by an automatic signal, crossing gates, a flagman or other device. If the railroad provides a flagman, then movement over the crossing shall be done at the flagman's direction. See UTAH CODE ANN. § 41-6-98(4) (1994).

Special Vehicles - Utah does not specifically mention school buses, vehicles transporting passengers for hire and vehicles transporting hazardous materials as being included in the stopping requirements at highway-rail crossings. The statute specifies that the Utah Department of Transportation is responsible for adopting any necessary rules describing the vehicles that must comply with the stopping requirements. See UTAH CODE ANN. § 41-6-97(3)(a)(b).

Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks. Drivers are required to listen and look in both directions for any approaching train and for signals indicating the approach of a train.

After informing the drivers of special vehicles to stop, listen and look, Utah law requires that the drivers proceed over the crossing only when it is safe to do so. In moving over the crossing, the driver is prohibited from manually shifting gears. See UTAH CODE ANN. § 41-6-97(a)(b) (1994).

Exempt Crossings - Utah law exempts drivers of special vehicles from the stopping requirements at crossings where traffic is controlled by a police officer, flagman or traffic control signal and at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See UTAH CODE ANN. § 41-6-97(2)a-b-c (1994).

VERMONT

Slow and Low Vehicles - Vermont defines slow vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less. Before moving slow and low vehicles over highway-rail crossings, Vermont law requires that stops be made within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. Having complied with these requirements, the driver may then proceed over the crossing, but only when movement can be accomplished safely. See VT. STAT. ANN. tit. 23, § 1073(a)(b) (1994).

No stop need be made at crossings where warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction. See VT. STAT. ANN. tit. 23, § 1073(c)(d) (1994).

Special Vehicles - Vermont requires drivers of school buses or other motor vehicles transporting children, or any motor vehicle carrying passengers for hire except jitneys designed to carry not more than seven passengers including the driver, to stop at highway-rail crossings. Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks.

While stopped, the driver of a special vehicle is required to listen and look in both directions for any approaching train and may not proceed until it is safe to do so. See VT. STAT. ANN. tit. 23, § 1072(a) (1994). Drivers of a Type I school bus stopping as required shall open the door of the bus before crossing. Drivers of Type II school buses are required to open the left front window. See VT. STAT. ANN. tit. 23, § 1072© (1994).

"A stop is not required at any crossing where an attendant, an enforcement officer or a traffic-control signal directs traffic to proceed." See VT. STAT. ANN. tit. 23, § 1072(b) (1994).

Exempt Crossings - Stopping is not required at a crossing that has been designated as "EXEMPT" by the Vermont Transportation Board. See VT. STAT. ANN. tit. 23, § 1072(d) (1994). See also VT. STAT. ANN. tit. 30, § 1376(a)-(b)-(c) (1994), for a discussion of the state requirements in determining which crossings may qualify as exempt.

A flagman must be stationed at every crossing where a train is crossing a highway where an "EXEMPT" sign is located. See VT. STAT. ANN. tit. 30 § 1376(b) (1994).

VIRGINIA

Slow and Low Vehicles - Virginia defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, Virginia law requires that notice be given to a station agent of the affected railroad and that reasonable time be afforded to provide proper protection at the crossing.

Virginia law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and shall not proceed until it is safe to do so. This section does not apply in cities or towns. See VA. CODE ANN. § 46.2-887 (Michie 1994).

Special Vehicles - Virginia law requires drivers of school buses, motor vehicles carrying passengers for hire and vehicles carrying explosive substances or flammable liquids as cargo or part of a cargo to stop at highway-rail crossings. This section does not apply at crossings within cities or towns. Stops are required to be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is then required to listen and look in both directions for any approaching train and for signals indicating the approach of a train. Drivers may proceed through the crossing only when it is safe to do so and are prohibited from manually shifting gears while crossing. See VA. CODE ANN. § 46.2-886 (Michie 1994).

Exempt Crossings - Drivers of special vehicles are exempt from the stopping requirements at any crossing where a law enforcement officer or a traffic control signal directs traffic to proceed. See VA. CODE ANN. § 46.2-886 (Michie 1994).

WASHINGTON

Slow and Low Vehicles - Washington defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, Washington law requires that notice be given to a station agent of the affected railroad in sufficient time so as to allow the railroad to provide protection for the crossing.

Washington law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to twenty feet of the nearest rail of the tracks and the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may move over the crossing only when it is safe to do so. See WASH. REV. CODE ANN. § 46.61.355(1)-(2)-(3) (West 1994).

Washington expressly prohibits crossing when warning of an approaching train is given by an automatic signal, crossing gates or a flagman. If a flagman is used by the railroad, movement over the crossing will be done under the flagman's direction. See WASH. REV. CODE ANN. § 46.61.355(4) (West 1994).

Special Vehicles - Washington requires drivers of school buses carrying children, private carrier buses carrying passengers, vehicles carrying passengers for hire, excluding passenger cars, and vehicles transporting hazardous materials as cargo or part of a cargo, to stop at highway-rail crossings. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers may proceed over the crossing only when it is safe to do so. While proceeding over the crossing, the driver is prohibited from manually shifting gears. See WASH. REV. CODE ANN. § 46.61.350(1) (West 1994).

Exempt Crossings - The stopping requirements for drivers of special vehicles do not apply at a highway-rail crossing where traffic is controlled by a police officer or a duly authorized flagman or at any crossing where traffic is regulated by a traffic control signal. Stops are also not required at crossings protected by crossing gates or alternately flashing lights designed to give warning of an approaching train. See WASH. REV. CODE ANN. § 46.61.350(2)a-b-c (West 1994). In addition, stops are not required at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See WASH. REV. CODE ANN. § 46.61.350(2)d (West 1994).

WEST VIRGINIA

Slow and Low Vehicles - West Virginia defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

Before moving slow and low vehicles across a highway-rail crossing, West Virginia law requires that notice be given to a station agent of the affected railroad in reasonable time so as to allow the railroad to provide proper protection at the crossing.

West Virginia law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may not move over the crossing until it can be done safely. See W. VA. CODE § 17C-12-4(a)-(b)-(c) (1994).

Movement over crossings is prohibited at crossings where warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is used by the railroad, movement over the crossing must be under the flagman's direction. See W. VA. CODE § 17C-12-4 (1994).

Special Vehicles - West Virginia requires drivers of school buses carrying children, vehicles carrying passengers for hire, vehicles transporting hazardous materials and vehicles owned by an employer that is carrying six or more employees to or from work to stop at highway-rail crossings. Stops must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and then may move over the crossing only when it can be done safely. The driver is prohibited from manually shifting gears while crossing the tracks. See W. VA. CODE § 17C-12-3(a) (1994).

Exempt Crossings - West Virginia exempts drivers from the stopping requirements at any crossing where a police officer or traffic control signal directs traffic to proceed. In addition, West Virginia exempts drivers from the stopping requirements at crossings within business or residential districts. See W. VA. CODE § 17C-12-3© (1994).

WISCONSIN

Slow and Low Vehicles - Wisconsin law does not have requirements concerning slow and low vehicles at highway-rail crossings.

Special Vehicles - Wisconsin requires drivers of every motor bus transporting passengers and vehicles transporting hazardous materials to stop at highway-rail crossings. Wisconsin includes in the hazardous materials category, every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any liquid having a flash point below two hundred degrees Fahrenheit, and every cargo tank motor vehicle transporting a commodity which, at the time of loading, has a temperature above its flash point. See WIS. STAT. § 346.45(1) a-am-c-d-e (1993). All stops must be made within fifteen to fifty feet of the nearest rail of the tracks and the driver is required to listen and look in both directions for an approaching train. The driver may not proceed until it is safe to do so. If an auxiliary lane is provided for stopping at a highway-rail crossing, drivers of vehicles required to stop must use the lane to do so. See WIS. STAT. § 346.45(1)-(2) (1993).

Exempt Crossings - Wisconsin lists a number of circumstances at crossings which exempt drivers of special vehicles from the stopping requirements. They are as follows:

- 1) At crossings where a police officer or flagman directs traffic to proceed.
- 2) At crossings where an official traffic control signal allows traffic to proceed.
- 3) At crossings clearly marked abandoned.
- 4) At crossings marked with a sign in accordance with § 195.285. of the Wisconsin statutes. See WIS. STAT. § 195.285 for explanation.

Wisconsin does not exempt those crossings with gates or flashing lights. See WIS. STAT. § 346.45(3)-a to -d (1993).

WYOMING

Slow and Low Vehicles - Wyoming defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before

moving slow and low vehicles across a highway-rail crossing, Wyoming law requires that notice be given to a station agent of the affected railroad with reasonable time so as to allow for the provision of proper protection at the crossing.

Wyoming law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. The operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may not proceed over the crossing until it is safe to do so.

No crossing may be made when warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is used by the railroad, movement through the crossing must be made under the flagman's direction. See WYO. STAT. § 31-18-602(a) to -(d) (1994).

Special Vehicles - Wyoming requires drivers of any motor vehicle carrying passengers for hire, school buses whether empty or carrying children and vehicles transporting hazardous materials to stop at highway-rail crossings. Drivers of vehicles in this category are required to activate their four-way hazard flashers prior to stopping at the crossing. Stops must be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is then required to listen and look in both directions for any approaching train and for signals indicating the approach of a train. The driver is prohibited from manually shifting gears while moving over the crossing. See WYO. STAT. § 31-5-511(a) (I)- to -(iv) (1994).

Exempt Crossings - Except for school buses, drivers of other special vehicles do not have to comply with the stopping requirements at crossings where traffic is controlled by a police officer, a flagman or a traffic control signal, at crossings protected by crossing gates or alternately flashing light signals, and at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See WYO. STAT. § 31-5-511(b) (I)- to -(iv) (1994).

CHAPTER 9: DRIVER ACTION

CHAPTER OVERVIEW

This chapter presents an overview and survey of the various laws and regulations concerning a motorist's responsibility with respect to highway-rail crossings.

The laws and regulations cover such things as reduced speed when approaching and crossing a highway-rail crossing, standing, stopping or parking in close proximity to tracks at highway-rail crossings, limitation of driving to the left side of the roadway to pass or overtake another vehicle and regulations covering full stops at highway-rail crossings.

Penalties are included where they are mentioned. Relevant citations are included in the text for ease of reference.

STATE LAWS, REGULATIONS AND PENALTIES

ALABAMA

Except where a lower speed is specified, it is lawful for a motorist to drive at a speed not exceeding fifteen miles per hour when approaching within fifty feet of a highway-rail crossing when the view of the motorist is obstructed. A motorist's view is considered to be obstructed when, at any time during the last two hundred feet of the approach to the crossing, there is not a clear and uninterrupted view of the approach to the crossing or of any traffic on the railroad track for a sight distance of four hundred feet in each direction from the crossing. See ALA. CODE § 32-5-91 (1994).

It is unlawful for any motorist in Alabama to proceed onto a railroad grade crossing unless there is adequate space on the other side of the crossing to accommodate his vehicle without obstructing the passage of other vehicles or trains, notwithstanding any traffic control signal indication to proceed. See ALA. CODE § 32-5A-61 (1994).

Unless the right side of the highway is obstructed or impassable, all motorists are required to keep to the right side of the highway when traversing a highway-rail crossing. See ALA. CODE § 32-5A-54 (1994).

Under certain conditions, drivers of all vehicles in Alabama are required to bring their vehicles to a complete stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. The driver may not proceed until it is safe to do so. These requirements are applicable at all highway-rail crossings where the following conditions exist:

- 1) When a clearly visible electrical or mechanical device is giving warning of an approaching train.
- 2) When a crossing gate is down or a flagman is indicating the approach of a train.

- 3) When a railroad train is within fifteen hundred feet of the crossing and is emitting an audible signal.
- 4) When an approaching train is clearly visible.

Alabama prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or in the process of being opened or closed. See ALA. CODE § 32-5A-150 (a)(b).

Penalties- Penalties are assessed against motorists who break state traffic laws at highway-rail crossings under a general set of violations which occur. This usually includes a fine with a stated minimum and maximum dollar amount and a term of incarceration within specific time parameters.

ALASKA

Editor's note - Alaska's laws concerning driver responsibilities and motor vehicle laws are contained in the Alaska Administrative Code and not the Alaska Statutes. All citations are to the Alaska Administrative Code.

Alaska law requires a person driving any vehicle, when approaching a highway-rail crossing, to bring the vehicle to a stop within fifteen to fifty feet of the nearest rail of the crossing. The driver may not proceed over the crossing until it is safe to do so. These requirements are applicable at all highway-rail crossings where the following circumstances exist:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered, a flagman is giving a signal to a motorist to stop or a flagman is indicating that a train is approaching or passing.
- 3) When a train approaching within fifteen hundred feet of a highway-rail crossing is emitting a signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is clearly visible.

Alaska law prohibits motorists from driving a vehicle through, around or under a closed crossing gate or barrier or a gate or barrier that is being opened or closed at a highway-rail crossing. See ALASKA ADMIN. CODE tit. 13, § 02.240 (1994).

It is unlawful for any driver to drive onto a highway-rail grade crossing unless there is sufficient room on the other side for his vehicle without obstructing the passage of other vehicles, pedestrians or trains, even when a traffic control signal at the crossing is giving an indication to proceed. See ALASKA ADMIN. CODE tit. 13, § 02.265 (1994).

ARIZONA

Arizona law requires drivers of any vehicles approaching a highway-rail crossing to stop within fifty but not less than fifteen feet of the nearest rail of the tracks and to remain stopped until

movement over the crossing may be accomplished safely. The requirements apply in the following situations:

- 1) Where a clearly visible electrical or mechanical signal device gives warning of the approach of a train.
- 2) Where a crossing gate is lowered or when a flagman is giving a signal of the approach of a train.
- 3) When a train approaching within fifteen hundred feet of the crossing emits a signal audible from that distance and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where an approaching train is plainly visible.

Arizona law prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or being opened or closed. See ARIZ. REV. STAT. ANN. § 28-851 (1994).

Arizona law requires the driver of any vehicle to stop within fifteen to fifty feet of the nearest rail of the tracks at highway-rail crossings where local government authorities have designated a grade crossing as particularly dangerous and have erected a STOP sign at that crossing. Drivers may proceed only after exercising due care. See ARIZ. REV. STAT. ANN. § 28-852 (1994). See also chapter on passive warning devices.

Except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device, it is unlawful to stop, stand or park a vehicle within fifty feet of the nearest rail of a railroad crossing or within eight feet, six inches of the center of any railroad track, except while loading or unloading a train. See ARIZ. REV. STAT. ANN. § 28-873 (1994).

ARKANSAS

Arkansas motorists are required to stop their vehicles within ten to fifty feet of the nearest rail of any crossing which the State Highway Commission and local authorities have designated as particularly dangerous and at which they have erected a STOP sign. See ARK. CODE ANN. § 27-51-706 (Michie 1993). See also chapter on passive warning devices.

Penalty- A violation of § 27-51-706 subjects a driver to a fine of not less than five but not more than twenty-five dollars. See ARK. CODE ANN. § 27-51-706 (Michie 1993).

Under certain circumstances, Arkansas law requires motorists to come to a full stop not less than fifteen and not more than fifty feet from the nearest rail of the tracks at highway-rail crossings. The requirements apply under the following conditions:

- 1) When a visible electrical or mechanical signal device gives warning of the approach of a train.
- 2) Where a crossing gate is lowered or a flagman is giving a signal of the approach or passage of a train.
- 3) When a railroad train approaching within fifteen hundred feet of the crossing emits a signal audible from that distance and, due to its speed and close proximity to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

It is unlawful for any person in Arkansas to drive a vehicle through, around or under any crossing or barrier at a highway-rail crossing while the gate or barrier is closed or is being opened or closed. See ARK. CODE ANN. § 27-51-702 (Michie 1993).

Arkansas law prohibits any person from stopping, standing or parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device. See ARK. CODE ANN. § 27-51-1302 (Michie 1993).

Arkansas lists many provisions relating to speed limitations. Generally, no person may drive a vehicle on a highway at a speed greater than what is reasonable and prudent under the conditions present and with regard for the actual and potential hazards that exist. Specifically, drivers must use an appropriately reduced speed when approaching and crossing an intersection or railway grade crossing. See ARK. CODE ANN. § 27-51-201 (Michie 1993).

CALIFORNIA

California requires motorists to slow to a speed of fifteen miles per hour while traversing highway-rail crossings when, during the last one hundred feet of the approach to the crossing, the motorists' view is so obstructed that they cannot see down the tracks for four hundred feet in both directions. This law does not apply at crossings where there is a flagman or traffic control signal that does not then indicate the immediate approach of a train. See CAL. [VEH.] CODE § 22352 (West 1994).

California requires that the driver of any vehicle stop not less than fifteen feet from the nearest rail of a highway-rail crossing and shall not proceed until it is safe to do so. This law applies when the following conditions exist:

- 1) When a clearly visible electrical or mechanical signal, or a flagman is giving warning of an approaching train.
- 2) When an approaching train is visible or is emitting an audible signal.

See CAL. [VEH.] CODE § 22451 (West 1994).

It is unlawful in California for any driver to proceed through, around or under any closed railroad gate. See CAL. [VEH.] CODE § 22451 (West 1994).

California law allows local authorities to adopt rules and regulations by ordinance or resolution requiring that all vehicles stop before entering or crossing the tracks at any highway-rail crossing when signs are in place giving notice of such requirement. No such ordinance can become effective unless approval is given by order of the Public Utility commission. See CAL. [VEH.] CODE § 21110 (West 1994).

It is unlawful in California for any vehicle to be driven to the left side of the roadway when approaching within one hundred feet or when traversing a highway-rail crossing. See CAL. [VEH.] CODE § 21752 (West 1994).

It is unlawful in California for any person to park a vehicle on any railroad track or within seven feet, six inches of the nearest rail of the track. See CAL. [VEH.] CODE § 22521 (West 1994).

COLORADO

It is unlawful in Colorado for any driver to traverse a highway-rail crossing unless there is sufficient space on the other side of the crossing to accommodate the driver's vehicle without obstructing the passage of other vehicles or trains, notwithstanding the indication of a traffic control signal to proceed. See COLO. REV. STAT. § 42-4-709 (1994).

Penalty - A violation of § 42-4-609.5 is considered a Class A traffic infraction under Colorado law. See COLO. REV. STAT. § 42-4-709 (1994).

Any driver approaching a highway-rail crossing is required to stop at a marked stop line. If no stop line exists, the stop must be within fifteen to fifty feet of the nearest rail of the tracks. The driver is forbidden from proceeding until it is safe to do so. See COLO. REV. STAT. § 42-4-706(1)a (1994).

Additionally, Colorado requires stops at the point nearest the crossing where the driver has a reasonable view of approaching trains if, by complying with the stop line and distance requirements, the driver's view is obstructed. See COLO. REV. STAT. § 42-4-706(b)1 (1994). Colorado law provides that stops are to be made at a traffic control device, where a flagman exists and for safety. See COLO. REV. STAT. § 42-4-706 (1994).

It is unlawful in Colorado for any person to drive any vehicle through, around or under any crossing gate or barrier while the gate or barrier is closed or is being open or closed. See COLO. REV. STAT. § 42-4-706(2) (1994).

Penalty- A violation of any subpart of the preceding section is considered a Class A traffic infraction. See COLO. REV. STAT. § 42-4-706(3) (1994).

When approaching within one hundred feet of or traversing any railroad grade crossing, Colorado prohibits driving any vehicle to the left of the roadway to overtake or pass another vehicle. See COLO. REV. STAT. § 42-4-905 (1994).

Colorado law gives the state Highway Department authority to designate a highway-rail crossing as particularly dangerous and erect STOP signs at such a crossing. When a STOP sign is erected, drivers of vehicles are required to stop within fifteen to fifty feet of the nearest rail and may not proceed without exercising due care. See COLO. REV. STAT. § 42-4-607 (1994).

It is unlawful for a driver to drive onto any highway-rail grade crossing unless there is sufficient space on the other side to accommodate the passage of other vehicles, pedestrians or railroad trains. See COLO. REV. STAT. § 42-4-709 (1994).

Penalty - A violation of § 42-4-709 is a Class A traffic infraction. See COLO. REV. STAT. § 42-4-709 (1994).

CONNECTICUT

When approaching within one hundred feet of or crossing any highway-rail crossing, Connecticut law prohibits drivers from driving to the left side of the highway. See CONN. GEN. STAT. § 14-235 (1992).

Connecticut requires motorists to stop at crossings but does not prescribe a specific stopping distance from the crossings.

Penalty - Any driver who fails to come to a full stop at a highway-rail crossing, when warned of an approaching train by flashing lights erected at the crossing, may be fined one hundred and fifty dollars. See CONN. GEN. STAT. § 14-249 (1994).

DELAWARE

Delaware law requires any person driving a vehicle in the state to stop at highway-rail crossings under certain conditions. These requirements apply at crossings under the following conditions:

- 1) Where a clearly visible electrical or mechanical signal gives warning of a train.
- 2) Where a crossing gate is lowered or a flagman gives or continues to give a signal of the approach of a train.
- 3) When a train approaching within fifteen hundred feet of the crossing is emitting a signal audible from that distance.
- 4) Where an approaching train is clearly visible.

See DEL. CODE ANN. tit. 21, § 4161 (1992). All stops are to be made within fifteen to fifty feet of the nearest rail of the tracks and the driver shall not proceed until it is safe to do so.

It is unlawful in Delaware for any person to drive any vehicle through, around or under any crossing gate or barrier when the gate or barrier is closed or being opened or closed. See DEL. CODE ANN. tit. 21, § 4161 (1992).

Delaware prohibits drivers from driving on the left side of the roadway (passing) when approaching within one hundred feet of or traversing a highway-rail grade crossing. See DEL. CODE ANN. tit. 21, § 4119 (1994).

Delaware prohibits persons driving vehicles on its highways to drive at a speed greater than that which is reasonable and prudent considering the conditions present and the existing and potential hazards. This requirement applies when approaching and traversing a highway-rail crossing. See DEL. CODE ANN. tit. 21, § 4168(a-b) (1994).

DISTRICT OF COLUMBIA

All requirements concerning the responsibility of motorists in the District of Columbia with respect to highway-rail crossings are listed in a series of volumes entitled Municipal Regulations. All citations will refer to sections in Municipal Regulations rather than the District of Columbia Code.

District of Columbia law requires motorists to bring their vehicles to a stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing and to remain stopped until crossing can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical signal.
- 2) When a crossing gate is lowered or when a flagman is giving a signal of the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is plainly visible.

See D.C. Mun. Regs. tit. 18, §§ 2216.1 -.2 (1987).

The District of Columbia prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this requirement, the law requires motorists to drive at appropriately reduced speeds when approaching or moving over a highway-rail crossing. See D.C. Mun. Regs. tit. 18, §§ 2200.3 -.5 (1987).

Penalty- Any violation of §§ 2216.1 and 2200.3 -.4 is subject to a civil fine pursuant to the District of Columbia Traffic Adjudication Act. See D.C. Mun. Regs. tit. 18, § 2200.11 (1987).

It is unlawful for anyone in the District of Columbia to stand or park a vehicle, whether occupied or not, within fifty feet of the nearest highway-rail crossing (including stops for the purpose of loading or unloading materials). Standing or parking a vehicle in this manner is permitted when it is necessary to avoid conflict with other traffic or under the direction of a police officer or a traffic control signal. See D.C. Mun. Regs. tit. 18, § 2405.2(e) (1987).

It is unlawful for anyone in the District of Columbia to drive a vehicle to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See D.C. Mun. Regs. tit. 18, § 2202.3(b) (1987).

FLORIDA

Under certain circumstances, Florida requires all persons driving a vehicle to stop at highway-rail crossings. The stopping requirement applies:

- 1) Where the warning of an approaching train is given by a clearly visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered or a flagman gives or continues to give a signal indicating the approach of a train.
- 3) Where an approaching train emits an audible signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where an approaching train is plainly visible.

Florida law prohibits drivers from driving any vehicle through, around or under any crossing gate or barrier while the gate or barrier is closed or is being opened or closed. See FLA. STAT. ANN. § 316.1575 (West 1994). A violation of this statute may bring a penalty of up to fifteen hundred dollars. See FLA. STAT. ANN. § 318.18(14) (West 1994).

It is unlawful in Florida to park a vehicle within fifty feet of the nearest rail of a highway-rail crossing, whether occupied or not, except for the purpose of and while actually engaged in loading and unloading merchandise or passengers. The Florida Department of Transportation may establish a different distance due to unusual circumstances. See FLA. STAT. ANN. § 316.1945 (West 1994).

It is also unlawful for any person to drive a vehicle at a speed greater than is reasonable and prudent considering the conditions present and any actual and potential hazards. A driver must drive at an appropriately reduced speed when approaching and crossing an intersection or highway-rail crossing. See FLA. STAT. ANN. § 316.183 (West 1994).

Florida law prohibits motorists from driving to the left of the center of the roadway when approaching within one hundred feet of or traversing any highway-rail grade crossing. See FLA. STAT. ANN. § 316.087 (West 1994).

GEORGIA

Georgia prohibits any person from stopping, standing or parking a vehicle on any railroad tracks, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control device. See GA. CODE ANN. § 40-6-203 (1994).

Georgia requires the driver of any vehicle to stop within fifteen to fifty feet of the nearest rail of the tracks when approaching a highway-rail crossing. The driver may not proceed across the crossing until it can be done safely. The stopping requirements apply in the following situations:

- 1) Where a clearly visible electrical or mechanical signal device gives warning of the approach of a train.
- 2) Where a crossing gate is lowered or a flagman gives a signal indicating the approach or passage of a train.
- 3) Where an approaching train is visible and is in hazardous proximity to the crossing.

It is unlawful for anyone to drive a vehicle through, around or under any crossing gate or barrier while such gate or barrier is closed or is being opened or closed. See GA. CODE ANN. § 40-6-140 (1994).

No person may drive a vehicle at a speed greater than is reasonable and prudent considering the conditions present and the actual and potential hazards. Every person must drive at a reasonable and prudent speed when approaching and crossing a highway-rail crossing. See GA. CODE ANN. § 40-6-180 (1994).

HAWAII

In Hawaii, motorists are prohibited from driving a vehicle at a speed greater than is reasonable considering the actual and potential hazards and road conditions. Every person must drive at a reasonable and prudent speed when approaching and crossing a highway-rail crossing. See HAW. REV. STAT. § 291C-101 (1994).

Hawaii prohibits driving to the left side of the roadway (passing) when approaching within one hundred feet of or traversing a highway-rail crossing. See HAW. REV. STAT. § 291C-46 (1994). See also § 291C-161 as to the penalty for violation of this section.

Hawaii requires motorists to stop within fifteen to fifty feet of the nearest rail of the tracks at a highway-rail crossing. The driver shall not proceed until it is safe to do so. These requirements apply under the following circumstances:

- 1) When there is a clearly visible electrical or mechanical signal device giving warning of an approaching train.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passing of a train.
- 3) When a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible from that distance, and, because of its nearness and speed, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

It is unlawful in Hawaii for any person to drive through, around or under any crossing gate or barrier while the gate or barrier is closed or is being opened or closed. See HAW. REV. STAT. § 291C-91(a)-(b) (1994).

In Hawaii, the Director of Transportation and the individual counties are authorized to designate a highway-rail crossing as particularly dangerous and to erect STOP signs at such crossings. The driver of any vehicle approaching a crossing is required to stop within fifteen to fifty feet of the nearest rail of the tracks and is authorized to proceed only after exercising due caution. See HAW. REV. STAT. § 291C-92 (1994). See also same section under Crossing Treatment Procedures.

IDAHO

Idaho prohibits motorists from driving left of the center of the highway (passing) when approaching within one hundred feet of or traversing a highway-rail crossing, unless otherwise indicated by a traffic control device. See IDAHO CODE § 49-635 (1994).

Idaho requires drivers to stop within fifteen to fifty feet of the nearest rail of the tracks at a highway-rail crossing. The driver may not proceed until it is safe to do so. The stopping requirements apply under the following circumstances:

- 1) Where a warning of an approaching train is given by a clearly visible electrical or mechanical signal device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.

- 3) When a train approaching within fifteen hundred feet of the crossing is emitting a signal audible at that distance and, due to its speed or nearness, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

In addition to requiring motorists to stop when a crossing gate is down, Idaho law forbids driving through, around or under any gate or barrier while it is closed or is being opened or closed. See IDAHO CODE § 49-648 (1994).

Idaho law requires the driver of any vehicle stopped at a highway-rail crossing to listen and look in both directions for any approaching train and for signals indicating the approach of a train. After complying with the stopping requirements, drivers may move over the crossing when it is safe to do so and are forbidden from manually shifting gears while crossing the tracks. See IDAHO CODE § 49-649 (1994).

These requirements do not apply at crossings where traffic is controlled by a police officer or a flagman, or at crossings regulated by a traffic control signal, at crossings protected by crossing gates or an alternately flashing light signal intended to give warning of an approaching train or at any crossing where a traffic control device gives notice that the stopping requirements do not apply. See IDAHO CODE § 49-649 (1994). See also exempt crossings in chapter on Slow, Low and Special Vehicles.

Idaho law prohibits the parking of a vehicle, whether occupied or not, within fifty feet of the nearest rail of highway-rail crossing, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers. See IDAHO CODE § 49-660 (1994).

Idaho law prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent. Consistent with this prohibition, motorists in Idaho are required to drive at a safe and appropriate speed when approaching and crossing a highway-rail crossing. See IDAHO CODE § 49-654 (1994).

ILLINOIS

Illinois prohibits parking on railroad tracks except when necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer or official traffic control device. See 625 ILCS 5/11-1303(1)h (Michie 1994).

It is unlawful for anyone to stand or park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing, except momentarily while loading or unloading property or passengers. See ILCS 5/11-1303(3)a (Michie 1994).

Drivers are prohibited from traversing any railroad crossing unless there is sufficient space on the other side to accommodate the vehicle they are operating without obstructing the passage of other vehicles or trains, notwithstanding any traffic control signal indication to proceed. See 625 ILCS 5/11-1425 (Michie 1994).

Illinois prohibits driving to the left of the center of the roadway (passing) when approaching within one hundred feet of or traversing a railroad crossing. 625 ILCS 5/11-706 (Michie 1994).

Illinois law requires drivers approaching a highway-rail crossing to exercise due caution and to recognize the existing crossing as a sign of danger. When approaching a crossing, the driver must stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so.

The stopping requirements apply:

- 1) When warning of an approaching train given by a clearly visible electrical or mechanical signal device.
- 2) When a crossing gate is lowered or a flagman is giving a signal to indicate the approach or passage of a train.
- 3) When an approaching train is emitting a warning signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is visible and its proximity constitutes an immediate hazard.
- 5) When an approaching train is so close that an immediate hazard is created.

It is unlawful in Illinois for any person to drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. See 625 ILCS 5/11-1201(a)(b) (Michie 1994).

The Illinois Department of Transportation, in consultation with local authorities, is authorized to designate a highway-rail as particularly dangerous and to install STOP signs at the crossing. When the driver of any vehicle approaches a highway-rail crossing, the driver must stop within fifteen to fifty feet of the nearest rail of the tracks and is not to proceed over the crossing until it is safe to do so. See ILCS 5/11-1201(c) (Michie 1994).

INDIANA

When a STOP sign is erected at any highway-rail crossing in Indiana, drivers are required to stop within ten to fifty feet of the nearest rail of the crossing and may only proceed after exercising due caution. See IND. CODE ANN. § 9-21-4-16 (Burns 1994).

Indiana law requires persons driving a vehicle to stop within ten to fifty feet of the nearest rail of the tracks at a highway-rail crossing. The driver may not proceed over the crossing until it is safe to do so. The stopping requirements apply under the following circumstances:

- 1) At crossings where warning of an approaching train is given by a clearly visible electrical or mechanical signal device.
- 2) Where a crossing gate is lowered or when a flagman is giving a signal of the approach or passage of a train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible at that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) At a crossing where an approaching train is clearly visible. See IND. CODE ANN. § 9-21-8-39 (Burns 1994).

IOWA

Iowa law requires drivers of any vehicle approaching a highway-rail crossing to stop at the first opportunity, either at a clearly marked stop line or at a point near the crossing where the driver has a clear view of any approaching railroad traffic.

The statute requires drivers to stop at crossings with a STOP sign, a railroad sign directing traffic to stop or an official traffic control signal that is displaying a flashing red or steady circular red colored light. See IOWA CODE § 321.342 (1993). Also see § 321.252 concerning signs.

In Iowa, any person driving a vehicle approaching a highway-rail crossing where warning of an approaching train is given by an automatic signal, crossing gates, a flagman or other device, is required to stop within fifteen to fifty feet of the nearest rail of the crossing. See IOWA CODE § 321.341 (1993).

Iowa law has a code section which states that a driver shall stop, remain standing and not traverse a crossing when a crossing gate is lowered or when a flagman is giving a signal indicating the approach or passage of a train. See IOWA CODE § 321.341 (1993).

Iowa law expressly prohibits the stopping, standing or parking of a vehicle within fifty feet of the nearest rail of a crossing, except when parked parallel to the rail and exhibiting a red light. This prohibition does not apply if the stopping, standing or parking was necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or a traffic control device. See IOWA CODE § 321.358 (1993).

KANSAS

Kansas law requires drivers, when approaching a highway-rail crossing, to drive their vehicle at a safe and appropriate speed. See KAN. STAT. ANN. § 8-1557 (1993).

Kansas expressly prohibits drivers from driving on the left side of the roadway (passing) when approaching within one hundred feet of or traversing a highway-rail crossing. This prohibition does not apply however, at any intersection on a state or county maintained road located outside city limits unless that intersection is clearly marked with a traffic control device or pavement markings exist indicating that passing is prohibited. See KAN. STAT. ANN. § 8-1519 (1993).

When approaching a highway-rail crossing, motorists are required to stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. The stopping requirements are applicable at highway-rail crossings when the following conditions are present:

- 1) Where there is a clearly visible electrical or mechanical device giving warning of the immediate approach of a train.
- 2) Where a crossing gate is lowered or when a flagman is giving a signal of the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

It is unlawful for any person to drive any vehicle through, around or under any crossing gate or barrier at a highway-rail crossing while the gate or barrier is closed or is being opened or closed. See KAN. STAT. ANN. § 8-1551(a)-(b) (1993).

Kansas law prohibits motorists from driving onto any railroad grade crossing unless there is adequate space on the other side to accommodate the driver's vehicle without obstructing the passage of other vehicles, pedestrians or trains, notwithstanding any traffic control signal indication to proceed. See KAN. STAT. ANN. § 8-1584 (1993).

The Secretary of Transportation of Kansas and local authorities may designate a highway-rail crossing as particularly dangerous and erect a STOP sign at such crossings. Drivers are then required to stop within fifteen to fifty feet of the nearest rail of the crossing and must not proceed without exercising due care. See KAN. STAT. ANN. § 8-1552 (1993).

KENTUCKY

Kentucky law requires the operator of any vehicle to stop at a highway-rail crossing and remain standing when any of the following circumstances exist:

- 1) When warning of the immediate approach of a train is being given by a visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered giving warning of the immediate approach or passage of a train.
- 3) When a train is in hazardous proximity to the crossing and is plainly visible.

These requirements also apply at highway-rail crossings that the Kentucky Public Protection and Regulation Cabinet has designated as "unsafe" and at which a STOP sign has been erected within sixty days of the designation. No "unsafe" determination may be made and no STOP sign installed at highway-rail crossings where protection is provided by a crossing gate, electrical warning signals or other automatic audible signal, or where protection is provided by a watchman. See KY. REV. STAT. ANN. § 189.560(1)(2)(3) (Baldwin 1994).

At any crossing where a STOP sign has been installed, Kentucky law requires motorists operating any vehicle to come to a full stop within ten to thirty feet of the nearest rail of the tracks.

Kentucky law prohibits drivers from driving to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See KY. REV. STAT. ANN. § 189.345 (Baldwin 1994).

LOUISIANA

It is unlawful in Louisiana to drive to the left side of the highway (pass) when approaching within one hundred feet of or traversing a highway-rail crossing. See LA. REV. STAT. ANN. § 32:76 (West 1993).

Louisiana law expressly prohibits the stopping, standing or parking of a vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or when complying with the directions of a police officer or traffic control device. See LA. REV. STAT. ANN. § 32:143 (West 1993).

Louisiana law requires that drivers of motor vehicles come to a full stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. Drivers may not proceed until it can be done safely. The stopping requirements apply at crossings where the following conditions prevail:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving warning of the approach or passage of a train.
- 3) When a train approaching within approximately nine hundred feet of the crossing is emitting a warning signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

Louisiana prohibits persons from driving through, around or under any crossing gate or barrier when the gate or barrier is closed or is being opened or closed. See LA. REV. STAT. ANN. § 32:171(A)(C) (West 1993).

It is unlawful for anyone in Louisiana to stop a motor vehicle on any railroad track or to drive a vehicle across any railroad crossing while the signal devices are flashing and an approaching train is plainly visible. See LA. REV. STAT. § 32:171(B)(D) (1993).

Louisiana law provides that the Department of Highways may designate any highway-rail crossing as particularly dangerous and may erect STOP signs at these crossings. Drivers of all vehicles are required to stop within fifteen to fifty feet of the nearest rail of the tracks and may proceed only after exercising due care. See LA. REV. STAT. § 32:172 (1993). See also the chapter on crossing treatments.

When approaching a highway-rail crossing that is marked by the presence of a railroad crossbuck sign, a motorist is required to slow down, or stop if necessary, before entering a crosswalk. If there is no crosswalk, then the driver must stop at a clearly marked stop line or if none, then at the point nearest the intersecting rail where the driver has a clear view of any approaching trains. The driver is then required to listen and look in both directions for any approaching train and for signals indicating the approach of a train, and is required to yield the right of way to any approaching train. The driver may proceed over the crossing only after exercising due care. See LA. REV. STAT. ANN. § 32:175(A) (West 1993). Louisiana law does not require a motorist to yield at any highway-rail crossing where a police officer or traffic control signal directs traffic to proceed. See LA. REV. STAT. ANN. § 32:175(B) (West 1993).

MAINE

Drivers of motor vehicles in Maine are required to reduce their speed to a reasonable and proper rate beginning one hundred feet from a highway-rail crossing, to look in each direction and only proceed over the crossing with caution. See ME. REV. STAT. ANN. tit. 29-A, § 2076(1) (West 1994).

Motorists are required to bring their vehicles to a full stop at a distance of not less than ten feet from the nearest rail of a crossing where a gate has been or is being lowered, or a flagman or automatic signal is indicating that a train is approaching. Motorists may proceed through a highway-rail crossing when the gates have been raised or the flagman indicates that no train is approaching. Motorists proceeding over a highway-rail crossing under the direction of an automatic signal are required to use extra caution and may proceed only when they have ascertained that no train is approaching. See ME. REV. STAT. ANN. tit. 29-A, § 2076(2) (West 1994).

The Maine Department of Transportation has the statutory authority to designate a highway-rail crossing as particularly dangerous and to install and maintain STOP signs at the crossing. The Department also has the authority to designate crossings as particularly dangerous within the limits of municipalities and to order the municipality to erect and maintain STOP signs at the crossings. At any highway-rail crossing where STOP signs are in place, drivers are required to stop within ten to fifty feet of the nearest rail of the railroad and may not proceed over the crossing without exercising due care. See ME. REV. STAT. ANN. tit. 23, § 1253-A (West 1994).

Penalty - A motorist operating a vehicle in violation of § 1253-A is guilty of a misdemeanor and punishment may be fixed as a fine not to exceed fifty dollars, imprisonment for not more than sixty days or both. See ME. REV. STAT. ANN. tit. 23, § 1253-A (West 1994).

MARYLAND

The State of Maryland requires motorists to stop within fifteen to fifty feet of the nearest rail at a highway-rail crossing and to proceed only when it can be done safely. This requirement applies at highway-rail crossings where the following circumstances exist:

- 1) Where warning of an approaching train is given by an electrical or mechanical device.
- 2) Where a crossing gate is lowered.
- 3) Where a flagman is signaling the approach or passage of a train.
- 4) When a train approaching the crossing within fifteen hundred feet is giving a signal audible at such a distance and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 5) When a train is plainly visible and is dangerously near the crossing.

It is unlawful for anyone in Maryland to drive a vehicle through, around or under any crossing gate or barrier at a highway-rail crossing while the gate or barrier is closed or is in the process of being opened or closed. See MD. ANN. CODE art. 21, § 701(a)(b) (1994).

Maryland law prohibits the parking of a vehicle within fifty feet of the nearest rail of a highway-rail crossing unless it is necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device. See MD. ANN. CODE art. 21, § 1003(t) (1994).

Maryland law prohibits driving to the left of the center of the highway for the purpose of overtaking and passing while crossing or approaching within one hundred feet of a highway-rail crossing. See MD. ANN. CODE art. 21 § 305(ii) (1994).

The State Highway Administration in Maryland, in consultation with local authorities, is authorized to designate a highway-rail crossing as particularly dangerous and to erect a STOP sign at the crossing. Motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the crossing and shall proceed only after exercising due care. See MD. ANN. CODE art. 21, § 702(a)(b) (1994).

Maryland law prohibits motorists from driving a vehicle at a speed that, "...with regard to the actual and potential dangers existing, is more than that which is reasonable and prudent under the conditions." Consistent with these requirements, when motorists are approaching and crossing a highway-rail crossing, they must drive at an appropriate reduced speed. See MD. ANN. CODE art. 21, § 801(a)(d) (1994).

MASSACHUSETTS

Massachusetts law pertaining to speed at highway-rail crossings is discussed in driver duties and not in its basic speed law. The pertinent section of the statute states that motorists must reduce their speed to a reasonable and proper rate before moving over any highway-rail crossing. They must not cross until they can proceed safely with regard to the current circumstances. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

Massachusetts requires drivers to stop within fifteen to fifty feet of the nearest rail at a highway-rail crossing protected by red lights which flash as a warning. Motorists are further prohibited from proceeding through the crossing until the red lights stop flashing. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994). Stops within fifteen to fifty feet of the nearest rail are also required at highway-rail crossings protected by a lowered automatic gate. Drivers are prohibited from crossing until the gate is raised. Additionally, stops are required at crossings protected by "...a railroad employee waving a red flag or white lantern." Drivers are forbidden to move through the crossing until the railroad employee gives the signal. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

Within the same section of the statute, Massachusetts requires a train approaching within approximately fifteen hundred feet of a highway-rail crossing to emit a warning signal audible at that distance. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

Penalty - A violation of any part of this section requiring stopping at highway-rail crossings will bring a maximum fine of two hundred dollars but not less than one hundred dollars. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

MICHIGAN

Michigan law requires any person driving a vehicle to stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. Drivers may not proceed over the crossing until it is possible to do so safely. Stops are required in all of the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal of the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where an approaching train is in hazardous proximity to the crossing and is plainly visible.

It is unlawful in Michigan for any driver to attempt to drive through, around or under a gate or barrier at highway-rail crossings while the gate or barrier is closed or is being opened or closed. See MICH. STAT. ANN. § 9.2367(1)(2) (1993).

Motorists are prohibited from parking within fifty feet of the nearest rail of a highway-rail crossing, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device. See MICH. STAT. ANN. § 9.2374 (1993).

MINNESOTA

Minnesota law prohibits motorists from parking their vehicles within fifty feet of the nearest rail of a highway-rail crossing. See MINN. STAT. § 169.34 (1993).

Minnesota has a basic speed rule which requires that no person shall drive a vehicle on any highway at a speed greater than that which is reasonable and proper. Accordingly, motorists in Minnesota are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See MINN. STAT. § 169.14 (1993).

When approaching a highway-rail crossing in Minnesota, motorists are required to come to a full stop not less than ten feet from the nearest rail of the crossing and may not proceed until it is safe to do so. The stopping requirements apply when the following circumstance are present:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered.
- 3) When an approaching train is clearly visible and its close proximity constitutes an immediate hazard.

Minnesota law states that the fact that a train approaching a crossing is visible is prima facie evidence that it is not safe for motorists to move over the crossing. See MINN. STAT. § 169.26(a)(b) (1993).

It is unlawful in Minnesota for a motorist to move over a highway-rail crossing when a flagman is signaling the approach or passage of a train. Motorists are prohibited from driving a vehicle past a flagman until the flagman signals that the way is clear to proceed. See MINN. STAT. § 169.26© (1993).

Penalty- A police officer in Minnesota may arrest any driver of a motor vehicle violating the stopping requirements of § 169.26(a)(b) if the officer has probable cause to believe that the motorist has violated the stopping requirements within the past four hours. See Minn. Stat. § 169.26(1a). A motorist who violates the stopping requirements is guilty of a misdemeanor. See MINN. STAT. § 169.26(2a) (1993).

MISSISSIPPI

Whenever any motorist in Mississippi approaches a highway-rail crossing, the motorist must stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it can be done safely. Stops are required when the following circumstances are present:

- 1) When warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where an approaching train is clearly visible and close enough to the crossing that it constitutes a hazard.
- 4) Where a train approaching a crossing within nine hundred feet is emitting a warning signal and, because of its speed or nearness to the crossing, constitutes an immediate hazard.

Mississippi law prohibits motorists from driving through, around or under any downed crossing gate or barrier or one that is being opened or closed. See MISS. CODE ANN. § 77-9-249(1)(2) (1994).

Penalty- Mississippi law makes it a misdemeanor to fail to meet the stopping requirements or to drive through, around or under a downed crossing gate or barrier. Anyone convicted may be fined not more than fifty dollars, be imprisoned for not more than thirty days or both. See MISS. CODE ANN. § 77-9-249(4) (1994).

Editor's Note: Mississippi has another stopping requirement that seems to conflict with § 77-9-249(1). The relevant code section states, in part, that when any motorist approaches a highway-rail crossing where warning is being given of an approaching train by a clearly visible electrical or mechanical signal device, the motorist must stop within ten to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. See MISS. CODE ANN. § 63-3-1007 (1994).

Mississippi law requires motorists to come to full stop within ten to fifty feet of the nearest rail of the crossing and to proceed only after exercising due care at any highway-rail crossing with a STOP sign. The Mississippi Highway Commission is authorized to designate a crossing as particularly dangerous and to erect a STOP sign at the crossing. See MISS. CODE ANN. § 63-3-1009 (1994).

MISSOURI

It is unlawful in Missouri to stop, stand or park on any railroad tracks, or park a vehicle, whether empty or not, within fifty feet of the nearest rail of a highway-rail crossing. An exception exists that states a motorist may park within fifty feet of the nearest rail temporarily to load or unload merchandise or passengers. See MO. REV. STAT. § 300.440(1a)(3a) (1993).

Missouri requires motorists approaching a highway-rail crossing to stop within fifteen to fifty feet of the nearest rail of the tracks. Motorists are prohibited from moving over the crossing until they can do so safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When an approaching train is plainly visible and in hazardous proximity to the crossing.
- 4) Where any other traffic sign, device or any other act, rule, regulation or statute requires a vehicle to stop.

Motorists are prohibited from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or is in the process of being opened or closed. See MO. REV. STAT. § 304.035(1)(2) (1993). See also MO. REV. STAT. § 300-295(1)(2) (1993).

Penalty - Any motorist who violates any provision of these requirements is guilty of a Class C misdemeanor. See MO. REV. STAT. § 304.035(3) (1993).

Missouri law prohibits motorists from driving to the left side of a roadway when the view is obstructed when approaching within one hundred feet of or at a highway-rail crossing. See MO. REV. STAT. § 304.016(4)(2) (1993).

MONTANA

Montana prohibits drivers from stopping, standing or parking any vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic, when in compliance with the law or when in response to the commands of a police officer or traffic control device. See MONT. CODE ANN. § 61-8-354(1i) (1994).

Montana's basic speed rule requires that motorists on a public highway drive in a careful and prudent manner and at a rate of speed not to exceed that which is reasonable and proper. Motorists must therefore drive at an appropriate reduced speed when they are approaching and moving over a highway-rail crossing. See MONT. CODE ANN. 61-8-303(1)(5) (1994).

Montana law prohibits motorists from driving to the left side of the center of the highway (passing) when approaching within one hundred feet of or moving over a highway-rail crossing. See MONT. CODE ANN. § 61-8-325(2b) (1994).

All motorists in Montana, when approaching a highway-rail crossing, are required to stop within fifteen to fifty feet of the nearest rail of the crossing and may not proceed over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by an electrical or mechanical device.
- 2) When a crossing gate is down or a flagman is giving signal to indicate an approaching or passing train.
- 3) When a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where a train is plainly visible and is in hazardous proximity to a crossing.

It is unlawful in Montana for a motorist to drive any vehicle through, around or under any crossing gate or barrier at a highway-rail crossing while the gate or barrier is closed or is in the process of being opened or closed. See MONT. CODE ANN. § 61-8-347(1)(2) (1994).

The Montana Department of Transportation, along with the local authorities, is authorized to designate a highway-rail crossing as particularly dangerous and to install a STOP sign at the crossing. Motorists are then required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed over the crossing without exercising due care. See MONT. CODE ANN. § 61-8-348 (1994).

NEBRASKA

When approaching a highway-rail crossing, all motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the crossing. The motorists may not proceed over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is signaling the approach or passage of a train.
- 3) When a train approaching within one-quarter mile of a highway-rail crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is plainly visible and close enough to the crossing to be a hazard.

Nebraska law prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or is being opened or closed. See NEB. REV. STAT. 60-6,170 (1994).

In Nebraska, the Department of Roads, along with the local highway authority, has statutory authority to designate a highway-rail crossing as particularly dangerous and shall erect STOP signs at those crossings. Motorists are then required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across without exercising due care. See NEB. REV. STAT. § 60-6,171 (1994).

Nebraska law prohibits motorists from overtaking and passing another vehicle to the left of the center of the roadway when approaching within one hundred feet or traversing any highway-rail crossing. See NEB. REV. STAT. § 60-6,136(b) (1994).

Nebraska law prohibits motorists from driving a vehicle at a speed greater than is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, motorists are required to drive at a safe and appropriate speed when approaching and moving over a highway-rail crossing. See NEB. REV. STAT. § 60-6,185 (1994).

Nebraska law prohibits the stopping, standing or parking of a vehicle on any railroad track, except when necessary to avoid conflict with other traffic or when complying with the directions of a law enforcement officer or traffic-control device. The same law forbids the parking of a vehicle, whether occupied or not, within fifty feet of the nearest rail at any highway-rail crossing, except for the purpose of loading or unloading merchandise or passengers. See NEB. REV. STAT. § 60-6,166(I) (1994).

NEVADA

Nevada law requires all motorists to stop within fifteen to fifty feet of the nearest rail of the tracks at highway-rail crossings. After stopping, motorists are prohibited from proceeding through the crossing unless it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving signals indicating an approaching or passing train.
- 3) Where an approaching train within approximately fifteen hundred feet is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to the crossing and is plainly visible.

Nevada law prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or is in the process of being opened or closed. See NEV. REV. STAT. ANN. § 484.349 (Michie 1993).

The Nevada Department of Transportation and local authorities with the approval of the Department of Transportation have statutory authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. Motorists are then required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across without exercising due care. See NEV. REV. STAT. ANN. § 484.351 (Michie 1993).

Nevada law prohibits motorists from overtaking and passing another vehicle by driving to the left of the center of the roadway within one hundred feet of a highway-rail crossing. See NEV. REV. STAT. ANN. § 484.299 (Michie 1993).

NEW HAMPSHIRE

New Hampshire law requires that motorists come to a full stop within fifteen to fifty feet of the nearest rail at a highway-rail crossing. Drivers may not proceed through the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or closeness to the crossing, constitutes an immediate hazard.
- 4) When a train is plainly visible and is in hazardous proximity to a crossing.

New Hampshire prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or in the process of being opened or closed. See N.H. REV. STAT. ANN. § 265:48 (1994).

The New Hampshire Commissioner of Transportation is vested with the statutory authority to designate a highway-rail crossing particularly dangerous and may erect a STOP sign at the crossing. The Commissioner may also order local jurisdictions to do the same if the effected crossing lies within their jurisdiction. At any crossing where a STOP sign has been erected, motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across without exercising due care. See N.H. REV. STAT. ANN. § 265:49 (1994).

It is unlawful for motorists to drive to the left side of the roadway when approaching within one hundred feet of or moving through a highway-rail crossing. See N.H. REV. STAT. ANN. § 265:21 (1994).

It is unlawful for motorists in New Hampshire to drive a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to any actual and potential hazards. Consistent with this rule, motorists are required to drive at an appropriate speed when approaching and crossing a highway-rail crossing. See N.H. REV. STAT. ANN. § 265:60(IV) (1994).

NEW JERSEY

New Jersey law requires motorists to reduce their speed appropriately when approaching and moving across a highway-rail crossing. See N.J. REV. STAT. § 39:4-98 (1993).

New Jersey prohibits the parking of vehicles within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, traffic sign or traffic signal. See N.J. REV. STAT. § 39:4-138(j) (1993).

New Jersey law requires motorists to keep vehicles to the right half of the roadway in traversing a highway-rail crossing. See N.J. REV. STAT. § 39:4-83 (1993).

New Jersey law requires motorists approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the railroad. They are prohibited from proceeding over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered or a flagman is giving a signal of an approaching or passing train.
- 3) When a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in New Jersey for a motorist to drive any vehicle through, around or under any crossing gate or barrier that is closed or is being opened or closed. See N.J. REV. STAT. 39:4-127.1 (1994).

NEW MEXICO

New Mexico law prohibits the parking of any vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer or traffic control device. See N.M. STAT. ANN. § 66-7-351(A-9) (Michie 1994).

New Mexico requires the drivers of all vehicles, when approaching a highway-rail crossing, to come to a stop between fifteen and fifty feet from the nearest rail of the tracks. The drivers may not move over the crossing until it may be done safely. These requirements apply at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is plainly visible and is in hazardous proximity to a crossing.

It is unlawful for motorists to drive through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See N.M. STAT. ANN. § 66-7-341(A)(B) (Michie 1994).

The New Mexico Highway Commission and local authorities have the power to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. Motorists are then required to stop between fifteen and fifty feet from the nearest rail of the tracks and must not proceed over the crossing except after exercising due care. See N.M. STAT. ANN. § 66-7-342 (Michie 1994).

New Mexico law prohibits drivers from driving to the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See N.M. STAT. ANN. § 66-7-313 (Michie 1994).

NEW YORK

All motorists in New York are prohibited from driving through a highway-rail crossing without first coming to a full stop within fifteen to fifty feet of the nearest rail of the railroad. The motorist is then permitted to move over the crossing only if it can be done safely. These requirements are applicable at highway-rail crossings where the following circumstances exist:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or closeness to the crossing, constitutes an immediate hazard.
- 4) When a train is plainly visible and is in hazardous proximity to a crossing.

It is unlawful for motorists to drive through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See N.Y. [VEH. & TRAF.] LAW § 1170(a)(b) (McKinney 1994).

Penalty - Every motorist convicted of a violation for driving through, around or under a closed crossing gate or barrier shall, for a first conviction, be punished by a fine of not less than one hundred fifty or more than two hundred fifty dollars, imprisonment for not more than thirty days or both. For a second conviction of the same section, if within a period of eighteen months, punishment shall be a fine of not less than three hundred fifty or more than five hundred dollars, imprisonment for not more than ninety days or both. For a third or subsequent violation within a period of eighteen months, a person shall be punished by a fine of not less than six hundred or more than seven hundred dollars, imprisonment for not more than one hundred eighty days or both. See N.Y. [VEH. & TRAF.] LAW § 1170(b) (McKinney 1994).

It is unlawful in New York for a motorist to drive a vehicle to the left of the center of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See N.Y. [VEH. & TRAF.] LAW § 1125 (McKinney 1994).

New York law prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, motorists are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See N.Y. [VEH. & TRAF.] LAW § 1180 (McKinney 1994).

It is unlawful in New York to stop, stand or park a vehicle on any railroad track, except when it is necessary to avoid conflict with other vehicles or when complying with the law or the directions of police officer or traffic control device. Except when actually engaging in loading or unloading passengers or merchandise, no person may park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing, unless a different distance is specified by signs, markings or parking meters. See N.Y. [VEH. & TRAF.] LAW § 1202(1)(h)-(3) (McKinney 1994).

NORTH CAROLINA

It is unlawful for any motorists in North Carolina to drive to the left side of the center of the highway to overtake and pass another vehicle at any highway-rail crossing. See N.C. GEN. STAT. § 20-150© (1994). Also, motorists are required to keep to the right half of the highway at all times while passing over a highway-rail crossing. See N.C. GEN. STAT. § 20-147 (1994).

North Carolina law prohibits motorists from driving onto any highway-rail unless there is adequate space on the other side of the crossing to accommodate their vehicle without obstructing the passage of other vehicles, pedestrians or trains, even if there is a traffic signal indicating it is safe to proceed. See N.C. GEN. STAT. § 20-142.5 (1994).

Penalty - A motorist violating any provision of § 20-142.5 is guilty of an infraction and may be punished. See N.C. GEN. STAT. § 20-142.5 (1994). Effective Jan. 1, 1995, the penalty was fixed at a period of imprisonment not to exceed sixty days, a fine of not more than one hundred dollars or both. See N.C. GEN. STAT. § 20-176 (1994).

The North Carolina Department of Transportation has the authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. The driver of any vehicle is then required to stop within fifteen to fifty feet of the nearest rail of the railroad and may not move over the crossing except upon exercising due care. See N.C. GEN. STAT. § 20-142.2 (1994).

Penalty- Any motorist violating any provision of § 20-142.2, is guilty of an infraction and may be punished. See N.C. GEN. STAT. § 20-142.2 (1994). See also N.C. GEN. STAT. § 20-176 concerning punishment.

North Carolina law requires motorists approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the railroad and to remain stopped until they can proceed over the crossing safely. These requirements are applicable at highway-rail crossings when the following circumstances prevail:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving warning of an approaching or passing train.
- 3) When a train approaching a highway-rail crossing within fifteen hundred feet is emitting a signal audible from that distance, and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible.

It is unlawful in North Carolina for any motorists to drive any vehicle through, around or under any crossing gate or barrier that is closed or is being opened or closed. See N.C. GEN. STAT. § 20-142.1(a)(b) (1994).

When complying with the stopping requirements at a highway-rail crossing, a motorist must keep his vehicle as far to the right of the highway as possible and may not form two lanes of traffic unless the roadway is marked with four or more lanes of traffic. See N.C. GEN. STAT. § 20-142.1© (1994).

Penalty- A violation of any of the provisions of § 20-142.1 constitutes an infraction and is punishable. See N.C. GEN. STAT. § 20-142.1(d) (1994). See also § 20-176 concerning punishment.

NORTH DAKOTA

Upon approaching a highway-rail crossing in North Dakota, motorists are required to bring their vehicles to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across until it is safe to do so. These regulations apply at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is down or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching a crossing within approximately thirteen hundred fifty feet is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in close proximity to the crossing and is clearly visible.

Motorists are prohibited from driving any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. Motorists are also prohibited from driving past a flagman until the flagman signals the way is clear to proceed. See N.D. CENT. CODE § 39-10-41(1)(2) (1993).

The North Dakota Highway Department, along with local authorities if applicable, is vested with statutory authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. When motorists approach a crossing where a STOP sign has been installed, they must bring their vehicle to stop within fifteen to fifty feet of the nearest rail of the tracks and may only proceed after exercising due care. See N.D. CENT. CODE § 39-10-42 (1993).

Except in an instance when a lower speed is specified, motorists in North Dakota are prohibited from exceeding a speed of twenty miles an hour when approaching within fifty feet of a highway-rail crossing when the motorist's view is obstructed. "A motorist's view is considered to be obstructed when at any time during the last two hundred feet of the approach to the crossing he does not have a clear and uninterrupted view of the crossing and of any traffic on the railway for a distance of four hundred feet in each direction from the crossing." See N.D. CENT. CODE § 39-09-02(a) (1993).

North Dakota's basic speed rule refers to speed at highway-rail crossings in addition to the prohibition identified in § 39-09-02(a). The statute says, in part, that no person may drive a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, motorists are required to drive at a safe and appropriate speed when approaching and crossing a highway-rail crossing. See N.D. CENT. CODE § 39-09-01 (1993).

North Dakota law prohibits motorists from driving to the left side of the center of the roadway to pass or overtake another vehicle while within one hundred feet of or when moving over a highway-rail crossing. See N.D. CENT. CODE § 39-10-14 (1993).

North Dakota law prohibits the stopping, standing or parking of a vehicle within fifteen feet of the nearest rail of a highway-rail crossing. See N.D. CENT. CODE § 39-10-49(9) (1994).

No motorist may enter onto a highway-rail grade crossing unless there is sufficient space on the other side to accommodate trains, notwithstanding the signal giving an indication to proceed. See N.D. CENT. CODE § 39-10-68 (1994).

OHIO

Ohio law requires motorists approaching a highway-rail crossing to bring their vehicles to a full stop within fifteen to fifty feet of the nearest rail of the railroad. They may not proceed across until it is safe to do so. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical signal.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in Ohio for anyone to drive any vehicle through, around or under a crossing gate or barrier that is closed or is being opened or closed. See OHIO REV. CODE ANN. § 4511.62(A)(B) (Anderson 1994).

The Ohio Department of Transportation and local authorities with approval from the Department of Transportation may designate a highway-rail crossing as particularly dangerous and may require that a STOP sign be erected at the crossing. At highway-rail crossings with STOP signs, the driver of any vehicle must bring that vehicle to a full stop within fifteen to fifty feet of the nearest rail of the railroad and may not proceed across the crossing except after exercising due care. See OHIO REV. CODE ANN. § 4511.61 (Anderson 1994).

Ohio law prohibits motorists from driving vehicles on the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See OHIO REV. CODE ANN. § 4511.30 (Anderson 1994).

Ohio prohibits motorists from standing or parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing. See OHIO REV. CODE ANN. § 4511.68(I) (Anderson 1994).

It is unlawful in Ohio for anyone to drive a vehicle onto any highway-rail crossing unless there is sufficient space on the other side of the crossing to accommodate the vehicle without obstructing the passage of other vehicles, pedestrians or trains, even if the traffic control signal indicates that it is safe to proceed. See OHIO REV. CODE ANN. § 4511.712 (Anderson 1994).

Penalties - Ohio lists first and subsequent offenses of all of the foregoing sections as misdemeanors of different degrees. The reader may find them by referring to § 4511.99.

OKLAHOMA

Oklahoma law prohibits any person driving a vehicle from passing through a highway-rail crossing without first coming to a full stop within fifteen to fifty feet of the nearest rail of the railroad. The driver may then proceed only when it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible at that distance, and because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in Oklahoma for any motorists to drive a vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See OKLA. STAT. tit. 47, § 11-701(a)(b) (1994).

Oklahoma motorists are prohibited from stopping, standing or parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing except when it is necessary to avoid conflict with other traffic, when in compliance with the law or when under the direction of a police officer or traffic control device. See OKLA. STAT. tit. 47, § 11-1003 (1994).

Oklahoma's basic speed rule requires motorists at all times to drive their vehicles at a careful and prudent speed not greater nor less than what is reasonable and proper with regard to existing conditions. Consistent with this basic speed rule, motorists in Oklahoma are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See OKLA. STAT. tit. 47, § 11-801(d) (1994).

It is unlawful in Oklahoma for motorists to drive to the left side of a roadway when approaching within one hundred feet of or over any highway-rail crossing. See OKLA. STAT. tit. 47, § 11-306(a) (1994).

OREGON

It is unlawful for any person driving a vehicle to drive upon or over a highway-rail crossing without first coming to a full stop at a clearly marked stop line or, if there is no line, within fifteen to fifty feet of the nearest rail of the tracks. Drivers may not proceed across the tracks until it is safe to do so. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train is clearly visible and because of its nearness to the crossing constitutes an immediate hazard.
- 4) Where an approaching train is giving an audible signal because its speed and nearness to the crossing constitute an immediate hazard.

It is unlawful for any driver to drive through, around or under a crossing gate or barrier that is closed or is in the process of being opened or closed. See OR. REV. STAT. § 811.455(a)(b)(c) (1994).

Penalty - A motorist in Oregon is guilty of failure to stop for a railroad signal, a Class C traffic infraction, for failure to comply with the requirements stated in § 811.455. See OR. REV. STAT. § 811.455(1)(2) (1994).

Oregon law prohibits motorists from driving onto a highway-rail crossing when there is not sufficient space on the other side to accommodate their vehicles without obstructing the passage of other vehicles, pedestrians or trains, notwithstanding a traffic control device indicating it is safe to proceed. See OR. REV. STAT. § 811.475(1)(2) (1994).

Penalty - A violation of § 811.475 constitutes the offense of obstruction of a rail crossing and is a Class C traffic infraction. See OR. REV. STAT. § 811.475(1)(3) (1994).

Oregon prohibits motorists from driving to left of the center of the roadway when approaching a highway-rail crossing where the driver's view is obstructed for such a distance as to create a hazard if a vehicle approaches from the opposite direction and is prohibited from driving to the left side of the center of the road at any highway-rail crossing. See OR. REV. STAT. § 811.305(1) (1994).

Penalty - Any motorist failing to comply with the provisions of § 811.305 commits the offense of driving on the left at a highway-rail crossing which is a Class B traffic infraction. See OR. REV. STAT. § 811-305(3). Editor's note: An explanation of the classification of traffic infractions and a listing of fines for offenses under the foregoing sections, consult §§ 153.610 -.623 contained in Oregon's criminal statutes.

PENNSYLVANIA

Pennsylvania law prohibits motorists from moving through a highway-rail crossing without first coming to a complete stop within fifteen to fifty feet of the nearest rail of the tracks.

Motorists are not permitted to traverse the crossing unless it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where a train is in close proximity to the crossing and is plainly visible.

It is unlawful in Pennsylvania for any motorist to drive any vehicle through, around or under any crossing gate or barrier while the gate or barrier is closed or is in the process of being opened or closed. See 75 PA. CONS. STAT. § 3341(a)(b) (1994).

Pennsylvania law prohibits anyone from parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing. See 75 PA. CONS. STAT. § 3353(3) (1994).

Penalty - A person violating § 3353(3) is guilty of a summary offense and, if convicted, shall receive a fine of not more than fifteen dollars. See 75 PA. CONS. STAT. § 3353(E) (1994).

It is unlawful in Pennsylvania for a motorist to drive any vehicle on the left side of the roadway when approaching with one hundred feet of or traversing a highway-rail crossing. See 75 PA. CONS. STAT. § 3306(a)(2) (1994).

Pennsylvania's basic speed rule prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent under the existing conditions and having regard to the actual and potential hazards, "...nor at a speed greater than will permit the driver to bring his vehicle to a stop within the assured clear distance ahead." Consistent with the speed prohibition, drivers are required to drive at a safe and appropriate speed when approaching and crossing a highway-rail crossing. See 75 PA. CONS. STAT. § 3361 (1994).

RHODE ISLAND

Rhode Island law requires drivers approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers must not proceed until the crossing can be made safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible at that distance, and because of its speed or close proximity to the crossing, constitutes an immediate hazard.

- 4) Where a train is in hazardous proximity to a crossing and is plainly visible. See R.I. GEN. LAWS § 31-20-1 (1994).

It is unlawful for anyone in Rhode Island to drive any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See R.I. GEN. LAWS § 31-20-2 (1994).

The State Traffic Commission in Rhode Island and local authorities with the approval of the state traffic commission have the authority to designate a highway-rail crossing as particularly dangerous and erect a STOP sign at the crossing. At any crossing where a STOP sign has been installed, motorists are required to stop within fifteen to fifty feet of the nearest rail of the tracks and may only proceed after exercising due care. See R.I. GEN. LAWS § 31-20-3 (1994).

Rhode Island's basic speed rule may be found at § 31-14-1. Consistent with the requirements of that rule, drivers are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See R.I. GEN. LAWS § 31-14-3 (1994).

Motorists in Rhode Island are prohibited from driving to the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See R.I. GEN. LAWS § 31-15-7(2) (1994).

SOUTH CAROLINA

South Carolina law prohibits motorists from traversing a highway-rail crossing without first bringing their vehicle to a complete stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers must refrain from passing over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in South Carolina for any motorist to drive any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See S.C. CODE ANN. § 56-5-2710(a)(b) (Law. Co-op. 1993).

The South Carolina Department of Highways and Public Transportation and local authorities with the approval of the Department have the authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. At any crossing where a STOP sign is placed, motorists are required to stop within fifteen to fifty feet from the nearest rail and must proceed only upon exercising due care. See S.C. CODE ANN. § 56-5-2715 (Law. Co-op. 1994).

Motorists in South Carolina are prohibited from driving to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See S.C. CODE ANN. § 56-5-1880 (Law. Co-op. 1994).

South Carolina law prohibits motorists from driving at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this rule, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See S.C. CODE ANN. § 56-5-1520 (Law. Co-op. 1994).

It is unlawful in South Carolina to stop, stand or park a vehicle on any railroad track, except when it is necessary to avoid conflict with other traffic, when in compliance with the law or under the direction of a police officer or official traffic control device. See S.C. CODE ANN. § 56-5-2530(A) 1-h (Law. Co-op. 1994). No person may park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing, except while actually loading or unloading property or passengers. See S.C. CODE ANN. § 56-5-2530(3-a) (Law. Co-op. 1994).

SOUTH DAKOTA

The South Dakota Department of Transportation and local authorities with the approval of the Department have statutory authority to designate a highway-rail crossing as particularly dangerous and may place a STOP sign at the crossing. At any crossing where a STOP sign is located, motorists must stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. See S.D. CODIFIED LAWS ANN. § 32-29-7 (1994).

Penalty- A violation of § 32-29-7 is a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-29-7 (1994).

South Dakota law prohibits motorists from driving any vehicle on the left side of the highway when approaching within one hundred feet of or traversing a highway-rail crossing. S.D. CODIFIED LAWS ANN. § 32-26-36 (1994). Also see S.D. CODIFIED LAWS ANN. § 32-26-2 concerning staying to the right when moving over a crossing.

Penalty- Failing to keep to the right of the roadway within one hundred feet of a highway-rail crossing is considered a Class 2 misdemeanor in South Dakota. See S.D. CODIFIED LAWS ANN. § 32-26-36 (1994).

South Dakota law requires motorists to slow to a speed of fifteen miles per hour near a highway-rail crossing when their view is obstructed. A driver's view is considered to be obstructed if, at any time during the last two hundred feet of approach to the crossing, a driver is unable to clearly see any railroad traffic within four hundred feet in each direction from the crossing. See S.D. CODIFIED LAWS ANN. § 32-25-13 (1994).

Penalty - A violation of § 32-25-13 is considered a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-25-13 (1994).

It is unlawful for anyone driving a vehicle in South Dakota to traverse a highway-rail crossing where warning of an approaching train is being given by a clearly visible or audible signal. At any such crossing, motorists must bring their vehicles to a full stop with fifteen to fifty

feet of the nearest rail of the tracks and are forbidden to proceed until it can be done safely. See S.D. CODIFIED LAWS ANN. § 32-29-4 (1994).

Penalty - A violation of § 32-29-4 is considered a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-29-4 (1994).

It is unlawful in South Dakota to stop, stand or park a vehicle on any railroad tracks, except when necessary to avoid conflict with other traffic or when responding to directions from a police officer or traffic control device. See S.D. CODIFIED LAWS ANN. § 32-30-6.1 (1994).

Penalty - A violation of both §§ 32-29-4 and 32-30-6.2 is a petty offense. See S.D. CODIFIED LAWS ANN. §§ 32-29-4, 32-30-6.2 (1994).

TENNESSEE

All drivers in Tennessee are required to stop within fifteen to fifty feet of the nearest rail of the tracks at any highway-rail crossing and may not proceed over the crossing until it can be done safely. These requirements apply under any of the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is clearly visible.

It is unlawful in Tennessee for any person to drive any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See TENN. CODE ANN. § 55-8-145(a)(b) (1994).

Penalty - A violation of the above stated requirements is considered a Class C misdemeanor. See TENN. CODE ANN. § 55-8-145(c) (1994).

The Tennessee Department of Transportation and local authorities with the approval of the Department have statutory authority to designate a highway-rail crossing as particularly dangerous one and may require a STOP sign be erected at the crossing. At any such crossing, motorists are required to bring their vehicles to a complete stop within fifteen to fifty feet of the nearest rail of the tracks and may proceed only while exercising due care. See TENN. CODE ANN. § 55-8-146(a) (1994).

Penalty- Failing to comply with any of the provisions of § 55-8-146 is considered a Class 2 misdemeanor in Tennessee. See TENN. CODE ANN. § 55-8-146(c) (1994).

It is unlawful in Tennessee for anyone to stop, stand or park a vehicle within fifty feet of the nearest rail of the tracks at a highway-rail crossing, except where stopping, standing or parking is necessary to avoid conflict with other traffic or under the direction of a police officer or traffic

control device. These requirements are only applicable outside the limits of an incorporated municipality in Tennessee. See TENN. CODE ANN. § 55-8-160(a) (1994).

Penalty - Failure to comply with any provision of § 55-8-160 is considered a Class C misdemeanor. See TENN. CODE ANN. 55-8-160(d) (1994).

TEXAS

When approaching a highway-rail crossing in Texas, all motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed over the crossing until it may be done safely. These requirements apply at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating that a train is approaching or passing.
- 3) Where a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible. See TEX. REV. CIV. STAT. ANN. art. 6701d § 86 (West 1994).

The Texas State Highway and Public Transportation Commission (formerly the Highway Commission, the name was changed by statute and codified at art. 6663), and local authorities with appropriate jurisdiction are "...authorized to designate a highway-rail crossing as a particularly dangerous one and to erect STOP signs or other standard [italics mine] traffic-control devices thereat." At any such crossing, motorists are required to stop their vehicles within fifteen to fifty feet of the nearest rail of the tracks and may not proceed except upon exercising due care. See TEX. REV. CIV. STAT. ANN. art. 6701d § 87 (West 1994).

No vehicle in Texas may be driven to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See TEX. REV. CIV. STAT. ANN. art. 6701d § 57 (West 1994).

It is unlawful for anyone to stop, stand or park a vehicle on a railroad track, except when it is necessary to avoid conflict with other traffic, when complying with the law or when following the directions of a police officer or traffic control device. See TEX. REV. CIV. STAT. ANN. art. 6701d § 95 (West 1994). Except to temporarily load or unload passengers or merchandise, no one in Texas may park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing. See TEX. REV. CIV. STAT. ANN. art 6701d § 95 (West 1994).

It is unlawful for a person to drive a vehicle on a highway at a speed greater than that which is reasonable and prudent under the existing circumstances. Consistent with the prohibition concerning speed, the driver of any vehicle must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See TEX. REV. CIV. STAT. ANN. art 6701d § 166 (West 1994).

UTAH

Utah law prohibits any person from operating a vehicle at a speed other than what is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. This prohibition applies when approaching and crossing a highway-rail crossing. See UTAH CODE ANN. § 41-6-46(1) (1994).

When operating a vehicle approaching a highway-rail crossing, motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by an electrical or mechanical signal.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is plainly visible.

In Utah, it is unlawful for any person to drive any vehicle through, around or under a crossing gate or barrier that is closed or is in the process of being opened or closed. See UTAH CODE ANN. § 41-6-95(a)(b) (1994).

Utah prohibits motorists from driving a vehicle over a crossing if there is not sufficient room on the other side of the crossing to accommodate their vehicles without obstructing the passage of other vehicles, pedestrians or trains, even if a traffic control signal is giving an indication to proceed. See UTAH CODE ANN. § 41-6-109.10 (1994).

No vehicle in Utah may be operated on the left side of the roadway when approaching within one hundred feet of a highway-rail crossing unless otherwise indicated by a traffic control device or a law enforcement officer. See UTAH CODE ANN. § 41-6-58 (1994).

VERMONT

Vermont law requires motorists, when approaching a highway-rail crossing, to bring their vehicles to a stop within fifteen to fifty feet of the nearest rail of the tracks. Moving over the crossing is forbidden unless it can be done safely. These requirements apply at highway-rail crossings under the following conditions:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within eighty rods (thirteen hundred twenty feet) of the crossing is emitting a signal audible at that

- distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is plainly visible.
 - 5) Where a STOP sign has been erected. See § 1006 pertaining to regulations concerning STOP signs at highway-rail crossings.

It is unlawful in Vermont for any person to drive any vehicle through, around or under any crossing gate or barrier while it is closed, or is in the process of being opened or closed. See VT. STAT. ANN. tit. 23, § 1071(a)(b) (1994). Also see tit. 23, § 1006.

Vermont's § 1071 differs from other laws regulating stops at highway-rail crossings. Part (c) of the pertinent section states "Nothing in this section prohibits a person from operating a motor vehicle across the tracks of a railroad at grade while a mechanical warning signal is in operation, provided he first brings the vehicle to a full stop and reasonably ascertains that the tracks can be crossed safely." See VT. STAT. ANN. tit. 23, § 1071(c) (1994).

In Vermont, the Traffic Committee has the authority to designate a highway-rail crossing as particularly dangerous and the agency of transportation (Department of Highways) shall erect a STOP sign at any such crossing. See VT. STAT. ANN. tit. 23, § 1006 (1994).

It is unlawful for any vehicle to be driven to the left side of the center of the roadway in overtaking and passing another vehicle when approaching within one hundred feet of or traversing a highway-rail crossing. See VT. STAT. ANN. tit. 23, § 1035(b) (1994).

Vermont prohibits persons from driving a vehicle on a highway at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, drivers are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See VT. STAT. ANN. tit. 23, § 1081(d) (1994).

VIRGINIA

Except within the limits of cities or towns, Virginia law requires drivers of motor vehicles when approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the railroad and not proceed over the crossing until it can be done safely. These regulations are applicable under the following conditions:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train is approaching a highway-rail crossing and is emitting signals within a distance of three hundred to six hundred yards from the crossing. See code § 56-414 for whistle and horn requirements in the chapter on Warning Device - Train Borne.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible.

Virginia law prohibits drivers of all vehicles from driving through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See VA. CODE ANN. § 42.2-885 (Michie 1994).

Virginia law expressly prohibits drivers from disobeying a clearly visible or audible railroad crossing signal when giving warning of the immediate approach of a train at a highway-rail crossing. See VA. CODE ANN. § 46.2-884 (Michie 1994).

Virginia law makes it an offense of reckless driving when any driver overtakes or passes another vehicle at any highway-rail crossing, unless permitted to do so by a traffic light or law enforcement officer. See VA. CODE ANN. § 46-2-858 (Michie 1994).

WASHINGTON

Washington law requires any person driving a vehicle approaching a highway-rail crossing to bring their vehicle to a stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers may not proceed over the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where an approaching train is in hazardous proximity to a crossing and the train is plainly visible.

Washington law expressly prohibits persons from driving their vehicle through, around or under any crossing gate or barrier that is closed or is being opened or closed. See WASH. REV. CODE ANN. 46.61.340 (West 1994).

Washington law prohibits the stopping, standing or parking of a vehicle on a railroad track or within fifty feet of the nearest rail of the track except when it is necessary to avoid conflict with other traffic or when in compliance with the law or the direction of a police officer or an official traffic control device. In the case of the prohibition against parking within fifty feet of the nearest rail, an exception is made for the temporary loading or unloading of property or passengers. See WASH. REV. CODE ANN. § 46.61.570(1)(c) (West 1994).

The Washington State Department of Transportation and local authorities within their respective jurisdictions have statutory authority to designate a highway-rail crossing as particularly dangerous and may erect STOP signs at the crossing. At any crossing where a STOP sign has been erected, all drivers must bring their vehicles to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may move over the crossing upon exercising due care. See WASH. REV. CODE ANN. 46.61.345 (West 1994).

Washington law expressly prohibits any person from driving a vehicle at a speed greater than that which is reasonable and prudent given the present conditions and with regard to the actual and potential hazards. Consistent with this prohibition, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See WASH. REV. CODE ANN. §46.61.400(3) (West 1994).

WEST VIRGINIA

West Virginia law requires any person driving a vehicle approaching a highway-rail crossing to bring the vehicle to a full stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers must not proceed through the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in West Virginia for any person to drive a vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See W. VA. CODE § 17C-12-1(a)(b) (1994).

West Virginia law prohibits any driver from driving to the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See W. VA. CODE § 17C-7-6(a) (1994).

West Virginia law prohibits anyone from stopping, standing or parking a vehicle within fifty feet of the nearest rail of a railroad crossing. See W. VA. CODE § 17C-13-3(a) (1994).

It is unlawful for anyone in West Virginia to drive a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See W. VA. CODE § 17C-6-1© (1994).

WISCONSIN

Wisconsin expressly prohibits drivers from driving on or over a highway-rail crossing when any of the following circumstances exist:

- 1) Where a signal to stop is being given by a traffic officer or railroad employee.
- 2) Where any warning device is giving a signal to stop, except when the driver of a vehicle, after complying with the stop signal, finds that no train is approaching. In that case, the driver may proceed.

It is unlawful for the driver of a vehicle to drive through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See WIS. STAT. § 346.44 (1993).

Wisconsin prohibits vehicles from overtaking and passing any other vehicle proceeding in the same direction within one hundred feet of or traversing any highway-rail crossing, unless the roadway is of sufficient width for two or more lines of vehicles to lawfully proceed simultaneously or unless the driver is directed to pass by a traffic officer. See WIS. STAT. § 346.10(1) (1994).

Wisconsin law prohibits drivers from driving a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See WIS. STAT. § 346.57(3) (1994).

It is unlawful to stop or leave standing any vehicle, whether occupied or not, and whether temporary or otherwise, within twenty-five feet of the nearest rail of a highway-rail crossing. See WIS. STAT. § 346.52(I) (1994).

Wisconsin law requires every operator of a motor vehicle approaching a highway-rail crossing to stop the vehicle within ten to thirty feet from the nearest rail. See WIS. STAT. § 346.46(3) (1993).

WYOMING

Wyoming law requires any driver approaching a highway-rail crossing to bring their vehicle to a stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers are not to proceed through the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of a train is given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible.

Wyoming law prohibits drivers from driving through, around or under any crossing gate or barrier that is closed or is being opened or closed. See WYO. STAT. 31-5-510 (1994).

No vehicle in Wyoming may be driven to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See WYO. STAT. § 31-5-205(a) (1994).

Wyoming law prohibits anyone from driving a vehicle on a highway at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, everyone must drive at a safe and reduced speed when approaching and crossing a highway-rail crossing. See WYO. STAT. 31-5-301(a) (1994).

It is unlawful in Wyoming for any person to stop, stand or park a vehicle on any railroad track, except when it is necessary to avoid conflict with other traffic or when complying with the law or directions of a police officer or a traffic control device. See WYO. STAT. 31-5-504(H) (1994). Wyoming also prohibits anyone from parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing, except temporarily to load or unload property or passengers. See WYO. STAT. 31-5-504(iii-A) (1994).

CHAPTER 10: TRESPASSING

CHAPTER OVERVIEW

Trespassing on railroad property and facilities has become a more serious problem in recent years. Current statistics provided by the Federal Railroad Administration indicate a total of 529 people killed and 452 people injured during the 1994 calendar year. It is against the law in every state to trespass on private property without permission of the owner or without having an official reason. As such, all states list unlawful or criminal trespass as a crime with minimal punishments.

One interesting example of legislative efforts undertaken to curb unlawful trespassing on railroad property in other parts of the world comes from Canada. The Canadian House of Commons enacted an amendment to the Railway Safety Act in May of 1994 making trespassing on railroad property a federal law and added a stiff punishment. If a corporation is found guilty of violating the Canadian trespass law, it will be subject to a fine not exceeding two hundred thousand dollars. In the case of an individual, the punishment may be a fine not exceeding ten thousand dollars, a term of imprisonment not to exceed one year or both.

This chapter provides a state-by-state listing of trespassing laws as they pertain to railroad property and equipment only. In the majority of states, trespassing is found in sections of the codes concerned with property crimes and general offenses. A number of states expressly forbid trespassing on railroad property and facilities, and codify it in sections concerned with railroads or utilities. As in other chapters, the relevant code sections are included.

STATE LAWS AND REGULATIONS AND PENALTIES

ALABAMA

Any person in Alabama who knowingly enters or remains unlawfully in or upon premises is guilty of a criminal trespass in the third degree - a violation. See ALA. CODE § 13A-7-4 (1994). Also see section 13A-7-3 which defines criminal trespass in the second degree as a Class C misdemeanor if the premises are fenced or otherwise enclosed.

Section 13A-7-1 defines "premises" and includes any railroad box car or other railroad equipment in the definition. See ALA. CODE § 13A-7-1 (1994).

ALASKA

Alaska has no trespass regulations or laws specifically targeted to railroad property or equipment.

ARIZONA

State law in Arizona makes it a third degree crime for a person to knowingly enter or remain unlawfully on the railroad right-of-way, the storage or switching yards or rolling stock of a railroad company. The section does not specify a range of punishment. See ARIZ REV. STAT. ANN. § 13-1502 (1994).

ARKANSAS

Arkansas law prohibits any person from using any railroad track as a common highway for horses, cattle or vehicles. Upon conviction, the person may be fined a sum of not more than twenty-five dollars for each offense and may be imprisoned for a period not exceeding 30 days. See ARK. CODE ANN. § 23-12-803 (1994).

It is unlawful for anyone in Arkansas to board any passenger, freight, or other railway train, whether moving or standing still for any purposes without intending to become a passenger, and without lawful business, and with the intent to obtain a free ride. If convicted of such an offense, the punishment shall be a fine of not less than one dollar or more than ten dollars. See ARK. CODE ANN. § 23-12-802 (Michie 1994).

CALIFORNIA

It is unlawful in California for anyone to enter or remain upon the property of any railroad where entry, presence or conduct upon the property interferes with or interrupts the safe and efficient operation of any locomotive. A violation of this section is a misdemeanor under California law. See CAL. [PENAL] CODE § 369i (West 1994).

COLORADO

Colorado law prohibits anyone from driving a snowmobile upon the right-of-way of any operating railroad in the state, except at grade crossings. A violation is a misdemeanor and is punishable by a fine of twenty-five dollars. See COLO. REV. STAT. § 33-14-112 (1994).

CONNECTICUT

Any person in Connecticut who enters or remains in a building knowing he is not licensed to do so is guilty of a criminal trespass in the second degree - a class B misdemeanor. A railroad car is included in the definition of "building". See CONN. GEN. STAT. §§ 53a-100 -108 (1994)

DELAWARE

It is unlawful for any person, other than those connected with the railroad, to walk along the tracks, except when the tracks are laid along a public road or street. No person may lead or drive any horse or other animal upon railroad property within the fences and guards other than at farm crossings. Violation results in a ten dollar penalty in addition to all damages which are sustained thereby to the aggrieved party. See DEL. CODE ANN. tit. 2, § 1811 (1994).

DISTRICT OF COLUMBIA

The District of Columbia has no trespass regulations or laws specifically targeted to railroad property or equipment.

FLORIDA

It is unlawful for anyone in Florida to enter or remain in any structure or conveyance without being authorized to do so. Whoever does so commits the offense of trespass - a misdemeanor or the second degree. Florida law includes a railroad car in its definition of a conveyance. See FLA. STAT. ANN. §§ 810.08 -.011 (West 1994).

GEORGIA

Georgia law states that any person intruding unlawfully upon the tracks of a railroad without consent is guilty of a misdemeanor. See GA. CODE ANN. § 46-8-380 (1994).

A person is guilty of criminal trespassing when he knowingly and without authority:

- 1) Enters upon the land or premises of a railroad or into a railroad car.
- 2) Enters a railroad car after being notified by the owner that such entry is forbidden.
- 3) Remains upon the land after being told to leave.

Violation of this section is a misdemeanor. See GA. CODE ANN. § 16-7-21 (1994).

HAWAII

Hawaii has no trespass regulations or laws specifically targeted to railroad property or equipment.

IDAHO

Idaho has no trespass regulations or laws specifically targeted to railroad property or equipment.

ILLINOIS

Illinois has a prohibition against trespassing on railroad property but outlines several exceptions when unlawful trespass may not apply. It is prohibited for anyone to walk, drive or ride along the right-of-way or rail yard of any railroad. Unlawful trespass does not apply to passengers on trains, persons entering the property to protect human life, persons crossing at farm crossings and anyone having written permission. See 625 ILCS 5/18c-7503 (1994).

INDIANA

Indiana code specifies that it is a Class B misdemeanor for anyone to drive, walk or ride along the right-of-way or yard of a railroad company at a place other than a public crossing. The code section also defines the terms used and outlines the differences between the various classes of misdemeanors and felonies. See IND. CODE § 8-3-15-3 (1994).

IOWA

Iowa has no trespass regulations or laws specifically targeted to railroad property or equipment.

KANSAS

Kansas has no trespass regulations or laws specifically targeted to railroad property or equipment.

KENTUCKY

A person is guilty of criminal trespass in the third degree if they are on the railroad track, property or right-of-way, other than while passing over the track or right-of-way at a public or private crossing. Anyone doing so is subject to a maximum fine of twenty-five dollars for the first violation, fifty dollars for the second and a maximum fine of one hundred dollars for third and subsequent violations. See KY. REV. STAT. ANN. § 277.350 (Baldwin (1994).

Kentucky law does not mention railroad property or equipment specifically, but includes "a place where people assemble for public transportation" in its definition of "Building". See KY. REV. STAT. ANN. § 511.010 (Michie 1994).

It shall be a criminal trespass of the third degree for a person to knowingly enter or remain unlawfully upon premises. Criminal trespass in the third degree is a violation. See KY. REV. STAT. ANN. § 511.080 (Michie 1994).

It shall be a criminal trespass of the second degree when a person knowingly enters or remains unlawfully in a building or upon premises as to which notice is given against trespass by fencing or other enclosure. KY. REV. STAT. ANN. § 511.070 (Michie 1994).

LOUISIANA

Louisiana prohibits unauthorized entry to railroad property. An initial conviction under the section brings a fine of not more than five hundred dollars, imprisonment of not more than ninety days or both. A second and any subsequent convictions are punishable by a fine not to exceed five hundred dollars or imprisonment for a term not to exceed six months. See LA. REV. STAT. ANN. § 14:63.6 (West 1993).

MAINE

The State of Maine prescribes a fine of not less than five or more than twenty dollars for anyone who, without right, stands or walks on a railroad track or bridge, or passes over such a bridge. See ME. REV. STAT. ANN. tit. 23, § 7007 (West 1994).

MARYLAND

Maryland has no trespass regulations or laws specifically targeted to railroad property or equipment.

MASSACHUSETTS

Massachusetts prohibits a person from being present, standing, walking or riding a bicycle, snow vehicle, recreational or other vehicle on the right-of-way of a railroad or other property used or controlled by that railroad except at a highway or other authorized grade crossing. Violation brings a fine of one hundred dollars. Any person who violates this section can be arrested without a warrant by law enforcement authorities. See MASS. ANN. LAWS ch. 160, § 218 (Law. Co-op. 1994).

It is unlawful in Massachusetts for anyone to enter or remain or loiter within a station, waiting room, or terminal of a public transportation facility, or upon the platform, stairs, or ground or other premises of a public transportation facility after having been forbidden to do so either by posted notice or by verbal communication from an appropriate official. Punishment is a fine of not more than one hundred dollars. See MASS. ANN. LAWS ch. 161, § 95 (Law. Co-op. 1994).

MICHIGAN

Michigan law prohibits walking, riding, driving or being present on the right-of-way of a railroad or a railroad yard. The law lists a number of exceptions, such as legitimate passengers, railroad employees and authorized representatives of the railroad. A violation of this section is considered a misdemeanor and is punishable by imprisonment for not more than thirty days, a fine of not more than one hundred dollars or both. See MICH. STAT. ANN. § 22.1263 (273) (Law. Co-op. 1993). Also see § 257.1515 for a right-of-way exception for a demonstration snowmobile trail.

MINNESOTA

Minnesota law makes it a misdemeanor to trespass or permit animals under one's control to trespass upon a railroad track. See MINN. STAT. § 609-605.

MISSISSIPPI

Mississippi has no trespass regulations or laws specifically targeted to railroad property or equipment.

MISSOURI

It is unlawful for anyone to walk upon the track of a railroad in Missouri, except at a crossing. Violation of this section is considered a trespass. See MO. REV. STAT. § 389.650(6) (1993).

MONTANA

Montana has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEBRASKA

Nebraska has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEVADA

Nevada has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEW HAMPSHIRE

Any person in the state who enters upon any railroad property without license or privilege to do so shall be guilty of criminal trespass. See N.H. REV. STAT. ANN. § 381:14 (1993). Also see § 635:2 for a definition of criminal trespass.

NEW JERSEY

It is unlawful in New Jersey for anyone to walk upon the tracks of any railroad. Any person so doing will be deemed to have contributed to any injury sustained and may not recover damages. See N.J. REV. STAT. § 48:12-152 (1993). Also see § 39:3C-19 for prohibition against the operation of a snowmobile upon a railroad right-of-way.

New Jersey law prohibits anyone from riding, leading or driving any cattle, horses or other animals upon any railroad protected by fences or guards, other than at farm crossings, without the consent of the railroad company. A violation is a civil penalty and brings a forfeit of ten dollars and all damages to the railroad company for each offense. See N.J. REV. STAT. § 48:12-47 (1993).

NEW MEXICO

New Mexico has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEW YORK

New York prohibits the operation of snowmobiles on railroad property except at the crossing of streets or highways, or at farm or forest crossings. See N.Y. [R.R.] § 83-a (McKinney 1994).

NORTH CAROLINA

North Carolina has no trespass regulations or laws specifically targeted to railroad property or equipment.

NORTH DAKOTA

North Dakota has no trespass regulations or laws specifically targeted to railroad property or equipment.

OHIO

It is unlawful for any person to draw, drive or cause to be moved any vehicle on or between the rails or tracks of a railroad. Violation of this section is a minor misdemeanor.

No person may climb, jump, step or stand upon a locomotive, engine or car upon the track of a railroad without permission. Violation is a minor misdemeanor. See OHIO REV. CODE ANN. §§ 4999.01 -.02 (Baldwin 1994).

Ohio law makes it a criminal offense - a misdemeanor of the fourth degree - for anyone to knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when such offender knows he is in violation of any such restriction or is reckless in that regard. See OHIO REV. CODE ANN. § 2911.21 (Anderson 1994).

OKLAHOMA

It is unlawful for anyone without authority to ride upon a train in Oklahoma. Violation of this section is a misdemeanor. See OKLA. STAT. tit. 21, § 1365 (1994).

OREGON

Oregon has no trespass regulations or laws specifically targeted to railroad property or equipment.

PENNSYLVANIA

Pennsylvania has no regulations or laws specifically targeted to railroad property or equipment.

RHODE ISLAND

Rhode Island forbids any person to stand or walk on a railroad right-of-way without authorization, except for when crossing at a highway or other authorized crossing. Violation may bring a fine of not more than one thousand dollars, imprisonment for not more than one year, or both. Any person violating this section may be arrested without a warrant by a law enforcement officer. See R.I. GEN. LAWS § 11-36-6 (1994).

SOUTH CAROLINA

It is a misdemeanor offense in South Carolina for anyone to, without right, loiter or remain within a station house of a railroad or upon the platform or grounds adjacent to such station after having been requested to leave by an authorized railroad official or employee. If convicted the penalty imposed shall be a fine of not more than fifty dollars or confinement in the county jail, or a work requirement of a chain gang for not more than thirty days. See S.C. CODE ANN. § 58-17-4110 (1993).

SOUTH DAKOTA

South Dakota has no trespass regulations or laws specifically targeted to railroad property or equipment.

TENNESSEE

Tennessee has no trespass regulations or laws specifically targeted to railroad property or equipment.

TEXAS

It is unlawful in Texas for anyone to enter or remain on railroad property, knowing that it is railroad property. An offense committed under this section is a Class C misdemeanor. See TEX. PENAL CODE ANN. § 28.07 (West 1994).

UTAH

Utah has no trespass regulations or laws specifically targeted to railroad property or equipment.

VERMONT

It is unlawful in Vermont for any person to, without right, loiter, or remain in a depot, platform, approaches or grounds adjacent to any depot or platform, after being requested to leave by law enforcement authorities. The penalty for such an offense under the statute is a fine of not less than two-dollars or more than twenty dollars. See VT. STAT. ANN. tit. 30, § 1649 (1994).

All persons in Vermont are forbidden to ride, lead or drive a horse or other animal, or operate a vehicle or snowmobile upon any railroad, other than at road or farm crossings, without the consent of the affected railroad. Punishment is a civil penalty of a forfeit not more than fifty dollars to be recovered by the affected railroad plus payment for any damages sustained by the railroad. See VT. STAT. ANN. tit. 30, § 1478 (1994).

VIRGINIA

It is unlawful in Virginia for anyone to enter upon the track of a railroad other than to pass over the track at a public or private crossing without the consent of the railroad company, or person operating the railroad.

It shall be a Class 4 misdemeanor for the first violation. If a second violation occurs within two years of the first violation, it is punishable as a Class 3 misdemeanor. A third violation within two years of a second, is punishable as a Class 1 misdemeanor. See Va. Code Ann. § 18.2-159 (Michie 1994).

WASHINGTON

Washington has no trespass regulations or laws specifically targeted to railroad property or equipment.

WEST VIRGINIA

It is unlawful in West Virginia for anyone to trespass upon any railroad property in the state, except when driving across a public, private or farm crossing. Violation of this section is a misdemeanor and punishment shall be a fine not to exceed twenty-five dollars or imprisonment in the county jail for a period of time not to exceed thirty days. See W. VA. CODE § 61-3-43 (1994).

WISCONSIN

- 1) "No person, other than a licensee or authorized newspaper reporters or those connected with or employed upon the railroad, shall walk, loiter or be upon or along the track of any railroad"; and,
- 2) "Each railroad corporation shall post notices containing substantially the provisions and penalties of this section, in one or more conspicuous places in or about each railroad station." See WIS. STAT. § 192.32 (1993).

WYOMING

Wyoming has no trespass regulations or laws specifically targeted to railroad property or equipment.

CHAPTER 11: VANDALISM

CHAPTER OVERVIEW

Every state has a law against the defacing and destruction of private property. Not every state lists a law or regulation specifically concerning railroad property. This chapter presents a state-by-state survey of the laws and regulations concerning acts of vandalism against railroad property, warning devices and equipment, along with any prescribed punishments. Each state regulation is accompanied by the appropriate citation.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama law lists no applicable statute.

ARIZONA

No person shall, without lawful authority, attempt to alter, deface, injure, knock down or remove any official traffic control device, any railroad sign or signal, or any inscription, shield or insignia thereon, or any part thereof. See ARIZ. REV. STAT. ANN. § 28-649 (1994).

ARKANSAS

It is a misdemeanor for any person who, without lawful authority, alters, defaces, mutilates, destroys or knocks down a railroad crossing sign or signal. A first violation brings a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment for not more than ten days. See ARK. CODE ANN. § 27-52-101 (1994).

It is unlawful in Arkansas for any person to willfully perpetrate an act whereby any building, construction, or work of any railroad corporation in the state, or any engine, machine, structure, or any matter or thing appertaining to the corporation shall be stopped, obstructed, injured, impaired, weakened, or destroyed. Upon a finding of guilty of this misdemeanor a person shall be required to forfeit and pay to the affected railroad, treble the amount of damages sustained as a result of the offense. See ARK. STAT. ANN. § 23-12-805(a) (1994).

It is unlawful for anyone in Arkansas to wantonly, maliciously, or mischievously discharge a firearm or throw stones, sticks, clubs, or other missiles at, into, or against any locomotive, railroad car, or street car on any railroad. Upon a finding of guilty, a person may be punished by a fine of not less than twenty-five dollars or more than two-hundred fifty dollars, or by imprisonment in the county jail for not more than three months, or by the imposition of both. See ARK. STAT. ANN. § 23-12-804 (1994).

CALIFORNIA

The California Penal Code makes it a misdemeanor for any person who, absent any authority from the owner, manipulates or in any way tampers or interferes with any air brake or other device, appliance or apparatus in or upon any car or locomotive upon such railroad, or with any switch, signal or other appliance or apparatus used or provided for use in the operation of a railroad. See CAL. [PENAL] CODE § 587a (West 1994).

COLORADO

In Colorado, it is a Class B traffic infraction to alter, deface, injure, knock down, remove or interfere with the effective operation of any official traffic control device, any railroad sign or signal, or any inscription, shield or insignia thereon, or any part thereof. See COLO. REV. STAT. § 42-4-607 (1994).

CONNECTICUT

In Connecticut, a person is guilty of criminal mischief in the second degree for damaging or tampering with the tangible property of a public utility or mode of public transportation, power or communication. Criminal mischief in the second degree is a Class A misdemeanor. See CONN. GEN. STAT. § 53a-116 (1992).

Connecticut law imposes a fine of not more than ten dollars or imprisonment of not more than thirty days or both for any person who without right, removes, throws down, damages or defaces any active or passive warning signs at highway-rail crossings. See CONN. GEN. STAT. § 13b-346 (1992).

DELAWARE

In Delaware, if a person willfully impairs, injures, destroys or obstructs the use of any railroad or any of its works, wharves, bridges, carriages, engines, cars, machines or other property, he must pay to the railroad fifty dollars and be liable for all damages sustained. See DEL. CODE ANN. tit. 21, § 1812 (1992).

It is illegal for anyone to attempt to alter, or alter, damage, deface, injure, twist, knock down, interfere with the operation of, or remove a railroad signal or sign. Violation of this offense will result in a fine of not less than fifty-seven dollars and fifty cents nor more than two hundred-thirty dollars, or imprisonment for not more than ten days or both. Each subsequent offense committed within two years will bring a fine of not less than one hundred-fifteen nor more than four hundred-sixty dollars or imprisonment for a maximum of thirty days. A person found guilty of this offense is also responsible to the state for actual costs incurred in replacing the sign or device. See DEL. CODE ANN. tit. 21, § 4112 (1992).

DISTRICT OF COLUMBIA

It is a crime for anyone in the District of Columbia to maliciously place an obstruction on or near the track of any steam or street railway, or for anyone to displace or injure anything

appertaining to such track, with the intent to endanger the passage of any locomotive or car. A finding of guilt of an offense under this section may subject the person to a term of imprisonment for not more than ten years. See D.C. CODE ANN. § 22-3119 (1994).

If the act or acts described in section 22-3119 cause the death of another, the responsible person is guilty of murder in the first degree. See D.C. CODE ANN. § 22-2402 (1994).

FLORIDA

Florida has a couple of statutes related to vandalism of railroad signals or traffic control devices. A person is guilty of a felony of the third degree for knowingly or willfully interfering with or removing any railroad system used to control railroad operations, any railroad crossing warning devices, or any lantern, light, lamp, torch, flag, fuse, torpedo or other signal used in connection with railroad operations. See FLA. STAT. ANN. § 860.08 (West 1994).

Florida law prohibits anyone from wantonly or maliciously injuring any bridge, trestle, culvert, cattle guard, or other superstructure of any railroad company or salts the track of any railroad for purpose of attracting cattle onto the track, or who actually drives cattle onto the track. A violation is a felony under Florida law. See FLA. STAT. ANN § 860.11 (1994).

No person shall, unless by lawful authority, attempt to alter, deface, injure, knock down or remove any railroad sign or signal, any inscription, shield or insignia on the sign or signal, or any other part thereof. See FLA. STAT. ANN. § 316.0775 (West 1994).

It is unlawful to shoot at, throw any object capable of causing death or great bodily harm, or place any object capable of causing death or great bodily harm in the path of any railroad train, locomotive, car, caboose or other railroad vehicle. The statute lists particular penalties based on specific circumstances. See FLA. STAT. ANN. § 860-121 (West 1994).

GEORGIA

In Georgia, it is unlawful for any person to mutilate, destroy or deface any crossing sign. Violation is a misdemeanor punishable under Georgia law by a fine not exceeding fifty dollars, imprisonment for not more than twelve months, or both. See GA. CODE ANN. § 46-8-196 (1994).

HAWAII

It is unlawful for any person to attempt to alter, deface, injure, knock down or remove any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. See HAW. REV. STAT. § 291C-37 (1994). Also see § 291C-161 as to penalty for violation.

IDAHO

It is a felony in Idaho for any person to maliciously remove, displace, injure or in any way interfere with, change or destroy any part of any railroad property, any track of any railroad, branch or branchway, switch, block or other signal or signaling device, turnout, bridge, viaduct, culvert, embankment, station house or other structure or fixture connected to the railroad. Punishment may be imprisonment for a period of time not exceeding ten years, a fine not exceeding fifty thousand dollars, or both. See IDAHO CODE § 18-6006 (1994).

A person may not attempt to alter, twist, deface, injure, knock down, remove or interfere with the effective operation of any traffic control device, any railroad sign or signal, any inscription, shield or insignia, or any other part of the device or signal. See IDAHO CODE § 49-1420 (1994).

Idaho makes it unlawful to place an obstruction on the rails or track of any railroad or to obstruct any switch, branch, branchway or turnout connected with any railroad. Violation is punishable by imprisonment not exceeding five years in the state prison or not less than six months in the county jail. See IDAHO CODE § 18-6009 (1994).

If such acts result in a death, the offense is a felony and punishment may be imprisonment for a term of not less than five years, but may extend to the natural life of the person responsible. The wrongdoer may also be tried and punished for murder. See IDAHO CODE §§ 18-6010 -6011 (1994).

ILLINOIS

Any person in Illinois found to have removed, taken, stolen, changed, added to, taken from or in any manner interfered with any of the parts or attachments of any locomotive or car, or any plant or property used in or connected with the operation of any locomotive or car is guilty of a Class 4 felony. If any of the actions described above results in death, the person found guilty shall be liable for first degree murder. See 625 ILCS 5/18c-7502 (1994).

Anyone found to have interfered with a railroad sign or signal or who in any way attempts to alter, deface, injure, knock down or remove any railroad sign or signal, any inscription, shield or insignia thereon or any other part thereof shall be guilty of a Class A misdemeanor punishable by a fine of not less than two hundred-fifty dollars in addition to any other penalties imposed. See 625 ILCS 5/11-311 (1994).

INDIANA

Indiana law lists no applicable statute.

IOWA

It is unlawful in Iowa to attempt to alter, or to alter, deface, injure, knock down or remove a railroad sign or signal. A person convicted of such an act is guilty of a serious misdemeanor and can be required to make restitution to the affected jurisdiction. See IOWA CODE § 321.260 (1993).

KANSAS

Kansas law makes it a Class C misdemeanor to tamper with a traffic signal, railroad switching device or other signal device erected or installed for the purpose of controlling or diverting the movement of railroad trains. Tampering is defined as intentionally manipulating, altering, destroying or removing such signals or devices. See KAN. STAT. ANN. §§ 21-3725 -8-1513 (1993).

KENTUCKY

Kentucky law lists no applicable statute.

LOUISIANA

Louisiana law defines throwing stones, missiles or other objects at any train, railway car, or locomotive as criminal mischief and makes the punishment a fine of not more than five hundred dollars, imprisonment for not more than six months in jail or both. It prescribes the same penalty for discharging a firearm at a train, locomotive or railway car. See LA. REV. STAT. § 14:59 (1993).

It is also against the law in Louisiana to give false signals to a person(s) in charge of a locomotive with intent to cause the stopping of the locomotive, train or cars. Violation brings a fine of not less than ten nor more than two hundred dollars, or imprisonment for not more than three months. See LA. REV. STAT. § 14:321 (1993).

MAINE

It is unlawful for anyone to willfully, mischievously or maliciously break the seal upon any freight car, or break and enter into any railroad car, locomotive or work equipment, or to destroy, injure, defile or deface any of the same. If found guilty, punishment may be a fine of not more than five hundred dollars or imprisonment for not more than two years. See ME. REV. STAT. ANN. tit. 17, § 2401 (West 1994).

It is unlawful in Maine to destroy or molest any signal of a railroad corporation or any line, wire, post, lamp or other structure or mechanism used in connection with any signal on a railroad. If found guilty, a person may be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than two years.

No one may alter, change, or in any manner interfere with any safety switch or switch lights on any railroad. This type of offense is a Class E crime. See ME. REV. STAT. ANN. tit. 23, §§ 7010 -7011 (West 1994).

MARYLAND

It is against the law in Maryland to alter, deface, injure, knock down, change the direction of, twist or remove parts of any traffic control device or railroad sign or signal. The statute contains no mention of a penalty. See MD. ANN. CODE art. 21, § 206 (1994).

MASSACHUSETTS

No person may lawfully remove, throw down, injure or deface any grade crossing sign. Violation of this section may result in a fine of not more than ten dollars to be paid to the county, city or town that maintains the sign, or to the commonwealth if the sign is placed and maintained by the Department of Highways. See MASS. GEN. LAWS ANN. ch. 160, § 146 (West 1994).

It is unlawful to intentionally injure, molest or destroy any railroad signal or any line, wire, post or other structure or mechanism used in connection with the signal, or in any way interfere with the proper functioning of the signal. The law also prohibits meddling or tampering with a track or car, or the mechanisms, or apparatus used in the operation of a railroad car. Violation will result in a fine of not more than five hundred dollars, or imprisonment for not more than two years, or both. See MASS. GEN. LAWS ANN. ch. 159, § 103 (West 1994).

It is unlawful to maliciously injure a railroad, or anything pertaining to a railroad, or any material or implements for the construction or use thereof. If found guilty, punishment may be a fine of not more than five thousand dollars, imprisonment for not more than one year, or both. See MASS. ANN. LAWS ch. 160, § 225 (Law. Co-op. 1994).

Massachusetts law prohibits anyone from willfully and maliciously stopping a train or causing a train to stop for the purpose of entering, leaving or delaying the train shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month. See MASS. ANN. LAWS ch. 160, § 227 (Law. Co-op. 1994).

It is unlawful for anyone in Massachusetts to use, remove, or tamper with any tools or appliances carried on railroad cars. Punishment shall be a fine of not more than one hundred dollars or by imprisonment for not more than three months, or both. See MASS. ANN. LAWS ch. 160, § 228 (Law. Co-op. 1994).

It shall be against the law in Massachusetts for anyone to willfully obstruct, or aid or abet in obstructing the passage of a railroad engine or car, or to willfully endanger, or aid or abet in endangering, or cause an act with the intent to endanger the safety of persons on a railroad engine or car. Punishment shall be a fine of not more than one thousand dollars or imprisonment for not more than twenty years, or both, and for each offense, a forfeit of treble the amount of damages to the railroad. See MASS. ANN. LAWS ch. 160, § 226 (Law, Co-op. 1994).

MICHIGAN

Michigan prohibits the altering, defacing, knocking down or removal of any railroad signal or any inscription, shield or insignia on the sign or signal, or any other part thereof. A penalty for violation is not described. See MICH. STAT. ANN. § 9.2316 (Law. Co-op. 1993).

Michigan also prohibits tampering with a light or banner attached to or connected with any switch or derailing device. Violation is a misdemeanor punishable by a fine of at least one hundred but not more than five hundred dollars, or by imprisonment of at least ten but not more than sixty days. See MICH. STAT. ANN. § 22.1263 (267) (Law. Co-op. 1993).

It is against the law in Michigan for any person to cause or attempt to cause the derailment of a railroad engine or cars, or track vehicle used on railroad tracks, whether the engine, cars or vehicle are thrown from the track or not, or by any other means, to willfully endanger or attempt to

endanger the lives of persons traveling or working on the railroad. A violation is a felony and subject to imprisonment for life, or at the discretion of the court, any number of years. See MICH. STAT. ANN. § 22.1263(257) (Law. Co-op, 1993).

Michigan law forbids the throwing of a stone, brick, or other missile at a train or track vehicle. A violation of this offense is a misdemeanor punishable by a fine of not less than one hundred dollars, or more than five hundred dollars, or imprisonment for not less than ten nor more than ninety days, or both. See MICH. STAT. ANN. § 22.1263(257)(2) (Law. Co-op. 1993). See also section 28.779 of MSA. See also section 28.611 MSA, concerning malicious destruction of any railroad.

MINNESOTA

It is unlawful for anyone in Minnesota to maliciously injure, remove, displace, deface or destroy the signs or signals that are regulated and mandated by statute at railroad crossings with roads. See MINN. STAT. § 219.30 (1993).

It is a misdemeanor for a person to exhibit a false light or signal or to interfere with a light, signal or sign controlling or guiding traffic on a railroad track. If the person doing same knows that they are risking lives or serious injury or property damage, the violation could be a felony. See MINN. STAT. § 609.851 (1993).

Minnesota law lists a number of crimes against the railroad in one section: Intent to cause derailment by throwing debris on the track or tampering with switches, tracks, etc., is punishable as a felony. Crimes such as creating a foreseeable risk, shooting at a train and throwing objects at a train are punishable as gross misdemeanors. Additional crimes such as placing obstructions on the track or allowing animals on the tracks are punishable as misdemeanors. See MINN. STAT. § 609.85 (1-2-3-4-5-6) (1993).

MISSISSIPPI

Mississippi law lists no applicable statute.

MISSOURI

Missouri law lists no applicable statute.

MONTANA

Montana law lists no applicable statute.

NEBRASKA

Nebraska law prohibits anyone without lawful authority from altering, defacing, injuring, knocking down, or removing any traffic sign, railroad sign or signal, or any part of any such device. See NEB. REV. STAT. § 60-6,129 (1994).

NEVADA

It is unlawful for anyone to attempt to, or alter, deface, knock down or remove any official railroad sign or signal or any inscription thereon. See NEV. REV. STAT. ANN. § 484.289 (Michie 1993).

It is unlawful for anyone in Nevada to willfully obstruct, hinder or delay the passage of any railroad car. The offender is guilty of a misdemeanor. See NEV. REV. STAT. ANN. § 705.450 (Michie 1993).

It is unlawful for anyone in Nevada to tamper with railroad property. "Tampering" is defined as willfully uncoupling or detaching any locomotive, tender or any car of the railroad train, either when standing or in motion on any track, or the releasing of the brake of any railroad car or train, or the putting in motion of any car or train. See NEV. REV. STAT. § 705.480(1a-c) (Michie 1993).

The law in Nevada prohibits anyone from throwing a stone, or rock, or missile, or any substance at any railroad train, car, locomotive or tender, or any part of a train, or to injure or deface or damage the same or any part thereof. See NEV. REV. STAT. ANN. § 705-480(2a-b) (Michie 1993).

Any person violating any provision of section 705-480 is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged, but in no event less than a misdemeanor. See NEV. REV. STAT. ANN. § 193.155 (Michie 1993).

It is unlawful for anyone in Nevada to willfully and maliciously place any obstruction on railroad tracks, or tear up or remove any part or portion of a railroad, or destroy, derange, misplace or injure any rail, switch, block or signaling device, culvert, viaduct, bridge, car tender or engine, or any such thing, or any other act whereby the life and limb of any person may be endangered. Punishment shall be imprisonment for a period of not less than two years or more than twenty years. See NEV. REV. STAT. ANN. § 705.460 (Michie 1993).

NEW HAMPSHIRE

It is unlawful in New Hampshire for a person to purposely damage the property of another. The offender is guilty of criminal mischief. Criminal mischief is a Class B felony if the person causes or attempts to cause a substantial interruption or impairment to transportation. See N.H. REV. STAT. ANN. § 634:2 (1994).

NEW JERSEY

It is unlawful in New Jersey for anyone to impair, injure, destroy or obstruct either the use of a railroad or the property of a railroad. Anyone violating this section shall forfeit to the affected railroad the sum of fifty dollars to be recovered in an action at law in any court having jurisdiction. See N.J. REV. STAT. § 48:12-167 (1993).

New Jersey law prohibits anyone from obstructing a railroad track or injuring, destroying, taking possession of, or removing the rolling stock, or other property of a railroad company, in connection with strike activity. Such an offense is a misdemeanor and punishable by a fine not exceeding five hundred dollars, and possible imprisonment for a period of time not exceeding one year, at the discretion of the court. See N.J. REV. STAT. § 48:12-165(b-c) (1993).

Any person who vandalizes railroad signals or protection devices in New Jersey shall be guilty of a disorderly persons offense. For any subsequent violations, the offender is guilty of a crime of the fourth degree. See N.J. REV. STAT. § 2C:33-14.1 (1993).

NEW MEXICO

New Mexico law lists no applicable statute.

NEW YORK

It is unlawful in New York for a person to throw, shoot or propel a rock, stone, brick, or piece of iron, steel or other metal, or any deadly or dangerous missile or fire bomb at any locomotive or car of a train which is occupied by any person or persons, with intent to cause personal injury or property damage. An offense under this section is a violation unless an offense carrying a higher classification is charged. See N.Y. [R.R.] Law § 53-d (Consol. 1994).

New York law prohibits anyone from interfering with a railroad train by willfully intending to disrupt, delay, or disturb service, by placing any object or objects of any kind on, under or upon the tracks, which does or could cause physical damage to railroad equipment or property, or passengers, or both. An offense under this section is considered a Class D felony unless an offense carrying a higher classification is charged. See N.Y. [R.R.] Law § 53-e (Consol. 1994).

NORTH CAROLINA

North Carolina prohibits the placing of any matter or thing upon, over or near any railroad track, or destroying or tampering with the roadbed, rail or fixtures.

Effective October 1, 1994, the law in North Carolina makes a distinction as to whether the act was done with or without intent to cause injury and punishment is fixed accordingly. If there was intent to cause injury, the violation is a Class 1 felony. If there was no intent, the violation is a Class 2 misdemeanor. See N.C. GEN. STAT. §§ 14-278 -279 (1994).

NORTH DAKOTA

It is unlawful for anyone in North Dakota to tamper with, alter, or damage railroad property, or to exhibit any false lights or signals. Violation is a Class C felony. See N.D. CENT. CODE § 49-10.1-08 (1993).

It is unlawful in North Dakota for any person to cause a substantial interruption of or impairment to any transportation system by:

- a. Tampering with or damaging property;
- b. Incapacitating an operator of such service;
- c. Negligently damaging the tangible property of another by fire, explosives, or other dangerous means.

An offense under this section is considered a Class C felony if the conduct is intentional, and a Class A misdemeanor if the act was done knowingly or recklessly. Otherwise, an offense is considered a Class B misdemeanor. See N.D. CENT. CODE 12.1-21-06 (1993).

OHIO

Ohio law lists no applicable statute.

OKLAHOMA

Oklahoma law prohibits anyone from removing, displacing, injuring or destroying any part of any railroad or railroad equipment, including switches, bridges, viaducts, culverts, station houses and other structures.

Any person convicted of placing an obstruction on the rails or tracks may be imprisoned in the penitentiary for a period of time not to exceed four months or in a county jail for not less than six months. See OKLA. STAT. tit. 21, § 1751 (1)-(2) (1994).

It is unlawful in Oklahoma to mask, alter or remove any light or signal, or willfully exhibit any false light or signal with intent to bring a train into danger. Punishment shall be imprisonment for not less than three nor more than ten years. See OKLA. STAT. tit. 21, § 1778 (1994).

It is a violation of Oklahoma law to, without lawful authority, attempt to or actually alter, deface, injure, knock down or remove any official traffic control device, any railroad sign or signal, or any part thereof. See OKLA. STAT. tit. 47, § 11-207 (1994).

OREGON

It is a crime of criminal mischief in the first degree for any person in Oregon to damage property of a railroad, or to intentionally interfere with the service of a railroad, and to manipulate or rearrange any property of a railroad. Criminal mischief in the first degree is a Class C felony. See OR. REV. STAT. § 164.365 (1994).

It is unlawful for anyone to interfere with a railroad sign without lawful authority by trying to alter, deface, injure, knock down or remove the sign. The offense is a Class B traffic infraction. See OR. REV. STAT. § 810.240 (1994).

PENNSYLVANIA

A person is guilty of felonious criminal mischief in Pennsylvania if he or she intentionally causes pecuniary loss in excess of five thousand dollars, or substantially interrupts public transportation. If the loss is in excess of one thousand dollars, the offense is charged as a misdemeanor of the second degree and, if the loss is in excess of five hundred, the offense is charged as a misdemeanor of the third degree. Otherwise criminal mischief is a summary offense.

Criminal mischief is defined in the statute as the intentional reckless, or negligent damaging of tangible property by fire, explosives or other dangerous means, or tampering with tangible property so as to endanger persons or property, or by causing another to suffer pecuniary loss by deception or threat. See 18 PA. CONS. STAT. § 3304 (1994).

It is unlawful for anyone in Pennsylvania to intentionally or recklessly obstruct a railroad track. The offense is considered a summary offense, or could be considered a misdemeanor of the third degree if the offender fails to move on after warning by a law enforcement officer. See 18 PA. CONS. STAT. § 5507 (1994).

RHODE ISLAND

Any person who unlawfully and intentionally injures, molests or destroys any electric or other signal of a railroad or any part used in connection with that signal may be punished by a fine of up to five hundred dollars or by imprisonment for a period not to exceed two years.

There is another section of the code that deals with the tampering of railroad switches. Violation of the section brings a fine of up to one thousand dollars, by imprisonment for as much as three years or both. See R.I. GEN. LAWS §§ 11-36-4 -13 (1994).

"Every person who shall willfully place upon any railroad track any substance or thing with intent to hinder or impede the passage of any locomotive engine or car over the railroad, or shall willfully do any other act, matter, or thing, with intent to hinder, impede, or interrupt the passage of the locomotive engine or car, or whoever willfully throws into, against, or upon, or puts, places, or explodes, or causes to be exploded, in, upon or near a public highway, building, monument, bridge, railroad track, or car thereon, or vessel, any gunpowder or other explosive substance, or a bombshell, torpedo, or any instrument or package filled or loaded with an explosive substance, with intent unlawfully to destroy or injure such highway, building, monument, bridge, railroad track, car, or vessel, on any person or property, in, on or near such highway, building, monument, bridge, railroad track, car, or vessel, shall be imprisoned not less than two years nor more than twenty years, or be fined not exceeding ten thousand dollars, or both". See R.I. GEN. LAWS § 11-36-1 (1994).

SOUTH CAROLINA

South Carolina law forbids the injuring, molesting or destroying of railroad signals or any part of the signals. If found guilty of this misdemeanor, the punishment is a fine of up to five hundred dollars, imprisonment for a period not to exceed two years or both. See S.C. CODE ANN. § 58-15-860 (Law. Co-op. 1993).

It is unlawful for any unauthorized person in South Carolina to place any explosive substance whatever upon the rail of any railroad. Whoever aids or assists shall be guilty of a misdemeanor and, if convicted, shall be sentenced to pay a fine of not more than one hundred dollars or to imprisonment for a period of time not to exceed thirty days, at the discretion of the court or magistrate. See S.C. CODE ANN. § 58-15-830 (S.C. 1993).

South Carolina law prohibits anyone from willfully participating in or causing an action with intent to obstruct any engine, carriage, or car passing upon a railroad or with the intent to endanger the safety of persons within these vehicles. This offense is a felony, punishable by imprisonment for not more than five years or a fine of not more than five hundred dollars, and a forfeit of treble damages proved to have been sustained to the affected railroad for each offense. See S.C. CODE ANN. § 58-15-820 (S.C. 1993).

SOUTH DAKOTA

In South Dakota, anyone convicted of removing, displacing, injuring or destroying any railroad property is guilty of a Class 6 felony. In addition to railroad property, this section also mentions the track of any railroad, any branch, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture connected with the railroad. See S.D. CODIFIED LAWS ANN. § 49-16A-107 (S.D. 1994).

Anyone who masks, alters or removes a light or signal belonging to a railroad, or who exhibits a false light or signal with the intent of stopping the train is guilty of a Class 4 felony. See S.D. CODIFIED LAWS ANN. § 49-16A-90 (S.D. 1994).

It is a class 6 felony in South Dakota to place an obstruction on the rails or track of a railroad. See S.D. CODIFIED LAWS ANN. § 49-16A-108 (S.D. 1994).

If any person deposits, throws or propels any substance upon a railroad track, or at any vehicles while vehicle is either in motion or stationary, with intent to cause damage, such person is guilty of a class 1 misdemeanor. See S.D. CODIFIED LAWS ANN. § 22-34-27 (S.D. 1994).

TENNESSEE

Tennessee law makes it a class E felony to destroy or interfere with any railroad property. See TENN. CODE ANN. § 39-14-411 (Tenn. 1994).

Tennessee law makes it a class C misdemeanor for any person to obstruct a railway. See TENN. CODE ANN. § 39-17-307a(1) (Tenn. 1994)

TEXAS

It is unlawful for anyone in Texas to dismantle a warning signal at a grade crossing if that warning signal was originally paid for from public funds. The statute defines "warning signal" as a "traffic control device that is activated by the approach or presence of a train, including a flashing light signal, an automatic gate, or a similar device that displays to motorists a warning of the approach or presence of a train." An offense is a Class C misdemeanor. See TEX. REV. CIV. STAT. art. 6370d (West 1995).

"No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof". See TEX. REV. CIV. STAT. art. 6701d, § 37 (West 1995).

It is unlawful in Texas for anyone to throw an object or discharge a firearm or weapon at a train or rail-mounted work equipment, or to tamper with railroad property, or to place an obstruction on a track or right-of-way, or cause in any way the derailment of a train, car, or other railroad property that moves on tracks.

Offenses under this section shall be considered a Class B or C misdemeanor unless a person causes bodily injury to another, in which event the offense is a felony of the third degree. If any offense under this sections causes pecuniary loss, the classification and punishments run as follows: If the amount of loss is fifteen hundred to twenty thousand dollars, the offense is a state jail felony. If the amount of the loss exceeds twenty thousand, but remains less than one hundred thousand dollars, the offense is considered a felony of the third degree. When the loss exceeds one hundred thousand, but less than two hundred thousand dollars, the offense is considered a felony of the second degree. Should the loss be to two hundred thousand dollars or more, the offense is considered a felony of the first degree. See TEX. PENAL CODE ANN. § 28.07 (West 1994). Also see TEX. PENAL CODE § 28.03. (West 1994), concerning disruption to public transportation.

UTAH

Utah law lists no applicable statute.

VERMONT

It is unlawful in Vermont to interfere with, alter, deface, injure, knock down or remove any railroad sign or signal, or any part of that sign or signal. See VT. STAT. ANN. tit. 23, § 1028 (1994).

Any person who tampers with any safety appurtenance or device of a locomotive, passenger train car, freight train car, caboose or other train car may be imprisoned for not more than two years, fined not more than five hundred dollars or both. See VT. STAT. ANN. tit. 13, § 3104 (1994).

VIRGINIA

Virginia makes it a Class 1 misdemeanor to set in motion a locomotive or other rolling stock of a railroad with the intent to commit any crime, malicious mischief or injury. See VA. CODE ANN. § 18.2-147 (Michie 1994).

It is unlawful in Virginia for anyone to maliciously injure, destroy, molest or remove any switch lamp, flag or other signal used by any railroad, or destroy or interfere with the proper working of any signal. If the life of any person is put in peril by such action, the person responsible shall be deemed guilty of a Class 4 felony. In the event of the death of any person because of such action, the responsible person shall be deemed guilty of murder. If such act is done unlawfully but not maliciously, the offender shall be deemed guilty of a Class 1 misdemeanor. See VA. CODE ANN. § 18.2-155 (Michie 1994).

Virginia law makes it a class 4 felony to maliciously obstruct, remove or injure any part of railroad, or urban, suburban or interurban electric railway, or maliciously obstruct, tamper with, injure or remove any machinery, engine, car, trolley, or maliciously open, close, displace, tamper with or injure any switch, switch point, switch lever, signal lever or signal of any such railroad company, whereby the life of any person is placed in peril. If any such act should cause the death of any person, the offender shall be deemed guilty of murder, the degree of which will be determined by a jury or the court. If any such act is committed unlawfully, but without maliciousness, the offender shall be deemed guilty of a Class 6 felony; and if a death results, the offender is deemed guilty of involuntary manslaughter. See VA. CODE ANN. § 18.2-153 (Michie 1994).

It is unlawful in Virginia for anyone to maliciously shoot at, or throw any missile at or against any train or cars of any railroad train, whereby the life of any person on the train or car is put in peril. Any such offense is considered a Class 4 felony. If such shooting or throwing results in the death of any person, the offender shall be deemed guilty of murder, the degree of which shall be determined by a jury or court. If any act under this section is committed unlawfully, but not maliciously, the offender shall be deemed guilty of a Class 6 felony and, in the event a death results from any such act, the offender shall be deemed guilty of involuntary manslaughter. See VA. CODE ANN. 18.2-154 (Michie 1994).

WASHINGTON

"Every person who, in such manner as might, if not discovered, endanger the safety of any engine, motor, car or train, or any person thereon, shall in any manner interfere or tamper with or obstruct any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railway, or any train, engine, motor, or car on such railway, and every person who shall discharge any firearm or throw any dangerous missile at any train, engine, motor, or car on any railway, shall be punished by imprisonment in a state correctional facility for not more than twenty-five years." See WASH. REV. CODE ANN. § 81.60.070 (West 1994).

It is unlawful for any person, without lawful authority, to attempt to or actually deface, alter, knock down, injure or remove any official traffic control device, railroad sign or signal, or any part thereof. See WASH. REV. CODE ANN. §§ 46.61.080 and 47.36.130 (West 1994).

WEST VIRGINIA

West Virginia law forbids anyone from interfering with any railroad sign or signal. It does not list a penalty. See W. VA. CODE § 17C-3-9 (1994).

WISCONSIN

It is a Class A misdemeanor for any person to intentionally cause damage to a railroad switch, bridge, trestle or tunnel. See WIS. STAT. § 943.07 (1993).

WYOMING

It is unlawful for anyone to cause destruction to, remove or in any way injure any part of a railroad track or its fixtures, or for anyone to tamper with any signal or part of a signal. This includes any bridge, viaduct, culvert, trestle-work, embankment, parapet or other fixture. Violation of any part of this section could result in imprisonment for at least one but not more than twenty years. If any such mischief results in the death of any person, the offender would be deemed guilty of murder in the first or second degree or manslaughter, depending on the nature of the offense. See WYO. STAT. § 37-12-103 (1994).

CHAPTER 12: PRIVATE CROSSINGS

CHAPTER OVERVIEW

Private highway-rail grade crossings are those that are on roadways not open to use by the public nor are they maintained by public authority.

Typical types of private crossings are as follows:

- Farm crossings that provide access between tracts of land lying on both sides of the railroad.
- Industrial plant crossings that provide access between plant facilities on both sides of the railroad.
- Residential access crossings over which the occupants and their invitees reach private residences from another road, frequently a public road paralleling and adjacent to the railroad right-of-way.
- Temporary crossings established for the duration of a private construction project or other seasonal activity.

In some instances, changes in land use have resulted in expanded use of such private crossings to the extent that they have become public crossings as evidenced by frequent use of the general public. This occurs whether or not any public agency accepted responsibility for maintenance or control of the use of the traveled way over the crossing.

There are an estimated 109,881 private highway-rail crossings on the U.S. rail system (Source: *Rail-Highway Crossing Safety, Action Plan Support Proposals*. U.S. Department of Transportation). Casualties and property losses resulting from accidents at these crossings are a continual concern. At present, responsibilities for private crossings are not clear. Usually there exists some kind of an agreement between the land owner and the railroad that governs the use of the private crossing.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama law lists no applicable statute.

ALASKA

Alaska law lists no applicable statute.

ARIZONA

Arizona law lists no applicable statute.

ARKANSAS

Arkansas law lists no applicable statute.

CALIFORNIA

California allows the owner of any lands through which a railroad is constructed to have the number of crossings considered necessary or convenient for ingress or egress from the land. The railroad responsible for building and maintaining such crossings and keeping them safe and passable. The Public Utility Commission is empowered to determine the necessity for these crossings and to prescribe the manner, place and conditions under which the crossings are to be built. The commission is also responsible for the apportionment of costs.

The State may order STOP signs be placed at all farm and private crossings where no automatic gates exist. The signs are not required however, if the Commission determines through a hearing that the sign(s) would constitute an additional safety hazard. See CAL. [PUB. UTIL.] CODE § 7538 (West 1994).

Any person who enters upon or crosses a railroad at any private crossing which is enclosed by bars or gates and fails or neglects to close the gates or bars is guilty of a misdemeanor. See CAL. [PENAL] CODE § 369d (West 1994).

COLORADO

Colorado law lists no applicable statute.

CONNECTICUT

The State Traffic Commission and the Commissioner of Transportation shall prescribe the nature of traffic control devices and measures at each private crossing. The Commissioner of Transportation is empowered to make all necessary orders for the closing of any private crossing. See CONN. GEN. STAT. § 13b-292(d)(e) (1992).

DELAWARE

Delaware law lists no applicable statute.

DISTRICT OF COLUMBIA

District of Columbia law lists no applicable statute.

FLORIDA

Florida requires crossbuck signs be erected at all private highway-rail crossings. See FLA. STAT. ANN. § 351.03 (West 1994).

GEORGIA

Georgia law lists no applicable statute.

HAWAII

Hawaii law lists no applicable statute.

IDAHO

Idaho law lists no applicable statute.

ILLINOIS

Illinois law lists no applicable statute.

INDIANA

Indiana law lists no applicable statute.

IOWA

Iowa requires the railroad to construct and maintain a private farm crossing when a person owns farmland on both sides of the railroad or if tracks of the railroad run between a farm and a public highway, thereby cutting off access to the public highway. The railroad has a duty to construct the crossing at such reasonable place as the owner of the farmland shall designate. See IOWA CODE § 327G.11 (1993).

Iowa law states that a landowner may request in writing more than one private crossing. If the affected railroad refuses to comply with the request within thirty days, the owner may make written application to the Iowa Department of Transportation. The Department of Inspections and Appeals within the Department of Transportation hears the application and makes an order which is subject to review by the Department of Transportation. The decision of the Iowa Department of Transportation is final. See IOWA CODE § 327G.12 (1993).

KANSAS

Whenever any railroad runs through any farm in such a way as to divide it, the railroad, at the request of the owner of the farm, shall construct and maintain a crossing either on, over or under the railroad track.

In the event the railroad refuses or neglects to comply, Kansas law allows the farm owner, through appropriate action, to compel compliance of the railroad. See KAN. STAT. ANN. §§ 66-301-303 (1993).

KENTUCKY

Kentucky law lists no applicable statute.

LOUISIANA

Louisiana law lists no applicable statute.

MAINE

"In a municipality in which a private way is crossed by a railroad crossing, the municipal officers may act as agents for a railroad corporation in collecting maintenance and insurance charges from those persons using that crossing." See ME. REV. STAT. ANN. tit. 23, § 7229 (West 1994).

MARYLAND

The Maryland Secretary of Transportation has statutory authority to construct, reconstruct, improve, widen, relocate or otherwise alter a private road over a railroad. For purposes of this section the conversion of a private grade crossing into a public highway grade crossing is a projection of a public highway over the railroad by the public authority taking jurisdiction. See MD. ANN. CODE art. 8, § 639 (1994).

MASSACHUSETTS

If a railroad lays its track through any private land without having the consent of the owner of the land, separates a portion of the land from another or from a public way and the owner cannot agree with the railroad as to the place or manner in which the owner shall cross, or if a crossing is inconvenient, either party may, in a case which does not involve the abolition of an at-grade crossing, apply to the county commissioners. The county commissioners may order the matter resolved. In no case however, shall the county commissioners order the railroad to construct or maintain a crossing without its consent, unless the railroad is liable by law or by agreement to construct a crossing. See MASS. ANN. LAWS ch. 160 § 109 (1994).

MICHIGAN

A farm crossing in Michigan shall be constructed and maintained by the railroad at the expense of the requesting party.

A railroad can permit the establishment of private crossings on such terms as may be negotiated between the requesting party and the railroad. See MICH. STAT. ANN. § 22.1263 (323) (2)-(3) (Law. Co-op. 1993).

MINNESOTA

Minnesota law provides that the Commissioner of Transportation, by December 31, 1992, shall adopt rules that establish minimum safety standards at all private railroad grade crossings in the state. See MINN. STAT. § 219.165 (1993).

MISSISSIPPI

Mississippi law lists no applicable statute.

MISSOURI

The Division of Transportation of the Department of Economic Development, after receiving application from any person, firm or corporation, has responsibility for determining if an existing or proposed private crossing is or will become utilized by the public to such an extent that is necessary to protect the public safety. If such is found to be the case, the division may order the installation of crossing warning devices and apportion the cost among the parties according to the benefits accruing to each. In the event of that the orders of the division are not complied with, the division may close the private crossing to public use. See MO. REV. STAT. § 389.610 (1993).

MONTANA

Montana law lists no applicable statute.

NEBRASKA

Nebraska law lists no applicable statute.

NEVADA

Nevada law lists no applicable statute.

NEW HAMPSHIRE

When it appears to the New Hampshire Department of Transportation that a private crossing and its adjacent approaches are being used to an extent that it may be considered a public highway, the Department may require the grade crossing to be laid out as a public highway, constructed and equipped as such. The railroad will not be charged with any of the cost involved. See N.H. REV. STAT. ANN. § 373:6-a (1993).

NEW JERSEY

New Jersey places duty upon the railroads to provide and keep in good repair suitable and convenient crossings over, under and across the railroad where it intersects the land of an individual (at a private crossing) and construct and maintain proper cattle guards at all such crossings. See N.J. REV. STAT. § 48:12-49 (1993).

NEW MEXICO

New Mexico law lists no applicable statute.

NEW YORK

New York law allows the Commissioner of Transportation regulatory authority over the new construction of private crossings. The Commissioner may also order alterations to existing ones. Any such private crossings must be located on an existing intercity rail passenger service corridor. If a new private crossing is approved by the Commissioner, he or she may prescribe the manner of the crossing, whether it is to be at-grade or grade separated, the location, the type of warning devices and the apportionment of responsibility for the maintenance thereof.

The statute defines "intercity rail passenger corridor as a continuous railroad route which contains one or more segments of railroad track or tracks where intercity rail passenger service is operation by the national rail passenger corporation" *Amtrak* (italics mine).

The statute also provides a definition for private crossings. "Private rail crossing shall mean a crossing which traverses a railroad track or tracks and may be used by the owner by the owner of the right-of-way, the owner's invitees and others, including the public, but has not been declared or recognized as a public rail crossing by the Commissioner." See N.Y. [R.R.] LAW § 97 (McKinney 1994).

NORTH CAROLINA

North Carolina law lists no applicable statute.

NORTH DAKOTA

North Dakota law lists no applicable statute.

OHIO

Ohio law provides that a person who owns fifteen or more acres of land in one body intersected by a railroad track in such a manner as to preclude freedom of movement by the owner to his land across the tracks may request that the railroad construct, within four months from the date of request, a good and sufficient private crossing. If the railroad neglects to construct the crossing, the landowner may proceed to build it himself. The railroad then becomes liable to the

landowner for all reasonable expense of the construction, not exceeding fifty dollars. See OHIO REV. CODE ANN. §§ 4955.27-.28 (Baldwin 1994).

OKLAHOMA

The railroad is required to build and maintain a causeway or other safe and adequate means for crossing when any person who owns land on both sides of the track makes a request for such a causeway. See OKLA. STAT. tit. 66, § 127 (1994).

OREGON

Oregon law refers to private crossings as "unauthorized crossings." The Public Utility Commission in Oregon has broad authority to regulate these unauthorized crossings. The Commission may order a railroad to install and maintain warning devices at an unauthorized highway-rail crossing and order the public authority in interest to install and maintain STOP signs at and other warning devices in advance of such crossing. The Commission has no authority to authorize the railroad to install automatic or train-activated warning devices. The costs of installation and maintenance of the devices are apportioned to the railroad, in the absence of an agreement to the contrary. See OR. REV. STAT. § 763.220 (1994).

PENNSYLVANIA

Pennsylvania law lists no applicable statute.

RHODE ISLAND

The Public Utilities Commission of Rhode Island has the authority to consent to the establishment of any new private crossing and to order that an existing private crossing be barricaded if found to be dangerous and a hazard to safety. See R.I. GEN. LAWS §§ 39-8-1.3 -1.4 (1994). Also see Section 39-8-1.2 for definition of private crossing.

SOUTH CAROLINA

South Carolina law lists no applicable statute.

SOUTH DAKOTA

South Dakota law provides that the Department of Transportation may order the railroads to construct and maintain a private farm crossing or other causeway when the tracks of the railroad pass through private land leaving a portion of the land on each side of the railroad right-of-way. See S.D. CODIFIED LAWS ANN. § 49-16A-86 (1994).

TENNESSEE

Tennessee law lists no applicable statute.

TEXAS

Texas law lists no applicable statute.

UTAH

Utah law lists no applicable statute.

VERMONT

Vermont law lists no applicable statute.

VIRGINIA

Virginia law lists no applicable statute.

WASHINGTON

Washington law lists no applicable statute.

WEST VIRGINIA

West Virginia law lists no applicable statute.

WISCONSIN

Wisconsin law lists no applicable statute.

WYOMING

Wyoming law lists no applicable statute.

CHAPTER 13: MISCELLANEOUS

CHAPTER OVERVIEW

This chapter is intended to present an overview of a number of different laws and requirements concerning highway-rail crossings not covered within the other chapters.

Not every state has an entry. The entries presented were selected by the author and represent no order of importance.

As in other chapters, the relevant citations are listed in the narrative.

STATE LAWS AND REGULATIONS

COLORADO

Colorado law requires railroads to pay all expenses of keeping public and private crossings planked and in good repair. See COLO. REV. STAT. § 40-24-104 (1994).

Where gates are constructed and maintained at farm crossings, it shall be the duty of the owner or the occupant of the fields or pastures so provided with gates to see that such gates are kept closed when not in use. If it can be shown that any such gate has been left open, the owner or occupant shall be held responsible for stock killed or damaged property. See COLO. REV. STAT. § 40-27-102(3) (1994).

CONNECTICUT

Connecticut law requires a railroad operating in the state to guard its rails by plank or otherwise at its own expense so as to secure a safe and easy way across its road at all highway-rail crossings. The Commissioner of Transportation has the authority, after receiving a complaint, to inspect any crossing at which the railroad is alleged to not be in compliance with this section and may order anything that he/she deems necessary to bring the crossing into compliance. See CONN. GEN. STAT. § 13b-294 (1992).

The Commissioner of Transportation in Connecticut is empowered to make regulations concerning the speed at which locomotives and cars shall cross highways and generally may make any order which he/she deems necessary for the convenience of the public relating to highway-rail crossings or obstruction of the highways by locomotives and cars. Any railroad company which violates any such order shall forfeit to the state fifty dollars for each day the violation occurs. See CONN. GEN. STAT. § 13b-342 (1992).

DISTRICT OF COLUMBIA

If the Mayor of the District of Columbia decides to pave or repave any of the streets over or along which railroad tracks are authorized to be constructed, the affected railroad company is required to assume the expense of the paving and/or the repairs to pavement between the rails and for a distance of two feet on either side of the tracks. See D.C. CODE ANN. § 7-1422 (1994).

IDAHO

Idaho law prohibits pedestrians from passing through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or being open or closed. See IDAHO CODE § 49-710 (1994).

ILLINOIS

At any highway-rail crossing outside the corporate limits of any municipality, the responsibility for clearing such crossings lies with the highway authority having jurisdiction. The highway authority is responsible for the removal of all obstructions to view, such as unauthorized signs and billboards, brush and shrubbery, and must trim all hedges and trees on the highway for a distance of not less than three hundred feet from each side of the crossing. See 605 ILCS 5/9-112 (1994).

INDIANA

Once any grade separation construction is completed, the Indiana Department of Transportation has the responsibility for maintaining the highway and the structures supporting it. The railroad shall have the responsibility to maintain its roadway and track and the structures supporting the same. See IND. CODE ANN. § 8-23-9-44 (Burns 1994).

Every railroad in the state whose road or tracks lie in any public street, road or alley in any city, town or county is responsible to properly grade, plank, grave or asphalt the road and tracks in accordance with the grade and surfacing material of any such street, road or alley.

If the affected railroad company fails to comply with the provisions of this section, the affected city, town or county may do the work themselves after thirty days written notice to the railroad. Having done the work, the unit of local government may recover the costs of doing the work by suit, in which case they may also collect attorney fees or the governmental unit may certify the amount owed to the county auditor and collect the money as a special tax to be collected along with property tax. See IND. CODE ANN. § 8-6-12-1-(2) (Burns 1994).

All gates and bars at farm crossings with railroad tracks are to be constructed, maintained and kept closed by the owner of the farm crossing. See IND. CODE ANN. § 8-4-33-5 (Burns 1994).

IOWA

Every railroad in Iowa is responsible to build, maintain and keep in good repair all construction necessary at highway-rail crossings. The railroad shall be liable for all damages sustained by any person by reason of neglect or violation of the provisions of this chapter. See IOWA CODE § 327F.2 (1993).

KANSAS

"The Board of County Commissioners of each county are authorized to cut all hedge fences, trees and shrubs growing upon the highway right-of-way boundary, within three hundred fifty feet of a highway-rail crossing ... and thereafter keep the same trimmed...". See KAN. STAT. ANN. § 19-2612 (1993).

Individual railroads are responsible to make and keep in good repair all their crossings with public highways. The railroads are responsible for grading, bridges, ditches and culverts that may be necessary to make a safe crossing. All such highway-rail crossings are to be not less than twenty-four feet in width on county roads or twenty feet in width on township roads and must be on the same grade as the track for thirty feet on each side of the center of the track. See KAN. STAT. ANN. § 66-227 (1993).

LOUISIANA

The governing authority of any municipality within which the tracks of a railroad cross a street or alley may require the railroad company to notify the authority in writing before commencing any work on the crossing. See LA. REV. STAT. ANN. § 3701 (West 1993).

MAINE

The Maine Department of Transportation has the authority to designate the highway-rail crossings in the state at which, from all points on the highway within three hundred feet of these crossing, a traveler can have a fair view (emphasis mine) of an approaching train continuously from the time the train is three hundred feet from the crossing until it has passed over the crossing, either under existing conditions or by bushes, trees, fences, signboards or encroachments being trimmed, cut down or removed. See ME. REV. STAT. ANN. tit. 23, § 7222 (West 1994).

When the Department of Transportation deems that trees, bushes or other encroachments are obstructing the view at highway-rail crossings and such a condition is dangerous to travelers, it may order the removal of any such obstacles. See ME. REV. STAT. ANN. tit. 23, § 7234 (West 1994).

The Maine Department of Transportation is authorized to fix a maximum speed limit for trains at highway-rail crossings and no engine or train may be run over the crossing at a speed greater than that fixed by the Department. Any violation of this section may cause a railroad corporation to forfeit not more than one hundred dollars for each violation. See ME. REV. STAT. ANN. tit. 23, § 7220 (West 1994).

MASSACHUSETTS

"If the view of a railroad crossing or highway at-grade is obstructed by standing wood in woodlands, the railroad corporation or ten citizens of a town may petition the county commissioners for the county where such crossing is situated for the removal of such standing wood ...". See MASS. GEN. LAWS ANN. ch. 160, § 150 (1994).

The Massachusetts Department of Transportation, upon petition, and after proper notice to the railroad corporation, may recommend to such railroad corporation any change that it considers proper to the sounding of whistles on locomotives. The Department may, by written order, forbid or regulate the sounding of whistles at any specified highway-rail crossings. See MASS. GEN. LAWS ANN. ch. 160, § 139 (1994).

MISSOURI

All railroads in Missouri are responsible for the maintenance of their right-of-way at highway-rail crossings. The crossing must be kept clear of vegetation, undergrowth or other debris for a distance of two hundred and fifty feet each way from the near edge of the crossing. See MO. REV. STAT. § 389.665 (1993).

NEW YORK

The responsibility of a railroad to maintain and keep in good repair a highway-rail crossing does not terminate upon the abandonment by the railroad of the crossing. Instead, the responsibility continues until the at-grade crossing has been removed and the highway pavement restored by the railroad and/or pursuant to agreements with the railroad by the state or municipality having jurisdiction. If an affected railroad has not removed an abandoned crossing within one year after the date of abandonment, the municipality with jurisdiction may petition the Commissioner of Transportation for an order compelling removal. See N.Y. [R.R.] LAW § 93-a (McKinney 1994).

OKLAHOMA

Every railroad in Oklahoma has a duty to construct a crossing across a public highway and maintain such crossing in good condition for the use by the public. In case any railroad fails to construct or maintain any crossing for thirty days after written notice by the road overseer of any road district, the Council or Board of Trustees of any city or town or fifty petitioners of any city or town, the railroad shall pay to the county, road district, city or town complaining, the sum of twenty-five dollars per day for every day the railroad fails to comply. See OKLA. STAT. tit. 66, § 128 (1994).

SOUTH CAROLINA

South Carolina law requires a railroad whose road is crossed by a highway or other way at-grade within the corporate limits of any city or town to guard and protect its rails by plank, timber or otherwise so as to secure a safe and easy passage across its road. See S.C. CODE ANN. § 58-17-1350 (Law. Co-op. 1994).

TENNESSEE

All railroads in Tennessee are required to maintain or construct a plane with the rails of the railroad and to keep in good repair every public road crossing where the railroads intersect for a distance of ten feet on each side of the railroad track and between the rails. See TENN. CODE ANN. § 65-11-103 (1994).

TEXAS

Every railroad corporation in the state of Texas is required to keep that portion of its roadbed and right-of-way over or across any public county road in proper condition for use by the traveling public. In the event the railroad fails to comply with this requirement within thirty days after receiving written notice to do so from by the overseer of such public road, it shall be liable for a penalty of ten dollars for each week it is in noncompliance. See TEX. REV. CIV. STAT. ANN. art. 6327 (1995).

Railroads are required to keep that portion of their roadbed and right-of-way over or across any public street of any incorporated town or village, in proper condition for the use of the traveling public. In the event the railroad fails to comply with these requirements within thirty days after written notice by the town Marshall of the affected town or village, it will be liable for a penalty of twenty-five dollars for each week it is in noncompliance. See TEX. REV. CIV. STAT. ANN. art. 1151 (1995).

WASHINGTON

Every railroad is required to keep its right-of-way clear of all brush and timber in the vicinity of a railroad grade crossing with a county road for a distance of one hundred feet from the crossing so as to allow a person an unobstructed view in both directions of an approaching train. Likewise, the county legislative authority shall keep their right-of-way clear for one hundred feet in both directions. See WASH. REV. CODE § 36.86.100 (1994).

Every railroad is required to keep its right-of-way clear of all brush and timber in the vicinity of a railroad grade crossing with a state highway for a distance of one hundred feet from the crossing so as to allow a person an unobstructed view in both directions of an approaching train. Likewise, the Washington Transportation Department is responsible to clear their right-of-way in the same manner and for the same distance. See WASH. REV. CODE § 47.32.140 (1994).

The right to fix and regulate the speed of a railway train within the limits of any city or town other than a first class city and at-grade crossings outside the limits of cities and towns is vested exclusively in the utilities and transportation commission. This does not apply to street railways which may now or in the future be operating within the limits of cities and towns. See WASH. REV. CODE § 81.48.030 (1994).

WISCONSIN

Every railroad company owning or operating tracks crossing streets or highways at-grade must keep the surface of the crossings between the tracks and rails and extending to a point four feet on either side of the outside rails, in good condition and in good repair for highway travel. The county board or the common council, village board or town board of the municipality in which

the subject crossing is located may, by resolution, order the affected railroad to pave, plank, repair, change or otherwise improve the crossing.

In the event a railroad fails to comply with any such resolutions within thirty days after service, the affected county board, common council, village board or town board may file a complaint with the Office of the Commissioner of Railroads which shall investigate and make a determination in the matter. See WIS. STAT. § 86.12 (1993).

Every railroad in Wisconsin must keep its right-of-way clear of brush or trees for a distance of at least three hundred thirty feet in each direction from the center of its intersection with any public highway, and for such further distance as is necessary to provide an adequate view of approaching trains. See WIS. STAT. § 195.29(6) (1993).

Wisconsin law provides that any governing body of any city or village or any railroad corporation may make petition to the Office of the Commissioner of Railroads alleging that any railroad crossing of one or more public highways or streets in the city or village is dangerous to human life and that public safety requires a designation of the maximum speed of the train over the crossing(s) of concern. The Office of the Commissioner of Railroads may then by order determine the maximum speed of a train over the crossing based on a determination of what is reasonably required for public safety and consistent with the public need for expeditious passenger and freight service. When the Office has designated the maximum speed of any train over the crossing, the rate of speed becomes the lawful maximum speed and the railroad may not exceed it under penalty of a fine of not less than ten dollars nor more than one hundred dollars. See WIS. STAT. § 192.29 (1994).

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**COMPILATION OF STATE LAWS AND REGULATIONS
AFFECTING HIGHWAY-RAIL GRADE CROSSINGS**

SECOND EDITION

**COMPILED AND EDITED BY
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August 1995

PREFACE

COMPILATION OF STATE LAWS AND REGULATIONS ON MATTERS AFFECTING HIGHWAY-RAIL CROSSINGS, Second Edition makes a unique contribution to the grade crossing safety literature.

This compilation is presented as the second edition to the original publication which came out in 1983 even though a part of the title has been changed from RAIL-HIGHWAY grade crossings to HIGHWAY-RAIL grade crossings.

In this Second Edition, the scope of inquiry has been expanded to include subjects that were not examined in the predecessor publication. Also, in this addition references to the Uniform Traffic Code have been eliminated so as to direct the focus more fully to each state's laws and regulations. Each subject corresponds to a chapter and each chapter's contents are discussed in an effort to provide the reader with an overview of the subject matter being presented. Each individual state's laws or regulations concerning the subject has been listed and presented in a meaningful manner.

The following new subjects have been added: "Trespassing," "Vandalism," and "Private Crossings". These additions reflect the increased concern among government policy makers, railroads, and state and regional transportation agencies regarding safety as we usher in the era of the high-speed train.

Each subject area is addressed from a practical orientation, making it an invaluable resource for both students and practitioners. Although it is written in everyday language for use by laymen, it is also intended to serve as a comprehensive legal reference.

This book was prepared under the sponsorship of the Federal Railroad Administration (FRA), Office of the Chief Counsel, and the Office of Safety. I acknowledge with sincere appreciation the contributions of Messrs. Mark Tessler, from the Office of the Chief Counsel and Bruce George, of the Office of Safety. Additional gratitude goes to Ms. Barbara Belk, also of the FRA's Office of Safety.

I would like to extend special appreciation to Ms. Shelli Alexander for her thorough research, without which this book could not have been written, and to Angie Calzetta, and Traci Bidinger of Applied System Technologies, Inc. for their valuable editorial review and assistance.

Finally, I extend a special thanks to Professor Eugene Russell, Sr. and his colleagues at Kansas State University for their fine efforts in producing the first edition of this book.

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Alaska						X		X	X				
Arizona		X	X	X	X	X		X	X	X	X		
Arkansas		X	X		X	X		X	X				
California		X	X		X	X		X	X	X	X	X	
Colorado		X	X		X	X		X	X		X		X
Connecticut		X	X		X	X		X	X		X	X	X
Delaware		X	X	X				X	X	X	X		
District of Columbia		X	X	X					X				X
Florida		X	X	X	X	X	X	X	X		X	X	
Georgia		X	X	X	X	X		X	X	X	X		
Hawaii			X		X			X	X		X		
Idaho		X	X	X		X		X	X		X		
Illinois		X	X	X		X		X	X	X	X		X
Indiana		X	X	X	X	X	X	X	X	X			X
Iowa		X	X	X		X	X	X	X		X	X	X
Kansas		X	X	X	X	X		X	X		X	X	X
Kentucky		X	X	X	X	X	X	X	X	X			
Louisiana			X		X	X		X	X	X	X		X
Maine		X	X		X	X	X	X	X	X	X	X	X
Maryland		X	X		X			X	X		X	X	
Massachusetts		X	X	X	X	X	X	X	X	X	X	X	X
Michigan		X	X	X	X			X	X	X	X	X	
Minnesota		X	X		X	X	X	X	X	X	X	X	
Mississippi		X	X	X	X	X		X	X				
Missouri		X	X	X		X	X	X	X	X		X	X
Montana		X	X	X	X	X		X	X				
Nebraska		X	X	X	X	X		X	X		X		
Nevada		X	X		X	X		X	X				
New Hampshire		X	X	X	X	X		X	X	X		X	
New Jersey		X	X	X	X	X	X	X	X	X	X	X	
New Mexico		X	X		X	X		X	X				
New York		X	X	X	X			X	X	X		X	X
North Carolina		X	X					X	X		X		
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Pennsylvania		X	X	X				X	X				
Rhode Island		X	X	X	X	X	X	X	X	X	X	X	
South Carolina		X	X	X	X	X		X	X		X		X
South Dakota		X	X	X	X			X	X		X	X	
Tennessee		X	X		X	X	X	X	X		X		X
Texas		X	X	X	X	X	X	X	X	X	X		X
Utah		X	X	X		X		X	X				
Vermont		X	X	X	X	X	X	X	X		X		
Virginia		X	X	X		X	X	X	X	X	X	X	
Washington		X	X		X	X	X	X	X		X		
West Virginia		X	X	X	X	X		X	X	X	X		
Wisconsin		X	X	X	X	X	X	X	X	X	X		X
Wyoming		X	X				X	X	X		X		

CHAPTER 1: INTRODUCTION

BACKGROUND

The Federal Railroad Administration has identified roughly 280,000 highway-rail crossings in the United States. For the most part, jurisdiction over highway-rail grade crossings resides with the states. Within some states, responsibility is divided among several public agencies and the railroad. In other states, jurisdiction over the crossing is assigned to a regulatory agency referred to as a Public Utilities Commission, Public Service Commission or similar designation. Still other states divide the authority among public administrative agencies of the state, county and city having jurisdiction and responsibility for their respective highway systems.

State and local law enforcement agencies have the responsibility for the enforcement of traffic laws at highway-rail crossings. In a number of cases, local government bodies are given responsibility for operational matters related to crossings, and they do this through ordinances.

The first comprehensive listing of all the state laws pertaining to highway-rail crossings was compiled in the initial edition of this book produced in 1983.

PURPOSE AND SCOPE

The second edition of Compilation of State Laws and Regulations on Matters Affecting Highway-Rail Crossings provides an up-to-date and more expansive look at the various state laws and regulations concerning grade crossings. The laws and regulations of all fifty states and the District of Columbia concerning highway-rail crossings are compiled into one comprehensive, easy-to-use document. Making a unique contribution to the grade crossing literature, this book provides a one-stop reference for researchers, engineers, students and legal practitioners.

What is presented is a comprehensive, carefully compiled and edited collection of state laws and regulations concerning highway-rail crossings. It is intended as a reference tool for those working in the highway-rail crossing safety field. As with the first edition, this document is intended to be useful in assessing differences among states, in seeking desirable and undesirable laws and in conducting legal research.

A number of changes have been made in this second edition. The book is now organized by subject rather than by state. Three new subjects have been added, all references to the Uniform Vehicle Code (UVC) have been eliminated and each state law or regulation pertaining to an individual subject is discussed and referenced. Subjects, topics and key words are alphabetized and indexed. Lastly, the relevant state statutes and regulations have been copied and are appended to the book allowing further in-depth reference.

The material collected for this book was obtained using 1994 laws and reflects current law as of May 1995.

CHAPTER 2: CROSSING CONSOLIDATIONS AND CLOSINGS

CHAPTER OVERVIEW

In the majority of states, the overall authority for highway-rail crossing safety and the authority to order the consolidation or elimination of at-grade crossings lies with the state agency that regulates and oversees transportation.

In a small number of states, the responsibility for crossing elimination is vested in regulatory bodies. These are referred to by different names, including the Public Utility Commission and the Corporation Commission. A couple of states provide for shared responsibility among a state agency and a unit of local government while a few more provide for shared responsibility among the DOT and another state agency.

The agency charged with the responsibility for elimination or abolishment as the process is often called, has not changed a great deal since the original publication of this book. In the few instances where the responsible agency is different, it was the result of the powers and functions of the agency being assumed by another agency. For example, in Missouri, the agency originally responsible for grade crossing regulation was the Public Service Commission (PSC). The powers, functions and duties of the PSC with respect to grade crossing safety were transferred to the Division of Transportation of the Department of Economic Development.

This chapter presents a brief overview of the procedures for grade crossing elimination on a state-by-state basis. The state agency with statutory authority to order the elimination of a grade crossing is identified along with a discussion of whether the authority is exclusive or shared. Each state's entry concerning the subject is followed by the appropriate citation(s).

STATE LAWS AND REGULATIONS

ALABAMA

The Alabama Department of Transportation has statutory authority to abandon and discontinue grade crossings when, in its judgement, the grade crossing has ceased to be necessary for the public as part of any state highway.

With respect to at-grade crossings on a municipal or county highway, street or right-of-way of any railroad within the state whenever, in the judgement of the Department of Transportation, the grade crossing is dangerous, redundant or the enhancement of public safety resulting from the closing outweighs any inconvenience caused by rerouting the vehicular traffic. Any such action to be taken by the Department of Transportation concerning an at-grade crossing on a municipal or county highway must have the approval of the city or governing body.

Whenever the Department orders the closing of a grade crossing, it must enter its order in the department minutes. Notice in writing is given by the Department by posting a notice on each side of the railroad or street railway at the grade crossing for a period of 30 days. If the closing is a crossing on a county or municipal road, prior to issuing the order to close the crossing, the Department must also give notice of its intention to close to the affected municipality or county. In

addition, the Department must publish legal notice of intention to close the crossing in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the closure. The notice must outline the procedure to request a hearing. If there is such a request for hearing, the Department must give ten days' notice to the requester and the municipality or county. See ALA. CODE § 37-2-84 (a)-(b)-(c) (1994).

ALASKA

No relevant code section exists in Alaska.

ARIZONA

The Arizona Corporation Commission has the power to alter or abolish highway-rail grade crossings within the state. This authority extends to those crossings lying within the jurisdiction of individual cities and towns. See ARIZ. REV. STAT. ANN. § 40-337 (1994).

ARKANSAS

The "Railroad Safety and Regulatory Act of 1993" grants the Arkansas Highway Commission exclusive jurisdiction concerning the location, construction, improvement and equipping of highway-rail crossings.

Although the statute does not specifically mention elimination, the General Assembly designated the highway commission as the sole public body to deal with crossings in an effort to promote public safety by establishing uniformity regarding matters relating to railroad crossings. See ARK. CODE ANN. §§ 23-12-1001-1002 (Michie 1994).

CALIFORNIA

The California Public Utilities Commission has exclusive authority to abolish any crossing of a public or publicly used road or highway by a railroad or street railroad and of a street by railroad. See CAL. [PUB. UTIL.] CODE § 1202 (a)-(b) (West 1994).

COLORADO

The Colorado Public Utilities Commission has the power, upon its own motion or upon complaint of an interested party, to order the abolishment of a highway-rail grade crossing. The process requires a hearing before which all interested parties, including the owners of any adjacent property, must be given due notice. See COLO. REV. STAT. § 40-4-106(2)(3) (1994).

CONNECTICUT

The Commissioner of Transportation is granted exclusive authority to close highway-rail grade crossings.

The process may be initiated upon written petition to the Commissioner by the selectmen of any town, the mayor and common council of any city or the warden and burgesses of any borough within which a highway crosses a railroad. This also applies to the directors of any railroad company whose track is crossed by a highway. The Commissioner appoints a time and place for hearing the petition and gives notice to the petitioners.

Nothing in the statute precludes the Commissioner from initiating a petition on his own when, in his opinion, public safety demands it. See CONN. GEN. STAT. §§ 13b-270-345 (1992).

DELAWARE

The Delaware Department of Transportation has the authority to order the closing of highway-rail crossings. See DEL. CODE ANN. tit. 2 § 1804 (1994).

DISTRICT OF COLUMBIA

In the District of Columbia, current law forbids the construction of any at-grade crossings now or in the future. However, the mayor has authority to order a grade crossing elimination. See D.C. CODE ANN. § 7-137 (1994).

FLORIDA

The Florida Department of Transportation has regulatory authority over all public highway-rail grade crossings in the state.

A public highway-rail grade crossing is defined in the Florida statute as any location at which a railroad track is crossed at-grade by a public road.

The Department is mandated to work with the various railroad companies to develop and initiate a program for the expenditure of funds for the performance of projects aimed at reducing grade crossing hazards. See FLA. STAT. ANN. § 335.141 (West 1994).

GEORGIA

The Georgia Department of Transportation has the authority for final approval of grade crossing eliminations. The statute indicates that, when necessary in the interest of public safety, the unit of local government with jurisdiction may authorize and direct the elimination of a grade crossing by construction of an overpass or underpass, provided that no grade crossing shall be eliminated without prior approval from the DOT.

Once a decision is made by either entity, prompt notice must be given to the affected railroads. All parties must meet within thirty days and must further agree on a method of closure

and separation within ninety days. If there is no agreement within the specified time, the department, county or municipality may proceed with construction or may, by written order, direct the interested railroads to proceed with construction. See GA. CODE ANN. §§ 32-6-193-194 (1994).

HAWAII

No relevant code section exists in Hawaii.

IDAHO

The Idaho Transportation Department has full authority to negotiate and enter into an agreement with the railroad companies to provide for crossing elimination on state highways. There is nothing in the statute, however, to indicate that the Idaho Transportation Department has exclusive authority to order elimination of any crossing

For crossings not on state highways, the local authorities and railroad companies have the same authority (to negotiate and enter into agreements) with respect to the elimination or alteration of such crossings as are granted to and required of the Idaho Transportation Department and railroad companies. See IDAHO CODE §§ 62-301-303 (1994).

The authority to order elimination in the event the affected parties cannot agree lies with the Public Utilities Commission. In the event a new crossing at grade or an overpass or underpass has been or shall be constructed at any new location, or whenever the closing and abandonment of an existing crossing is in the interest of and reasonably necessary for the public safety, or an existing crossing is no longer reasonably necessary as a public crossing for any reason, then the old grade crossing shall be deemed to be unnecessary and may be eliminated and discontinued. If any objection is made to the elimination and discontinuance of any crossings, either of the affected parties may petition the Public Utilities Commission for an order to eliminate or discontinue an old grade crossing. If the commission determines that the closing and abandonment of any such crossing is in the interest of, and reasonably necessary for the public safety, it may make an order accordingly. See IDAHO CODE § 62-305 (1994).

ILLINOIS

The Illinois Commerce Commission has statutory authority to order the elimination of a highway-rail grade crossing. After a hearing, the commission has the power to require major alteration of or to abolish any crossing heretofore or hereafter established when, in its opinion, the public safety demands it. This authority does not extend to grade crossings in cities, villages and incorporated towns of one million or more inhabitants.

The commission can prescribe, after a hearing of all the parties, the terms upon which any separation is to be made and the proportion in which the expense of any alteration or abolition of such crossings or the separation of such grades is to be divided between the affected rail carrier(s) or between such carrier(s) and the state, county, municipality or other public authority in interest.

The statute also provides that no grade crossing can be permanently closed without first holding a public hearing and notice of such hearing being published in an area newspaper of local general circulation. See 625 ILCS 5/18c-7401(3) (1994).

INDIANA

Indiana law gives the Indiana Department of Transportation the authority to order closed and abolished as a public way within the limits of a railroad right-of-way, any grade crossing then in existence at the time the Department assumes jurisdiction of the matter. The Department's order must be based on a determination that the enhancement of public safety resulting from the closing will outweigh any inconvenience caused by rerouting traffic.

The authority of the Department to legally close and abolish grade crossings is in addition to any authority by law granted to other state agencies or units of local government.

Upon the issuance of any such order by the Department, the railroad(s) involved is to physically remove the crossing from the tracks. The government unit responsible for maintaining the highway is to remove approaches to the crossing or barricade them. See IND. CODE ANN. § 8-6-7.7-3 (Burns 1994).

IOWA

Whenever a railway track crosses or is planned to cross a highway, street or alley, the affected railroad and the Iowa Transportation Department in the case of a primary highway, the board of supervisors of the county in which the crossing at issue is located in the case of secondary roads or the council of the city in the case of streets and alleys located within a city, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing. See IOWA CODE § 327G.15 (1993). See also chapter on crossing treatment procedures.

KANSAS

The Kansas State Corporation Commission and the Secretary of Transportation both have the authority to close and abolish grade crossings on city, county or township roads that are in proximity to crossings on which safety devices have been ordered subject to the approval of the governing body of such city, county or township. See KAN. STAT. ANN. § 68-509 (1993).

KENTUCKY

The Kentucky Department of Transportation has the authority to order any railroad company owning or operating a railroad in the state to eliminate any grade crossing.

The Department is responsible for the promulgation of administrative regulations containing standards that govern the closure of public grade crossings. The standards reflect the intent of the legislation, i.e. that public safety will be enhanced by reducing the number of redundant and inherently dangerous grade crossings.

On or before July 1, 1993, on or before July 1 of each of the next four years and as necessary thereafter, the Department must compose a list of grade crossings to be closed. See KY. REV. STAT. ANN. § 177.120 (1)(2)(3) (Baldwin 1994).

LOUISIANA

No relevant code section exists in Louisiana.

MAINE

The Maine Department of Transportation has the authority to close or discontinue a crossing. The Department can issue an order after notice of not less than ten days to the railroad and municipality or after a hearing if requested within the ten days either by the railroad or the municipality. See ME. REV. STAT. ANN. tit. 23 § 7207 (West 1994). Also see ME. REV. STAT. ANN. tit. 23 § 7231 (West 1994).

MARYLAND

The Maryland Highway Administration and the State Secretary of Transportation have general authority to abandon, relocate, construct or reconstruct any railroad grade crossing or grade separation that is dangerous or inconvenient for public travel. See MD. ANN. CODE art. 8 § 639 (1994). Also see MD. ANN. CODE art. 8 § 640 (1994).

MASSACHUSETTS

The Department of Public Utilities has the authority to order grade crossing closure.

The Department of Highways plays a supporting role by investigating crossings where a public or private way and a railroad cross each other at-grade. The Department receives petitions for the abolition of grade crossings from the aldermen of a city, the selectmen of a town, the commissioners of the county where such a crossing exists or the board of directors of the railroad corporation operating the railroad crossed. After a hearing, due notice of which is given to the railroad corporation, city or town and county, the Department may, in its discretion, place a crossing on one of its lists.

The Department must file its list on or before October 1 of each year with the Department of Public Utilities. After giving due notice to the Department of Highways, the counties and municipalities in which the identified crossings are located and the affected railroad corporations, the Department of Public Utilities proceeds to hold public hearings on the list. When the hearings are completed, the Department orders a program of grade crossings. The program can be amended or revised from time to time by the Department of Public Utilities on requests from the Department of Highways. See MASS. ANN. LAWS ch. 159, §§ 65-70 (Law. Co-op. 1994).

MICHIGAN

The Michigan Department of Transportation has sole authority to order the elimination of highway-rail crossings. The Department, when it determines that it is necessary for public safety, may change the location of or abolish any existing public at-grade crossing after not less than thirty days' notice in the affected areas. If an affected party requests a hearing, the Department must hold one, and within thirty days after the date of the hearing, can issue an order to close the existing grade crossing. See MICH. STAT. ANN. § 22.1263(307)(2) (Law. Co-op. 1993).

MINNESOTA

In Minnesota, the Transportation Regulation Board has ultimate authority to order grade crossing closure when local public entities cannot agree on a method of closure. If the local government agency in authority and the railroad cannot agree, either party may petition the Transportation Regulation Board asking for a determination. The board is then required to conduct a hearing and make a determination.

The Commissioner of Transportation may also bring matters concerning closure to the board for determination. The Commissioner is required by law to submit a list of grade crossings proposed to be vacated to the board on or before July 1 of each year until 1996.

The Commissioner is charged with the responsibility for the adoption of rules containing standards governing the vacation and separation of public at-grade crossings. See MINN. STAT. §§ 219.14-219.073 (1993).

MISSISSIPPI

The Mississippi Transportation Commission has statutory authority to regulate and abandon grade crossings on any fixed route as part of the state highway system. See MISS. CODE ANN. § 65-1-8 (1994). The State of Mississippi maintains a Grade Crossing Closure Account whose funds may be used for the following purposes: financial aid for closure of public roadway/railroad grade crossings; realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing; monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad. See MISS. CODE ANN. § 57-43-13 (1994).

MISSOURI

The Division of Transportation of the Department of Economic Development has exclusive power to alter or abolish a crossing, at-grade or otherwise, of a railroad by a public road whenever the division finds that public convenience and necessity will not be adversely affected and public safety will be promoted by altering or eliminating the crossing.

This authority extends to private crossings in specific instances in which it is determined that the private crossing is being used by the public to the extent that it is necessary to protect and promote public safety. See also the private crossing section under Missouri. See MO. REV. STAT. § 389.610 (1993).

MONTANA

The Montana Code does not provide specific authority to close highway-rail grade crossings to any public agency. General authority over highway-rail crossings is vested in the Montana Public Service Commission. Local authority to construct new highway-rail crossings is provided for in the Code. Local authority means the Board of County Commissioners. See generally MONT. CODE ANN. §§ 69-14-607 (1994).

NEBRASKA

The authority for closure seems to be left to mutual agreement between the owner of the railroad tracks and the Board of the county in which the crossing in question is located. This authority does not extend to at-grade highway-rail crossings within incorporated cities and villages.

The Public Service Commission does have authority to order alteration, relocation or construction of a highway-rail grade crossing if there is disagreement between the railroad company and the county board. Either party can file an application with the commission after which the commission will hear the application and enter its order. See generally NEB. REV. STAT. §§ 75-415-416-417 (1994).

NEVADA

The Nevada Public Service Commission has the authority for closure of existing highway-rail crossings.

After an investigation and hearing, the commission may decide on the closure, alteration, addition or change of a highway-rail crossing. See NEV. REV. STAT. § 704.300(2) (Michie 1993).

NEW HAMPSHIRE

The Department of Transportation has statutory authority to order closure.

Whenever, after hearing upon petition or upon its own motion, the Department concludes that public safety requires the closing of any public or private crossing, at-grade or above or below the railroad, it can order the closing. See N.H. REV. STAT. ANN. §§ 373:4-373:2-373:22 (1993).

NEW JERSEY

The Commissioner and the Department of Transportation have statutory authority to order closure of or alterations to existing highway-rail crossings.

When, in the judgement of the Commissioner and the Department, crossings are dangerous to public safety or impede public travel, the Department may order the railroad(s), to alter such crossings within such time as the Department specifies by grade separating the crossing. If in the judgement of the Department, the owners of the public or private property will be unduly injured

by the elimination of the crossing, the Department can order the railroad(s) to relocate the tracks. See N.J. STAT. ANN. § 48:12-61 (West 1993). Regarding schedules for elimination, see N.J. STAT. ANN. § 48:12-68 (West 1993). Also see N.J. STAT. ANN. § 54:39-72 (West 1993) regarding funding.

Within the New Jersey Highway Department, has authorization to undertake, directly or by contract, the entire expense of eliminating or relocating a highway and railroad at grade. In the event the total cost is borne by the state, the expense of closing, abandoning or combining any existing road or highway shall be borne solely by the affected railroad or railroads. Where the cost of construction is divided between the state and the affected railroad company, the share to be borne by the railroad shall be five percent. See N.J. STAT. ANN. §§ 48:12-77 -12A-21 (West 1993).

NEW MEXICO

The statute does not specifically mention any authority for closure. It does provide for grade separation procedures.

Whenever a state, county, municipal or other street or highway, including a highway which is or may be designated as a part of the federal-aid highway system, is constructed or reconstructed so as to cross or intersect a railroad, the State Highway Commission or other governing body may separate the grades at the highway-rail crossing if, in its opinion, it is practicable and reasonably necessary for the protection of the traveling public.

Whenever the public authority is unable to agree with the railroad as to the grade separation and the methodology for carrying it out, the public authority may petition the district court of the county in which the intended separation is located. See N.M. STAT. ANN. § 63-3-37 (Michie 1994).

NEW YORK

The power to order the elimination of a highway-rail crossing lies with the Commissioner of Transportation.

Any railroad company or governing body of a municipality which contains a highway-rail crossing can petition the Commissioner to institute grade crossing elimination procedures.

The Commissioner may hold public hearings on any elimination requested by petition after giving due notice to the parties in interest. After the conclusion of the hearing, the Commissioner shall, by order, determine whether it is in the public interest to require the elimination of the highway-rail grade crossing. In any elimination order, the procedures for elimination are to be specified. See N.Y. [TRANSP.] LAW § 222 (McKinney 1994). Also see N.Y. [TRANSP.] LAW § 10 (McKinney 1994) listing powers and duties of the Commissioner generally.

NORTH CAROLINA

In North Carolina, grade crossing elimination is a shared responsibility depending on the designation of the road that crosses the railroad tracks at-grade.

The Public Utilities Commission has authority to abolish grade crossings in a road or street not forming a link in part of the state highway system. That authority allows them to designate who pays in what proportion for the elimination and separation of the crossing. The amounts are based on the same formula provided for grade crossing elimination on the state highway system. See N.C. GEN. STAT. § 62-237 (1994).

In North Carolina, the Secretary of Transportation has statutory authority to order crossing closure on roads or streets forming a link in part of the state highway system. If in the opinion of the Secretary the crossing is dangerous to the traveling public or unreasonably interferes with or impedes traffic on the state highway, the Department of Transportation issues notice requiring the person or company operating the affected railroad to appear before the Secretary at an appointed time not less than ten days or more than twenty days from the date of the notice and show cause if any why the railroad should not be required to make adjustment to the crossing or close it. After hearing the matter, the Secretary will determine whether the crossing is dangerous to public safety or unreasonably interferes with traffic. If an affirmative conclusion is reached, the Secretary can order either closure or separation. See N.C. GEN. STAT. §§ 136-20, 160A-298 (1994). A city has authority also to order crossing elimination. See N.C. GEN. STAT. § 160A-298 (1994).

NORTH DAKOTA

The North Dakota Public Service Commission has authority to order the closure of highway-rail grade crossings if no agreement can be reached by the public officials having the necessary authority and the railroad. Either party to the dispute can file a petition with the commission, thereby submitting the matter for determination.

The commission, after receiving the petition, must give reasonable notice, conduct a hearing, and then issue its order. N.D. CENT. CODE § 24-09-10 (1993).

OHIO

The authority for the alteration or elimination of highway-rail crossings lies with the local government.

Both the legislative authorities of municipal corporations and the boards of county commissioners are vested with the authority to institute proceedings necessary for the abolition of grade crossings.

Both entities are given authority to meet with the affected railroad corporation to devise a plan for altering, abolishing and changing the approaches to or the location of the railroad, public way or the grades so as to avoid an at-grade crossing.

The Board of County Commissioners is granted the same powers as are conferred upon municipal corporations to alter or require to be altered any railroad crossing for that part of a state, county or township road which lies within the limits of a municipal corporation.

When a grade crossing exists on a county line road, the respective boards of county commissioners are allowed to join in all the proceedings necessary for grade crossing elimination.

When it does become necessary, on the part of a municipal corporation or county, to join with a railroad company, the legislative authority of the municipal corporation by a two-thirds vote of all the members or the Board of County Commissioners by a unanimous vote, can declare a necessity and intent to abolish a grade crossing. The resolutions of both entities can contain the manner in which the eliminations are to be made, the method of constructing any new crossings, by whom the construction is to be done and how the cost is to be apportioned.

Any time a resolution is passed by either entity, it must be published. Notice of the passage of a resolution must be given to the affected parties and the owners of the property adjacent to the proposed improvement. See OHIO REV. CODE ANN. §§ 4957.01-4957.02-4957.09 (Baldwin 1994).

OKLAHOMA

The Oklahoma Corporation Commission has full statutory authority over all public highway-rail crossings. This authority is inclusive of the right to order elimination. See OKLA. STAT. tit. 17, § 81 (1994). Also see OKLA. STAT. tit. 17, § 84 (1994).

OREGON

The Public Utility Commission has statutory authority to eliminate highway-rail grade crossings.

The commission, either upon its own motion or upon an application by a railroad, the public authority in interest or the Oregon Department of Transportation, may find, subsequent to a hearing, that elimination is required in the interest of public safety, necessity, convenience and general welfare. See OR. REV. STAT. §§ 763.030 - .013 (1994). Also see section under private crossings OR. REV. STAT. § 763.220.

PENNSYLVANIA

The Pennsylvania Public Utility Commission has exclusive authority to eliminate highway-rail grade crossings. After due notice and proper hearing to all parties in interest, the commission may order any crossing relocated, altered, suspended or abolished.

Upon a finding of immediate danger to the safety and welfare of the public, the commission may order an immediate alteration, improvement or suspension. Any order for suspension must include the following for protection of the motoring public:

- 1) Removal or covering of crossing warning devices.
- 2)
 - (a) Paving over the tracks.
 - (b) Removing the tracks and paving over the area formerly occupied by the tracks.
 - (c) Barricading the crossing.

Within a township, borough or city, the Court of Quarter Sessions of the county may close a crossing upon petition of the railroad company and declare as a public highway any overgrade or undergrade substitution that is to then be maintained by the proper authorities. See PA. CONS. STAT. §§ 2702-2111 (1994).

RHODE ISLAND

In the exercise of the police power of the state for the safety of its inhabitants, the state legislature vests in the Public Utilities Commission the authority to eliminate highway-rail grade crossings. The statute further states that the commission shall have this authority even if, by its order, it effectively deprives a municipality of control of its streets. See R.I. GEN. LAWS § 39-8-1.1 (1994). No railroad shall not be allowed to lay its tracks across any railroad, street, highway, turnpike or traveled way at grade, except by the consent of the commission. See R.I. GEN. LAWS § 39-8-3 (1994).

SOUTH CAROLINA

The South Carolina Department of Transportation has general authority over highway-rail crossings. See S.C. CODE ANN. § 58-17-1450 (1993).

SOUTH DAKOTA

The South Dakota Department of Transportation has the ultimate authority for determining the necessity to eliminate grade crossings.

The Department, along with the Board of County Commissioners, has a statutory duty to eliminate all railroad crossings and other dangerous places on the state trunk and county highway systems.

The Department can order that any existing or planned crossing be relocated, altered or abolished upon its own motion or upon complaint and after a hearing and notice to all interested parties, including the owners of adjacent property and the affected railroad company. See S.D. CODIFIED LAWS ANN. §§ 31-27-1, 31-27-4 - 31-27-12 (1994).

TENNESSEE

The Department of Transportation, through the discretion of the Commissioner or the commissioner's designee, has the authority to eliminate grade crossings whenever the crossing elimination is necessary for the protection of persons traveling on the highway or railroad.

The affected railroad company has the right to appeal to the public service commission but only with regard to the period of time required to comply. The public service commission has the authority to stay the order of the Commissioner for the actual construction for any length of time not exceeding two years. See TENN. CODE ANN. §§ 65-11-107-108-109(1994).

TEXAS

The statute makes no mention of closures of existing grade crossings.

There exists within the Texas Revised Civil Statutes, a provision for grade crossing elimination within every incorporated city or town (including home rule cities) having a population of more than one hundred thousand inhabitants. See TEX. REV. CIV. STAT. ANN. art. 1105c (West 1995).

UTAH

The Utah Department of Transportation has exclusive authority to order the closure of highway-rail grade crossings. See UTAH CODE ANN. § 54-4-15 (1994).

VERMONT

The Vermont Transportation Board has statutory jurisdiction to determine what alterations, changes or removals, if any, shall be made and by whom. See VT. STAT. ANN. tit. 30, §§ 1901-1906 (1994).

VIRGINIA

The Virginia State Corporation Commission has the ultimate authority to order the elimination of grade crossings. Proceedings to eliminate existing grade crossings may be initiated by the Board of Supervisors or other governing body of any county or, in the case of a city or town, by the council or other government. If the governing body representing the county or city or town cannot reach an agreement with the affected railroad(s) regarding any of the matters concerning the procedure, they may petition the commission for a hearing. The commission then serves the affected railroad with copies of the petition and the plans and specifications. The railroad has twenty days to file an answer setting out its objections to the proposed project. The commission then hears and determines the matter.

In the case of highway-rail crossings on a state highway, the state Highway and Transportation Commissioner and the affected railroad(s) may enter into agreement concerning all matters and issues with regard to elimination. If they are unable to agree on any aspect of the process, the Commissioner may petition the state corporation commission. The commission then

notifies the railroad in the same manner as outlined for units of local government. See VA. CODE ANN. §§ 56-365-366.1 (Michie 1994). Also see VA. CODE ANN. § 56-366.2 (Michie 1994) regarding municipalities.

WASHINGTON

The Washington State Utilities and Transportation Commission has authority to order closure of existing crossings except for those located within first class cities, such as Seattle. There is no statutory authority upon which to force closure within those cities. See WASH. REV. CODE §§ 81.53.030-060 (1994).

WEST VIRGINIA

The Road Commissioner may require any railroad company, owning, controlling or operating a railroad in the state to eliminate at-grade highway-rail crossings on existing highways, relocated highways and extensions of existing highways by separating the grades or by relocating an existing highway. The Commissioner may determine the location, design and grade for any project or structure for the elimination or avoidance of at-grade highway-rail crossings and may determine whether a new, relocated or extended highway shall pass over or under the railroad right-of-way or tracks. See W. VA. CODE § 17-4-10 (1994).

WISCONSIN

The Office of the Commissioner of Railroads within the Wisconsin Department of Highways has the authority to abolish highway-rail crossings. This authority extends to the resolution of dispute between the railroads and units of local government. See WIS. STAT. §§ 195.29-84.05 (1995).

WYOMING

The Transportation Commission of Wyoming has the authority to close or establish at-grade crossings on public highways as specified and those over the track(s) of any railroad corporation or street railway corporation in the state.

Upon application to the commission from the authorized agents of the city, counties or other government entities or the affected railroads, or upon its own motion when public interest indicates action should be taken, the commission must consider the need for closure based on evidence presented, availed or adduced. The commission must establish a priority rating from the applications or evidence, assigning priority first to the most hazardous railroad crossing location, giving proper weight to increased rail traffic and to the volume of traffic over the crossing with due consideration being given for school buses and dangerous commodities. If the commission determines a need for grade crossing warning devices, they will determine the type of crossing warning devices required, including whether the crossing is to be made at-grade or with a grade separation structure. WYO. STAT. § 37-10-102 (a)-(b) (1994).

CHAPTER 3: CROSSING TREATMENT PROCEDURES

CHAPTER OVERVIEW

Chapter 3 presents a description of the processes and procedures required, along with the roles to be played by the respective parties (units of government and the railroads), when undertaking elimination, construction, repair and/or improvement of grade crossings. This chapter also presents an overview of the different formulae for allocating costs of crossing treatments.

In most states the designated agency having authority to order improvements is also the one with statutory authority to order outright elimination. For purposes of clarity and ease of reference, the two processes are described in separate chapters. The appropriate statute sections are included with each state.

STATE LAWS AND REGULATIONS

ALABAMA

When the funds of the state are being expended for the construction, maintenance or repair of a public highway, the Alabama Highway Department has the authority to compel railways operating in the state to construct viaducts, tunnels, underpasses or bridges to the full extent of the width of the right-of-way and over the tracks when they are judged to be necessary for the safety of the general public.

To cover these costs, the Highway Department can appropriate an amount not to exceed fifty percent out of the funds credited to them for the construction and maintenance of highways.

If after due notice to the railroad that such action is necessary in the judgement of the Highway Department and the railroad fails or refuses to comply with the Department's order, the Department is then authorized to undertake the necessary construction and charge the railroad. See ALA. CODE § 23-1-9 (1994).

ALASKA

The Alaska Statutes do not provide for a process of upgrading or improving highway-rail crossings in the state.

ARIZONA

The Arizona Corporation Commission has exclusive power to prescribe the manner, the particular point of crossing and the terms of installation, operation, maintenance, use and equipping of each crossing in the state.

On or before February 15 of each year, the Commission submits to the affected railroad, city, county and Department of Transportation, a list of crossings where installation of automatic

warning signals or devices should be considered during the year or in a reasonable timeframe depending upon the availability of funds, materials, labor and other factors involved in installation.

The Commission prepares an annual budget request in which ten percent, up to two hundred thousand dollars, of the total amount approved for the same year by the Federal Highway Administration for highway-rail projects within the state, is set aside from the general or any other fund for installation or improvement of automatic warning signals or devices at public railroad grade crossings.

After a public hearing, the Commission may determine that a particular railroad crossing at a public highway or street requires the installation of automatic warning signals. If the interested parties are unable to agree on the apportionment of cost, fifty percent will be covered by the railroad and the remaining fifty percent by the respective city, county or state. City, county or state highway funds can be used to finance the cost of installation in greater amounts than those that are set forth in the statute, provided that federal funds are available for the reimbursement of the city, county or state highway fund. See ARIZ. REV. STAT. ANN. §§ 40-336 and 40-337-337.01-337.02-337.03 (1994).

ARKANSAS

The "Railroad Safety and Regulatory Act of 1993" grants the Arkansas State Highway Commission exclusive jurisdiction concerning the location, construction, improvement and equipping of railroad crossings in the state. The General Assembly designated the highway commission as the sole public body to deal with crossings in an effort to promote public safety by establishing uniformity regarding matters relating to railroad crossings.

The State Highway Commission and local authorities are each authorized to identify particularly dangerous state highway grade crossings and mark these crossings with STOP signs.

It is the duty of the Highway Commission to inspect any road or street crossing. Based on its findings, the Commission may order the railroad company to equip the crossing in any manner it considers reasonable, regardless of whether or not the crossing is at-grade. See ARK. CODE ANN. §§ 23-12-1001, 1002, 27-67-214 (Michie 1994).

CALIFORNIA

The California Public Utility Commission has exclusive power to determine and prescribe the manner, the particular point of crossing and the terms of installation, operation, maintenance, use and equipping of each crossing of one railroad by another railroad or street railroad, a public or publicly used road or highway by a railroad or street railroad or of a street by a railroad or street railroad.

The commission may, where practicable, require a grade separation at any crossing, prescribe the terms upon which the separation is to be made and what type of structure is required. See CAL. [PUB. UTIL] CODE § 1201 (West 1994).

COLORADO

The Colorado Public Utilities Commission has the power to determine, order and prescribe the terms and conditions of installation, operation, maintenance and equipping of highway-rail crossings which may be constructed. This includes the placement of watchmen at the crossing and the installation and regulation of lights, blocks, interlockings, other signaling systems, safety appliance devices or other such means as appear reasonable and necessary to promote public safety.

The Commission may order that automatic or other safety appliance signals or devices be installed, reconstructed, improved and/or operated at any grade crossing of any public highway or road by any railroad. The Commission must also determine and order, after notice and hearing, how the cost of installing, reconstructing or improving such signals or devices shall be divided between the affected railroads, the highway operations and maintenance division and the affected city, city and county, town, county or other political subdivision of the state. In determining how much of the cost is to be borne by the railroad, consideration will be given to the benefit, if any which will accrue from those signals or devices to the railroad. In every case, the part to be paid by the railroad is to be not less than twenty percent of the total cost of the signals or devices. In order to compensate for the use of such crossings by the public, the commission will generally order that such part of the total not paid by the railroad will be divided between the state highway crossing fund and the city, town, city and county, county or other political subdivision in which the crossing is located. In that case, the Commission shall also fix the amount to be paid. See COLO. REV. STAT. § 40-4-106 (1994).

CONNECTICUT

The Connecticut Commissioner of Transportation has the authority to investigate conditions surrounding all highway-rail crossings and determine at which crossing(s) public safety reasonably requires that any person traveling upon the highway shall come to a stop or proceed with caution before passing over the tracks. The Commissioner has the authority to require a railroad company at each of the crossings to erect and maintain, on the highway and within the limits of its right-of-way, a STOP, caution or warning sign.

Where the tracks cross a state highway at-grade, the state Traffic Commissioner has authority to prescribe the nature of any traffic control devices or measures that are to be installed. The Commissioner of Transportation is to furnish and install such devices or measures.

The Commissioner may require each railroad company, at all of its at-grade crossings with gates or signals, to erect and maintain, within their right-of-way, a sign advising the public to call the 911 emergency telecommunication number upon the malfunctioning of any grade crossing gates or signals.

The Commissioner may also require each railroad company to maintain logs, subject to the inspection of the Transportation Department, that list all reports of malfunctioning grade crossing gates or signals. Each log must contain information concerning all investigations and actions taken by the company to repair the malfunctioning gates and signals. Each railroad must report to the municipality all actions taken to repair the gate or signals within the municipality.

The Commissioner has authority to make all necessary orders concerning the establishment of a temporary grade crossing during the period of construction of a permanent grade separation,

provided the state, town, city or borough bears the cost of any necessary signs, signals, gates, flagmen or other devices. See CONN. GEN. STAT. § 13b-345 (1992).

DELAWARE

The Delaware Department of Transportation is vested with exclusive power to determine, order and prescribe the points at and the manner in which any crossing may be constructed, altered, relocated or abolished and the manner and conditions in or under which such crossing shall be maintained, operated and equipped. See DEL. CODE ANN. tit. 2, § 1804 (1994).

DISTRICT OF COLUMBIA

Any existing or planned street or highway within the District of Columbia that crosses a railroad, other than a street railroad, is to be located, constructed and maintained either beneath the tracks by a suitable subway or above the tracks by a suitable viaduct bridge.

The cost of any such project, including the cost of constructing the portion of any viaduct bridge within the limits of the railroad company's right-of-way, shall be borne and paid as follows:

- 1) The District of Columbia must apply all federal-aid highway-rail grade separation funds available for use by them.
- 2) If the federal-aid funds are insufficient, the portion not covered shall be paid one-half by the railroad company and one-half by the District of Columbia, provided that in no case shall the obligation of the affected railroad company exceed ten percent of the total cost and expense of the project.
- 3) After construction, the cost of maintenance shall be wholly borne by the District of Columbia in the case of a highway overpass and by the railroad company in the case of an underpass. See D.C. CODE ANN. § 7-1414 (1994).

FLORIDA

The Florida Department of Transportation has regulatory authority over all public highway-rail grade crossings in the state.

Every railroad company maintaining a highway-rail crossing must, upon reasonable notice from the Department of Transportation, install, maintain and operate at the crossing, traffic control devices to warn motorists of the approach of trains.

Advance railroad warning signs and pavement markings must be installed and maintained at public highway-rail grade crossings by the government agency which has jurisdiction over or maintenance responsibility for the highway or street in accordance with the uniform system of traffic control devices.

Pavement markings and advance warning signals are the responsibility of the government entity having jurisdiction over the crossing location. See FLA. STAT. ANN. § 335.141 (West 1994). Also see FLA. STAT. ANN. § 351.03 (West 1994).

GEORGIA

Where a new grade crossing results from the construction of a new or relocated railroad line, the railroad is responsible for and bears all expenses associated with the construction of the grade crossing. The local public authorities with jurisdiction may impose the terms and conditions on the nature of the grade crossing, including any safety devices that may be required.

Whenever maintenance of a grade separation structure, warning device or grade crossing is reasonably necessary for the safety and convenience of the traveling public and the maintenance is the responsibility of the railroad, the affected department, county or municipality may give written notice to the railroad of the necessity of such maintenance. If the railroad does not proceed with maintenance within thirty days after receipt of such notice, the department, county or municipality may perform the maintenance and later collect from the railroad. Where the maintenance is deemed to be the responsibility of the Department, county or municipality, the affected railroad may give notice and proceed in the same manner as the public authorities. See GA. CODE ANN. 32-6-191 (1994).

HAWAII

Hawaii has no laws concerning crossing maintenance or improvement procedures for warning or protective devices.

One section of the Hawaii code does indicate that the director of transportation and the counties are authorized to identify and erect STOP signs at particularly dangerous highway-rail crossings. See HAW. REV. STAT. § 291C-92 (1994).

IDAHO

The Idaho Transportation Department has authority to administer programs and promote public safety at highway-rail crossings.

The Department is charged with exclusive administration of the Railroad Grade Crossing Protection Account. The account was created as a dedicated fund in the state treasury in order to promote public safety at railroad grade crossings and public streets, roads or highways and to pay for all costs of installing, reconstructing, maintaining or improving safety appliances, signals or devices. See IDAHO CODE § 62-304B (1994).

The Department must follow federal guidelines on grade crossing improvement projects that are to be funded, in whole or in part, under any federal act. Where the project is not entirely funded by federal funds, the Department may use monies in the railroad grade crossing account to pay all or a portion of the matching funds required.

On projects where federal-aid funds are not being utilized in whole or in part, the Department shall apportion the entire cost of the engineering installation, reconstruction or improvement of any signal or device between the railroad and the Department or the local authority, in proportion to the respective benefits to be derived.

The railroad company(s) owning the track(s) upon which the improvements are to be made shall perform all construction and maintenance of the signals and devices and shall be reimbursed

for that part of the cost not to be borne by it. In allocating and dividing the costs among the parties involved, the Department must limit the amount to be charged against the railroad to a maximum of ten percent of the total cost of the construction, unless the crossing is a new one proposed by the railroad. In such a case, the railroad assumes the entire cost of construction. See IDAHO CODE §§ 62-301-304A-304C (1994).

ILLINOIS

The Illinois Commerce Commission has the power, either upon its own motion or upon complaint, and after making proper investigation, to require the installation of adequate and appropriate luminous reflective warning signs, flashing signals, crossing gates or any other warning devices in order to promote and safeguard the health and safety of the public.

The commission has the authority to determine the number, type and location of such signs, signals, gates or other warning devices, which shall conform as near as possible to generally recognized national standards. The commission has the authority to prescribe the division of the cost of installation and subsequent maintenance of the signs, signals, gates or other warning devices between the rail carriers, the public highway authority in interest and, in instances involving the use of the Grade Crossing Protection Fund, the Illinois Department of Transportation which administers the fund. See 625 ILCS 5/18c-7401(3) (1994).

INDIANA

Upon petition by five or more citizens of the state or a board of county commissioners, the Indiana Department of Transportation has the authority to conduct a hearing to declare as dangerous or extra hazardous, grade crossings in the state that the Department finds require the installation of automatic train-activated warning signals or other crossing safety devices in order to improve the safety of the users.

When a railroad track crosses a road or highway, the way may be carried over or under the track. When an embankment or cutting makes a change in the line in the road or highway desirable for easier ascent or descent, the railroad may take additional lands for the construction of the road or new line. Unless the lands taken are purchased or voluntarily given, compensation will be made by the railroad to the owners and the land will become part of the intersecting road or highway and held for highway purposes.

When the Department orders installation, replacement, relocation or improvement of automatic train activated warning signals, it will divide the costs of equipment, installation, operation and maintenance between the railroad and the public agencies involved.

After the construction of a grade separation, the public authority or municipality having jurisdiction over the street or highway shall maintain the street or highway, the supporting structures and the drainage thereof. Where the street or highway is carried over the railroad(s), the railroad(s) shall maintain its railway tracks. Where the street or highway is carried under any such railroad(s), the public authority or municipality having jurisdiction over the street or highway shall maintain the street or highway and drainage thereof, and the railroad(s) shall maintain its roadbed, tracks and structures supporting the same.

When a railroad constructs a new highway-rail crossing, the railroad company must maintain the crossing at its expense. When warning signals or devices are required by law, they will be installed and maintained at the expense of the railroad. See IND. CODE ANN. §§ 8-23-9-44 and 8-6-2.1-16 (Burns 1994). Also see IND. CODE ANN. §§ 8-6-7-1 and 8-6-1-7 (Burns 1994).

IOWA

Wherever a railroad track crosses or will cross a highway, street or alley, the railroad company owning the track and the Iowa Transportation Department in the case of primary highways, the Board of Supervisors of the county in which the crossing is located in the case of secondary roads or the council of the city in the case of streets and alleys located within a city, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing, flasher lights or gate arm signals at the crossing and the allocation of costs. The Department will be party to the agreement if grade crossing safety funds are to be used. Up to seventy-five percent of the maintenance cost of flashing lights or gate arm signals at the crossing may be paid from the grade crossing safety fund. See IOWA CODE § 327G.15 (1993).

KANSAS

Upon request by the governing body of any city, county or township, and after a proper investigation is made in cooperation with the secretary of transportation, the Kansas State Corporation Commission has authority to indicate those railroad grade crossings which are dangerous. The state corporation commission may, at a crossing so designated, order that appropriate safety devices be installed and maintained by the railroad(s) and set a completion date. The commission has the authority to determine the number, type and location of such safety devices, which must conform with generally recognized national standards, and to require a portion of the installation cost of the safety devices be paid by the railroad(s) involved provided that the cost to the railroad(s) shall not be less than twenty percent nor more than fifty percent of the total installation costs. See KAN. STAT. ANN. § 66-231a (1993).

As regards the improvement of railroad crossings on the highway system, the secretary of transportation, may order the affected railroad to install and maintain suitable safety devices or warning signals at dangerous or obscure crossings to indicate the approach of trains. See KAN. STAT. ANN. § 68-414 (1993).

KENTUCKY

The Public Protection and Regulation Cabinet shall investigate any public grade crossing not equipped with gates and with an average daily traffic of four thousand or more, at which two or more accidents involving a train and a vehicle traversing a highway-rail crossing have occurred in a consecutive five year period beginning January 1, 1986. The cabinet shall request written comments from the affected local government prior to reaching a decision on a particular crossing. After the cabinet receives a report from the affected local government supporting the installation of gates, the cabinet, utilizing matching funds available from the Federal Highway Administration's highway-rail grade crossing safety program, shall program the installation of gates at the crossing. The Kentucky Public Protection and Regulation Cabinet may also close any crossing with an average daily traffic less than four thousand vehicles.

The cost of installing gates shall be the responsibility of the cabinet and the affected railroad, and shall not be charged to any unit of local government. See KY. REV. STAT. ANN. §§ 189.561 and 277.065 (Baldwin 1994).

LOUISIANA

With the exception of railroads owned and operated by a political corporation, railways or street railway companies in any subdivision of the state, all railroads whose tracks are laid on or across the public street of any municipality, are responsible for keeping the crossing and that portion of the street lying between the rails of the tracks and for a distance of two feet on the outside of each rail of the tracks used by them, together with the necessary headers, in good condition for vehicular traffic. When a street is paved before or after the tracks are laid, the railroad shall pave, repave, repair and keep in good condition and suitable for vehicular traffic the portion of the public street lying between the rails of the tracks and for a distance of two feet outside each rail. The character and kind of paving may be designated by the governing body of the municipality. If the ties of any track should extend for more than two feet on the outside of the rails, the duty and obligation of the railroad to pave, repave, repair and keep in good condition, shall extend to the end of the ties.

Where railroads cross any highway, the corporation shall construct the works so as not to hinder, impede or obstruct its safe and convenient use.

Whenever a highway crosses a railroad track at-grade and the crossing is deemed in need of repair by the chief engineer of the Department of Transportation and Development or an authorized representative, the chief engineer or the authorized representative shall give the affected railroad company fifteen days' notice in writing. If the railroad company fails to make the repairs, the Department of Transportation and Development may make the repairs and bill the railroad.

The governing authority of a municipality in which the tracks of a railroad cross a street or alley may require the railroad to pay one-half of the cost of constructing and maintaining a viaduct over their tracks or a subway under their tracks. The other one-half of the cost of construction and maintenance is to be paid by the municipality. See LA. REV. STAT. ANN. §§ 386-323-3701 (West 1993).

MAINE

Title 23 of the Maine Revised Statute provides a methodology for paying for and maintaining public at-grade railroad crossings and crossing warning devices. Such devices include signals, gates, crossbucks and grade separation bridges that carry highways over the rail line. The actual reimbursement that is calculated for each railroad is based on the following formula: "Cost" shall include all reimbursable costs incurred by the affected railroad, as determined by the Commissioner, less any payment made to the railroad by any other entities.

The statute defines public at-grade crossings as those crossings determined by the Commissioner of Transportation to be public crossings.

The state may provide each railroad with an annual reimbursement payment. For at-grade crossings, the payment is determined based on each railroad's verified average cost for crossing maintenance multiplied by the number of eligible crossings, with total payment not to exceed

fifteen hundred dollars per crossing. For grade separation bridges, the payment is to be determined based on each railroad's verified average maintenance cost for grade separation bridges multiplied by the number of eligible structures. See ME. REV. STAT. ANN. tit. 23, § 7231 (1994).

If the affected railroad corporation fails to perform the required maintenance as deemed necessary in the interest of the public welfare or safety, the commission may contract with others for the work or have the Transportation Department do it. In either case, reimbursement of the actual cost is made to the entity doing the work or causing it to be performed and the payment to the railroad is adjusted accordingly.

Title 23 of the Maine Revised Statute at § 7222 allows the Department of Transportation to designate by general orders, which can be issued without formal notice or hearing, crossings in which the railroads must, through trimming brush and trees or by removing fences and signboards on their right-of-way, insure that the motorist or traveler through the crossing has a clear view of an approaching train three hundred feet from the crossing. See ME. REV. STAT. ANN. tit. 23, § 7222 (1994).

MARYLAND

The Secretary of Transportation has sole authority to approve the construction or modification of a railroad grade crossing or its crossing equipment and to impose the conditions necessary to insure public safety at the crossing. The powers of the Secretary over all aspects of railroad grade crossing can be found in MD. CODE ANN., [TRANSP.] § 8-639 (Michie 1994).

This section also outlines the process required when making application to the Secretary for approval of the construction or modification of a railroad grade crossing or its crossing equipment. The Secretary, after notice to all parties, including adjacent property owners, will hold a hearing if the secretary considers it necessary. A hearing can also be requested by one party in interest if the proposed change might eliminate or diminish any existing crossing device. After conducting any such hearing, the Secretary can either approve or disapprove the application or impose on the person initiating the crossing projects, under uniform standards and regulations, the conditions necessary to insure public safety at the crossing, including installing and maintaining equipment and allocating costs.

When any railroad grade crossing outside the corporate limits of a city is believed to be dangerous, it is the duty of the county commissioner to notify the railroad company that further safety measures at a crossing are necessary. The railroad must either place a flagger at the crossing or erect a system of electric alarm bells or safety gates within thirty days. The county commissioner has the option of changing the crossing to an overgrade or undergrade crossing.

Every railroad company in the State of Maryland has the right, when it considers that the crossing of its tracks by a highway is dangerous, to provide at its own cost, a grade separation. For constructing the approaches to the grade separation, the railroad may, at its own expense, change the grade of the public highway. See MD. CODE ANN., [TRANSP.] § 8-639 (Michie 1994). Also see MD. CODE ANN., [TRANSP.] § 8-640 (Michie 1994) concerning administrative responsibilities.

MASSACHUSETTS

A railroad corporation is authorized to raise or lower a public way in order to pass over or under a highway-rail crossing, but before doing so, it must obtain from the County Commissioners a decree prescribing what alterations may be made in the way, what structures are to be erected and the manner and time of erection. Before either entering upon, excavating or altering the way, the railroad must give to the city or town where the crossing is to be situated, some form of security, satisfactory to the Commissioners, that it will follow the dictates of the decree and that it will indemnify the city or the town against all damages by reason of failure to comply. See MASS. ANN. LAWS ch. 160, § 100 (Law. Co-op. 1994).

If the railroad proceeds with work without having first obtained the decree and given proper security or neglects to give security for fifteen days, the supreme judicial court may enjoin the railroad from entering upon, altering, excavating or crossing the way until the decree has been obtained or security given.

In every case in which consent or approval of the Department of Public Utilities has been obtained, the Department may, after proper notice to all interested parties, hold a hearing and impose conditions, limitations, restrictions and regulations concerning the construction and use of the crossing. The Department may also change and modify them.

A public road shall not be permitted to cross a railroad at-grade unless it is determined that public necessity requires it. Determination may be made by the Department of Highways if it is a state highway or the county commissioners in the case of any public way. However, the Department of Public Utilities must give written consent in all cases. See MASS. ANN. LAW ch. 160, § 104 (Law. Co-op. 1994). Also see MASS. ANN. LAW ch. 160, § 136 (Law. Co-op. 1994).

MICHIGAN

If the location of a proposed highway-rail crossing is found by the Michigan Department of Transportation to be necessary, feasible and reasonably safe, the Department is authorized to grant permission for the crossing. The Department may then require installation of any traffic control devices it judges appropriate.

The full cost of constructing a new street or highway across an existing railroad track or of a new railroad track across an existing street or highway, is to be borne by the party(s) requesting the crossing. The plans for such a grade crossing must be approved by both the railroad and the road authority. If they are unable to agree, the Department will settle the points of the disagreement through its order.

Temporary grade crossings may be constructed, maintained and removed at the sole expense of the affected parties.

If any new grade crossing project is requested by a road authority and approved by the Department of Transportation, the road authority must notify the affected railroad in writing, requesting that the railroad supply a competent inspector and other necessary persons to inspect the construction. The road authority must pay the railroad for the actual costs incurred by the railroad for inspection. Likewise, if the new grade crossing project is requested by the railroad, the railroad must notify the road authority in writing requesting an inspector and other necessary personnel to

inspect the construction. The railroad then is responsible for payment of actual costs for time spent by the road authority inspector and other personnel.

Any railroad owning tracks across a public street or highway at-grade is solely responsible for the cost of constructing and thereafter maintaining, removing and repairing the railroad roadbed, track and culverts within the confines of that street or highway and the streets or sidewalks lying between the rails and for distance outside the rail of one foot beyond the end of the ties. The road authority, on the other hand, is responsible for the construction, improvement, maintenance, renewal and repair of the remainder of the road surface.

The Transportation Department, on its own or upon request by any interested party, may initiate a Diagnostic Study Team review of the physical condition and safety needs of grade crossings of railroad tracks with public streets and highways or with a nonmotorized trail. The Department must give all parties fifteen days' notice of the review and each affected party will provide a representative to participate in the review who is empowered to make decisions on behalf of the party. The Diagnostic Study Team makes its decision concerning the safety needs of a grade crossing based upon current roadway and railroad traffic levels, speeds and other parameters. Funding arrangements, division of responsibility and scheduling will be mutually decided to accommodate adjustments or improvements, relocations, closures, grade separations or other changes reasonably required in the interest of public welfare and safety.

When the diagnostic review is completed the Department issues an order in writing to all parties confirming any agreements reached.

If a consensus is not reached during the Diagnostic Study Team review, the Department can order any adjustments or improvements, relocations, closures or other changes in the interest of the public welfare and safety. The road authority having jurisdiction has the right to a hearing on the Department's order.

Funding for any of the improvements, relocations, closures, or grade separations determined necessary by the Department may come from the following sources, if available and the work deemed eligible:

- 1) From federal funds obtained through the federal-aid highway-rail grade crossing improvement program.
- 2) From state funds obtained through the railroad grade crossing account of the state trunk line fund. See MICH. COMP. LAWS § 22.1263(301) (1993).

The Department is responsible for the administration of funds for high speed rail corridor grade crossing improvements. The Department will administer the funds from a separate account and in an efficient and equitable process by establishing an annual prioritization of grade crossing safety improvements. Items of work that are considered routine maintenance would not be eligible for funding.

The Department can, after routine inspections, periodically serve notice to affected parties that existing devices and conditions existing at public grade crossings need corrective action. See MICH. COMP. LAWS § 22.1263(307) (1993).

MINNESOTA

Chapter 161 of the Minnesota Statutes outlines the general power of the Commissioner of Transportation.

The Commissioner is authorized to contract, on an equitable basis, with railroad companies for the installation and reinstallation of safety devices at trunk highway-rail grade crossings and for the construction, reconstruction and maintenance of existing or necessary bridges and approaches for the separation of grade at railroad and trunk highway intersections.

The Transportation Regulation Board can, upon its own motion, investigate and make a determination as to whether a railroad crossing, over a street or public highway that is or will be opened to public travel, is or will be dangerous to life or property. The board has the authority to order the crossing equipped in any manner it finds reasonable and proper, including requiring the affected railroad company to separate the grades. The board must give the affected railroad company notice and the opportunity to be heard.

The Commissioner of Transportation is required to compile and have completed by 31 December 1993, an inventory of all public and private grade crossings in the state and to annually revise the inventory to reflect grade crossing changes.

If the Transportation Regulation Board finds, through an investigation instituted either upon motion of the Commissioner or upon complaint and after notice and hearing, that a grade crossing requires additional safeguards to insure life and property, it can specify the type of devices required and order the affected railroad company to install them.

If any new grade crossing is desired, either by the appropriate public official or the railroad, and they cannot agree as to the need, location or the type of warning device required, either party can then file a petition to the Commissioner for a determination. If after a hearing, the Commissioner directs the establishment of a new grade crossing and the apportionment of costs cannot be agreed upon, the Commissioner has the authority to determine the cost on the basis of benefit to the users of each.

Powers of the Commissioner notwithstanding, the laws of Minnesota give authority to cities, towns and counties to enter into agreements with railroad companies regarding the construction and maintenance of a railroad crossing. See MINN. STAT. § 161.20 (1993). Also see MINN. STAT. § 219-074(2) regarding the Commissioner's responsibilities for crossing vacations, and § 219-072 regarding new crossings.

MISSISSIPPI

Title 65, Chapter 1, § 8 of the Mississippi Code Annotated grants the Transportation Commission the authority to regulate and abandon grade crossings on any road fixed as a part of the state highway system. Whenever the commission, in order to avoid a grade crossing with the railroad, builds a road on one side of the railroad, it shall have the power to abandon and close the grade crossing whenever an underpass or an overhead bridge is substituted for a grade crossing. The commission is also granted the authority to require the railroad to install signal posts with lights or other warning devices, at the expense of the railroad, and to regulate and abandon an underpass or overhead bridge. Where the underpass or bridge was abandoned because of the building of a new underpass or bridge, the commission can close the old underpass or bridge or, in

its discretion, return jurisdiction for the underpass or bridge back to the county board of supervisors. See MISS. CODE ANN. § 65-1-8 (1994).

Municipal government authorities in Mississippi also have the authority to regulate highway-rail crossings and to provide precautions and prescribe rules regulating the same. This authority includes the power to require railroad companies to erect viaducts over or gates across their tracks at the crossing of streets. See MISS. CODE ANN. § 21-37-9 (1994).

Mississippi uses a multi-disciplinary diagnostic team study approach to determine the need for protective or warning devices at railroad crossings. If the findings of any study reveal a need for warning or protective devices at or in the vicinity of a railroad crossing of a public highway under the jurisdiction of any county or incorporated municipality, the Mississippi State Highway Department is authorized to construct protective or warning devices and to pay up to a maximum of one percent of available monies in the State Highway Fund for construction, provided that the municipality complies with conditions necessary for federal matching funds to complete the balance. See MISS. CODE ANN. § 57-43-13 (1994).

The State of Mississippi maintains a Grade Crossing Closure Account whose funds may be used for the following purposes: financial aid for closure of public roadway/railroad grade crossings; realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing; monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad. See MISS. CODE ANN. § 57-43-13 (1994). Also see MISS. CODE ANN. § 65-1-69 (1994).

MISSOURI

The Division of Transportation of the Department of Economic Development has exclusive power to regulate and provide standards for railroad crossing construction and maintenance.

The Division may make and enforce reasonable rules and regulations pertaining to all public grade crossings. The Division may establish minimum standards for: the materials to be used in the crossing surface, the length and width of the crossing, the approach grades, and the individual parties responsible for maintenance of the approaches and the crossing surfaces.

The Division also has exclusive power to determine and prescribe the particular point of crossing, the terms of the installation, operation, maintenance, apportionment of expenses, use and any warning devices for each crossing of a public road, street or highway by a railroad, of one railroad by another and of one street railroad by another railroad or street railroad. The Division is aided in its determination by adopting pertinent provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways.

The division may, after application or complaint by a city, town or village, or upon its own motion, regulate within a municipality the crossing of a highway, street or roadway with a railroad track. The Division's regulatory authority includes requiring precautions, regulating the running, handling and operation of railway engines and cars, governing the speed of railway engines, cars and trains and making and enforcing orders and restrictions to promote public safety.

Missouri makes funds available for the construction of grade crossing signals or other safety devices by charging a grade crossing safety fee of fifteen cents when the owner of a motor vehicle registers or renews his registration. See MO. REV. STAT. §§ 389.610-612 (1994).

MONTANA

Title 69, Chapter 14, § 603 of the Montana Annotated Statutes provides for railroad crossings in unincorporated towns or villages. The Board of County Commissioners can order the construction and maintenance of a highway-rail crossing. The board's authority does not allow them to order grade separation. See MONT. CODE ANN. § 69-14-603 (1994).

The Montana Public Service Commission may, upon petition or request in writing of any board of county commissioners, order an overhead or an underground crossing. The commission shall give at least ten days' notice to the board and the owner or operator of the affected railroad of the time fixed for a hearing. In the event an overhead or underground crossing is ordered, the commission may apportion the expense between the railroad company and the county. See MONT. CODE ANN. § 69-14-607 (1994).

At all highway-rail crossings of public highways outside incorporated cities and towns, it is the duty of the railroad company owning or operating such railroad to construct and maintain the crossing. See MONT. CODE ANN. § 69-14-602 (1994).

NEBRASKA

In Nebraska, the Public Service Commission has authority over public highway-rail crossings outside incorporated cities and villages. It has authority to order abandonment of state and county highway-rail crossings not located within incorporated cities and villages.

When railroad tracks cross a public highway at-grade outside an incorporated city or village, the owner of the railroad tracks and the county board may agree to any change, alteration or construction that is in the interest of public convenience or safety. They may agree on relocating the highway so as to eliminate the crossing entirely or to construct a grade separation. They may also agree as to the apportionment of costs (see Revised Statutes of Nebraska § 75-415). If there is a dispute between the parties and they cannot agree, either party can make application to the Commission for resolution. The Commission may order the process done and apportion costs. See NEB. REV. STAT. § 75-415 (1994).

Every corporation owning railroad tracks crossed by a public road must maintain, in good repair, crossing for the road over its tracks, including all grading, bridges, ditches and culverts necessary within the railroad right-of-way. Any such crossing will be not less than twenty feet in width and be built of solidly constructed or durable material. The Public Service Commission can, after proper investigation and hearing, impose additional reasonable requirements as circumstances warrant.

When any railroad track crosses a public road in a cut, on a curve or side hill, in timberlands, near buildings or near any object restricting the view from the road, the commission, either on its own motion or upon complaint of interested parties, may order that certain precautions be taken to promote public safety. Each railroad carrier must provide and maintain whatever the Commission may direct, including gates, crossings, signs, alarm bells and warning personnel. The Commission has the authority to adopt a uniform crossing sign design and direct that it be used at any crossing or other place. It may also direct the placement of special signs where the physical conditions of the crossing warrant, except with regard to automatic grade crossing warning devices. See NEB. REV. STAT. §§ 75-411-412 (1994).

A county board or other public authority in interest is vested with the authority to carry out any agreement or order of the Commission and may establish, vacate or relocate any public road so as to be in compliance with any agreement or order of the Commission. See NEB. REV. STAT. § 75-417 (1994). See NEB. REV. STAT. § 75-416 concerning disagreements.

NEVADA

Chapter 704 of Title 58 of Nevada Revised Statutes annotated sets forth the powers of the Public Service Commission, which include exclusive power over railroad crossings (see § 704.300).

The Public Service Commission, after an investigation and hearing, may determine and order any of the options below for the safety of the traveling public. The investigation and hearing result from the filing of a formal complaint by the Department of Transportation, the board of county commissioners, the town board or council or any railroad company.

After a formal hearing the commission may determine and order:

- 1) The elimination, alteration, addition or change of a highway crossing(s) over any railroad at-grade or grade separated, including its approaches and surface.
- 2) Changes in the method of crossing at, above or below grade.
- 3) The closing of a crossing and the substitution of another therefore.
- 4) The removal of obstacles to the public view upon approach.
- 5) Any other changes and improvements for the safety of the public.

The commission is also empowered to order costs for any such work to be divided and paid by the railroad and the state, county, town or municipality. See NEV. REV. STAT. § 704.300 (1993).

The entire cost of a new grade crossing or separation, including any automatic warning devices, is the responsibility of the government unit affected if they initiated the proceeding or the railroad if it initiated the proceeding (see § 704-305), provided that the crossing is not at or near the location of a previous grade crossing elimination project.

Where a new grade separation results in the elimination or reconstruction of an existing grade crossing, the railroad will be responsible for thirteen percent of the costs, the remainder is to be borne by the affected government unit.

Where automatic warning devices are added or materially altered at an existing grade crossing, eighty-seven percent of the costs shall be the responsibility of the railroad.

The affected railroads will pay fifty percent of the maintenance costs for any new or altered automatic crossing warning device, with the remaining fifty percent being paid by the affected government units. See NEV. REV. STAT. ANN. § 704-305 (1993).

NEW HAMPSHIRE

Chapter 373, § 22 of the Revised Statutes of New Hampshire provides that whenever the Department of Transportation, after a hearing as a result of its own motion or by petition from a party in interest, decides that public safety requires the closing of a crossing, either at-grade or above or below the railroad, it may order such closure. See N.H. REV. STAT. ANN. § 373:22 (1993). Also see chapter on private crossings.

No railroad may be constructed across another railroad, highway or other way at-grade, without first obtaining written consent from the state Department of Transportation (see 373:4). Likewise, no highway may be constructed at-grade across a railroad without consent of the Department of Transportation. See N.H. REV. STAT. ANN. §§ 373:4-6 (1993).

The Department of Transportation, after receipt of a petition from a railroad, the selectmen of a town or the mayor and council of a city, and after proper notice and a hearing, has authority in the interest of safety to the railroad and the public to require a railroad to separate grades, change the location of a highway or a railroad in order to avoid or improve a grade crossing, reconstruct or otherwise alter any existing bridge or underpass, and improve the approaches to any grade crossing so they will be as level as possible.

The railroads in New Hampshire have a statutory duty to provide suitable crossings, stations and other facilities for public accommodation and suitable gates, crossings, cattle passes and other facilities for the accommodation of persons whose lands are divided or are separated from a highway by a railroad. See N.H. REV. STAT. ANN. § 373:2 (1993).

NEW JERSEY

No new highway-rail crossings can be constructed without first obtaining the permission of the Department of Transportation. A 1979 amendment to the statute transferred all of the functions, powers and duties of the Board of Public Utility Commissioners with respect to highway-rail grade crossings to the Commissioner and the Department of Transportation.

New Jersey Revised Statutes § 48:12-61 (1993) describe the authority of the Department of Transportation over highway-rail crossings. This authority extends only to a public highway and not a state highway. It is referred to in the New Jersey statutes as the "Fielder Grade Crossing Law".

When a public highway crosses railroad tracks at the same level and it appears to the Department of Transportation that the crossing(s) are dangerous to public safety, the Department may order the railroad(s) to alter the crossing, within a set time limit, according to plans approved by the Department.

The kinds of alterations that can be made are:

- 1) Grade separations.
- 2) Vacations, relocations or changes in the line, width, direction or location of the highway and the opening of a new crossing in place of the vacated one.
- 3) Relocation of the railroad tracks where, in the judgement of the Department, the owner of the property will be unduly injured by the elimination of the crossing. See N.J. REV. STAT. § 48:12-61 (1993).

The railroad company(s) involved will pay fifteen percent and the Department will pay eighty-five percent of the entire cost of any alterations, reconstructions, changes, relocations or openings, including damages to adjacent property and the cost of removing, relaying or relocating any municipal pipes, conduits or subways.

If the Department finds that any such alterations are necessary because of increased vehicular or pedestrian traffic within the limits of the municipality or county having jurisdiction over the affected public highway, it may change the apportionment to fifteen percent by the railroad company(s) involved, fifteen percent by the municipality(s) or county(s) having jurisdiction over the public highways involved and seventy percent by the Department.

Any railroad company(s) whose tracks are crossed at-grade by a public highway, a body having charge of the finances of any municipality or court having jurisdiction over any such highway, may present a petition to the Department in writing, setting forth the facts upon which relief is sought concerning alterations to or connected with the crossing(s). The Department will schedule a hearing, determine what alterations should be made and make an order. See N.J. REV. STAT. § 48:12-64 (1993).

The Department of Transportation is authorized to maintain two million dollars per annum to be used to defray the public share of the costs of eliminating grade crossings or installing, changing, reconstructing, relocating and modifying protective devices. See N.J. REV. STAT. § 54:39-72 (1993).

NEW MEXICO

When a state, county, municipal or other street or highway, including a highway which has been or may be designated as a part of the federal-aid highway system, which may hereafter be constructed or reconstructed in such manner that the same crosses or intersects any railroad, the New Mexico State Highway Commission or other governing body, may, if in its opinion it is practicable and reasonably necessary for the safety of the traveling public, separate the grades at such crossings. As to the separation and the method of achieving it, the Commission may apply to the district court of the county asking that the court order separations of the grades. If the court determines that grade separation is practicable and necessary for the safety of the traveling public, it can order separation and the permanent closure of the existing grade crossing. When any such separation is made, the railroad company is responsible for an amount up to ten percent of the cost. See N.M. STAT. ANN. § 63-3-37 (Michie 1994).

After any such grade separation is constructed, the State Highway Commission shall be responsible for maintaining the roadbed and structures and the railroad is responsible for its roadway, the track and its structures. See N.M. STAT. ANN. § 63-3-38 (Michie 1994).

NEW YORK

The Commissioner of Transportation of New York is responsible for reporting to the Governor and appropriate members of the legislature by the first of December each year on grade crossing projects that have been completed, those under construction, those ordered to be completed but not yet started and the amount of money expended or expected to be expended on the projects.

The governing body of any municipality where a highway-rail grade crossing is located or any railroad that has tracks crossed at-grade by a highway is entitled to petition the Commissioner of Transportation to begin grade crossing elimination procedures. After issuing notice, the Commissioner shall promulgate rules and regulations concerning the procedure to be followed at the hearing. After the conclusion of the hearing, the Commissioner can order an elimination. Its determination can include any alterations, the location and method of crossing, the character of the structures and approaches, the type and extent of payment, the closing and discontinuance of the crossing and the divergence of traffic from an existing crossing to an existing or new highway, road or street crossing. The Commissioner may also order a change in the location of a railroad. See N.Y. [RAILROAD] LAW § 91 (Law. Co-op. 1994).

The Mayor or City Manager and Common Council of any city, the President or Mayor and trustees of any village, the town board of any town, or the board of supervisors and county executive of any county, who has jurisdiction over a street, avenue, highway or road which crosses a railroad track, may bring a petition in writing to the Commissioner of Transportation alleging that the public interest requires rehabilitation, an alteration in the manner or location of the crossing, a change in the existing structure or the closure and discontinuance of a crossing. After proper notice to the affected parties, the Commissioner may order that the changes be made. See N.Y. [TRANSP.] LAW § 222 (McKinney 1994). Also see N.Y. [TRANSP.] LAW § 223 (McKinney 1994) for a discussion of apportioned expenses.

NORTH CAROLINA

The General Statutes of North Carolina, Chapter 136, § 20 provides guidance on the elimination or safeguarding of at-grade crossings and inadequate underpasses or overpasses.

The Secretary of Transportation, along with the power to eliminate crossings, is also authorized to order grade separation and the installation and maintenance of gates, alarm signals and other approved safety devices. Any such orders shall specify that the cost of construction of any underpass or overpass or the installation of safety devices is to be allocated between the railroad company and the Department of Transportation in the same ratio as the net benefits received by the railroad and the net benefits occurring to the public using the highway, but in no case shall the railroad be responsible for more than ten percent. After any such order is issued by the Secretary, it will be the responsibility of the railroad to construct the grade separation and to install and maintain all safety devices.

Beginning January 1, 1995, if any railroad refuses to comply with any order of the Secretary, they shall be guilty of a Class 3 misdemeanor and may be fined not less than fifty nor more than one hundred dollars for each day in which they fail to comply.

From any order made by the Secretary, the railroad company has the right to appeal to the superior court of the county wherein the crossing is located. See N.C. GEN. STAT. § 136.20 (e)-(g) (1994).

Railroad crossings in the cities of North Carolina are regulated by the cities themselves. A city has the authority to direct, control and prohibit the laying of railroad tracks and switches in public streets and alleys and to require that all railroad tracks, crossings and bridges be constructed so as not to interfere with ordinary travel or drainage patterns. The costs relating to construction, reconstruction and improvement of such streets and alleys are to be borne equally by the city and

the railroad, but the costs of maintenance and repair after construction is the responsibility of the railroad.

A city has the authority to order the installation, construction, erection, reconstruction and improvements of warning signs, gates, lights and other safety devices at grade crossings. The city is responsible for ninety percent of the cost and the railroad is responsible for ten percent.

A city has the authority to order the elimination and separation of a grade crossing if the council finds that the crossing constitutes an unreasonable hazard to vehicular or pedestrian traffic. See N.C. GEN. STAT. § 160A-298 (a)-(c)-(d) (1994).

NORTH DAKOTA

Changing or closing railroad crossings is the authority of the Public Service Commission. When it is desired, either by the public officials having the necessary authority or by the railroad, to establish, vacate or relocate any crossing of a public highway and a railroad or to separate grades, they may agree to do so. If they are unable to reach an agreement, either as to the necessity for establishing, vacating or relocating a crossing or for grade separation, regarding place, manner of construction or reasonable division of the expenses, either party may file a petition with the Public Service Commission. The Commission, after giving proper notice, shall conduct a hearing and issue its order. See N.D. CENT. CODE § 24-09-10 (1993).

The Commission, either by its own motion or upon written application made to it by the Director of Transportation, the board of county commissioners, the board of supervisors or the railroad company, is empowered to investigate and determine whether any railroad grade crossing over any state, county, township or municipal highway in the state is dangerous to life and property and needs protection. If the Commission finds that such is the case, it may order the same equipped in any manner it may find reasonable and proper, including grade separation. If the railroad company does not agree with the Commission's order, it may appeal, within thirty days of being served a copy of the order, to the district court of the county where the crossing is located. See N.D. CENT. CODE § 24-09-08 (1993).

In order to promote public safety at intersections of railroad lines and all classes of highways, the North Dakota Department of Transportation has the authority to apportion costs of automatic grade crossing warning devices. One exception to the process occurs when, if under § 24-09-08, the Public Service Commission orders that any grade crossing be equipped with automatic grade crossing warning devices, the commission shall, in its order, apportion the cost thereof between the affected railroad, the political subdivision having jurisdiction of the highway involved and the state of North Dakota. Costs are to be apportioned to any one or more of the parties on the basis of the respective benefit derived by highway users and the railroad from the installation of any crossing device. See N.D. CENT. CODE § 24-09-08 (1993).

OHIO

Just as with the authority for closure, the authority to order alterations and grade separations lies with the various units of local government in Ohio.

Chapter 4957 of the Ohio Revised Code Annotated, subchapter one, provides that, if the legislative authority of a municipal corporation or the board of county commissioners and the

board of directors of the railroad company are of the opinion that the security and convenience of the public require alterations to any such crossing, its approaches, or the location of the railroad, crossing or grades so as to avoid a crossing at-grade, that crossing should be discontinued with or without building a new one. The board of county commissioners has the same powers with respect to that part of a state, county or township road which lies within the limits of a municipal corporation as are conferred upon municipal corporations to alter or require to be altered, any railroad crossing and to apportion the cost between the county and the railroad.

Ohio established a grade crossing protection fund for the purposes of paying the public share of the cost of reducing hazards at public highway-railroad crossings. The money is raised from the motor vehicle fuel tax and any federal funds apportioned to the state for the reduction of hazards at highway-railroad crossings. See OHIO REV. CODE ANN. § 4907.472 (Anderson 1994).

Railroad companies will build and maintain crossings over or approaches to their tracks, sidetracks and switches at all points where any public highway, street, land, avenue, alley, road or pike is intersected by the tracks. The Board of Township Trustees has the power to determine the kind, time and manner of constructing crossings and approaches outside municipal corporations. The legislative authority of a municipal corporation has the same powers as to crossings, approaches and sidewalks within the municipality. Such crossings, approaches and sidewalks are to be constructed, repaired and maintained by the railroad companies. Every municipal corporation or other authority building a highway across an existing railroad will construct it above or below the grade of the railroad, unless allowed to build at-grade as provided by § 4957.30 to 4957.32. Unless otherwise agreed upon, eighty-five percent of the costs will be paid by the municipal corporation and fifteen percent by the railroad company. In the case of rebuilding bridges or other structures at or in line with a public street or highway and across a street, the cost of making the streets or highways conform to a new grade, with all damages to property abutting on them, will be paid by the railroad company when the raising or building of its bridges or structures in the line of a street or highway results in it being at a greater height than was previously required. See OHIO REV. CODE ANN. §§ 4955.20-4957.32 (Baldwin 1994).

A municipal corporation may raise or lower the grade of any street it owns, either within or outside its municipal limits, above or below railroad tracks and may require any railroad company operating across its streets to raise or lower the grade of its tracks. Municipal corporations may construct crossings above the tracks of a railroad and require the railroad company to construct crossings to be passed under its tracks. A municipal corporation may require the railroad to erect permanent piers, abutments or other appropriate supports in the crossings, streets, roads or alleys when, in the opinion of the legislative authority, raising or lowering is necessary. See OHIO REV. CODE ANN. § 4957.10 (Baldwin 1994).

In a municipal corporation, after the completion of crossing alteration, crossings and approaches will be maintained as follows:

- 1) When the public road crosses a railroad by an overhead bridge, the cost of maintenance must be borne by the municipal corporation.
- 2) When the road passes under the railroad, the bridge and its abutments will be maintained by the railroad company. The public road and its approaches will be maintained by the municipal corporation. See OHIO REV. CODE ANN. § 4957.24 (Baldwin 1994).

The cost of constructing a highway-rail crossing improvement, including the building of roads, crossings or viaducts above or below the tracks and the raising or lowering of the grades of the tracks and sidetracks, as required by the municipality, together with the cost of land purchased or appropriated and damages, will be borne eighty-five percent by the municipal corporation and fifteen percent by the railroad company. The railroad is entitled to deduct from its share of the expense the cost incurred in changing its grade as required by the municipal corporation or made necessary by its specifications, but only if the amount of expense or method for calculating it has been agreed upon in writing by the municipality and the railroad. See OHIO REV. CODE ANN. § 4957.18 (Baldwin 1994).

The legislative authority of a municipal corporation may, by ordinance, prescribe the manner and time of payment that proportion of the cost of crossing improvement which the railroad company is required to pay. See OHIO REV. CODE ANN. § 4957.19 (Baldwin 1994).

After the completion of a crossing alteration, the crossings and approaches will be maintained as follows:

- 1) When the public road crosses a railroad by overhead bridge, the cost of maintenance must be borne by the county or the state as provided by law.
- 2) When the public road passes under a railroad, the bridge and its abutments will be maintained by the railroad company, in proportions fixed by agreement or the court of common pleas of the county in which the improvement is located. The public road and its approaches will be maintained by the county or the state, as provided by law. See OHIO REV. CODE ANN. § 4957.06 (Baldwin 1994).

OKLAHOMA

Just as with the authority for closure, the Oklahoma Corporation Commission has exclusive jurisdiction to determine and prescribe the particular location of highway-rail crossings, the amount and kind of warning devices required, the removal of all obstructions in view of such crossings, the altering or abolishment of any such crossings and to require, where practicable, a separation of grade at any such crossing, either current or projected for the future. See OKL. STAT. tit. 17, § 84 (1994).

The cost of construction and maintenance of public highway-rail crossings is borne by the affected railroad company. For overgrade or undergrade public highway crossings, the apportionment of cost and maintenance is left to the discretion of the corporation commission, but under no circumstances is the city, town or municipality assessed with more than fifty percent of the actual cost of overgrade or undergrade crossings.

The Corporation Commission has the authority to designate certain crossings extra hazardous and to order the installation of appropriate warning devices. The installations are performed by the railroad. The commission prescribes the division of the cost of the installation of signs, signals, gates or other warning devices between the railroad and the state or its political subdivision. In any case, the cost to the railroad will not be less than ten percent nor more than twenty-five percent of the total costs. The railroads are responsible for all subsequent maintenance costs. See OKL. STAT. tit. 17, §§ 82-86 (1994).

All such division of costs that become an obligation of the state will be paid from the state highway construction and maintenance fund. All such division of costs made the obligation of a

All such division of costs that become an obligation of the state will be paid from the state highway construction and maintenance fund. All such division of costs made the obligation of a municipality or other subdivision will be paid from funds accruing to the various counties of the state. See OKL. STAT. tit. 17, § 87 (1994)).

OREGON

"The Public Utility Commission has the authority to adopt rules prescribing specifications for the design and location of protective devices. Specifications for the design and location of protective devices to be installed on or adjacent to the highway in advance of a highway-rail grade crossing shall conform to standards adopted by the Oregon Department Of Transportation. Specifications for all other warning devices shall be adopted in consultation with the Department." See OR. REV. STAT. § 763.110 (1994).

In the event any warning device is to be installed or altered at an existing or relocated crossing or at an existing separation structure with the aid of any federal funds administered by the Federal Highway Administration of the United States Department Of Transportation, the Commission may, unless the parties agree otherwise, apportion the amount of federal funds to payment of installation, reconstruction or alteration costs and apportion the remaining costs of the same, plus maintenance, as provided by ORS 763.250, 763.271 to 763.275 and 763.080. In a case where the federal fund assistance equals or exceeds seventy-five percent of the cost of installing, altering and reconstructing warning devices at an existing or relocated crossing, the remaining costs, except for maintenance costs, may be allocated entirely to the Grade Crossing Protection Account. See OR. REV. STAT. § 763.290 (1994). See also OR. REV. STAT. § 763.271 (1994) for apportionment of costs for installation and OR. REV. STAT. § 763.273 (1994) for apportionment of costs for maintenance.

The Commission may, upon application by a railroad, the public authority in interest, the Department of Transportation or upon its own motion, subsequent to a hearing if necessary under ORS § 763.080 and after finding that such action is required by the public safety, necessity, convenience and general welfare:

- 1) Eliminate a grade crossing by relocation of the highway.
- 2) Alter or abolish any grade crossing, change the location thereof or require a separation of grades at any such crossing.
- 3) Alter or change any existing grade separation.
- 4) Require installation or alteration of protective or warning devices. See OR. REV. STAT. § 763.030 (1994).

PENNSYLVANIA

The Public Service Commission of Pennsylvania is vested with exclusive power to appropriate property for and regulate crossings. The Commission can determine and prescribe, by regulation or order, the points and manner in which crossings are to be constructed, altered, relocated, suspended or abolished and the manner and conditions in or under which such crossings shall be maintained, operated and equipped to effectuate the prevention of accidents and the promotion of public safety. The Commission can also require every railroad whose right-of-way crosses a public highway at-grade to cut or otherwise control the growth of brush and weeds upon its property within two hundred feet of the crossing on both sides in both directions so as to insure proper visibility by motorists. In determining the plans and specifications for any such crossing, the Commission may lay out, establish and open such new highways as, in its opinion, may be necessary to connect such crossing with any existing highway or make such crossing more available to public use. It may abandon or vacate such highways or portions of highways as, in the opinion of the Commission, may be rendered unnecessary for public use by the construction, relocation or abandonment of any such crossing. The commission may order the work of construction, relocation, alteration, equipping, suspension or abolition of any crossing to be performed in whole or in part by any public utility (railroad) or municipal corporation concerned or by the Commonwealth. See 66 PA. CONS. STAT. § 2702(b)-(c) (1994).

"When any railroad is or will be crossed at-grade by a public road, street or highway and the railroad company shall have constructed or shall have been or shall be constructed by others, with such company's consent, an undergrade subway or an overgrade bridge or crossing sufficiently near the public crossing to reasonably accommodate the traveling public, the Court of Quarter Sessions of the county in which the said crossing exists, upon petition of the affected railroad company or other persons, may, if satisfied that the undergrade subway or overgrade bridge or crossing reasonably accommodates the traveling public, after notice to any corporation using or occupying the street proposed to be vacated, with tracks, wires, pipes or conduits and by rule show cause to the supervisors if the crossing is in a township or to the burgess or mayor if the crossing is in a borough or city and after testimony, taken either in open court or by deposition, as the court may direct order that the road, street or highway where it crosses the affected railroad at-grade and its approaches on both sides, shall be vacated and that the undergrade crossing or subway or the overgrade bridge or crossing and its approaches on both sides, substituted therefore, shall be a public highway and be maintained by the proper authorities." See 36 PA. CONS. STAT. § 2111 (1994).

RHODE ISLAND

The General Assembly of Rhode Island vests in the Public Utility Commission the authority and power to determine the point at and the manner in which any grade crossing of a railroad and street is constructed and the jurisdiction to determine whether any crossing should be altered, relocated, abolished or eliminated and the manner and conditions under which the crossings shall be maintained, even if the order of the Commission has the effect of depriving a municipality of control of its streets. See R.I. GEN. LAWS § 39-8-1.1 (1994).

All railroads crossing any other railroad at-grade shall be operated at the crossing subject to and in accordance with, rules and regulations as prescribed by the Division of Public Utilities and Carriers of the Public Utility Commission. See R.I. GEN. LAWS § 39-8-6 (1994).

If the town council is of the opinion that it is necessary for the security of the public in any town wherein a turnpike or highway is crossed by a railroad at-grade, to raise or lower the turnpike or highway so as to separate the grade with the railroad, they may request the corporation owning the railroad to do so. If the railroad corporation neglects or refuses to do so, the town council may apply to the Public Utility Commission. If the Commission, after due notice and a hearing with the parties, decides that grade separation is necessary for the safety of the public, the railroad corporation shall comply with the decision. Either party however, may petition the Rhode Island Supreme Court for relief. The Rhode Island Supreme Court has full power to decide these issues.

The cost and expense of making the grade change shall be borne by the railroad corporation and the town requesting the change, in proportions as may be decided by the court. If the railroad neglects or refuses to make the changes after order of the court, the town council may proceed to make the separation and may, in action against the railroad, recover all charges and expenses. See R.I. GEN. LAWS § 39-8-2 (1994).

The Director of Transportation is given statutory authority to improve an existing highway-rail at-grade crossing by adding automatic warning devices, relocating it or rebuilding it if the improvements will increase the safety of the crossing and the highway. The Director may eliminate the crossing by adjusting track and highway levels and constructing separation structures and connecting roadways which are suitably located to serve all affected properties. The Director may also close the highways at existing crossings so served, subject to approval of the railroad authorities and the Public Utilities and Carriers Division.

For highway-rail crossings not on the state highway system, the improvements, construction, reconstruction or closure shall also be subject to the approval of the town or city in which the work is to be performed. See R.I. GEN. LAWS § 24-8-10 (1994).

Every railroad corporation must establish or substitute flaggers, gates or other precautionary measures or appliances at public highway crossings when the commission says it is necessary for public safety. See R.I. GEN. LAWS § 39-8-9 (1994).

SOUTH CAROLINA

The governing body of a county may authorize the construction of a highway or town way across a railroad previously constructed when it decides that the public convenience and necessity require such a crossing. After due notice to the railroad corporation and a hearing with all interested parties, the governing body may construct the highway or town way or may authorize a city or town, on the petition of the mayor and aldermen thereof, to construct a way across a railroad in such manner as not to injure or obstruct the railroad. See S.C. CODE ANN. § 58-17-1360 (Law. Co-op. 1994).

With the exception of a street in any incorporated city or town, a railroad corporation may alter the course of a highway or other way for the purpose of facilitating crossing by a railroad or permit the railroad to pass at the side without crossing. A decree of the governing body of the county must first be obtained prescribing the manner and time of any such alteration. The railroad

shall pay all damages occasioned to private property by the alteration, as in the case of land taken for its road. See S.C. CODE ANN. § 58-17-1340 (Law. Co-op. 1994).

The South Carolina Department of Transportation is responsible for inspecting railroad crossings on state maintained highways. The governing body of each county is responsible for inspecting railroad crossings on county maintained roads. The governing body of each municipality is responsible for inspecting railroad crossings on road and street rights-of-way maintained by municipalities.

If any authorized person from any of these jurisdictions inspecting a railroad crossing finds that the required signs are not in place or maintained or finds that a motorist's view of approaching trains is unsafely obstructed by vegetation, growth or objects which are within the right-of-way of the railroad, the inspector must immediately notify the Deputy Director of Engineering with the South Carolina Department Of Transportation. The inspector must also inform the state highway engineer if there is a STOP sign at the crossing and, if not, whether, in his opinion, one should be added. After receiving notice from the inspector on his findings, the Department must give written notice of the hazard immediately by certified mail to any officer or registered agent of the railroad within the state. Notice from the Department may order the railroad to erect, maintain or properly situate crossbucks, or to cut or remove the vegetation, growth and objects not permanently affixed to realty that are obstructing a motorist's view. The Department must also notify the governing body of any county or municipality of the inspector's opinion that a STOP sign be erected.

Removal or elimination of the obstructions must be made by the responsible railroad within sixty days of receipt of notice. Measures to assure that crossbucks are properly in place and maintained must be taken by the responsible railroad within thirty days of receipt of notice. However, if the crossbucks are not present or have been removed, then the railroad has ten days from notice to erect crossbucks.

By January 1 of each year, counties and municipalities are required to report to the Department all railroad crossings that have been inspected during the preceding year and at which no obstructions were found. The Department must make an annual report of inspections conducted during the preceding year and provide that report to the Transportation Committee of the South Carolina Senate and Education and Public Works Committee of the South Carolina House of Representatives. See S.C. CODE ANN. § 58-17-1450 (Law. Co-op. 1994).

All railroad companies must construct and maintain crossings meeting the requirements of the authorities responsible for such highways. This applies to both crossings at new highways and to crossings replacing those rendered obsolete or unnecessary by the relocation or improvement of existing highways or roads. See S.C. CODE ANN. § 58-15-2110 (Law. Co-op. 1994).

In case of highway-rail crossings involving state highways, the State Highway Department, after due notice to the railroad corporation and a hearing with the affected railroad, shall have the power to specify the character of the crossing. The railroad company shall, at its own cost, construct and maintain the crossing to meet those specifications. See S.C. CODE ANN. § 58-15-2120 (Law. Co-op. 1994).

SOUTH DAKOTA

The Department of Transportation may determine, order and prescribe the reasonable manner in which the tracks or other facilities of any railroad company(s) may be constructed at, above or below grade across the track or facilities of any other railroad company, public highway or street. The Department also may determine, order and prescribe the terms and conditions of installation, operation, maintenance and equipping of all such crossings which may be constructed, including any watchman thereat or the installation and regulation of lights, blocks, interlocking or other signaling systems, safety appliance devices and such other means as determined by the Department. See S.D. CODIFIED LAWS ANN. § 31-27-2 (1994).

When no right-of-way is needed for the building of a subway or overhead crossing on a state or county highway, the expense of any such construction will be divided between the railroad company and the state or counties according to the benefits accruing to each party. See S.D. CODIFIED LAWS ANN. § 31-27-10 (1994).

If a new right-of-way is necessary for the construction of a grade separation on a state or county highway, the Department of Transportation determines whether to eliminate the crossing (§ 31-27-12). If a new right-of-way is necessary for the construction of a grade separation on a county highway, the board of county commissioners must proceed to eliminate the dangerous crossing after being notified by the Department of Transportation. See S.D. CODIFIED LAWS ANN. § 31-27-9 (1994).

A railroad can raise or lower a public highway, except a highway within the limits of a municipality, for a railroad crossing. The railroad company must petition the board of county commissioners if the crossing is not a part of the state highway system or the Department of Transportation if it is a part of the state system. There must be a guarantee, on the part of the railroad, that the crossing is to be kept in as good repair and condition as before the alteration was made, and the railroad is to do this at its own expense. The grade approaching the crossing shall not exceed ten percent at any point.

A railroad, while in the process of a grade separation or while making any other alterations which obstruct a public highway, shall provide and keep suitable such temporary ways as necessary to enable traffic to avoid or pass the obstruction. See S.D. CODIFIED LAWS ANN. §§ 49-16A-84-85 (1994).

Except within the limits of a municipality, the Department of Transportation and county commissioners may designate any hazardous railroad crossing as a stop crossing. The crossing shall be designated by placing a STOP sign at the point of stop and such sign is to be preceded by a warning sign. See S.D. CODIFIED LAWS ANN. § 31-28-17 (1994). Also see § 32-29-7.

The expense of repairing, replacing and maintaining all railroad and highway crossings and all warning and safety devices, is to be determined by the Department of Transportation on the basis of the proportion of any benefits derived by railroad companies and the public authority in interest. See S.D. CODIFIED LAWS ANN. § 31-27-19.1 (1994).

Every municipality has the authority to require the railroad to make, keep open and repair its crossings of streets and public roads. The municipalities may also require the railroads to make, keep open and repair ditches, drains, sewers and culverts along and under their tracks. See S.D. CODIFIED LAW ANN. § 9-35-8 (1994).

The responsibility of a railroad corporation to maintain highway-rail crossings as provided by law does not terminate upon the abandonment of the railroad right-of-way or a portion of it but continues until the highway is restored to usable condition. See S.D. CODIFIED LAWS ANN. § 31-27-2.1 (1994).

TENNESSEE

When any grade crossing is ordered to be eliminated by the Commissioner of Transportation, it is the duty of the affected railroad company to comply with the order within the specified time by first submitting to the Commissioner or the Commissioner's designee detailed plans and specifications along with estimates of cost for the construction of a grade separation, including its approaches.

The affected railroad company has the right to appeal the order of the Commissioner to the Public Service Commission for an extension of time given to begin and complete the actual construction of the grade separation. If it finds that the financial condition of the affected railroad would be adversely affected, the Public Service Commission is empowered to stay the order for any length of time, not to exceed two years.

If the affected railroad fails to comply with the Commissioner's order for grade separation or fails to avail itself of the opportunity to appeal the order within 60 days from the date of the service of the order, the Commissioner is empowered to proceed immediately with the construction of the separation and, upon completion, to assess one half of the cost of preparation of plans and estimates and one half of the cost of the work of construction against the affected railroad company. All costs as are assessed in this manner will constitute a lien upon the physical properties of the railroad recoverable by suit. See TENN. CODE ANN. § 65-11-109 (1994).

The Commissioner of Transportation may, by agreement or contract with a railroad company, apportion the work to be done in constructing a grade separation between the railroad company and contractors acting under the control and supervision of the Commissioner, provided that, when any of the Commissioner's contractors or employees are on the railroad's right-of-way, they are subject to railroad company rules and regulations for safety purposes. See TENN. CODE ANN. § 65-11-110 (1994).

When an overpass or underpass is constructed on any state highway, the railroad company will maintain it, the approaches on its right-of-way and any part of a structure not supported by fill, but not the surface of the highway. The flooring of the overpass supporting the surface of the highway or constituting the surface of the highway will be considered as a part of the structure to be maintained by and at the expense of the railroad company. The Commissioner of Transportation will maintain, out of public funds, any fill, approach to any crossing not on the railroad company's right-of-way and the entire surface of the highway at all points. See TENN. CODE ANN. § 65-11-112 (1994).

TEXAS

A railroad must construct a grade crossing at such times and places as may be demanded by any two or more citizens of Texas who either live on or own land within five miles of the place where the crossing is being demanded. The demand must be made in writing to the railroad and must state when and where such crossing is desired. See TEX. REV. CIV. STAT. ANN. art. 6322 (West 1994).

Every railroad company must place and keep that portion of its roadbed and right-of-way over or across any public county road in proper condition for the use of the traveling public. If it fails to do so for thirty days after written notice, it shall be liable to a penalty of ten dollars for each week the railroad company fails or neglects to comply. See TEX. REV. CIV. STAT. ANN. art. 6327 (West 1994).

A county or municipality must use standards developed by the Texas Department of Transportation to apply pavement markings or a stop bar at a grade crossing if the cost of the markings or stop bar is paid either entirely or partly from state or federal funds. The Department is to develop its standards by following those in the Manual on Uniform Traffic Control Devices issued by the U.S. DOT, Federal Highway Administration. The Department may also require the use of retroreflectorized materials where it deems such materials appropriate. A stop bar is defined in this article as the marking that is applied or attached to the surface of a roadway, on either side of a grade crossing, indicating that a vehicle must stop at the grade crossing. Pavement markings are defined as markings applied or attached to the surface of a roadway for the purpose of regulating, warning or guiding traffic. See TEX. REV. CIV. STAT. ANN. art. 6370c (West 1994).

All railroad corporations in Texas which have fences around their right-of-way may be required to make openings or crossings through their fence and over their roadbed every one and one-half miles. See TEX. REV. CIV. STAT. ANN. art. 6321 (West 1994).

Every incorporated city or town (including a Home Rule city) is authorized to purchase, build, construct, acquire, improve, enlarge, extend, maintain, repair and replace any and all properties, improvements and facilities which the governing body deems to be necessary for the elimination of at-grade crossings of the streets in such city by railroad lines and for the relocation of railroad lines within the city so that the hazards to life and property will be decreased. See TEX. REV. CIV. STAT. ANN. art. 1105c (West 1994).

All driving safety courses approved by the Department of Public Safety or by a court as authorized by law must include instruction on highway-rail grade crossing safety. It is the responsibility of the Department of Public Safety to provide minimum standards of course content concerning the operation of vehicles at highway-rail grade crossings. See TEX. REV. CIV. STAT. ANN. art. 6701j-2 (West 1994).

UTAH

The Department of Transportation has exclusive authority over highway-rail grade crossings in the state. This authority includes complete power to determine and prescribe the manner, including the location, of the crossing and the terms of installation, operation, maintenance, use and equipping of each crossing of one railroad by another railroad or street railroad and of each crossing of a street, public road or highway by a railroad. In addition to the authority to abolish crossings, the Department may order a separation of grades, the manner and

terms upon which such separation shall be made and the division of expenses, whether it be between the affected railroads or between the railroads and the state, county, municipality or other public authority in interest. See UTAH CODE ANN. § 54-4-15 (1994).

VERMONT

A railroad may be laid out to cross a turnpike or other way if the Transportation Board judges it necessary. The railroad may raise or lower the turnpike or way but must restore the turnpike or way as much as practicable so that it remains useful. See VT. STAT. ANN. tit. 30, § 1363 (1994).

When a railroad corporation has constructed a railroad upon, over or under the path of a town or state highway, the railroad will maintain and rebuild bridges, culverts, crossings and other constructions, except bridges made for the accommodation, safety and convenience of public travel. Installations of new at-grade crossings, extensions of existing crossings or the rebuilding of existing crossings required as a result of the building of any such extensions, when required for the accommodation, safety and convenience of the public travel or for any reason except the accommodation of the railroad, will be done by the railroad corporation at the expense of the state. See VT. STAT. ANN. tit. 30, § 1366 (1994).

When it becomes necessary to rebuild any existing bridge on a state highway that carries the public over railroad tracks, the state will rebuild the bridge and pay one-half the cost. The railroad whose track lies under the bridge will pay the other half. The state is responsible for maintaining, rebuilding and repairing the bridge at its expense. If the rebuilding or reconstruction is made at the request of and for the benefit of the railroad, the railroad is responsible for the entire cost.

Construction of new bridges carrying public highways over railroad tracks and the rebuilding of existing bridges made necessary by highway improvement, increased usage or speed of motor traffic, shall be made by the state at its own expense, except when the additions and improvements are made at the request of and for the benefit of the railroads, in which case the added cost shall be borne by the railroad. See VT. STAT. ANN. tit. 30, § 1367 (1994).

When a railroad has constructed its track across a public highway at-grade, the railroad is responsible for keeping the bridge and abutments in good repair and rebuilding them when necessary. If however, the improvement or rebuilding is necessitated by reason of highway improvement incident to increased load, usage or speed of motor vehicle traffic, the improvement or rebuilding shall be made by the railroad at state expense. See VT. STAT. ANN. tit. 30, § 1368 (1994).

When the Transportation Board, without any application from other parties, is of the opinion that the public safety requires an alteration in any highway crossed at-grade by a railroad, it may order alterations and determine and direct by whom, to whose expense and within what time the alterations will be made. See VT. STAT. ANN. tit. 30, § 1906 (1994).

A railroad corporation may alter the course of a highway where it is crossed by its railroad if it can agree with the selectboard of the town when the road is a town highway or the Agency of Transportation when the road is a state highway as to the alteration or manner of the crossing. If no agreement can be reached, the Transportation Board will make the determination. See VT. STAT. ANN. tit. 30, § 1328 (1994).

A written petition may be brought to the Transportation Board by either the selectboard of a town within which a public highway and a railroad cross at-grade or the general manager or attorney of a railroad corporation alleging that public safety requires an alteration in the crossing, its approaches, the method of crossing, the location of the public highway, the elimination of the crossing, a grade separation or the removal of obstructions to the sight at the crossing. The board selects a time and place for a hearing with not less than ten days' notice to the petitioners, the railroad, the municipality and the owners of the land adjoining the crossing and adjoining that part of the highway to be changed. The Attorney General of Vermont or the state's attorney of the affected county will represent the interests of the state at any such hearing. After the hearing, the board shall determine what alterations, changes or removals, if any, shall be made and by whom. See VT. STAT. ANN. tit. 30, § 1901 (1994).

VIRGINIA

When a new county road is projected to cross a railroad or an existing county road is to be changed to require a railroad crossing and the public safety or convenience at such a crossing requires a grade separation, the board of supervisors or other governing body of the county is required to make application to the affected railroad company. It is the duty of the railroad to make such provision(s) and to do such work on its right-of-way so as to bring about grade separation. If the railroad refuses or fails to begin the work required within a period of sixty days, the board of supervisors or other governing body may apply to the State Corporation Commission. After proper hearing, the Commission may order the required work. After such a crossing has been constructed, it is the responsibility of the railroad to maintain the same. See VA. CODE ANN. § 56-364 (Michie 1994).

When the closure of an existing highway-rail crossing becomes necessary, the railroad, upon application from the authorities involved, must abolish the crossing within sixty days after the application. If the railroad refuses, the authorities may petition the commission, who will then decide on the elimination. When any such improvement is made in any railroad, the whole expense for same is paid by the railroad. When any such improvement is to be made in a county road or street, it shall be made by the railroad and the expense borne equally by the railroad and the county, city or town having control of the road. After any such crossing has been constructed, the railroad company will maintain it. See VA. CODE ANN. § 56-365 (Michie 1994).

At every highway-rail grade crossing, it is the duty of the railroad company to maintain the crossing to the full width of the public road. The railroad must also maintain that portion of the highway located within two feet on either side of the extreme rail. See VA. CODE ANN. § 56-405 (Michie 1994).

WASHINGTON

The Washington State Utilities and Transportation Commission will conduct an investigation of a proposed at-grade crossing upon written petition from a railroad company, county or municipal authority describing why the particular crossing cannot be grade separated upon at least ten days' notice to the railroad and the county or city affected of the time and place of the investigation. If the highway involved is a state road or parkway, the Secretary of Transportation or the State Parks and Recreation Commissioner shall be notified of the time and place of the hearing. If the Commission finds that it is not practicable to cross the railroad or

highway either above or below grade, it shall enter a written order either granting or denying the right to construct a grade crossing at the point in question.

In its order authorizing a grade crossing or at any subsequent time, the Commission may also provide that the railroad company install and maintain proper signals, warnings, flagmen, interlocking devices or other means to secure public safety. See WASH. REV. CODE § 81.53.030 (1994).

When the Secretary of Transportation, the governing body of any city, town or county or any railroad company whose track is crossed by any highway determines that public safety requires signals or warning devices other than sawbuck signs (crossbucks) at any at-grade crossing of a railroad by any highway, road, street, alley, avenue, boulevard, parkway or other public place currently open and in use or to be opened, they may file a petition in writing with the Utilities and Transportation Commission alleging that public safety requires the installation of specified signals, other warning devices or specified changes in the method and manner of existing crossing warning devices. After receiving any petition, the Commission will set the matter for hearing, giving at least twenty days' notice to the parties in interest. As a result of the hearing, the Commission may decide for or against the requested changes. If the Commission determines that public safety requires the installation of such signals or other warning devices or some form of modification in the existing warning device is needed, it may enter an order to that effect. The Commission may also apportion the entire cost of installation and maintenance of any signals or other warning devices. See WASH. REV. CODE § 81.53.271 (1994).

No railroad shall be required to install any such signal or other warning device until the affected public body has either paid or executed its promise to pay to the railroad its portion of the estimated cost. See WASH. REV. CODE § 81.53.261 (1994). See also this section in the chapter on active warning devices.

Section 81.53.281 establishes, within the state treasury, a Grade Crossing Protection Fund. The law provides for a definite division of costs relative to installing and maintaining automatic grade crossing signals or other warning devices on new and existing grade crossings between the Fund, the city, town, county or state highway authorities and the railroad companies. It further provides a definite division of costs between the Fund and the railroad companies for the maintenance of same on an annual basis. If the Commission directs the installation of a grade crossing warning device and a federal-aid funding program is not available, it shall apportion the cost of installation and maintenance in the following manner:

- 1) Installation: sixty percent to the Grade Crossing Protective Fund, thirty percent to the city, town, county or state and ten percent to the railroad.
- 2) Maintenance: twenty-five percent to the Grade Crossing Protective Fund and seventy-five percent to the railroad.

If the proposed installation is located at a new crossing requested by the railroad, then the entire cost is to be apportioned to the railroad. See WASH. REV. CODE § 81.53.281 (1994). Also see WASH. REV. CODE § 81.53.275 (1994).

WEST VIRGINIA

When a railroad crosses any state road, the railroad corporation is required to keep its own roadbed and the bed of the road or highway at such crossing in proper repair or else to construct and maintain an overhead or undergrade crossing subject to the approval of the State Road Commissioner. The tracks at such crossings are to be constructed so as to give a safe approach to the crossing. When the construction of such approaches is made necessary by a change in the railroad grade at the crossing, the cost will be borne by the railroad company. See W. VA. CODE § 17-4-8 (1994).

After the construction of a grade separation where a state highway is carried over a railroad, the state will maintain the highway and structures supporting it and the railroad will maintain its tracks. Where a state highway passes under a railroad, the state will maintain the highway and the railroad company will maintain its roadbed, the tracks and the structures supporting the same. The state will pay for repair or replacement of any part of the supporting structure which is damaged or destroyed by highway traffic and the railroad company will bear the cost of repairing or replacing any part of the supporting structure which is damaged or destroyed by railroad traffic. See W. VA. CODE § 17-4-17 (1994).

The State Road Commissioner has the same authority and may follow the same procedure in the relocation and reconstruction of existing grade separation structures. The cost and maintenance provisions shall be the same. See W. VA. CODE § 17-4-17a (1994).

Every railroad company which has changed or will change the grade or location of any county-district road is responsible for putting the road in as good condition and repair and on as practical a grade as the road was before its change. If the road, after construction, becomes damaged or is caused to be damaged by reason of the construction of any railroad, the railroad company responsible shall be liable for all damages occasioned thereby and for all costs incurred in repairing and keeping in repair the road so damaged. See W. VA. CODE § 17-16-8 (1994).

WISCONSIN

The Wisconsin Department Of Transportation, upon petition by the city council, village board, town board, superintendent of highways, five or more electors in any town, village or city or any railroad corporation or railroad historical society, has the authority to determine whether a public highway-railroad grade crossing provides for and promotes public safety. The Office of the Commissioner of Railroads may investigate and issue an appropriate order without a public hearing. If any of the parties in interest object to the order, they may request a hearing within twenty days from the order. During the hearing, the office shall determine whether the existing warning devices at such crossing are adequate to protect and provide for public safety. If the office determines, either without or after a hearing, that the existing devices are not adequate, it may order the railroad company or railroad historical society to keep a flagman at the crossing or to install automatic signals or other suitable safety devices at specific locations at such crossing. The office may also order the relocation of existing signals and devices to improve safety at a crossing.

The cost of purchasing and installing any signal or other crossing warning device is to be borne by the Department of Highways. The cost of maintaining ordered crossing warning devices is the responsibility of the railroad or railroad historical society. However, any railroad or railroad historical society that incurs expenses for maintenance of signals or other safety devices may file a

claim for reimbursement with the Department of Highways regardless of the date of installation of the signals or devices. The Department shall, at the close of each fiscal year, reimburse claimants for fifty percent of the costs as determined by the office, incurred for maintenance of railroad crossing warning devices. See WIS. STAT. § 195.28 (1993). See also § 20.395 [2] [gq] on appropriations.

If the Department of Highways determines that the construction or reconstruction of a grade separation or the rearrangement or elimination of a crossing is necessary in the interest of public safety or convenience, it will make a plan for the proposed construction, make an estimate of the costs and try to reach an agreement with all interested parties as to a division of costs. If the Department is unable to agree with the parties as to payment of cost, work or maintenance of the same, it will present the matter to the Office of the Commissioner of railroads. The Commissioner, after proper notice and hearing, shall specify the portion of the cost for construction and maintenance which is to be paid by the persons or corporations concerned and the portion of the cost, if any, to be paid by the public from the transportation fund. The Office of the Commissioner of Railroads shall determine the benefits, if any, to other highways and apportion and charge to the units of government responsible for the construction of such other highways a fair portion of the cost. See WIS. STAT. § 84.05 (1993).

WYOMING

The Wyoming Transportation Commission, after receiving application from duly authorized agents of the cities, counties, other government entities, the affected railroad or upon its own motion when public interest clearly indicates that action must be taken, will hear evidence and, based upon a priority rating from the applications, will assign priority to the most dangerous crossings and order grade crossing safety improvements. The order is to include the type of crossing warning devices required and whether the crossing is to be at-grade or grade separated. If the crossing is at-grade, the Commission will determine the kind and type of grade crossing warning signals and devices required. If the crossing is to be grade separated, the Commission will determine the type of grade separation structure. See WYO. STAT. § 37-10-102 (1994).

The Commission has a duty to apportion the costs and expenses of installing or reconstructing such crossings and safety devices between the railroads and the state highway department or the county, city or other entity affected in proportion to the respective benefits to be derived. The Commission will limit the amount charged against the railroad to a maximum of thirty-three and one third percent of the costs of the total project for installing or reconstructing such crossings and safety devices. With respect to the initial installation of grade separation structures at existing railroad public highway crossings, the commission first determines if all federal sources of funding have been exhausted. The Commission apportions the remaining costs between the railroad and the State Highway Department or the county, city or other entity involved, based upon the causes resulting in the need for such grade separation structures. See WYO. STAT. § 37-10-103 (1994).

A railroad company has the authority to raise or lower any county road or other public highway for the purpose creating a grade separation. Repair or reconstruction of roads or highways is to be expeditiously completed. While so engaged in grade separation or in making any other alteration which may obstruct the public way, the railroad company is responsible for providing and maintaining suitable temporary ways to enable travelers to avoid or pass obstructions. See WYO. STAT. § 1-26-811 (1994).

In order to compensate for the use of crossings by the public, the Transportation Commission may order that the part of the cost of installing, reconstructing or improving signals or devices as will not be paid by the railroad corporation, be divided between the state highway crossing protection account and the DOT or the city, town, county or other political entity in which the crossing is located. In each case, the Commission has the authority to fix the amounts to be paid from the crossing protection account and the DOT or city, town, county or other political entity. The railroad company(s) are responsible for all costs of maintaining, in good operating condition, all such safety devices.

The government agency or city, town, county or other political entity with jurisdiction over the grade separated crossing has the responsibility for all maintenance costs for grade separation structures. See WYO. STAT. § 37-10-104 (1994).

CHAPTER 4: BLOCKED CROSSINGS

CHAPTER OVERVIEW

This chapter provides a state by state survey of statutory provisions concerning the blocking of crossings by railroads, the exceptions to the law and the penalties imposed. The majority of states place restrictions on the amount of time a highway-rail crossing can be blocked. The laws and regulations vary but never do they exceed more than ten minutes. A number of states list an exception for emergencies or circumstances beyond the control of the railroad company. That is not to say that the individual cities and towns within those states with no relevant statute do not have an ordinance restricting the blocking of highway-rail crossings within their jurisdictions. Most of them do, but to list them would extend beyond the scope of this book.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama has no specific statute. However, one section does provide that train crews may not be found personally responsible for violation of any ordinance regulating the occupying or blocking of streets or roads if it was necessary to comply with orders from the employer or officers of the railroad. See ALA. CODE § 37-8-115 (1994).

ALASKA

Alaska has no applicable statute.

ARIZONA

Arizona allows a train to block a crossing for fifteen minutes. It makes an exception for emergencies, unavoidable accidents or circumstance beyond the control of the railroad company. See ARIZ. REV. STAT. ANN. § 40-852 (1994).

ARKANSAS

Arkansas has no applicable statute.

CALIFORNIA

California has no special provision concerning blocked crossings. The state permits municipalities to regulate blocked crossings although standing or moving trains are not specified.

COLORADO

Colorado has no applicable statute.

CONNECTICUT

Blockage for more than five minutes is forbidden. See CONN. GEN. STAT. §13b-338 (1994).

DELAWARE

Delaware allows trains to block crossings for no more than ten minutes at a time, although exceptions may be made for emergencies. See DEL. CODE ANN. tit. 17, § 701 (1994).

DISTRICT OF COLUMBIA

District of Columbia law states that the directing officer or operator of any railroad train may not block any street for more than five minutes at a time. This does not apply to trains or cars in motion other than those engaged in switching. See D.C. Mun. Regs. tit. 18, § 2211.7 (1994).

FLORIDA

Florida allows trains to block a crossing for a reasonable period of time. However, the state does make exceptions for emergencies or circumstances beyond the control of the railroad company.

State law provides that, whenever a railroad train is engaged in a switching operation or stops so as to block a public highway, street or road at any time from one-half hour after sunset to one-half hour before sunrise, the crew of the train has the responsibility to place a lighted fusee or other visual warning device in both directions from the train or at the edge of the pavement of the highway, street or road to warn approaching motorists. This requirement does not apply to grade crossings where automatic warning devices are properly functioning or at which there is adequate lighting. See FLA. STAT. ANN. § 351.03 (West 1994).

GEORGIA

Georgia statutes make no mention of blocked crossings. The state permits municipalities to regulate blocked crossings.

No member of a train, yard or engine crew of a railroad will be held personally responsible for or found guilty of violating any laws or ordinances regarding the blocking of roads or streets upon reasonable proof that any blocking was necessary to comply with the orders or instructions of the employer or supervisory officials of the railroad company. See GA. CODE ANN. § 46-8-197 (1994).

HAWAII

Hawaii has no applicable statute.

IDAHO

Idaho law provides that no person or government agency operating a train will do so in a manner so as to prevent vehicular use of any highway for a period of time in excess of fifteen consecutive minutes. See IDAHO CODE § 49-1425 (1994).

The statute provides for a number of exceptions:

- 1) When necessary to comply with signals affecting the safety of the movement of trains.
- 2) When necessary to avoid striking any object or person on the track.
- 3) When the train is stopped to comply with a government safety regulation.
- 4) When the train is disabled.
- 5) When the train is in motion, except while engaged in switching operations.
- 6) When there is no vehicular traffic waiting to use the crossing.

ILLINOIS

It is unlawful for a railroad to permit any train, railroad car or engine to obstruct public travel at a highway-rail grade crossing for a period in excess of ten minutes, except where the train is continuously moving or cannot be moved due to circumstances beyond the railroad's control. See 625 ILCS 5/18c-7402 (b).

Every railroad has the responsibility to operate in such a manner as to minimize obstructions of emergency vehicles at crossings. If any such obstruction occurs and the train crew is aware of the obstruction, the crew is to take immediate action, consistent with safe operating procedures, to remedy the situation. See 625 ILCS 5/18c-7402 (a).

INDIANA

Indiana prohibits trains from blocking crossings for more than ten minutes, except in circumstances where the train, railroad car or engine cannot be moved and for which the railroad company has no control. See IND. CODE ANN. § 8-6-7.5-1 (Burns 1994).

Indiana requires that there be vehicular traffic waiting to use the crossing. It is unlawful to permit successive train movements to obstruct vehicular traffic previously delayed by train movements that has been cleared for a period of five minutes between train movements. See IND. CODE ANN. § 8-6-7.5-2 (Burns 1994). A violation is a Class C infraction. See IND. CODE ANN. § 8-6-7.5-3 (Burns 1994).

IOWA

Iowa prohibits the blocking of a crossing by a railroad corporation or its employees for a period of time in excess of ten minutes except in the following circumstances:

- 1) When necessary to comply with signals affecting the safe movement of trains.
- 2) When necessary to avoid striking an object or person on the track.
- 3) When the train is disabled.
- 4) When necessary to comply with government safety regulations, including but not limited to, speed ordinances and regulations.

Iowa also permits a political subdivision to pass an ordinance regulating the length of time a specific crossing may be blocked provided the political subdivision can demonstrate that such an ordinance is necessary for public safety or convenience. See IOWA CODE § 327G.32 (1993).

KANSAS

Kansas prohibits trains from blocking crossings for more than ten minutes without leaving an opening in the traveled portion of the roadway of at least thirty feet. See KAN. STAT. ANN. § 62-273 (1993).

KENTUCKY

Kentucky permits trains to block crossings for five minutes at any one time. Moving trains are exempted and other exceptions are made for emergencies or circumstances beyond the control of the railroad. See KY. REV. STAT. ANN. § 277.200 (Baldwin 1994).

LOUISIANA

Louisiana has no applicable statute.

MAINE

Maine has no applicable statute.

MARYLAND

Maryland has no applicable statute.

MASSACHUSETTS

Massachusetts expressly prohibits trains from blocking crossings for more than five minutes. See MASS. ANN. LAWS ch. 160, § 151 (Law. Co-op. 1994).

MICHIGAN

Michigan prohibits trains from obstructing vehicular traffic at a public street or highway for longer than five minutes at any one time. It allows an exception for continuously moving trains at not less than ten miles per hour in the same direction for a period up to seven minutes. Exceptions are also made when the railroad can show that the blocking occurred because of a verifiable accident, mechanical failure or unsafe condition. See MICH. STAT. ANN. § 22.1263 (391) (Law. Co-op. 1993).

MINNESOTA

Minnesota has no applicable statute.

MISSISSIPPI

Mississippi allows a blocked crossing for a maximum of five minutes. See MISS. CODE ANN. § 77-9-235 (1994). Also see MISS. CODE ANN. § 77-9-236 (1994) which provides that no train crew shall be held criminally responsible for the blocking of the crossing providing it was under orders from their employer or officers of the railroad company.

MISSOURI

Missouri permits operation of a train to block a crossing for an unspecified period of time. It exempts moving trains and makes exceptions for emergencies or circumstances beyond the control of the railroad company. See MO. REV. STAT. § 71.013 (1993).

MONTANA

Montana permits operation of a train to block a crossing for no more than fifteen minutes at any one time. See MONT. CODE ANN. § 69-14-626 (1994).

NEBRASKA

Nebraska permits operations of a train to block a highway-rail crossing for an unspecified period of time. See NEB. REV. STAT. § 74.594 (1994).

NEVADA

Nevada has no applicable statute.

NEW HAMPSHIRE

With authority from the Department of Transportation, New Hampshire permits a train to block a crossing for no more than five minutes at one time. See N.H. REV. STAT. ANN. § 373:15 (1993). See N.H. REV. STAT. ANN. § 373:17 (1993) regarding penalty.

The Department of Transportation, upon petition, notice and hearing, may fix the maximum time for the occupancy of a highway-rail grade crossing, but in any case it will not exceed nine minutes. The time for maximum occupancy may also be set by the Railroad Commissioner. See N.H. REV. STAT. ANN. § 373:16 (1993).

NEW JERSEY

New Jersey statute provides that: "No employee of a steam or electric railroad company shall operate a locomotive, train or crossing gate in such a manner as to unnecessarily prevent or interfere with the use of a highway for the purpose of travel." See N.J. REV. STAT. § 39:4-94 (1993).

NEW MEXICO

New Mexico has no applicable statute.

NEW YORK

New York permits a train to block a highway-rail crossing for no more than five consecutive minutes, except in situations where the railroad has no control or where the train cannot be moved without endangering the safety of the passengers, public or freight. See N.Y. [R.R.] LAW § 53-c (McKinney 1994).

NORTH CAROLINA

North Carolina has no applicable statute.

NORTH DAKOTA

North Dakota allows a train to block a crossing for no more than ten consecutive minutes. Exceptions include the following situations:

- 1) When necessary to comply with safety signals.
- 2) In order to avoid striking any object or person on the track.
- 3) When the train is disabled by accident or otherwise.
- 4) While in motion, except for switching operations.
- 5) When no vehicular traffic is waiting to use the crossing.
- 6) When in compliance with a government statute or regulation. See N.D. CENT. CODE § 40-11-19 (1993).

See also N.D. CENT CODE § 49-11-19.1 (1993).

OHIO

Ohio permits a train to block a crossing for five minutes when vehicles are waiting to use the crossing. Ohio exempts moving trains not engaged in switching operations from the blocked crossing rule. Exceptions are also made for emergencies or circumstances beyond the control of the railroad. See OHIO REV. CODE ANN. § 5589.21 (Baldwin 1994).

OKLAHOMA

Oklahoma lists no applicable statute.

OREGON

The length of time that a crossing may be blocked is unspecified. The statutes say the authority to fix and regulate the length of time a public highway-rail grade crossing may be blocked by railroad equipment is vested exclusively in the state through its Public Utility Commission. See OR. REV. STAT. § 763.120 (1994).

PENNSYLVANIA

Pennsylvania does not specify the amount of time that a crossing is permitted to be blocked.

Pennsylvania makes it a summary offense for any railroad to continue to block a private crossing used by nearby occupants of land or farms for work trips. The railroad must be given at least fifteen minutes notice to remove its rolling stock. See 18 PA. STAT. ANN. § 6908 (1994).

Pennsylvania makes it a summary offense for any railroad to obstruct or block the passage of a highway or obstruct any crossing with its rolling stock. See 18 PA. STAT. ANN. § 6907 (1994).

RHODE ISLAND

Rhode Island expressly prohibits trains from blocking crossings for more than five minutes. See R.I. GEN. LAWS § 39-8-4 (1994).

SOUTH CAROLINA

South Carolina permits standing trains to block crossing for a maximum of five minutes. The person in charge of the train must be notified before the five minutes commence. See S.C. CODE ANN. § 57-7-240 (1993). A violation of this statute brings a fine to the offending person of not less than five dollars nor more than twenty dollars and said violator shall be liable for all damages. See S.C. CODE ANN. § 58-17-4080 (1993).

SOUTH DAKOTA

South Dakota prohibits trains from blocking any street, road or highway-rail crossing for more than twenty consecutive minutes if it is blocking the path of an emergency vehicle. The state makes exceptions if the train is disabled by accident or otherwise, or if it cannot be moved without striking an object or a person on the track. See S.D. CODIFIED LAWS ANN. § 49-16A-119 (1994). No railroad employee may be held liable for any blocking if blocking was necessitated or required in compliance with a federal or state regulatory order. See S.D. CODIFIED LAWS ANN. § 49-16A-94 (1994).

TENNESSEE

Tennessee law provides that no member of a train crew shall be held personally guilty of violating a municipal ordinance regulating the blocking of street crossings on proof that such action was necessary to comply with the instructions of the employer or officer of the railroad. See TENN. CODE ANN. § 65-11-106 (1994).

TEXAS

Texas law prohibits a blocked crossing for more than five minutes. This law applies only to a stopped train and is addressed to any officer, agent, servant or receiver of a railroad corporation. Local ordinances may allow trains to stand for more than five minutes for certain purposes but not on state highways. Moving trains are exempted from this law. See TEX. REV. CIV. STAT. ANN. art. 6701d-5 (West 1995). Also see art. 6701d-6 (West 1995).

UTAH

Utah prohibits a crossing from being blocked for more than five consecutive minutes. Exceptions are made for the following situations:

- 1) When complying with signals affecting safety of movement.
- 2) When avoiding striking any object or person on the tracks.
- 3) When the train is disabled.
- 4) When the train in motion is engaged in switching operations.
- 5) When there is no vehicular traffic waiting.
- 6) When complying with government safety regulations. See UTAH CODE ANN. § 41-6-95.5 (1994).

VERMONT

Vermont expressly prohibits trains from blocking crossings for more than five minutes at a time. See VT. STAT. ANN. tit. 30, § 1382 (1994).

Vermont has a second statute that deals with willful or negligent obstruction of a public highway or farm crossing, but it specifies no time limit. See VT. STAT. ANN. tit. 30, § 1381 (1994).

VIRGINIA

Virginia prohibits trains from blocking crossings for more than five minutes at a time. It allows exceptions for breakdown, mechanical failure or emergencies. See VA. CODE ANN. § 56-412-1 (Michie 1994).

WASHINGTON

Washington has no applicable statute.

WEST VIRGINIA

West Virginia prohibits trains from blocking crossings for longer than ten minutes, except in an emergency when the train is continuously moving or in the event of circumstances beyond the control of the railroad. However, this rule does not preempt any local ordinances. See W. VA. CODE § 31-2A-2 (1994).

WISCONSIN

Except outside cities, it is unlawful for a railroad train to block a crossing in Wisconsin longer than ten minutes. See WIS. STAT. § 192.292 (1993).

WYOMING

Wyoming has no applicable statute.

PENALTIES

This section provides an overview of the kinds and nature of penalties that may be imposed by the states when a railroad is in violation of their statutes concerning blocked crossings.

ALABAMA

Alabama law lists no penalty.

ALASKA

Alaska law lists no penalty.

ARIZONA

A violation of this section is a Class 2 misdemeanor. See ARIZ. REV. STAT. ANN. § 40-852 (1994).

ARKANSAS

Arkansas law lists no penalty.

CALIFORNIA

California law lists no penalty.

COLORADO

Colorado law lists no penalty.

CONNECTICUT

Connecticut law lists no penalty.

DELAWARE

A railroad can receive a fine of not less than five hundred and not more than one thousand dollars for the first conviction and not less than one thousand nor more than two thousand dollars for each subsequent conviction which occurs within one year after a previous conviction. See DEL. CODE ANN. tit. 17, § 701 (c) (1992).

DISTRICT OF COLUMBIA

The District of Columbia lists no penalty.

FLORIDA

A violation is a misdemeanor of the second degree and is punishable by imprisonment not exceeding sixty days. See FLA. STAT. ANN. § 351.03 (West 1994). Also see FLA. STAT. ANN. § 775.082 or 775.083 (West 1994) regarding punishment.

GEORGIA

Georgia law lists no penalty.

HAWAII

Hawaii statute lists no penalty.

IDAHO

Idaho statute lists no penalty.

ILLINOIS

A violation is a petty offense and a fine is affixed of not less than two hundred nor more than five hundred dollars if the duration of the obstruction is in excess of ten minutes but no longer than fifteen minutes. If the duration exceeds fifteen minutes, the violation shall be a business offense and the following fines may be imposed:

- 1) If the duration of the obstruction is in excess of fifteen minutes but no longer than twenty minutes, the fine is five hundred dollars.
- 2) If the duration is in excess of twenty minutes but no longer than twenty-five minutes, the fine shall be seven hundred dollars.
- 3) If the duration is in excess of twenty-five minutes, but no longer than thirty minutes, the fine shall be nine hundred dollars.
- 4) If the duration is in excess of thirty minutes but no longer than thirty-five minutes, the fine shall be one thousand dollars.
- 5) If the duration of the obstruction is in excess of thirty-five minutes, the fine shall be one thousand dollars plus an additional five hundred dollars for each five minutes of obstruction in excess of twenty-five minutes. See ILCS 5/18c-7402 (1994).

INDIANA

Any railroad corporation, conductor or engineer who violates the statute commits a Class C infraction. However, no conductor or engineer acting under orders or within the rules of the railroad corporation, may be prosecuted for such a violation. See IND. CODE ANN. § 8-6-7.5-3 (Burns 1994).

IOWA

Any employee found guilty of violating the section is, upon conviction, subject to a penalty. See IOWA CODE § 327G.32 (1993) for section on blocking and IOWA CODE § 327G.14 (1993) for penalty.

KANSAS

Violation is a misdemeanor and the punishment is a fine as follows:

- 1) Fifty dollars if the blocking is for more than ten minutes but less than twenty minutes.
- 2) One hundred fifty dollars if the blocking is for more than twenty minutes but less than thirty minutes.
- 3) Three hundred dollars if the blocking is for more than thirty minutes.

The statute provides that no one is to be held personally responsible if it can be shown that he was acting due to circumstances beyond his control or as a result of orders issued by a superior or the railroad. See KAN. STAT. ANN. § 66-274 (1993).

KENTUCKY

The penalty is outlined in KY. REV. STAT. ANN. § 277.990 (7) (Baldwin 1993).

LOUISIANA

Louisiana law lists no penalty.

MAINE

Maine law lists no penalty.

MARYLAND

Maryland law lists no penalty.

MASSACHUSETTS

A railroad corporation or employee thereof who violates the statute shall forfeit not less than two hundred nor more than five hundred dollars. See MASS. ANN. LAWS ch. 160, § 151 (Law. Co-op. 1994).

MICHIGAN

Each offense under the section is a separate violation punishable by a fine of not more than five hundred dollars unless the railroad is willfully, deliberately and negligently blocking the crossing, in which case the fine shall be not more than one thousand dollars plus the cost of prosecution. See MICH. STAT. ANN. § 22.1263 (391) (Law. Co-op. 1993).

MINNESOTA

Minnesota law lists no penalty.

MISSISSIPPI

A railroad company may be liable for a fine of fifty dollars for each offense. The conductor in charge of a train may be liable for a fine of not less than twenty-five nor more than fifty dollars if convicted. See MISS. CODE ANN. § 77-9-235 (1994).

MISSOURI

Missouri law lists no penalty.

MONTANA

Montana considers this offense a misdemeanor and any corporation, association or company found guilty may be punished by a fine of not less than twenty five nor more than one hundred dollars. See MONT. CODE ANN. § 69-14-626 (1994).

NEBRASKA

Nebraska law lists no penalty.

NEVADA

Nevada law lists no penalty.

NEW HAMPSHIRE

The New Hampshire statute is somewhat unclear. "Any person who violates the provisions of any preceding sections (373:15 and 373:16) or of any order of the Department of Transportation made hereunder, shall be guilty of a violation if a natural person or guilty of a misdemeanor if any other person, unless otherwise specifically provided." See N.H. REV. STAT. ANN. § 373:17 (1993).

NEW JERSEY

New Jersey law lists no penalty.

NEW MEXICO

New Mexico law lists no penalty.

NEW YORK

If guilty of a violation in New York, it is punishable by a fine of not more than one hundred dollars or imprisonment for not more than fifteen days or both. Provided however, that no owner, officer or employee of a railroad corporation will be subject to a criminal or civil penalty if he had no control over the situation causing the obstruction or the train could not be moved without endangering the safety of the passengers, public or freight. See N.Y. [R.R.] LAW § 53-c (McKinney 1994).

NORTH CAROLINA

North Carolina law lists no penalty.

NORTH DAKOTA

In North Dakota, any person who violates the statute is guilty of an infraction. The relevant code section has no application to cities having pre-existing obstruction ordinances. See N.D. CENT. CODE § 40-11-19 (1993).

OHIO

The code section mentions no specific penalty, but does specify the manner of service and to whom service of summons can be served for violation. See OHIO REV. CODE ANN. § 5589.21 (Baldwin 1994).

OKLAHOMA

Oklahoma law lists no penalty.

OREGON

Violators are punishable, if convicted, by a fine of not less than one hundred nor more than three thousand for each offense. See OR. REV. STAT. § 763.120 (1994).

PENNSYLVANIA

Pennsylvania makes it a summary offense for any railroad to obstruct the passage of a highway or any crossing with its rolling stock. See 18 PA. CONS. STAT. § 6907 (1994).

It is also a summary offense in Pennsylvania for any railroad to continue to block a private crossing where the crossing is used by nearby occupants of land or farms for work related trips. The railroad must be given at least fifteen minutes notice to remove its rolling stock. See 18 PA. CONS. STAT. § 6908 (1994).

RHODE ISLAND

For each violation, a railroad corporation may be fined not less than twenty five nor more than one hundred dollars. See R.I. GEN. LAWS § 39-8-4 (1994).

SOUTH CAROLINA

For every such offense, a person shall pay not less than five nor more than twenty dollars. It is considered a new offense for every twenty-four hour period the blockage continues. See S.C. CODE ANN. § 58-17-4080 (Law. Co-op. 1993).

SOUTH DAKOTA

South Dakota considers a violation of this section a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 49-16A-119 (1994).

The state exempts railroad employees from liability if the blockage was necessary under state and federal rules. See S.D. CODIFIED LAWS ANN. § 49-16A-94 (1994).

TENNESSEE

Tennessee law lists no penalty.

TEXAS

Violators are responsible for a fine of not less than five nor more than one hundred dollars. See TEX. REV. CIV. STAT. ANN. art. 6701d-5(1)-(2)-(3)-(4) (West 1955).

UTAH

Utah law lists no penalty.

VERMONT

If convicted of a violation of this section, a person or corporation may be fined not less than five nor more than fifty dollars. See VT. STAT. ANN. tit. 30, § 1382 (1994).

Vermont has a second statute section that prohibits blocking a public highway or farm crossing but gives no specific time limit. If a violator is convicted, the fine may be not less than five nor more than twenty dollars. See VT. STAT. ANN. tit. 30, § 1381 (1994).

VIRGINIA

Upon conviction, a railroad company or individual may be fined not less than one hundred nor more than five hundred dollars, with an additional proviso that the fine could be one hundred dollars for each minute beyond the permitted time. In any case, the total may not exceed five hundred dollars. VA. CODE ANN. § 56-412.1 (Michie 1994).

WASHINGTON

Washington law lists no penalty.

WEST VIRGINIA

West Virginia law lists no penalty.

WISCONSIN

A violation of the statute may result in a fine not to exceed twenty-five dollars or imprisonment of not more than fifteen days. See WIS. STAT. § 192.292 (1993).

WYOMING

Wyoming law lists no penalty.

CHAPTER 5: WARNING DEVICES - PASSIVE

CHAPTER OVERVIEW

This chapter presents a state-by-state survey of laws and regulations concerning the use of passive warning devices at highway-rail crossings.

Approximately seventy-eight percent of the reported 280,503 highway-rail crossings in the United States have passive warning devices or traffic control devices as opposed to automatic gates, flashing lights or other train-activated devices.

These passive devices are designed to direct the attention of the driver to the location of highway-rail crossings so they may exercise caution when traversing the crossing. The messages conveyed by these devices are intended to provide warning and guidance, but they also may direct some mandatory action by the driver. These devices consist of regulatory, warning and guide signs as well as pavement markings. All states require that these devices conform with the Manual on Uniform Traffic Control Devices.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama statute provides that every railroad company must erect a warning sign that gives notice of the proximity of a railroad crossing. The type of sign is not specified, except to say that it should have large and distinct letters. See ALA. CODE § 37-2-80 (1994).

ALASKA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

ARIZONA

The Director of the Department of Transportation and local authorities with the approval of the Director are authorized to identify and erect STOP signs at particularly dangerous highway-rail crossings. See ARIZ. REV. STAT. ANN. § 28-852 (1994). Also see chapter on driver action.

ARKANSAS

The State Highway Commission and local authorities are authorized to identify and erect STOP signs at particularly dangerous state highway grade crossings. See ARK. CODE ANN. § 27-51-706 (Michie 1993).

CALIFORNIA

At every farm or private grade crossing of a railroad where no automatic grade crossing warning device is in place, there must be installed one or more STOP signs of the type described in § 21400 of the Vehicle Code, or of such other design as the Public Utility Commission prescribes. Signs will not be required if the Commission determines, after a hearing, that the signs would create a dangerous condition which would not otherwise exist. See CAL. [PUB. UTIL.] CODE § 7538 (West 1994).

Local authorities are required to erect railroad warning signs at a reasonable distance from the crossing. See CAL. [VEH.] CODE § 21362 (Bancroft-Whitney 1995).

COLORADO

Colorado has no applicable statute.

CONNECTICUT

Connecticut requires that each railroad company maintain, at each crossing where there is no gate, warning boards of the type and nature as the Commissioner of Transportation may approve. See CONN. GEN. STAT. § 13b-347 (1992).

The Commissioner of Transportation may require every railroad company to erect and maintain at each of their crossings within their right-of-way, a STOP, caution or other sign of a type approved by the Commissioner. If the tracks cross a state highway at-grade, the Traffic Commission is responsible for prescribing the kind and nature of traffic control devices and measures to be installed.

The Commissioner may also require every railroad company to erect and maintain a sign advising the public to call 911 to report malfunctioning grade crossing gates or signals. The type of sign must be approved by the Commissioner. See CONN. GEN. STAT. § 13b.345(a)-(b) (1992).

Any town, city or borough may also petition the Department of Transportation to provide a mandatory stop at any municipal or state highway approaching a crossing at-grade. The Department must set a specified time for the hearing and provide proper notice. The Department must then rule on the petition within sixty days after the hearing. See CONN. GEN. STAT. § 13b-345(a) (1994).

DELAWARE

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

DISTRICT OF COLUMBIA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

FLORIDA

Every railroad company must exercise reasonable care for the safety of the motoring public whenever its tracks cross a highway. The railroad company is responsible for erecting and maintaining crossbuck warning signs in accordance with the uniform system of traffic control devices adopted pursuant to § 316.0745 of the Florida Annotated Statutes. The crossbuck signs must be erected and maintained at all public and private crossings.

Advance railroad warning signs and pavement markings must be installed and maintained at public highway-rail grade crossings in accordance with the uniform system of traffic control devices, by the government agency which has jurisdiction over and maintenance responsibility for the highway or street. See FLA. STAT. ANN. § 351.03 (West 1994).

Every railroad company operating or leasing any track intersecting a public road at-grade and upon which railroad trains are operating, is responsible for erecting any traffic control devices which are necessary to conform with the requirements of § 316.745 of the Florida Annotated Statutes. Pavement markings and advance warning signs are the responsibility of the government entity having jurisdiction over the crossing. See FLA. STAT. ANN. § 316.171 (West 1994).

Every railroad company maintaining a highway-rail crossing must, upon reasonable notice from the Department of Transportation, install, maintain and operate traffic control devices to warn motorists of approaching trains. See FLA. STAT. ANN. § 335.141 (West 1994).

GEORGIA

Each railroad company is to erect and maintain a reflectorized railroad crossbuck at each grade crossing where such a sign is required by state law. The signs must conform to standards established by the Georgia Department of Transportation. See GA. CODE ANN. § 46-8-194 (1994). Also see GA. CODE ANN. § 46-8-195 (1994).

Every railroad company in Georgia is required to erect and maintain a signboard at least four feet six inches in height to warn approaching rail traffic of the existence of drawbridges, grade crossings and stations at which there are switches. The signboard must be located at a point on the right-of-way not less than one-half mile nor more than one mile on each side of every station or grade crossing at which there is a switch. Signboards must be placed where they can be clearly seen by persons operating locomotives and must be placed on the right-hand side of the track approaching the station or grade crossing. Failure to comply with this section is a misdemeanor punishable by a fine of one hundred dollars for each offense. See GA. CODE ANN. § 46-8-198 (1994).

A railroad company is required to erect a blowpost (whistlepost) on each side of the crossing to indicate its existence. The location of the blowpost is to be at a point 400 yards from the center of its intersection with any public road or street at-grade. Failure to comply with this section is a misdemeanor. See GA. CODE ANN. § 46-8-190 (1994).

The Department of Transportation and local authorities are authorized to identify and erect STOP signs at particularly dangerous grade crossings. See GA. CODE ANN. § 40-6-141 (1994).

HAWAII

The Director of Transportation and the individual counties are authorized to identify and erect STOP signs at particularly dangerous highway-rail crossings. See HAW. REV. STAT. § 291C-92 (1994).

IDAHO

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

ILLINOIS

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

INDIANA

The Indiana Department of Transportation has responsibility for determining whether there is a need to install STOP signs at public crossings without automatic warning devices. After consultation with the local highway unit and affected railroad, the Department may order the installation of STOP signs. The Department of Transportation is responsible for sign installation, maintenance, repair and replacement. The railroad must reimburse the Department of Transportation for installation costs within forty-five days. See IND. CODE ANN. § 9-21-4-15 (Burns 1994).

Any person who owns or operates any line of steam or interurban railroad is responsible for installing and maintaining at each grade crossing, signs (crossbucks) and any number of other track signs if required. These signs should be placed at right angles with the highway where possible. The signs must conform to the Manual on Uniform Traffic Control Devices adopted under IC 9-21-2-1. A violation of this section is a Class C infraction. See IND. CODE ANN. § 8-6-6-1 (Burns 1994).

IOWA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

KANSAS

The Secretary of Transportation and local authorities, with the approval of the Secretary, are authorized to identify and erect STOP signs at dangerous highway-rail crossings. See KAN. STAT. ANN. § 8-1552 (1993). Also see § 8-2002 (Power of Local Authorities).

Every railroad corporation must place crossbucks at highway-rail crossings. Each side of the sign shall have a white reflectorized background, with the words "RAILROAD CROSSING" in black lettering. If the crossing consists of two or more tracks, the number of tracks shall be indicated on an auxiliary sign of inverted T-shape mounted below the crossbuck. This section is not applicable to streets in cities unless the railroad is required to do so by local ordinance. See KAN. STAT. ANN. § 66-2,121 (1993).

KENTUCKY

The Public Protection and Regulation Cabinet may identify unsafe crossings and shall place and maintain on each side of the tracks and on the right side of the highway, an octagonal sign of a type and size currently approved for use by the cabinet bearing the word "STOP" in white letters not less than ten inches in height. The cabinet must install the signs within sixty days after the crossing is declared unsafe. The statute does not apply to those crossings that have gates, automatic audible signals or electric warning signals. See KY. REV. STAT. ANN. § 189.560 (2)(3)(4)(5) (Baldwin 1994).

Every railroad company is required to place and maintain signalboards at each public highway where it is crossed by a railroad track. Each side of the board is to contain, in capital letters at least five inches high, the words "RAILROAD CROSSING". See KY. REV. STAT. ANN. § 277.160 (Baldwin 1994).

LOUISIANA

All railroads must install and maintain at highway-rail crossings a reflectorized crossbuck sign which shall be inscribed "RAILROAD CROSSING", except at those contained in the maintenance system of the Office of Highways. If there are two or more tracks, that fact shall be indicated by an auxiliary sign of inverted "T" shape mounted below the crossbuck.

A railroad may, with the approval of the Office of Highways, erect STOP signs at any grade crossing on highways not contained in the state maintenance system. Where the STOP signs are erected, the railroads are also responsible for the erection and maintenance of a railroad advance warning sign on the right side of the road not less than one hundred feet nor more than three hundred feet from the nearest rail of the crossing. See LA. REV. STAT. ANN. § 32:169 (A)-(B) (West 1993).

MAINE

Every railroad is responsible for the erection and maintenance of warning signs at highway-rail crossings. Signs should be of the size, design and color ordered by the Maine Department of Transportation. See ME. REV. STAT. ANN. tit. 23, §§ 1251-1252 (West 1994).

Every railroad shall be responsible for the erection of signboards with the words "RAILROAD CROSSING" painted on each side by the side of highway and town ways where they are crossed at-grade.

The Commissioner of Transportation may temporarily erect experimental signs at certain grade crossings instead of the signboards required in this section. The erection of the experimental signs by the Department relieves the railroad company using the crossing of any liability in damages. See ME. REV. STAT. ANN. tit. 23, § 7214 (West 1994).

The Department is authorized to designate any highway-rail crossing as a "stop intersection" and to install and maintain STOP signs at such crossing. Municipalities, when ordered by the Department, will install and maintain STOP signs. See ME. REV. STAT. ANN. tit. 23, § 1253-A (West 1994).

MARYLAND

The Maryland State Highway Administration or any local authority with the approval of the administration may place a STOP sign at any highway-rail crossing designated as a dangerous crossing. See MD. ANN. CODE art. 21, § 702 (1994).

MASSACHUSETTS

Every railroad is responsible for placing and maintaining boards (signs) across each crossing of their tracks by a public road. The boards must be clearly visible and contain the inscription: "Railroad Crossing--Look out for the Engine." The railroad may, if it chooses, use a substitute board, the size and description of which must be approved by the state Department of Transportation. See MASS. ANN. LAWS ch. 160, § 140 (Law. Co-op. 1994).

"The board of aldermen of a city or the selectmen of a town where a traveled place is crossed by a railroad at the same level, if of opinion that it is necessary for the better security of the public that boards such as are described in the preceding section should be maintained at such traveled place, may in writing request the railroad to erect and maintain them...." See MASS. ANN. LAWS ch. 160, § 141 (Law. Co-op. 1994).

Every county, city, and town and the Department of Highways may place and maintain warning signs at public ways which are crossed at-grade in its jurisdiction by a railroad. See MASS. ANN. LAWS ch. 160, § 142 (Law. Co-op. 1994).

MICHIGAN

The state Transportation Department, the county road commission and local authorities may designate certain grade crossings as "stop" crossings and place signs there notifying drivers to come to a complete stop before crossing the tracks.

These same authorities may place signs at grade crossings designated "yield" crossings. See MICH. STAT. ANN. § 9.2368 (1)-(2) (Law. Co-op. 1993).

The road authority, at its own expense, must furnish, renew and maintain all passive traffic control devices on public streets and highways that cross railroad tracks at-grade. All signs must conform to the specifics prescribed by the Michigan Manual on Uniform Traffic Control Devices. See MICH. STAT. ANN. § 22.1263(311) (Law. Co-op. 1993).

MINNESOTA

Every railroad must maintain a proper and conspicuous sign indicating the presence of a highway-rail crossing. If the railroad fails to comply with this section, they shall forfeit to the town or municipality, ten dollars for each day the failure continues. See MINN. STAT. § 219.06 (1993).

When any government entity in the state deems it necessary to install STOP signs at a crossing for which they are responsible, they may petition the Commissioner of Transportation to order the installation of a STOP sign. See MINN. STAT. § 219.20 (1993).

The Commissioner shall require that uniform warning signs be placed at highway-rail crossings throughout the state. There shall be at least three distinct types, a home warning sign for use in the immediate vicinity of the crossing, an approach crossing sign, and when deemed necessary, a STOP sign with the word "STOP" on it. See MINN. STAT. § 219.17 (1993).

MISSISSIPPI

"The Mississippi Highway Department is authorized to construct protective or warning devices at or in the vicinity of any railroad crossing of a public highway under the jurisdiction of any county or incorporated municipality." See MISS. CODE ANN. § 65-1-70 (1994).

Every railroad corporation, at the intersection of a public road or street and railroad crossing, must install and maintain the standard sign known as a "Railroad Crossbuck". See MISS. CODE ANN. § 77-9-247 (1993).

MISSOURI

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

MONTANA

The Department of Highways and local authorities may identify dangerous highway-rail crossings and install STOP signs at these crossings. See MONT. CODE ANN. § 61-8-348 (1994).

Beginning April 9, 1987, and within two years from that date, all railroad companies will have installed and be currently maintaining reflectorized material on the front and back sides of crossbuck blades at all public crossings. See MONT. CODE ANN. § 69-14-612 (1994).

NEBRASKA

The Department of Roads and local authorities, on highways under their jurisdiction, may identify and install STOP signs at dangerous highway-rail crossings. See NEB. REV. STAT. § 60-6,171 (1994).

NEVADA

The Department of Transportation and local authorities, with the approval of the Department of Transportation, may designate dangerous grade crossings and install official traffic control devices at such crossings. See NEV. REV. STAT. § 484.351 (Michie 1993).

NEW HAMPSHIRE

"The governmental authority responsible for maintaining a highway shall place and maintain warning signs on every highway approaching a crossing at-grade of such highway and the tracks of a railroad...". The Department of Transportation may prescribe the standards for warning signs for highway-rail crossings. See N.H. REV. STAT. ANN. § 373.11 (1993).

NEW JERSEY

It is the duty of every railroad to install and maintain at each at-grade crossing a conspicuous sign with an inscription, design and standard approved by the Board of Public Utility Commissioners. See N.J. STAT. ANN. § 48:12-58 (West 1993).

NEW MEXICO

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

NEW YORK

Each municipality or political subdivision which has responsibility for maintaining highways at places where they intersect with a railroad at-grade, or the Department of Transportation in the case of state highways, shall install and maintain an approach warning sign on each side of the crossing. In the event the municipality, political subdivision or railroad does not comply with this requirement, the Commissioner of Transportation may institute proceedings to force compliance.

The design, location and manner of installation must be in agreement with the manual for a uniform system of traffic control devices adopted by the Department of Transportation. See N.Y. [R.R.] LAW § 53-a (McKinney 1994).

It is the duty of every Class 1 railroad to install a whistle sign made of retroreflective material as specified by the Commissioner of Transportation on the approach to each highway-rail crossing. See N.Y. [R.R.] Law § 71-a (McKinney 1994).

NORTH CAROLINA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

NORTH DAKOTA

The North Dakota Public Utility Commission prescribes three distinct types of warning signs for use at highway-rail crossings, the home crossing sign, the STOP sign, and the approach crossing sign. See N.D. CENT. CODE § 24-09-02 (1993).

The railroad company is responsible for erecting and maintaining one or more of such uniform crossing signs at each grade crossing in the state. See N.D. CENT. CODE § 24-09-03 (1993).

The road authority, except as otherwise provided for, is responsible solely for the erection and maintenance of advance warning signs at public grade crossings in accordance with the Manual on Uniform Traffic Control Devices. See N.D. CENT. CODE § 24-09-04 (1993).

The Department of Transportation, may designate any crossing requiring additional protection as a "stop" crossing and make notification to the appropriate road authority. Within thirty days after notification the road authority shall erect STOP signs. See N.D. CENT. CODE § 24-09-05 (1993).

OHIO

All railroad companies are required to erect crossbuck signs at all highway-rail crossings. The Director of Transportation may install experimental signs at certain crossings in lieu of the above required signs for the purpose of research for the development of better signing systems. The installation of an experimental sign relieves the railroad company of any liability in damages which might otherwise arise under this section.

The railroad may also erect experimental signs and warning devices, with prior approval of the Director, for the purpose of conducting research. Such signs or warnings may be erected on an interim or permanent basis. Under these circumstances, the railroad or local authority is relieved from liability. See OHIO REV. CODE ANN. § 4955.33 (Baldwin 1994).

OKLAHOMA

The Oklahoma Corporation Commission has authority, after proper investigation, to identify grade crossings that are extra hazardous. Once a designation is made, the Commission has the authority to order the installation of appropriate warning devices. The type, location and number of devices is to be determined by the Commission, as is the division of costs. The devices are to conform as near as possible to national standards. See OKLA. STAT. tit. 17, § 86 (1994).

Every railroad corporation in the state has a duty to erect suitable warning signs at each crossing of its tracks by a public highway. See OKLA. STAT. tit. 66, § 124 (1994).

The Commission is also vested with the authority to promulgate rules and regulations concerning the design, installation, construction, maintenance, inspection and testing of warning signal devices at highway-rail crossings. See OKLA. STAT. tit. 66, § 130 (1994).

OREGON

All railroads in the state must install and maintain STOP signs at every farm or private grade crossing. The Oregon Public Utility Commission has the authority to prescribe the number, type and location of the STOP signs and may exempt a crossing if the Commission determines that an even more dangerous condition would be created by the installation of the sign. See OR. REV. STAT. § 763.130 (1994).

The Commission may prescribe the number, kind and location of advance warning signs to be installed on the highway before each highway-rail crossing. Such signs must conform to standards adopted by the Department of Transportation. See OR. REV. STAT. § 763.110 (1994). Also see OR. REV. STAT. § 763.170 (1994).

PENNSYLVANIA

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

RHODE ISLAND

Every railroad corporation must install and maintain at every highway-rail crossing a suitable signboard for the purpose of warning traffic of approaching trains. See R.I. GEN. LAWS § 39-8-13 (1994).

Railroad corporations neglecting or refusing to comply with the provisions of § 39-8-13 may be fined an amount not to exceed one thousand dollars and may be liable for all damages due to neglect or refusal to comply. See R.I. GEN. LAWS § 39-8-15 (1994).

The State Traffic Commission and local authorities with the approval of the commission may designate a highway-rail crossing as dangerous and erect STOP signs thereat. See R.I. GEN. LAWS § 31-20-3 (1994).

SOUTH CAROLINA

All railroad companies must install and maintain standard crossbuck signs at every crossing in accordance with the requirements of the Manual on Uniform Traffic Control Devices. See S.C. CODE ANN. § 56-5-1010 (Law. Co-op. 1993).

Every railroad corporation must install and constantly maintain railroad crossing signs. This does not apply to streets in cities, towns and villages unless the railroad is required to do so by the officers in charge of such streets. See S.C. CODE ANN. § 58-17-1390 (Law. Co-op. 1993).

Every railroad company must install and maintain warning boards (signs) near drawbridges and highway-rail crossings. See S.C. CODE ANN. § 58-17-3380 (Law. Co-op. 1993).

SOUTH DAKOTA

Except within the limits of a municipality, the Department of Transportation and county commissioners have the authority to designate any hazardous highway-rail crossing as a "stop" crossing by placing a STOP sign preceded by a warning sign at the crossing. See S.D. CODIFIED LAWS ANN. § 31-28-17 (1994).

At all points where the railroad tracks cross a public road, the railroad owning the tracks is responsible for the erection of a sign with large and distinct letters warning drivers to use caution when crossing the upcoming track. See S.D. CODIFIED LAWS ANN. § 49-16A-87 (1994).

The public board or officer who is responsible for the repair and maintenance of a public highway shall erect and maintain a standard railroad advance warning sign at a distance from the crossings as specified by the Department of Transportation or other controlling body. See S.D. CODIFIED LAWS ANN. § 31-28-7 (1994).

TENNESSEE

The Public Service Commission of the state and the Commissioner of Transportation or his designee have the power and authority to determine the type of railroad crossing sign which shall be uniform throughout the state. See TENN. CODE ANN. § 65-11-105 (1994).

"Boards, well supported by posts or otherwise, shall be placed and constantly kept, across each public road, when the same is crossed on the same level by the track of the railway, the boards are to be elevated so as not to obstruct travel and, on each side of such board, there shall be printed in large letters, easily to be seen by the traveler, the words 'Railroad Crossing -- Look Out for the Cars'" See TENN. CODE ANN. § 65-18-104 (1994).

TEXAS

Every railroad in the state is responsible for erecting a sign with large and distinct letters at a railroad to warn drivers to use caution when crossing the upcoming tracks. See TEX. REV. CIV. STAT. ANN. art. 6370 (West 1995).

The Texas Department of Highways and Transportation is responsible for the development of material for the installation and maintenance of retroreflectorized material at all public grade crossings not provided with active warning devices. The retroreflectorized material will be affixed to the backs of crossbucks and their support posts. See TEX. REV. CIV. STAT. ANN. art. 6370b (West 1995).

UTAH

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

VERMONT

Each railroad must maintain railroad crossing (crossbuck) signs conforming to the Federal Highway Administration's Manual on Uniform Traffic Control Devices at every crossing of a railroad by a public highway. See VT. STAT. ANN. tit. 30, § 1376 (1994).

Certain crossings may be considered exempt from the requirement in § 1376. The Transportation Board may determine, upon recommendation of the local transportation agency, that a crossing is exempt and may impose such conditions as the interests of safety dictate. However, a flagperson must be present at these exempt crossings whenever a train is traversing the crossing. See VT. STAT. ANN. tit. 30, § 1376 (1994).

The Traffic Committee may designate highway-rail grade crossings as particularly dangerous and erect STOP signs at each such crossing. See VT. STAT. ANN. tit. 23, § 1006 (1994).

VIRGINIA

Every railroad in Virginia is required to place crossbucks at highway-rail crossings so as to be seen by travelers from both directions of the highway. The railroad is also responsible for the maintenance of the crossbucks. If one is being installed for the first time, it must be paid for or supplemented from federal funds when available at the sole discretion of the Commonwealth Transportation Commissioner. See VA. CODE ANN. § 56-405.2 (Michie 1994).

WASHINGTON

It is the duty of the railroad corporation to install and maintain at every highway-rail crossing, a sign known as a saw buck crossing sign with the lettering "RAILROAD CROSSING" and an inscription indicating the number of tracks. See WASH. REV. CODE ANN. § 47.36.050 (West 1994).

The Transportation Department may install approach and warning signs on the approach of any state highway to a highway-rail crossing, situated at a sufficient distance from the crossing as to make the warning effective. See WASH. REV. CODE § 47.36.080 (1994).

The Department must place and maintain any such traffic device conforming to the manual and specifications adopted upon all state highways and railroad crossings. See WASH. REV. CODE ANN. § 47.36.053 (West 1994).

WEST VIRGINIA

Every railroad company must erect and maintain suitable signboards or notices at each of its highway-rail crossings giving warning of danger in crossing its tracks. All such signs will be of the required design and construction and be placed at the location required by the state Road Commission. Any railroad company that violates this provision shall be fined five dollars for each week the violation continues. See W. VA. CODE § 31-2-9 (1994).

WISCONSIN

When it is deemed necessary for public safety, any local authority may, by ordinance, install official STOP signs at grade crossings. See WIS. STAT. § 349.085 (1993).

Railroads are required to provide to each county in which they operate, a sufficient quantity of advance warning signs. The county will immediately install and maintain such signs in good condition. This section shall not apply to state trunk highways and crossings within the limits of cities and incorporated villages. See WIS. STAT. § 195.286(1) (1993).

The penalty for violation by a railroad of this section is a fine of not less than ten nor more than fifty dollars for each violation. See WIS. STAT. § 195.286(7) (1993).

WYOMING

There is nothing applicable in the statutes with respect to the regulation of passive warning devices.

CHAPTER 6: WARNING DEVICES - TRAIN BORNE

CHAPTER OVERVIEW

This chapter presents a state-by-state survey of the legal and regulatory requirements for trains operating within the respective states and the District of Columbia to provide some type of auditory alarm as they approach grade crossings. A state may require that a train carry a bell, whistle or a horn and require the repeated use of that bell, whistle or horn at an initial point before reaching crossings. State laws may also require that trains be equipped with headlights of a certain candlepower while operating at night. As with any law, failure to comply brings penalties. If a state has a penalty codified, it is presented here. A specific citation for each individual law or regulation is included.

STATE LAWS, REGULATIONS AND PENALTIES

ALABAMA

Alabama law provides that it shall be the duty of each engineer or other person operating a locomotive to blow the horn or whistle or ring the bell under certain conditions:

- 1) At least one quarter of a mile before reaching any public road crossing or station, and continue with the signal at short intervals until the crossing or station has been passed.
- 2) Immediately before arriving or leaving a station and before entering any curve crossed by a public road where the engineer cannot see at least one quarter of a mile ahead.
- 3) At short intervals on entering a village, town or city, or while moving within that village, town or city. See ALA. CODE § 37-2-81 (1994).

If any engineer, conductor or other person operating the train fails to use proper precautions to prevent accidents and ignores the dictates of ALA. CODE § 37-2-81 (1994), he or she may be found guilty and receive a fine of not less than one hundred nor more than one thousand dollars and may be imprisoned in jail or sentenced to hard labor in the county for not more than six months. See ALA. CODE § 37-8-114 (1994).

Alabama also provides for punishment of a superintendent of a railroad who fails to instruct the engineers and conductors regarding their responsibilities for blowing the horn or whistle. If convicted, the punishment shall be a fine of not less than one thousand dollars and imprisonment or hard labor for not more than twelve months. See ALA. CODE § 37-8-113 (1994). See also ALA. CODE § 37-8-112 (1994).

Alabama law requires railroads operating in the state to equip and maintain in each and every locomotive being used in the nighttime a power headlight of not less than fifteen hundred candlepower brilliancy measured with the aid of a suitable reflector. See ALA. CODE § 37-2-90 (1994). Failure to comply with the headlight requirements brings a penalty of three hundred dollars for each separate offense, with all fines collected going to the public school fund. See ALA. CODE § 37-8-117 (1994).

ALASKA

Alaska law has no applicable statute.

ARIZONA

Under Arizona law, each railroad must equip its locomotives with a bell weighing not less than twenty pounds. Any railroad which fails to comply with this section is liable for a penalty of one hundred dollars recoverable in an action filed by the attorney general in the name of the state. A separate action may be filed for each violation. In addition to the one hundred dollar penalty, the railroad may be liable for all damages sustained by any person for failure of the corporation to comply with this section. See ARIZ. REV. STAT. ANN. § 40-847 (1994).

It is unlawful for any locomotive not equipped with an automatically operated bell ringer which will cause the bell on the engine to continue to ring after being set in motion by the engineer or fireman to operate in the state. The starting and stopping device for the bell ringer must be placed in a position where it can be operated by the engineer or fireman. A violation of this section makes the railroad guilty of a petty offense for each day the locomotive is used in violation of this section. If the ringer should become inoperable while the engine is in use, the engine may complete its trip. See ARIZ. REV. STAT. ANN. § 40-848 (1994).

Any person in charge of a railroad locomotive who, before crossing any traveled way, does not cause the bell to ring or a whistle, siren or other sounding device to sound at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from a crossing until it is reached is guilty of a Class 2 misdemeanor. See ARIZ. REV. STAT. ANN. § 40-854 (1994).

Arizona requires a headlight brilliancy of not less than fifteen hundred candlepower measured without the aid of a reflector. Failure to comply with this section makes the railroad liable to the state for not less than one hundred nor more than one thousand dollars for each offense. See ARIZ. REV. STAT. ANN. § 40-846 (1994).

ARKANSAS

Arkansas requires locomotives or engines to have a bell of at least thirty pounds weight or a steam whistle. The bell or whistle must be sounded at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from the place where the track crosses any road or street and shall sound continuously until through the crossing. A violation of this section will result in a penalty of two hundred dollars for each incident of neglect plus possible liability for all damages sustained by any person as a result of such neglect. See ARK. CODE ANN. § 23-12-410 (Michie 1994).

Arkansas law requires any company owning or operating a locomotive over fifty miles in length to equip all their locomotives being operated at night with a headlight of power and brilliancy equal to fifteen hundred candlepower. A violation of this section will subject the offending railroad to a penalty of not less than three hundred or more than five hundred dollars for each separate offense. See ARK. CODE ANN. § 23-12-402 (Michie 1994).

CALIFORNIA

California law requires the installation of an automatic bell ringer apparatus to be in a location which allows operation from either or both sides of the locomotive cab. Violation of this section is punishable by a fine of not less than one hundred or more than one thousand dollars for each offense. See CAL. [PUB. UTIL.] CODE § 7605 (West 1994).

California law requires trains to give audible warning of their approach to a crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing and continuously while passing through it.

If a bell is used for audible warning, the bell must weigh twenty pounds. Any railroad corporation violating this section is subject to a penalty of one hundred dollars for every violation. See CAL. [PUB. UTIL.] § 7604 (West 1994).

California law requires trains operating at night to be equipped with headlights. The headlights should project sufficient light to enable the engineer to see an object the size of a man at a distance of eight hundred feet on a dark night when the train is traveling at least thirty miles per hour. A violation of this section results in a penalty of not less than one hundred or more than one thousand dollars for each offense. See CAL. [PUB. UTIL.] § 7607 (West 1994).

Any person in charge of a locomotive engine who, before crossing any traveled public way, fails to give an audible warning at least thirteen hundred twenty feet (eighty rods) from the crossing and continuously up to it, is guilty of a misdemeanor. See CAL. [PUB. UTIL.] § 7678 (West 1994).

COLORADO

The Colorado statutes do not require any audible warning upon the approach to a highway-rail crossing.

State law does require locomotives operating at night to be equipped with headlights of such construction and with sufficient candlepower to render plainly visible at a distance of not less than three hundred feet in advance, any track obstruction or grade crossing, and a red rear electric light of sufficient strength as to be visible at a distance of three hundred feet.

Violation of this section will result in a penalty of one hundred dollars for each violation, recovered in suits brought by the attorney general. See COLO. REV. STAT. §§ 40-29-108 -109 (1994).

CONNECTICUT

Connecticut law requires an audible signal of sufficient amplification for existing circumstances. The audible signal is to be sounded when the engine is approaching and is within eighty rods of a crossing and is to be sounded occasionally until the engine is through the crossing. In cities and towns, if the public safety requires it, the distance may be adjusted but in no case be less than twenty-seven rods from the crossing.

The State Commissioner of Transportation may establish the maximum decibel levels which may be emitted by the audible signal, provided that such level not be less than eighty-seven decibels. Any railroad operating a train with an audible signal which produces noise emissions in excess of the maximum is in violation of this section. See CONN. GEN. STAT. § 13b-329(a)-(b)-(c) (1992).

DELAWARE

Delaware law requires a number of whistle blasts beginning 300 yds. before crossing. See DEL. CODE ANN. tit. 17, § 701 (1994).

DISTRICT OF COLUMBIA

District of Columbia law has no applicable statute.

FLORIDA

Except as provided in subsection (4), any railroad train approaching within fifteen hundred feet of a public highway-rail grade crossing must emit a signal audible for such distance.

"(4) (a) The Department of Transportation and the Federal Railroad Administration may authorize a municipality or county to implement a whistle ban provided the following conditions are met:

- 1) A traffic operations system is implemented to secure highway-rail crossings for the purpose of preventing vehicles from going around, under or through lowered railroad gates.
- 2) The municipality has an ordinance which unconditionally prohibits the sounding of railroad train horns and whistles during the hours of ten p.m. and six a.m.

(4) (b) Upon final approval and verification by the Department of Transportation and the FRA that such traffic systems' operations meet all state and federal safety and traffic regulations and that the highway-rail crossing can be secured, the municipality or county may pass an ordinance prohibiting the sounding of audible warning devices by trains during the hours of ten p.m. and six a.m...." See FLA. STAT. ANN. § 351.03 (West 1994). Also see Emergency Order Number 15, Notice Number 4 issued by the Federal Railroad Administration on August 31, 1993.

GEORGIA

An engineer operating a locomotive moving over the tracks is required, when he reaches the blowpost (whistlepost), to blow through the whistle two long blasts, one short blast and one long blast. Violations are a misdemeanor. See GA. CODE ANN. § 46-8-190 (1994).

Within the corporate limits of cities, a railroad is not required either to erect a blowpost or to blow the whistle when approaching a crossing. Instead, the engineer is required to signal the approach of the train to such crossing by constantly tolling the bell of the locomotive. Failure to comply with this section is a misdemeanor. See GA. CODE ANN. § 46-8-191 (1994).

Each locomotive must be equipped with a signal bell and a signal whistle or horn. Additionally, each locomotive operated on a railroad line after dark must have a good and sufficient headlight which shall consume no less than three hundred watts at the arc and with a reflector no less than twenty-three inches in diameter. See GA. CODE ANN. § 46-8-170 (1994).

Each railroad company operating in the state is required to erect and maintain a signboard to warn rail traffic of the existence of drawbridges, grade crossings and stations at which there is a switch. Such a sign must be between one-half and one mile from each side of every highway-rail crossing. See GA. CODE ANN. § 46-8-198 (1994).

HAWAII

Hawaii law has no applicable statute.

IDAHO

A bell of at least twenty pounds weight is required on each locomotive.

Idaho requires trains to give audible warning of their approach to crossings at least eighty rods before the crossing and allows repeated use of either the horn or the whistle if continuous use of the bell is not used between the initial signal point and the crossing.

Idaho forbids the use of the horn or whistle within city or town limits. A violation of this section results in a penalty of one hundred dollars for each offense. See IDAHO CODE § 62-412 (1994). Also see § 18-6002 concerning the misdemeanor of failure to sound the audible warning.

ILLINOIS

Illinois requires trains to give audible warning of the approach of a train at least thirteen hundred twenty feet before the crossing. The warning must be sounded until the crossing is reached. See ILCS 5/18c-7402 (1994).

INDIANA

Indiana law requires the use of an audible warning beginning not less than one quarter of a mile from the crossing. The engineer or other person operating the locomotive shall sound the whistle on the engine not less than four distinct times. The sounding shall be prolonged or repeated until the crossing is reached. The operator must also ring the bell continuously from the time of sounding the whistle until the engine has fully passed through the crossing.

It is unlawful for an engineer or other person in charge to move a locomotive over or across a turnpike, public highway or street crossing if the whistle and bell are not working. If the whistle and bell are not working, the locomotive must stop before each crossing and proceed only after manual warning is provided (i.e. by a flagger).

An Indiana city or town may adopt its own ordinance regulating the sounding of warning devices but only after receiving permission from the state Department of Transportation. See IND. CODE ANN. § 8-6-4-1 (a)-(b)-(c) (Michie 1994).

Failure to comply with the provisions of 8-6-4-1 brings a fine of not less than ten dollars nor more than fifty dollars. See IND. CODE ANN. § 8-6-4-2 (Michie 1994)

IOWA

Iowa requires an audible warning one thousand feet from the crossing and the continuous use of such warning between the initial signal point and the crossing. The statutes do not specify the number of blasts, only that use of the whistle or horn is required at the initial signal point.

Iowa statutes forbid the use of any audible signal within city or town limits unless local ordinances require it. See IOWA CODE § 327G.13 (1993). Any officer or employee of the railroad that violates any part of § 327G.13, shall be subject to a schedule "2" penalty. See IOWA CODE § 327G.14 (1993).

KANSAS

Kansas law requires locomotives operating at night to be equipped with headlights. These headlights are required to have sufficient power to illuminate an object the size of a man at a distance of eight hundred feet. Violation of this section is a misdemeanor, and conviction brings a fine of not less than one hundred or more than five hundred dollars for each offense. See KAN. STAT. ANN. §§ 66-261-262 (1993).

Kansas requires trains to give an audible warning (air whistle) at least four times (two long, one short and one long blast) beginning at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from the crossing. The warning is to be prolonged or repeated until the crossing is occupied by the train. This does not apply in cities or villages. The penalty is a fine to be paid by the railroad of not more than twenty dollars for every violation. One half of the money collected for the penalty shall go to the informer. See KAN. STAT. ANN. § 66-2-120 (1993).

KENTUCKY

Each locomotive must have a whistle and a bell of ordinary size. The whistle and bell must be sounded at a distance of at least fifty rods (753 feet), and either shall be sounded continuously or alternately until the engine has reached the crossing.

A city, county, urban-county or charter county government may regulate the sounding of train whistles at night if any such body enacts an ordinance adopting the provisions of Emergency Order Number 15, Notice Number 4, issued by the Federal Railroad Administration on August 31, 1993. See KY. REV. STAT. ANN. § 277.190(1)-(2) (Baldwin 1994). Also see motor vehicles, duty when approaching railroad crossings, § 189.560, and passenger vehicles required to stop at railroad crossings, § 281.745 in Chapter 8.

LOUISIANA

Louisiana requires trains to use an audible warning (either a bell or a whistle) at a distance of three hundred yards from a highway-rail crossing up to the crossing itself. See LA. REV. STAT. ANN. § 32:168 (West 1993).

MAINE

Maine law requires a train to give an audible warning nine hundred ninety feet from a highway-rail crossing. The state requires continuous use of a bell between the initial signal point and the crossing although it allows repeated use of either the horn or the whistle instead. Maine does not specify the number of blasts, only that use of the whistle or horn is required at the initial signal point. See ME. REV. STAT. ANN. tit. 23, § 7214 (West 1994).

MARYLAND

Maryland law lists no applicable statute.

MASSACHUSETTS

Massachusetts requires a whistle and a bell of at least thirty-five pounds in weight be placed on each locomotive. The whistle is to be sounded or the bell is to be rung for at least three separate and distinct blasts at the distance of at least eighty rods from the crossing. The whistle and bell shall be sounded continuously or alternately until the engine has passed through the crossing. See MASS. ANN. LAWS ch. 160, § 138 (Law. Co-op. 1994). The state however may regulate or limit the sounding of whistles at specified crossings. See MASS. ANN. LAWS ch. 160, § 139 (Law Co-op. 1994).

MICHIGAN

Michigan law lists no applicable statute.

MINNESOTA

"An engineer driving a locomotive on a railway who fails (1) to ring the bell or sound the whistle on the locomotive, or have rung or sounded, at least eighty rods from a place where the railway crosses a traveled road or street on the same level, except in cities, or (2) to continue ringing the bell or sounding the whistle at intervals until the locomotive and attached train have completely crossed the road or street, is guilty of a misdemeanor". See MINN. STAT. § 219.567 (1993).

MISSISSIPPI

Mississippi law requires the use of an audible warning, such as a whistle, horn or thirty pound bell, at an initial signal point three hundred yards from the crossing. Mississippi allows

repeated blasts of the horn or whistle if a continuous bell is not used. See MISS. CODE ANN. § 77-9-225 (1994).

MISSOURI

State law requires trains to give audible warnings of their approach to a crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing is reached, and at regular intervals until the train is through the crossing. Failure to comply brings a penalty of twenty dollars for each violation. See MO. REV. STAT. § 389.990 (1993).

MONTANA

Montana does not specify when locomotive headlights or other lights must be used, but it requires headlights that have at least fifteen hundred candlepower measured without the aid of a reflector. A violation of this section is a misdemeanor and carries a fine of not less than one hundred or more than one thousand dollars for each offense. See MONT. CODE ANN. § 69-14-236 (1994).

NEBRASKA

Nebraska law requires locomotives operating at night to be equipped with headlights. They must be of sufficient candlepower to render plainly visible a grade crossing, warning sign, landmark or track obstruction at a distance of not less than three hundred feet. See NEB. REV. STAT. § 74-592 (1994).

NEVADA

Nevada law requires locomotives operating at night to be equipped with headlights. They must have at least fifteen hundred candlepower measured without the aid of a reflector. Any railroad that violates this section is liable to the public service commission of Nevada for a penalty of not more than one thousand dollars for each violation. See NEV. REV. STAT. § 705.360 (1993).

The state requires the sounding of a bell or whistle at least 80 rods from a highway-rail crossing. See NEV. REV. STAT. § 705.430 (1993).

NEW HAMPSHIRE

New Hampshire law requires locomotives operating at night to be equipped with an electric headlight with sufficient candlepower to be able to render anything plainly visible at a distance of three hundred feet. See N.H. REV. STAT. ANN. § 367:57 (1993).

NEW JERSEY

The law in New Jersey specifies a distance of three hundred yards from a highway-rail crossing for a train to give audible warning of its approach. If a bell is used for this purpose, it

must weigh thirty pounds. New Jersey law requires continuous use of the whistle or horn, if the continuous bell is not used, from the initial signal point to the crossing. If in default, the railroad company shall pay a penalty of one hundred dollars to be sued for by any informer within ten days after the infraction. See N.J. REV. STAT. § 48:12-57 (1993).

New Jersey requires headlights on trains but does not specify size or illumination. See N.J. REV. STAT. § 48:12-90.1 (1993).

NEW MEXICO

New Mexico statutes require trains to give audible warnings of their approach to a highway-rail crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before it. If a bell is used for this purpose, the weight of the bell must be twenty pounds. See N.M. STAT. ANN. § 63-3-34 (Michie 1994).

Trains are required to use headlights with sufficient power to permit visibility of an object the size of a man from a distance of at least eight hundred feet with the aid of a reflector. See N.M. STAT. ANN. §§ 63-3-29 (Michie 1994).

Violation of these sections will result in a penalty of one hundred dollars but not more than one thousand dollars for each and ever locomotive not equipped and liability for damages. See N.M. STAT. ANN. §§ 63-3-30 (Michie 1994).

NEW YORK

New York law requires the ringing of a bell or blowing of the whistle on the locomotive at least eighty rods (thirteen hundred twenty feet) from a highway-rail crossing and continuing at intervals until completely through the crossing. See N.Y. [R.R.] § 53-b (Law. Co-op. 1994).

NORTH CAROLINA

North Carolina law lists no applicable statute.

NORTH DAKOTA

North Dakota requires trains to give audible warning of their approach to a highway-rail crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing. If a bell is used for this purpose, North Dakota requires the bell to weigh thirty pounds. The law requires continuous use of the whistle or horn, if a continuous bell is not used, from the initial signal point to the highway-rail crossing. See N.D. CENT. CODE § 49-11-21 (1993). A violation of the preceding section by either the owner of the railroad or the locomotive engineer is an infraction. See N.D. CENT. CODE §§ 49-11-22 -23 (1993).

OHIO

State law requires locomotives to be equipped with a bell of ordinary size in use on such engines and a steam or compressed air whistle. When approaching a crossing, the engineer or person in charge of the train shall sound the whistle at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) and ring the bell continuously until the engine passes the crossing. See OHIO REV. CODE ANN. § 4955.32 (Baldwin 1994). Failure to comply with the requirements of OHIO REV. CODE ANN. § 4955.32 (Baldwin 1994) brings a personal liability of not less than fifty nor more than one hundred dollars to be recoverable by civil action. See OHIO REV. CODE ANN. § 4955.34 (Baldwin 1994).

If a person in charge of a locomotive fails to sound the locomotive whistle at frequent intervals beginning not less than thirteen hundred twenty feet from a crossing, that person is guilty of a misdemeanor of the fourth degree. If the violation causes physical harm to any person, then the offender is guilty of a misdemeanor of the third degree. See OHIO REV. CODE ANN. § 4999.04 (Baldwin 1994).

OKLAHOMA

Oklahoma law requires that trains give audible warning of their approach eighty rods (thirteen hundred twenty feet or four hundred forty yards) before a crossing. The state requires continuous use of the whistle or horn, if a continuous bell is not used, from the initial signal point to the crossing. The bell used must weigh thirty pounds.

Oklahoma requires locomotives operating at night to be equipped with headlights whose candlepower is at least fifteen hundred measured without the aid of a reflector. See OKLA STAT. tit. 66, §§ 95 -126 (1994).

A train operator who fails to ring the bell or sound the whistle upon approaching a crossing is punishable by a fine not exceeding fifty dollars or by imprisonment in the county jail for a period not exceeding sixty days. See OKLA. STAT. ANN. tit. 21, § 1253 (West 1994).

OREGON

Oregon law requires locomotives operating at night to be equipped with headlights with enough power to distinguish a man-sized object at night at a distance of eight hundred feet. See OR. REV. STAT. §§ 761.310-320 (1994). Also see § 761.990 concerning penalties.

PENNSYLVANIA

Pennsylvania law lists no applicable statute.

RHODE ISLAND

Rhode Island requires that trains have a bell weighing at least thirty-two pounds. The operator must ring the bell at a distance of at least eighty rods (thirteen hundred twenty feet or four hundred forty yards) from the grade crossing and continue ringing the bell through the crossing. Failure to comply with this section may bring a fine not exceeding one thousand dollars and the railroad shall be liable for all damages as a result of failure to comply. See R.I. GEN. LAWS §§ 39-8-14-15 (1994).

SOUTH CAROLINA

The statutes prescribe the continuous use of a warning sound such as a bell, steam or air whistle starting at a distance of at least five hundred yards from the crossing until the engine is through the crossing. South Carolina requires the bell to weigh thirty pounds. See S.C. CODE ANN. § 58-15-910 (Law. Co-op. 1993).

SOUTH DAKOTA

South Dakota law lists no applicable statute.

TENNESSEE

Tennessee law requires repeated use of a bell or whistle for a distance of one quarter of a mile from the crossing and at short intervals until the train has passed the crossing. See TENN. CODE ANN. § 65-12-108 (1994).

An additional section in the Tennessee code requires that the whistle be blown at a distance of not less than two hundred fifty yards from every crossing of a public road where there are sidings and switches within cities, towns or villages. See TENN. CODE ANN. § 65-18-105 (1994).

TEXAS

Trains are required to give audible warning of their approach eighty rods (thirteen hundred twenty feet or four hundred forty yards) before a crossing. If a bell is used for this purpose, it must weigh thirty pounds. A horn or whistle (used for repeated blasts) may also serve this purpose. See TEX. REV. CIV. STAT. ANN. art. 6371 (West 1995).

Texas law requires trains to have headlights of not less than fifteen hundred candlepower. Violation of this section brings a fine of not less than one hundred or more than one thousand dollars for each offense. See TEX. REV. CIV. STAT. ANN. art. 6372 (West 1995).

UTAH

Utah requires continuous use of a bell or other audible warning between an initial signal point and the crossing. Trains are required to give audible warning of their approach to a crossing eighty rods (thirteen hundred twenty feet or four hundred forty yards) before the crossing, except in towns when the distance shall be one quarter of a mile. See UTAH CODE ANN. § 56-1-14 (1994).

Utah law requires railroads to equip their track motor cars with an electric headlight of such construction and with sufficient candlepower to render any obstruction, landmark, warning sign or grade crossing plainly visible at a distance of not less than three hundred feet. See UTAH CODE ANN. § 56-1-25 (1994).

VERMONT

Vermont requires trains to sound an audible warning device in advance of each public crossing. The device must be of the type approved by the Federal Railroad Administration. No distance is specified. It must be continuous up to and through the crossing. See VT. STAT. ANN. tit. 30, § 1377 (1994).

Three or more freeholders of a town, city or village may petition the public service board to forbid or regulate the sounding of whistles and ringing of bells in such town, city or village when approaching a specified station or at-grade crossing. See VT. STAT. ANN. tit. 30, § 1621 (1994).

VIRGINIA

Virginia requires audible warning be given between three hundred and six hundred yards of the crossing. Local governments in Virginia may require the sounding of the whistle upon approaching designated railroad trestles or bridges having lengths of one hundred feet or more. See VA. CODE ANN. § 56-414 (Michie 1994).

Virginia law requires locomotives operating at night to be equipped with headlights. The headlights must have a brilliance of at least five hundred candlepower measured with the aid of a reflector. See VA. CODE ANN. § 56-413 (Michie 1994).

WASHINGTON

It is unlawful in the State of Washington to fail to ring a bell or sound a whistle upon approaching a crossing from at least eighty rods (thirteen hundred twenty feet or four hundred forty yards), except in cities. Violation of this section is a misdemeanor. See WASH. REV. CODE § 81.48.010 (1994).

WEST VIRGINIA

West Virginia requires the continuous use of a bell, horn or whistle for a distance of at least sixty rods from a crossing up to and through the crossing. Failure to do so is a misdemeanor and is punishable by a fine not to exceed one hundred dollars. W. VA. CODE § 31-2-8 (1994).

WISCONSIN

State law requires that engines be equipped with whistles or horns mounted to face the direction in which the engine is moving. Such whistles or horns must be placed to emit warning sounds at sound levels which are in accord with established practices to warn employees and the public of the approach of the engine. See WIS. STAT. § 192.15 (1993).

All trains operating at night must be equipped with an electric headlight of sufficient candlepower to render plainly visible anything in advance of the train at a distance of two hundred feet. See WIS. STAT. § 192.266 (1993).

Anyone found guilty of neglecting or omitting to ring or cause to be rung the bell on the engine of any train, or to blow the whistle as required shall be imprisoned for not more than six months or fined not more than one hundred dollars. See WIS. STAT. §§ 192.295 and 192.29 (1993).

WYOMING

Wyoming law lists no applicable statute.

CHAPTER 7: WARNING DEVICES - ACTIVE

CHAPTER OVERVIEW

This chapter surveys the various state laws and regulations concerning active warning devices. Not all of the states have laws or regulations covering these specific topics. If a state does not have a pertinent law or regulation, it is listed as such.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama has no requirement concerning active warning devices.

ALASKA

Alaska has no requirement concerning active warning devices.

ARIZONA

The Arizona Corporation Commission determines by Feb. 15th of each year which highway-rail crossings should be considered for the installation of automatic warning signals. See ARIZ. REV. STAT. ANN. § 40-337.03 (Michie 1994). Also see § 40-337.01 concerning apportionment of costs. Also see § 40-336 concerning powers of the Commission.

ARKANSAS

Arkansas has no requirement concerning active warning devices.

CALIFORNIA

California has no requirement concerning active warning devices.

COLORADO

Colorado has no requirement concerning active warning devices.

CONNECTICUT

Connecticut has no requirement concerning active warning devices.

DELAWARE

Delaware has no requirement concerning active warning devices.

DISTRICT OF COLUMBIA

The District of Columbia has no requirement concerning active warning devices.

FLORIDA

Florida has no requirement concerning active warning devices.

GEORGIA

Georgia has no requirement concerning active warning devices.

HAWAII

Hawaii has no requirement concerning active warning devices.

IDAHO

Idaho has no requirement concerning active warning devices.

ILLINOIS

Illinois has no requirement concerning active warning devices.

INDIANA

The Indiana Department of Transportation, in authorizing the construction of new highway-rail crossings under the provisions of IC 8-6-1-7, has statutory authority to order the installation of automatic train-activated warning devices at the crossing. The Department also has authority to order the installation, replacement, relocation, modernization or improvement of automatic train-activated warning devices at any highway-rail crossing in the state. This authority is exclusive of and supersedes the power of any other state or local government agency. See IND. CODE ANN. §§ 8-6-1-7 and 8-6-7.7-2 (Burns 1994).

IOWA

Whenever a railroad track crosses, or is planned to cross a highway, street or alley, the affected railroad and the Department of Transportation in the case of a primary highway, the Board of Supervisors of the county in the case of secondary roads or the City Council in the case of

streets or alleys, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing and flasher lights or gate arm signals and the allocation of costs. The Iowa Department of Transportation may be a party to any agreement if grade crossing safety funds are to be used. Up to seventy-five percent of the maintenance cost of flasher lights or gate arm signals and an unlimited portion of the costs associated with installation may be paid from the grade crossing safety fund. See IOWA CODE § 327G.15 (1993). Also see chapters titled Crossing Consolidations and Closings and Crossing Treatment Procedures.

KANSAS

Upon request by the governing body of any city, county or township, and after a proper investigation is made in cooperation with the secretary of transportation, the Kansas State Corporation Commission has authority to indicate those railroad grade crossings which are dangerous. The state corporation commission may, at a crossing so designated, order that appropriate safety devices be installed and maintained by the railroad(s) and set a completion date. The commission has the authority to determine the number, type and location of such safety devices, which must conform with generally recognized national standards, and to require a portion of the installation cost of the safety devices be paid by the railroad(s) involved provided that the cost to the railroad(s) shall not be less than twenty percent nor more than fifty percent of the total installation costs. See KAN. STAT. ANN. § 66-231a (1993).

KENTUCKY

If, at any time, a warning device at a highway-rail crossing is activated for thirty minutes or more in the absence of an approaching train and this activation is due to track maintenance or train movements in the vicinity, and the affected railroad is unable to disengage the device, then the railroad must position a flagman at the crossing. See KY. REV. STAT. ANN. § 189.562 (1994).

LOUISIANA

The Louisiana Department of Transportation and Development may contribute to the railroad up to one-half of the cost of maintenance of flashing light signals at highway-rail crossings during the fiscal year for which the funds are appropriated. See LA. REV. STAT. ANN. § 48:387 (1993).

MAINE

The Maine Department of Transportation may require each railroad to install, operate and maintain an automatic signal, crossing gate or other protective device at any highway-rail crossing if, after proper notice and hearing, the Department decides that public safety concerns warrant such action. Notice and hearing are not required if such automatic grade crossing protection is funded and installed under the Federal program. The affected railroad will pay all costs, except at any crossing with state highways and state aid highways where the installation costs are to be split between the railroad and the state as determined by the Department of Transportation. See ME. REV. STAT. ANN. tit. 23, § 7221 (West 1994).

MARYLAND

Maryland has no requirements concerning active warning devices.

MASSACHUSETTS

Massachusetts law requires a railroad to install at their own expense, a hand-activated warning device at a highway-rail crossing. The device should be capable of audibly or visibly warning an approaching train of danger at any crossing so designated by the Massachusetts Department of Transportation. See MASS. ANN. LAWS ch. 160, § 138A (Law. Co-op. 1994).

The Department has authority to order at any crossing of a railroad and public way, gates, a flagman, flashing lights or such other protective measures. The costs of installing, maintaining and operating any such protection shall be apportioned by the Department between the affected railroad, the town or city if appropriate, the county or the state. See MASS. ANN. LAWS ch. 160, § 147 (Law. Co-op. 1994).

MICHIGAN

The Michigan Department of Transportation, by order, may prescribe active traffic control devices at highway-rail crossings. See MICH. STAT. ANN. § 22.1263(315) (Law. Co-op 1993).

MINNESOTA

If the Transportation Regulation Board finds that conditions at a highway-rail crossing require additional safeguards such as crossing gates or other suitable devices, the Board may specify any such device and order the affected railroad to install them. See MINN. STAT. § 219.24 (1994). Also see MINN. STAT. § 219.40 (1994).

MISSISSIPPI

Mississippi has no requirement concerning active warning devices

MISSOURI

The Missouri Division of Transportation of the Department of Economic Development have exclusive power to determine the use and type of warning devices at each crossing of a public road by a railroad. The same is true at any private crossing where the Division has determined that the crossing is or will be utilized by the public to the extent that it is necessary to protect the safety of the public. See MO. REV. STAT. § 389.610 (1994).

MONTANA

Montana has no requirement concerning active warning devices.

NEBRASKA

Nebraska has no requirement concerning active warning devices.

NEVADA

Nevada has no requirement concerning active warning devices.

NEW HAMPSHIRE

New Hampshire law requires all railroads to operate and maintain at every highway-rail crossing such warning signs, gates or other protection as the state Department of Transportation may find necessary. See N.H. REV. STAT. ANN. § 373:10 (1993).

NEW JERSEY

New Jersey law requires that every railroad shall provide protection to pedestrians and the traveling public at every highway-rail crossing. Such protection may take the form of safety gates, flagmen, electric bells, electric signs or other recognized systems of alarm or protection approved by the Department of Transportation. See N.J. REV. STAT. §§ 48:12-54, 12-29 (1994). Also see N.J. REV. STAT. § 48:12-55 (1994) concerning compelling protection.

NEW MEXICO

New Mexico has no requirement concerning active warning devices.

NEW YORK

New York has no requirement concerning active warning devices.

NORTH CAROLINA

North Carolina has no requirement concerning active warning devices.

NORTH DAKOTA

The North Dakota Public Service Commission, upon written application made to it by the Director, the Board of County Commissioners of any county, the Board of Supervisors of any township, any municipality, the railroad company or upon its own motion, shall investigate and determine whether any highway-rail crossing over any state, county, township or municipal highway in the state is a danger to life and property and needs protection beyond what is set out in this chapter (crossbucks, advance warning signs and STOP signs). The Commission may then order that the protection be installed. See N.D. CENT. CODE § 24-09-08 (1994).

Generally, the North Dakota Department of Transportation has authority to apportion the cost of automatic grade crossing protection devices. However, in the event such protection devices are ordered by the Public Service Commission in accordance with § 24-09-08, the Commission, as a part of its order may apportion the costs of installation between the affected railroad, the political subdivision having jurisdiction of the highway involved and the state of North Dakota. "Such cost must be apportioned to such parties or to any one or more of the parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device." The cost attributable to the benefit of the highway users must be apportioned to the state of North Dakota. See N.D. CENT. CODE § 24-09-08.1 (1994).

OHIO

The Ohio Public Utility Commission shall conduct a survey and devise a formula for the classification of all public crossings and using such formula will prioritize crossings, giving highest priority to the crossings at which the Commission finds the highest probability of accidents occurring. Applying the formula, the Commission may then designate as dangerous and hazardous any highway-rail crossing it deems to be in need of additional protective devices. Once a crossing has been designated high priority, the Commission may negotiate with the affected railroad and with the state agency or political subdivision having jurisdiction over the crossing in question for the installation of such devices as 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 devices will be determined by agreement among the Commission, the affected railroad and the state agency or political subdivision.

The Commission may assign the costs among all parties in any proportion it determines proper, taking into consideration such things as volume of vehicular traffic, volume of train traffic, train type and speed, limitations of view, savings, if any, which will inure to the railroad as a result of the installation, benefits to the public, the cost of initial installation and maintenance costs over time.

The affected railroad may disagree as to the need for installation of additional protective devices, or to the type or location. In the event that an agreement cannot be reached with the railroad, the Commission may hold a public hearing with written notice being given to the railroad at least thirty days in advance. If the Commission determines that the safety of the public requires additional protective devices, it may order the railroad to comply. The railroad may, if acceptable to the Commission, offer its agreement to maintain the protective devices as its share of the costs. See OHIO REV. CODE ANN. § 4907.47.1(A)(B)(C) (Anderson 1994).

Any gates, bells or devices ordered erected by the Public Utilities Commission must be built within the time, in the manner and of materials approved by the Commission. If the Commission has ordered automatic bells at any crossing, the bells must be constructed to ring in advance of the approach of a train within three hundred or more feet of the crossing and continue to ring until a train has reached the crossing. See OHIO REV. CODE ANN. § 4907.48 (Anderson 1994).

OKLAHOMA

The Oklahoma Corporation Commission has statutory authority to promulgate rules and regulations covering the design, installation, construction, maintenance, inspection and testing of active warning devices at highway-rail crossings in the state. See OKLA. STAT. tit. 60, § 130.

In the state of Oklahoma, a public authority having jurisdiction and control over any public highway or street in the state may determine that the safety of lives and property requires the installation of an automatic or mechanically operated barricading device, and any such public authority with appropriate jurisdiction, may construct and install such a barrier or they may order the affected railroad to construct, install and maintain the barrier. Before any such construction or installation begins, the detailed plans, including the proposed mode of operation of the devices and a map showing the proposed location, must be submitted to and approved by the State Highway Commission of Oklahoma. See OKLA STAT. tit. 66 § 125a (1994). Also see chapter on Driver Action.

OREGON

Oregon law vests exclusive authority to control and regulate the protection of highway-rail crossings in the state with the Public Utility Commission. The Commission has authority to determine the kind and location of protective devices to be installed and the allocation of costs, and may order the alteration of existing protective devices. See OR. REV. STAT. § 763.020 (1994).

For devices to be installed at or in advance of the crossing and which are activated immediately in advance of and during each train movement, the installation costs are to be apportioned by the Commission as follows:

- 1) Seventy-five percent to the Grade Crossing Protection Account.
- 2) Five percent to the public authority in interest having jurisdiction.
- 3) Twenty percent to the railroad company. See OR. REV. STAT. § 763.271(1)(A) (1994).

PENNSYLVANIA

Pennsylvania has no requirement concerning active warning devices.

RHODE ISLAND

At any highway-rail crossing not protected by a gate or flagman, the Public Utility Commission may, after proper notice and hearing, direct that the crossing be furnished with an electric signal(s). If any affected railroad refuses or neglects to comply with the order of the Commission within three months from the date of the order, the railroad may be fined twenty-five dollars for each day that the refusal or neglect continues, unless the railroad can furnish a satisfactory explanation to the Commission for the refusal or neglect. See R.I. GEN. LAWS § 39-8-11 (1994).

Every railroad corporation which has at-grade crossings within the city of Providence must, on receiving notice from the city council, install, maintain and operate gates and must fence its

track within the city limits according to council requirements. A violation of this section carries a fine of fifty dollars for each day of neglect after twenty days from notice, one-half for the use of the state and the other half for the use of the complainant. See R.I. GEN. LAWS § 39-8-12 (1994). The Director of Transportation in Rhode Island has the power and authority to improve highway-rail crossings with automatic protection devices. See R.I. GEN. LAWS § 24-8-10 (1994).

SOUTH CAROLINA

South Carolina has no requirement concerning active warning devices.

SOUTH DAKOTA

South Dakota has no requirement concerning active warning devices.

TENNESSEE

Tennessee law requires that, within six months after the occurrence of a fatality resulting from a collision between a train and a vehicle or pedestrian at an unmarked highway-rail crossing where there are regularly scheduled trains, one hundred or more vehicles cross daily and a regular school bus crossing, and/or upon the order of the Commissioner of Transportation, the affected railroad company shall install a marker with automatic flashing signal lights and a bell on either side of the tracks along the street, road or highway crossing the tracks. Installation costs are to be apportioned equally to the railroad company, the state of Tennessee and the county, municipality or the metropolitan government in accordance with the fiscal procedures of each unit. See TENN. CODE ANN. § 65-11-113 (1994).

TEXAS

Texas has no requirement concerning active warning devices.

UTAH

The Utah Department of Transportation has the authority to prescribe automatic and other safety appliances, signals and devices at highway-rail crossings. See UTAH CODE ANN. §§ 54-4-15.1, -15.3 (1994).

VERMONT

When three or more freeholders or registered voters of a city, town or village request in writing that a gate or electric signal be installed or a flagman be stationed at any highway-rail crossing within their city, town or village, the Transportation Board will visit the location and give notice to all concerned. If the public safety requires it, the Board will order the affected railroad to install the needed device and direct the state, municipality and the railroad to pay costs as the Board finds equitable. See VT. STAT. ANN. tit. 30, § 1379 (1994).

VIRGINIA

When required by the State Highway and Transportation Commissioner or by the governing body of any county, city or town, every railroad company will place and maintain, a highway-rail crossing protective device, including flashing electric lights, at each state highway-rail crossing. The device is to be automatically activated by an approaching train so as to be clearly discernible to travelers approaching the highway-rail crossing from each direction at a distance of two hundred feet. These lights will be installed at the initiative of counties, cities or towns only when required by ordinance or resolution adopted by the governing body stating that such political subdivision will pay the initial installation costs and that such cost and maintenance costs will be fixed as provided by this article. The costs of installation and maintenance of the lights may be apportioned by agreement between the railroad company and the governing body, or the Highway and Transportation Commissioner when he initiates it. If no agreement can be reached among the parties, any one of the parties may petition the State Corporation Commission for a decision on the costs. See VA. CODE ANN. § 56-405.3 (Michie 1994). Also see § 56-406.1.

When, in the opinion of the State Highway and Transportation Commissioner or the governing body of any county that has withdrawn its roads from the secondary system of state highways as to roads maintained by such county, or the council of any city or incorporated town, the public interest requires that automatically operated gates, wigwag signals or other electrical or automatic protection devices be installed at any highway, road or street crossing of one or more railroads at-grade, agreement may be made between any of these bodies and the affected railroad regarding the plans and specifications, the method of construction and the division of cost of installing such crossing protection devices. In the event that such governing bodies and the railroad company(s) are unable to agree, they may petition the State Corporation Commission which shall determine what share of the costs of the project to be borne by the affected railroad is fair and reasonable. See VA. CODE ANN. § 56-406.1 (Michie 1994).

When any automatically operated gate, wigwag signal or other electrical or automatic crossing protection device has been installed at any highway-rail crossing by a railroad company outside the corporate limits of any city or inside the corporate limits of any incorporated town having a population of thirty-five hundred or less where the street involved is maintained by the State Highway and Transportation Board, the State Highway and Transportation Commissioner or the governing body may agree with the affected railroad company as to the division of cost of future maintenance of the devices. If the concerned parties are unable to agree, then the State Highway and Transportation Commissioner or the governing body may petition the State Corporation Commission which shall determine what share of the costs of the future maintenance is to be borne by the railroad company and/or the State Highway and Transportation Commission or the county, with regard to the benefits accruing to the railroad from the continued maintenance of such protection of the crossing. See VA. CODE ANN. § 56-406.2 (Michie 1994).

WASHINGTON

When the Secretary of Transportation or the governing body of any city, town or county, or any railroad company deems that the public safety requires signals or other warning devices, other than sawbuck signs (emphasis mine), at any highway-rail crossing (state, city, town or county highway, road, street, alley, avenue, boulevard, parkway or other), it may petition the Utilities and Transportation Commission. The Commission will decide on the necessity for such protection and apportion the entire cost of installation and maintenance. No railroad is required to install any signal or other warning device until the public body involved has either paid or executed its promise to pay its portion of the estimated cost to the railroad. See WASH. REV. CODE ANN. § 81.53.261 (West 1994).

If the Utilities and Transportation Commission directs the installation of a grade crossing protection device, and a federal-aid funding program is available to participate in the costs of the installation, both installation and maintenance cost of the device shall be apportioned according to § 81.53.295. Otherwise, if installation is ordered by the Commission, it shall apportion the cost of installation and maintenance as provided in this section and described below:

Installation: Sixty percent to the Grade Crossing Protective Fund, thirty percent to the city, town, county or state, and ten percent to the railroad. However, if the installation is to be located at a new crossing requested by a city, town, county or the state, forty percent shall be paid by unit and none by the railroad. If the new crossing has been requested by the railroad, the entire cost must be borne by the railroad.

Maintenance: Twenty-five percent to the Grade Crossing Protective Fund, seventy-five percent to the railroad. If the crossing is a new crossing requested by the railroad, the entire cost is apportioned to the railroad. See WASH. REV. CODE ANN. § 81.53.271 (West 1994). Also see WASH. REV. CODE ANN. § 81.53.295 (West 1994).

If a city, town, county or the state petitions the Commission for closure of an existing crossing in proximity to the crossing for which installation of signals is described above, the share paid by the petitioning city, town, etc., will be reduced by ten percent of the total cost for each crossing ordered closed and the share paid by the Grade Crossing Protective Fund will be increased accordingly. See WASH. REV. CODE ANN. § 81.53.271 (West 1994).

"In the event funds are not available from the Grade Crossing Protective Fund, the Commission shall apportion to the parties on the basis of the benefits to be derived by the public and the railroad respectively, that part of the cost which would otherwise be assigned to the Grade Crossing Protective Fund. Provided, that in such instances the city, town, county or state shall not be assessed more than sixty percent of the total costs of installation on other than federal-aid designated highway projects; and provided further, that the entire cost of maintenance be borne by the railroad." See WASH. REV. CODE ANN. § 81.53.275 (West 1994). Also see § 81.53.281 concerning creation of the Grade Crossing Protective Fund.

WEST VIRGINIA

West Virginia has no requirement concerning active warning devices.

WISCONSIN

If the Wisconsin Department of Transportation determines, either without or after a hearing, that protection is not adequate at a public highway-rail crossing, it may order the railroad company to keep a flagman at the crossing or to install automatic signals or other suitable safety devices at specific locations at such crossings. The costs of such protection will be apportioned by the Department between the railroad and the State on the basis of benefits received by the railroad and the public respectively. See WIS. STAT. § 195.28 (1994).

WYOMING

The Wyoming Public Service Commission, on the basis of a priority rating assigning priority first to the most hazardous highway-rail crossings, shall determine the type of crossing protection signals and devices required. See WYO. STAT. § 37-10-102 (1994).

Under the direction of the affected railroad, "it shall be the duty of the Wyoming Public Service Commission to apportion the costs and expenses of installing or reconstructing such crossings and safety devices between the railroads and the State Highway Department or the county, city or other governmental entity involved in proportion to the respective benefits to be derived." But, in any case, the Commission must limit the amount to be charged to the railroad to a maximum of thirty-three and one-third percent of the cost of the total project for installing or reconstructing any crossings or safety devices. See WYO. STAT. § 37-10-103 (1994).

The Public Service Commission shall fix in every case the amount to be paid from the Crossing Protection Account, which it administers, and the amount to be paid by the Highway Department or by the city, town, county or other political entity. The railroads will bear all costs of maintaining in good operating condition all such safety devices. See WYO. STAT. § 37-10-104 (1994).

CHAPTER 8: SLOW, LOW AND SPECIAL VEHICLES AND EXEMPT CROSSINGS

CHAPTER OVERVIEW

This chapter presents a state-by-state examination of regulations concerning slow, low and special vehicles and exempt crossings at highway-rail grade crossings.

"Slow and low vehicles" are variously referred to in the statutes as types of heavy equipment, e.g. any crawler-type tractor, steam shovel, derrick, roller or any other equipment or structure having a normal operating speed of ten miles per hour or less. Some statutes specifically mention six miles per hour or less and one as low as four miles per hour in this category of vehicles. The majority of states define "low" as a structure with a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches measured above the level surface of a roadway, upon or across the track.

"Special Vehicles" as they are referred to in the statutes are vehicles carrying usually passengers for hire and school buses carrying children. Also included under this category are vehicles carrying explosive substances, flammable materials or other types of hazardous materials.

With the exception of Alaska, all of the states require one or more of the vehicles in these two categories to come to a full stop before traversing a highway-rail crossing. Federal regulations require every bus transporting passengers and vehicles carrying hazardous materials to stop and to listen and look in both directions along the tracks for an approaching train. When it is safe to do so, drivers may cross. However, Federal regulations prohibit the drivers from manually shifting gears while moving across the tracks. For a complete listing of vehicles required to stop under Federal regulations, see 49 CFR 392.10 (1992).

This chapter also contains a state-by-state summary of "Exempt Crossings" at which the requirements for slow, low or special vehicles have no application. The majority of the requirements are based on Federal regulations which exempt the following crossings from the stopping requirements:

- 1) A streetcar or railroad crossing which is used exclusively for industrial purposes within a business district.
- 2) A crossing where a police officer or flagman directs traffic to proceed.
- 3) A crossing controlled by a functioning highway traffic signal which directs traffic to proceed across the tracks without slowing or stopping.
- 4) A clearly marked abandoned crossing.
- 5) An industrial or spur line railroad grade crossing marked with a sign reading "EXEMPT". The "exempt" sign in all examples must have been erected by or with the consent of local authority. "Exempt" requirements are generally copied from federal regulations. The reader may view them by perusing the Code of Federal Regulations 49 CFR 392.10(b)-1 to -5 (1992).

As is the case throughout this book, all citations pertaining to the topics outlined in this chapter are included in the text.

STATE LAWS, REGULATIONS AND PENALTIES

ALABAMA

Slow and Low Vehicles - Alabama defines vehicles in this category as "any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across the tracks."

Alabama state law requires persons operating slow and low vehicles to stop before moving over a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail, the operator must look and listen for trains and train signals, and the operator may cross only when it is safe to proceed. See ALA. CODE § 32-5A-152 (1994).

Special Vehicles - Alabama law does not specifically mention types of vehicles in this category. The law does provide however, that the Director of Highways shall adopt regulations as may be necessary describing the vehicles which must comply with special stopping requirements. The director must formulate the regulations on the basis of the number of passengers carried by the vehicle and the hazardous nature of any substance carried.

Before crossing any highway-rail crossing, the driver must stop the vehicle within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver shall not proceed until it is safe to do so. While moving over the crossing, the driver is prohibited from manually shifting gears. See ALA. CODE § 32-5A-151(a)-(c) (1994).

Exempt Crossings - The stopping regulations do not apply at highway-rail crossings where traffic is controlled by a police officer, flagman or traffic control signal. They also do not apply at crossings which are equipped with crossing gates or any alternately flashing light signals which are intended to give warning of an approaching train or at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See ALA. CODE § 32-5A-151(b)-1 to-4 (1994).

ALASKA

Slow and Low Vehicles - Alaska law prohibits drivers of crawler-type tractors, steam shovel, derricks, rollers, or any other equipment or device having a normal operating speed of ten or less miles per hour or a vertical body or load clearance to less than one-half inch per foot or a vertical distance between any two adjacent axles or in any event of less than nine inches measured from the surface of a roadway from driving across a highway-rail crossing without first stopping within fifteen to fifty feet from the nearest rail of the railroad. After complying with the stopping requirements, the driver may then proceed only when it can be done safely.

Before making any such crossing, Alaska law requires that notice of the intended crossing be given to a station agent of the affected railroad allowing a reasonable period of time for railroad to provide proper protection at the crossing.

The stopping requirements do not apply at any highway-rail crossing where warning of the immediate approach of a train is being given. If a flagman is provided by the railroad, movement over the crossing must be done at his direction. See ALASKA ADMIN. CODE tit. 13, § 02.255 (1994). Also see 13 AAC 02.240 concerning stopping distance.

Special Vehicles - Alaska requires mandatory stops at within fifteen to fifty feet of the nearest rail of the railroad at a highway-rail crossing by drivers of vehicles carrying passengers for hire, a school bus, or a vehicle carrying an explosive substance or a flammable liquid as a cargo or part of a cargo.

While stopped, the drivers of these vehicle must listen and look in both directions along the track for approaching trains and for a signal indicating the approach of a train, and may not proceed until the crossover can be made safely.

The driver of a school bus approaching a highway-rail crossing must activate the vehicle's amber lights for a distance of not less than three hundred feet before stopping.

After complying with the stopping and proceeding safely, drivers of these special vehicles are not allowed to shift gears while moving across the crossing. See ALASKA ADMIN. CODE tit. 13, § 02.250 (1994). Also see 13 AAC 02.240 concerning stopping distance.

Exempt Crossings - The stopping requirements do not apply at highway-rail crossing where traffic is being directed by a police officer, an authorized flagman, or an official traffic control device. See ALASKA ADMIN. CODE tit. 13, § 02.250 (1994).

ARIZONA

Slow and Low Vehicles - No person in Arizona may operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten miles per hour or less, without first coming to a complete stop fifteen to fifty feet from the nearest rail. After stopping, the operator must look and listen for trains and train signals. Before making the crossing, notice of intent must be given to a station agent.

If the railroad provides a flagman for the crossing of slow and low vehicles, the crossing must be under the flagman's direction. See ARIZ. REV. STAT. ANN. § 28-854 (1994).

Special Vehicles - Arizona law requires drivers of motor vehicles carrying passengers for hire, school buses carrying any children, and vehicles carrying hazardous materials as cargo or part of a cargo while carrying it to or returning from a delivery to stop at crossings.

Drivers of these special vehicles must stop within fifteen to fifty feet of the nearest rail at all highway-rail crossings. After the stop is made, the driver must listen and look in both directions for approaching trains and for signals indicating the approach of a train and may not proceed until it is safe to do so. The driver may not manually change gears while crossing the tracks. See ARIZ. REV. STAT. ANN. § 28-853 (1994).

Exempt Crossings - Drivers are not required to stop at crossings where a police officer or a traffic control signal is directing traffic to proceed. Also exempt from this section are highway-rail grade crossings within a business or a residential district. See ARIZ. REV. STAT. ANN. § 28-853 (1994).

ARKANSAS

Slow and Low Vehicles - It is unlawful for a person to operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of up to ten miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or, in any event, of less than nine inches measured above the level surface of a roadway without first giving notice to a station agent of the railroad. Any notice should allow reasonable time for the railroad to provide proper protection at the crossing. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction.

Before crossing, the driver of the slow or low vehicle must first stop not less than fifteen or more than fifty feet from the nearest rail of the tracks. While stopped, the driver is required to listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver may not proceed until the crossing can be accomplished in a safe manner. See ARK. CODE ANN. § 27-51-705 (Michie 1993).

Special Vehicles - Arkansas requires drivers of motor vehicles carrying passengers for hire and any school bus transporting any children to stop within fifty but not less than fifteen feet from the nearest rail of the tracks. While stopped, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train and may not proceed until it is safe to do so.

The law imposes the same requirement for a driver of any vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo. See ARK. CODE ANN. § 27-51-703 (Michie 1993).

In addition to vehicles carrying hazardous materials or cargo, Arkansas law imposes stopping requirements on trucks carrying explosive substances or flammable liquids or gasses as cargo or part of a cargo. While the distance parameters are the same, the driver has the additional requirement of opening the driver's side door of the truck or rolling down the window at least 12" in order to remove any obstruction of the sound of a train whistle. The driver must also listen and look along the track in both directions for any approaching train or signals indicating the approach of a train and may proceed to cross the tracks only after it is safe to do so.

Penalty - A violation of this particular section subjects the driver to the following penalties: 1) The first conviction results in a fine of not less than one hundred or more than three hundred dollars and suspension of the chauffeur's license of the operator for thirty days; 2) For the second offense, the operator may be fined not less than one hundred or more than three hundred dollars and have his chauffeur's license suspended for one year. See ARK. CODE ANN. § 27-51-704 (Michie 1993).

Exempt Crossings - The special vehicle stopping requirements do not apply to school buses and vehicles carrying passengers for hire at a crossing where there is a police officer or a traffic control signal directing traffic to proceed. The stopping requirements also do not apply at highway-railway grade crossings within a business or residential district. See ARK. CODE ANN. § 27-51-703 (Michie 1993). This exemption does not apply to trucks carrying explosive cargo or flammable liquids.

CALIFORNIA

Slow and Low Vehicles - California law does not have requirements concerning stops at highway-rail crossings by drivers of slow and low vehicles.

Special Vehicles - California law requires drivers of school buses, school activity buses, buses carrying passengers for hire, trucks transporting employees outside the cab, buses transporting employees and buses transporting minors on any outing organized on a group basis to stop at crossings. Also covered under the statute are vehicles carrying explosive substances as cargo or part of a cargo, tank vehicles whether loaded or empty and vehicles transporting more than one hundred twenty gallons of flammable liquids or liquefied petroleum gas in containers having a capacity of more than twenty gallons as cargo or the major portion of a cargo.

Each vehicle for which a stop is required must do so within fifteen to fifty feet of the nearest rail at all highway-rail crossings. When stopped, the driver is required to listen and look along the track in both directions for any approaching train and must not proceed until it is safe to do so. Upon proceeding, the gears may not be shifted manually while crossing the tracks. See CAL. [VEH.] CODE § 22452 (West 1994).

If a driver fails to stop as required by this section, his driver's license may be suspended for not more than six months. See CAL. [VEH.] CODE § 13201 (West 1994).

Exempt Crossings - California does not require drivers to stop at tracks running upon and along the roadway in business or residential districts or where a traffic officer or an official traffic control signal directs traffic to proceed. Also, stops are not required at crossings where an official railroad crossing stop exempt sign has been placed by the California Department of Transportation, (see § 21400), or by local authority (see § 22452.5). School buses and school pupil activity buses are not part of the exemption. See CAL. [VEH.] CODE § 22452 (West 1994). Also see CAL. [VEH.] CODE § 22452.2 (West 1994).

COLORADO

Slow and Low Vehicles - Colorado law considers low clearance as less than nine inches above the level surface of the roadway upon or across the tracks. Slow vehicles are described as those with a normal operating speed of ten miles per hour or less. Before moving slow and low vehicles across a highway-rail crossing, the law requires that reasonable notice be given to a superintendent of the railroad.

Colorado law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail, the operator must look and listen for trains and train signals, and the operator may cross only when possible to proceed safely.

No such crossing is to be made when warning is given by an automatic signal, crossing gate or flagman of the immediate approach of a train. See COLO. REV. STAT. § 42-4-708 (1)-(2)-(3)-(4) (1994). Also see subparagraph (5) under exempt crossings. [Editor's Note: This entire title was amended in 1994, effective January 1, 1995, resulting in the relocation of provisions.]

Special Vehicles - Colorado law requires drivers of school buses and vehicles carrying passengers for hire which are carrying more than six passengers to stop within fifteen to fifty feet of the nearest rail at all non-exempt crossings.

Any vehicle carrying explosives or hazardous materials as cargo or part of a cargo or any vehicle designed to carry flammable liquids whether empty or loaded are to stop at crossings.

After requiring drivers of special vehicles to stop, Colorado requires that the driver listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver may then proceed to cross if it is safe to do so but they may not manually shift gears while crossing the tracks. See COLO. REV. STAT. § 42-4-707 (1994).

Exempt Crossings - Under Colorado law, drivers of slow and low vehicles do not have to stop at crossings where state or local road authorities have determined that trains are not operating during certain periods or seasons of the year and have erected an official "EXEMPT" sign. See COLO. REV. STAT. § 42-4-708 (5) (1994).

Drivers of special vehicles are not required to stop at crossings marked with an "EXEMPT" sign or at any crossing where traffic is controlled by a police officer or a traffic control signal. Stopping requirements also do not apply at crossings protected by crossing gates or alternately flashing lights intended to give warning of an approaching train. See COL. REV. STAT. § 42-4-608(5)-a to -d (1994).

CONNECTICUT

Slow and Low Vehicles - Connecticut has no requirements regulating stops by slow and low vehicles.

Special Vehicles - Connecticut law specifically mentions taxicabs under this category. Operators of commercial motor vehicles carrying passengers, taxicabs, motor vehicles in livery service, motor buses, service buses or other motor vehicles carrying school children, vehicles carrying hazardous materials as cargo or part of a cargo and vehicles transporting inflammable or corrosive liquids in bulk, whether loaded or empty, are required to stop at highway-rail crossings.

Connecticut sets a different minimum stopping distance than most states. Connecticut requires that stops be made within ten to fifty feet of the nearest rail of the tracks. After stopping, the operator is required to listen and look in both directions for an approaching train.

No crossing is to be made at crossings where warning of an approaching train is given by an automatic signal, crossing gates, a flagman or other device. See CONN. GEN. STAT. § 14-250 (1994).

Penalty- A violation of any provision of § 14-250 will result in a fine of not less than one hundred fifty nor more than two hundred fifty dollars. See CONN. GEN. STAT. § 14-250 (1994).

Exempt Crossings - Connecticut has no provision for exempt crossings.

DELAWARE

Slow and Low Vehicles - The Delaware statute defines slow and low vehicles as those having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches. See DEL. CODE ANN. tit. 21, § 4167 (1994).

Delaware law requires persons operating slow and low vehicles to stop before traversing highway-rail crossings. The stop must be made fifteen to fifty feet from the nearest rail. The operator must look and listen for trains and train signals and may cross only when it is possible to do so safely. Delaware requires that, if the railroad provides a flagman, movement of slow and low vehicles must be made under the direction of such flagman.

Reasonable notice of any intended crossing must be given to a station agent of the railroad so as to allow the affected railroad to provide protection at the crossing.

Delaware prohibits such crossing when an automatic signal, gates, flagman or other warning indicates an approaching train.

Special Vehicles - Delaware requires drivers of a school bus carrying any children, a motor vehicle carrying passengers for hire or a vehicle transporting hazardous materials to stop at crossings. The required stop is to be within fifteen to fifty feet of the nearest rail of the crossing. When stopped, the driver of the special vehicle is to listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. Drivers may not proceed until it is safe to do so and may not manually shift gears while crossing the tracks. See DEL. CODE ANN. tit. 21, § 4163 (1994).

Exempt Crossings - Drivers of school buses, vehicles transporting passengers for hire, and vehicles with hazardous materials are not required to stop at crossings that are controlled by a police officer or flagman. Stops are also not required at crossings which are regulated by a traffic control signal, crossings where crossing gates or alternately flashing lights have been installed for the purpose of warning of the approach of a train or crossings at which an official traffic control device gives notice that the stopping requirement does not apply. See DEL. CODE ANN. tit. 21, § 4163 (1994).

DISTRICT OF COLUMBIA

Slow and Low Vehicles - The District of Columbia does not have sections in its vehicle code requiring stops by drivers of slow and low vehicles.

Special Vehicles - The District of Columbia has no provisions concerning special vehicles.

Exempt Crossings - Exempt crossings are not mentioned in the District of Columbia vehicle code.

FLORIDA

Slow and Low Vehicles - The Florida statutes define slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical

body or load clearance of less than nine inches measured above the level surface of the roadway upon or across the tracks. See FLA. STAT. ANN. § 316-170 (West 1994).

Florida law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail and the operator must listen and look in both directions for trains and train signals and may cross only when it is safe to do so.

Before moving slow and low vehicles across a highway-rail crossing, Florida law requires that reasonable notice be given to a station agent or other proper authority of the railroad.

No crossing is to be made when warning is being given by automatic signal, crossing gate, flagman or other device of the immediate approach of a railroad train or car. If a flagman is present, movement over the crossing is to be under his direction. See FLA. STAT. ANN. § 316-170 (West 1994).

Special Vehicles - Florida law requires drivers of school buses carrying any children, vehicles carrying passengers for hire and vehicles carrying explosive substances or flammable liquids as cargo to stop at crossings.

Drivers of special vehicles must stop within fifteen to fifty feet of the nearest rail of the crossing. After making the required stop, the driver must listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. Drivers may not proceed until it is safe to do so and may not manually shift gears while crossing the tracks. See FLA. STAT. ANN. § 316-159 (West 1994).

Exempt Crossings - Drivers of special vehicles are exempt from the stop requirement at crossings where a police officer, a traffic control signal or a sign directs traffic to proceed. School buses must stop unless directed to proceed by a police officer. See FLA. STAT. ANN. § 316-159 (West 1994).

GEORGIA

Slow and Low Vehicles - Georgia law defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of a roadway upon or across any tracks. See GA. CODE ANN. § 40-6-143 (1994).

Georgia law requires drivers of slow and low vehicles to stop not less than fifteen or more than fifty feet from the nearest rail of the tracks and while stopped, must listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver may not proceed until the crossing can be accomplished safely. Reasonable notice of any such intended crossing must be given to a station agent of the railroad so as to give the railroad time to provide proper protection at the crossing.

No such crossing may be made where warning is given by an automatic signal, crossing gate, flagman or other device of the immediate approach of a railroad train or car. If a flagman is present, movement over the crossing must be made under the flagman's direction.

Special Vehicles - Georgia law requires drivers of school buses whether carrying passengers or empty, vehicles carrying passengers for hire and vehicles transporting explosive substances, flammable liquids, hazardous waste or constituents, or hazardous acidic liquids as cargo or part of a cargo to stop at crossings. Drivers of school buses and vehicles with hazardous materials must stop within fifteen to fifty feet of the nearest rail. When stopped, the drivers of such vehicles are required to listen and look in both directions along each track for any approaching train and for signals indicating the approach of a train. Drivers may not proceed until they can do so safely. The driver may not manually shift gears while crossing the tracks. See GA. CODE ANN. § 40-6-142 (1994). Also refer to the driver action section under the State of Georgia.

Exempt Crossings - Drivers of special vehicles are not required to stop at a crossing where a police officer or a traffic control signal directs traffic to proceed. See GA. CODE ANN. § 40-6-142 (1994).

HAWAII

Slow and Low Vehicles - Hawaii has no requirements concerning stops by slow and low vehicles.

Special Vehicles - Hawaii requires drivers of school buses carrying children, vehicles carrying passengers for hire or any vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo to stop at crossings. The stops are to be made within fifteen to fifty feet of the nearest rail. The driver, while stopped, shall listen and look along the track in both directions for any approaching train and for signals indicating the approach of a train. The driver shall proceed only when it is considered safe to do so. The driver must not manually shift gears while traversing the track. See HAW. REV. STAT. § 291C-93(a) (1994).

Exempt Crossings - The stopping requirements for special vehicles does not apply at crossings where a police officer or traffic control signal directs traffic to proceed. The stopping requirements for special vehicles also do not apply at highway-rail grade crossings within a business or residential district. See HAW. REV. STAT. § 291C-93(b)-(C) (1994).

IDAHO

Slow and Low Vehicles - Idaho's Code defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or a vertical or load clearance of less than nine inches measured above the level surface of a highway, upon or across the tracks.

Before moving slow and low vehicles across a highway-rail crossing in Idaho, reasonable notice must be given to a station agent of the railroad.

Idaho law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping, the operator must listen and look for trains and train signals, and cross only when it is possible to proceed safely.

Idaho law expressly prohibits crossing when an automatic signal, gate, flagman or other warning indicates the approach of a train. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction. See IDAHO CODE § 49-650 (1994).

Special Vehicles - Although Idaho does not mention any specific vehicles under the special category, it requires that drivers of any vehicle stopped at a highway-rail crossing listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers shall not proceed until it can be done safely and may not manually shift gears while moving through the crossing. See IDAHO CODE § 49-649 (1994).

Exempt Crossings - Drivers of special vehicles are not required to stop at crossings where traffic is controlled by a police officer or flagman, by a traffic control signal, or by crossing gates or an alternately flashing light signal intended to warn of the approach of a train, or at any grade crossing at which a traffic control device gives notice that the stopping requirements do not apply. See IDAHO CODE § 49-649(a) to (d) (1994). Also see section dealing with driver action.

ILLINOIS

Slow and Low Vehicles - Illinois law defines "slow" vehicles as those with a normal operating speed of ten miles per hour or less. Also, the statutes refer to "power" and not "steam" shovels. As to vehicles with low clearances, Illinois applies the nine inch height to axles that are eighteen feet or less apart. If the axles are more than eighteen feet apart, the one half inch per foot measure is used.

Before moving slow and low vehicles across a highway-rail crossing, Illinois law requires that reasonable notice be given to a superintendent of the railroad.

Illinois law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping, the operator must look and listen for trains and train signals, and cross only when it is safe to proceed.

Exempt Crossings - No such crossing may be made at a crossing where warning of the approach of a train is given by an automatic signal, crossing gate, flagman or other device. See 625 ILCS 5/11-1203 (1994).

Special Vehicles - Illinois requires drivers of school buses carrying any children, vehicles carrying passengers for hire and vehicles transporting hazardous materials to stop at highway-rail crossings.

Illinois law requires stops to be made within fifteen to fifty feet of the nearest rail of the tracks. After making the required stop, drivers of special vehicles are instructed to listen and look in both directions for an approaching train and may not move over the crossing until it can be done safely.

After determining that it is safe to traverse a crossing, drivers of vehicles with passengers for hire or those carrying hazardous materials may proceed but may not manually shift gears while crossing the tracks. See 625 ILCS 5/11-1202 (1994).

Exempt Crossings - An exception is provided for drivers of vehicles with passengers or hazardous material cargos at crossings where a traffic control signal, police officer or flagman regulates traffic.

Additionally, Illinois law exempts drivers of special vehicles from the stopping requirements at crossings where crossing gates or alternately flashing lights have been installed. However, this exemption does not apply to drivers of school buses.

Stopping requirements are also not applicable at any streetcar grade crossing within a business or residential district and at any clearly marked abandoned track. See 625 ILCS 5/11-1201(b) -1 to -4 (1994).

INDIANA

Slow and Low Vehicles - When defining slow and low vehicles, the Indiana code omits "crawler-type" and instead mentions "caterpillar" tractors. Indiana law describes slow and low vehicles as vehicles or structures weighing more than ten tons and having a normal operating speed of not more than six miles per hour. "Low" is defined as a vertical body or load clearance of less than nine inches above the level surface of a roadway.

Before moving slow and low vehicles across a highway-rail crossing, Indiana law requires that reasonable notice be given to a superintendent of the railroad.

Indiana law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made not less than ten or more than fifty feet from the nearest rail, and while stopped, the operator must listen, look and then cross only when it is possible to do so safely.

Indiana expressly prohibits crossings by slow and low vehicles when an automatic signal, gate, flagman or other device indicates an approaching train. See IND. CODE ANN. § 9-21-8-40 (Burns 1994).

Special Vehicles - Indiana has two separate code sections regulating stopping and traversing crossings by special vehicles. Indiana law requires drivers of school buses carrying any children to stop at crossings. The stop shall be made within fifty but not less than ten feet of the nearest rail. While the bus is stopped, the driver must open the door and listen and look in both directions for a train or signals indicating the approach of a train. After all requirements are complied with, the driver may then proceed when it is safe to do so but may not manually shift gears while crossing.

Penalty - If an operator of a school bus is convicted of a violation of this section, the operator may have his driver's license suspended for a period of not less than sixty days in addition to penalties provided by Indiana Code § 20-9.1-5-22. See IND. CODE ANN. § 20-9.1-5-11(a)-(b) (Burns 1994).

A driver of a motor vehicle carrying passengers for hire or a vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo must stop not more than fifty and not less than ten feet from the nearest rail of the crossing.

While stopped, the driver shall listen through an open door or window and look along the track in both directions for an approaching train and for signals indicating the approach of a train. The driver may then proceed only when it is safe to do so but may not manually shift gears while traversing the crossing.

If a police officer or a traffic control signal is directing traffic at a crossing, the driver of a special vehicle may proceed in accordance with the instructions provided by the police officer or the traffic control signal. See IND. CODE ANN. § 9-21-12-5(a)-(b)-(c)-(d) (Burns 1994).

Penalties- A conviction for a violation of this section will result in a fine and a suspension of driving privileges for a period of not less than sixty days. See IND. CODE ANN. § 9-21-12-8 (Burns 1994).

Exempt Crossings - Indiana exempts drivers of special vehicles only (not slow and low vehicles) from stopping at highway-rail grade crossings within a business or residential district, at an abandoned or unused crossing and at crossings where traffic is controlled by a police officer or a traffic control signal. See IND. CODE ANN. § 9-21-12-5(a)-(d) (Burns 1994).

IOWA

Slow and Low Vehicles - Iowa refers to "caterpillar" rather than "crawler-type" tractors. It describes slow vehicles as those with an operating speed of six miles per hour or less and low vehicles as those with a vertical body or load clearance of less than nine inches above the level surface of a roadway upon or across any tracks.

Before moving slow and low vehicles across a highway-rail crossing in Iowa, state law requires that reasonable notice be given to a superintendent of the affected railroad.

Iowa law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within ten to fifty feet of the crossing. After stopping, the operator must listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and may cross only when it is safe to do so.

Iowa expressly prohibits any crossing when an automatic signal, gate, flagman or other warning indicates an approaching train. See IOWA CODE § 321.344 (1993).

Special Vehicles - Iowa requires drivers of school buses, vehicles carrying passengers for hire and vehicles carrying hazardous materials to stop at highway-rail crossings. Iowa requires stops to be within fifty but not less than fifteen feet of the nearest rail of the crossing. After stopping, a driver must listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may proceed only when it is safe to do so. See IOWA CODE § 321.343 (1993). Also see § 321.449 (Motor Carrier Safety Rules).

Exempt Crossings - Drivers of special vehicles are exempt from stopping requirements at a crossing where a police officer or a traffic control device directs traffic to proceed. Also, no stop need be made at a crossing with an "EXEMPT" sign. The statute indicates that the "EXEMPT" sign shall be posted only where the tracks have been partially removed on either side of the roadway. See IOWA CODE § 321.343 (1993).

KANSAS

Slow and Low Vehicles - Kansas law describes slow and low vehicles as those having a normal operating speed of ten miles per hour or less or load clearance of less than nine inches measured above the level surface of a roadway, upon or across the tracks.

Before moving slow and low vehicles across a highway-rail crossing, Kansas law requires that reasonable notice be given to a station agent of the affected railroad.

Kansas law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. The operator must then listen and look for trains and train signals, and shall cross only when it is safe to proceed.

A crossing may not be made when warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, movement over the crossing is to be made under the flagman's direction. See KAN. STAT. ANN. § 8-1554 (1993).

Special Vehicles - Kansas law requires that the Kansas Secretary of Transportation, in conjunction with the corporation commission, adopt rules and regulations as are necessary describing the types of vehicles which must comply with the stopping requirements. The statute does not mention specific vehicles that might fall under this category.

Kansas law requires drivers of school buses and vehicles with hazardous materials to stop within fifteen but not more than fifty feet of the nearest rail.

After complying with the stopping requirements, drivers of special vehicles must listen and look in both directions for any approaching train and for signals indicating the approach of a train. No crossing shall be made until it is determined that it is safe to do so. The driver must then cross in an appropriate gear and must not manually shift gears while crossing the tracks. See KAN. STAT. ANN. § 8-1553 (1993).

Exempt Crossings - Under Kansas law, the drivers of special vehicles are not required to stop at crossings where traffic is controlled by a police officer or human flagman, any crossing at which traffic is controlled by a highway traffic signal transmitting a green indication, any abandoned crossing which is marked with a sign indicating such, any industrial or spur line crossing marked with a state or local authority approved "EXEMPT" sign and crossings used exclusively for industrial switching purposes within a business district. See

KAN. STAT. ANN. § 8-1553 (1993).

KENTUCKY

Slow and Low Vehicles - Kentucky does not have a specific statute concerning stops by slow and low vehicles at highway-rail crossings.

Special Vehicles - Kentucky statutes contain a separate section concerning stopping requirements for drivers or chauffeurs of any motor vehicle transporting passengers for hire.

Stops by drivers or chauffeurs of any such vehicle shall stop not less than ten or more than thirty feet from the nearest rail of the track. After the stop is made, the driver or chauffeur must look carefully in each direction for an approaching car or train, and shall not cross until it is ascertained that no car or train is approaching. See KY. REV. STAT. ANN. § 281.745 (Baldwin 1993). For penalty if convicted of violating this section, see 281.990 [1] [3].

Kentucky law requires drivers of buses and motor vehicles used for transporting children to come to a stop within ten and not more than thirty feet of the nearest track over the highway. After the stop is made, the law requires that operators open the service door and carefully look in both directions for approaching trains or maintenance vehicles. See KY. REV. STAT. ANN. § 189.550 (Baldwin 1993).

Kentucky law requires drivers of any motor vehicle used in the transportation of inflammable liquids or explosives to stop not less than ten feet or more than twenty feet from the nearest rail of the track. After making the required stop, the driver shall look carefully in each direction for any approaching trains and may not move over the crossing until it has been ascertained that no trains or cars are approaching in either direction. See KY. REV. STAT. ANN. § 189.565 (Baldwin 1993).

Exempt Crossings - Kentucky exempts drivers of buses and motor vehicles used for transporting children and vehicles carrying passengers for hire from the stopping requirements at crossings which are protected by gates or a flagman employed by the railroad. See KY. REV. STAT. ANN. § 189.550 (Baldwin 1993). Also see the section on special vehicles.

LOUISIANA

Slow and Low Vehicles - Louisiana defines slow and low vehicles as those that have an operating speed of ten miles an hour or less or a clearance of less than nine inches measured above the level surface of a roadway, upon or across any tracks.

Louisiana law requires that, before moving slow and low vehicles across a highway-rail crossing, reasonable notice be given to a station agent of the affected railroad.

Louisiana law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. During the stop, the operator must listen and look in both directions, proceeding only when it is safe to do so.

These procedures have no applicability at a crossing where warning of the approach of a railroad train or car is given by automatic signals, crossing gates, a flagman or other device. If a flagman is provided by the railroad, any crossing attempted shall be under the flagman's direction. See LA. REV. STAT. ANN. § 32:174 (West 1993).

Special Vehicles - Louisiana requires drivers of school buses carrying children or not, vehicles carrying passengers for hire and vehicles carrying explosive substances or flammable liquids as cargo or part of a cargo to stop at highway-rail crossings. Stops are to be made within fifteen to fifty feet of the nearest rail and while stopped, the driver is required to listen and look in both directions for any approaching train or for signals indicating the approach of a train. The driver of any school bus must open the door of the bus and leave it open while ascertaining that no train is approaching. See LA. REV. STAT. ANN. § 32:173 (West 1993).

The owner or operator of a vehicle transporting flammable liquids is forbidden to cross at a crossing without coming to a full stop. If the vehicle is transporting explosives, the driver may only move over a crossing under the protection of a competent flagman. See LA. REV. STAT. ANN § 251 (West 1993).

Exempt Crossings - The drivers of school buses and vehicles carrying hazardous materials are not required to comply with the stopping provisions at any crossing where a police officer or traffic control signal directs traffic to proceed. See LA. REV. STAT. ANN. § 32:173 (West 1993).

MAINE

Slow and Low Vehicles - Maine has no provisions concerning slow and low vehicles.

Special Vehicles - Maine law requires drivers of school buses to stop at crossings. The stop shall be made at a point within fifteen to fifty feet of the nearest rail. While stopped, the driver must ascertain beyond a reasonable doubt that no train, engine or conveyance is approaching. The driver is permitted to cross only when it is safe to do so. See ME. REV. STAT. ANN. tit. 29-A, § 2306 (West 1994).

Penalty - Maine law provides two separate penalties for violations of the stopping requirement by drivers of special vehicles. A violation of this section by a school bus driver is a Class E crime, and upon conviction of failure to stop or to yield the right-of-way to a train, the driver's license to operate the school bus must be revoked by the Maine Secretary of State for a period of not less than two years. See ME. REV. STAT. ANN. tit. 29-A, § 2306 (West 1994).

Maine has a second statute which covers stops by a variety of special vehicles. It includes a bus transporting passengers and a motor vehicle transporting any quantity of chlorine. See ME. REV. STAT ANN. tit. 29-A, § 2076 (West 1994).

Maine requires drivers of hazardous vehicles to stop at crossings. The pertinent section of the statute requires those vehicles that must be marked or placarded in accordance with 49 CFR 172(F) to stop at crossings. The statute further prescribes cargo tank vehicles used to transport a hazardous material as defined in 49 CFR 170 & 189 or a commodity under special permit in accordance with provisions prescribed by the CFR to stop whether loaded or not.

Another category of vehicle covered under the same section of the statute is described as a cargo tank vehicle transporting a commodity that, at the time of loading, has a temperature above its flash point as determined by 49 CFR 173.115. See ME. REV. STAT. ANN. tit. 29-A § 2076 (West 1994). The reader may also want to see 49 CFR 172(f), 49 CFR 170-189, and 49 CFR 173.115 (1994).

Penalty - Any driver of a vehicle covered under this section who fails to comply with the stopping requirements commits a Class D crime. See ME. REV. STAT. ANN. tit. 29-A § 2076(5) (West 1994).

Exempt Crossings - Drivers of vehicles under the special category with the exception of school buses, are exempt from the stopping requirements within a business district at streetcar crossings or railroad crossings used exclusively for industrial switching purposes, where a law enforcement officer or crossing flagman directs traffic to proceed, or at a clearly marked abandoned crossing and at an industrial or spur line railroad grade crossing marked with an "EXEMPT" sign. See ME. REV. STAT. ANN. tit. 29-A § 2076(4) (West 1994).

MARYLAND

Slow and Low Vehicles - Maryland's definition of slow and low vehicles is the same as most states with the exception that Maryland refers to "power" not "steam" shovels.

Prior to moving slow and low vehicles across a highway-rail crossing in Maryland, reasonable notice must be given to an agent of the affected railroad, thereby allowing the railroad time to provide proper protection.

Maryland law requires persons operating slow and low vehicles to stop within fifteen to fifty feet of the nearest rail before moving across a highway-rail crossing. While stopped, the operator is required to listen and look in both directions for an approaching or passing train and for signals indicating the approach or passage of a train. In any event, no crossing is to be made unless it is determined that it can be done safely.

Maryland law prohibits crossing if a warning of the immediate approach of a train is given by an automatic signal, crossing gate, flagman or other device. See MD. ANN. CODE art. 21, § 704 (1994).

Special Vehicles - Maryland law requires drivers of motor vehicles carrying passengers for hire, school vehicles carrying any passenger, buses owned or operated by a church and carrying any passenger, vehicles carrying flammable liquid or an explosive and vehicles carrying hazardous materials of a type and quantity requiring placarding under federal hazardous materials regulations, to stop at highway-rail crossings. Stops must be made within fifteen to fifty feet of the nearest rail of the tracks. Drivers must listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train. The driver may proceed only when it is safe to do so and may not manually shift gears while crossing. See MD. ANN. CODE art. 21, § 703(b)-(c)-(d) (1994). See also the section under driver action.

Exempt Crossings - In Maryland, the stopping requirements for drivers of special vehicles do not apply at any highway-rail crossing in a business or residential district. See MD. ANN. CODE art. 21, § 703(g) (1994).

MASSACHUSETTS

Slow and Low Vehicles - Massachusetts has no regulations concerning slow and low vehicles.

Special Vehicles - The law in Massachusetts requiring stops at highway-rail crossings does not specifically mention buses or vehicles transporting passengers for hire. Massachusetts law does require drivers of school buses and vehicles carrying explosive substances or flammable liquids as cargo or part of a cargo to stop within fifteen to fifty feet of the nearest rail. The statute also requires drivers of school buses to open the door while stopped. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994). Also see this section under the chapter on driver action.

Penalties - A violation of any provision of section 15 is punishable by a fine of not less than one hundred or more than two hundred dollars. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

Exempt Crossings - Massachusetts has no provisions for exempt crossings.

MICHIGAN

Slow and Low Vehicles - Michigan law refers to "caterpillar" not "crawler-type" tractors. Additionally, Michigan law adds as part of the slow and low category, boilers, machinery and objects upon rollers. Michigan law applies to equipment or structures having a normal operating speed of four miles per hour or less or a vertical load or body clearance of less than nine inches above the level surface of the roadway. See MICH. STAT. ANN. § 9.2370(1) (Law. Co-op. 1994).

In Michigan, the nearest agent or officer of the railroad must be notified and a reasonable period of time allowed for protection of the railroad's locomotives, cars and trains.

Persons operating slow or low vehicles must stop before moving over a highway-rail crossing. The stop must be made not less than ten but no more than fifty feet from the nearest rail and the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. After stopping, listening and looking, the operator may proceed only if it is safe to do so. See MICH. STAT. ANN. § 9.2370(2)-(3) (Law. Co-op. 1994).

Michigan law prohibits crossing when warning of the immediate approach of a railroad train or car is given by an automatic signal, crossing gate, flagman or other device. See MICH. STAT. ANN. § 9.2370(4) (Law. Co-op. 1994).

Special Vehicles - In Michigan, vehicles which must stop at highway-rail crossings include motor vehicles carrying passengers for hire, school buses and vehicles carrying explosive substances, flammable liquids or other hazardous materials on which a placard is required by Federal law.

Michigan statutes prescribe stopping requirements for school buses under a different section than for motor vehicles carrying passengers for hire and vehicles carrying hazardous materials. Drivers of school buses must stop within fifty but not less than ten feet of the nearest rail of the crossing. After coming to a stop, the driver of the school bus must "activate hazard warning lights, turn off all interior switches including fans, heaters, and radios, open the passenger door and driver-side window, and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely". The driver is prohibited from manually shifting gears while crossing. See MICH. STAT. ANN. § 9.3557(1) (Law. Co-op. 1994).

Drivers of motor vehicles carrying passengers for hire and vehicles carrying hazardous materials are required to stop within ten to fifty feet of the nearest rail and while stopped, must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may not proceed until it is possible to do so safely and may not manually shift gears while crossing. See MICH. STAT. ANN. § 9.2369(1) (Law. Co-op. 1994).

Exempt Crossings - The exemptions under Michigan law are the same for school bus drivers, drivers of vehicles carrying passengers for hire and for vehicles carrying hazardous materials. Michigan expressly exempts drivers of special vehicles from the stopping requirements at crossings where a police officer or a traffic control signal directs traffic to proceed. Exemptions also apply at crossings that are abandoned as determined by the State of Michigan. No stop is required at a grade crossing on a freeway or limited access highway where the crossing is protected by a signal, crossing gate or barrier at a time when the signal, crossing gate or barrier is not activated. See MICH. STAT. ANN. § 9.3557(4) (Law. Co-op. 1994).

MINNESOTA

Slow and Low Vehicles - Minnesota's description of slow and low vehicles refers to "caterpillar" rather than "crawler-type" tractors. It also defines the operational speed at six miles per hour or less. The clearance requirements are nine inches or less above the level surface of the roadway.

Minnesota law requires persons operating slow and low vehicles to stop before moving over a highway-rail crossing. The stop must be made not less than ten or more than fifty feet from the nearest rail, and the operator must listen and look for approaching trains and for signals indicating the approach of a train. The operator may only proceed when it is safe to do so.

No crossing is to be made where warning of the immediate approach of a train is given by automatic signals, crossing gates, a flagman or other device. See MINN STAT. § 169.29 (1993).

Exempt Crossings - The operator of a slow and low vehicle as defined in Minnesota must stop at a crossing which has been abandoned and is displaying an "EXEMPT" sign, unless directed otherwise by a flagman. See MINN. STAT. § 169.29 (1994).

Special Vehicles - Minnesota law adds "any Head Start Bus" to the category of special vehicles. A "Head Start Bus" is defined in the statute as one which must bear on its front and rear a plainly visible sign containing the words "Head Start Bus" in letters at least eight inches in height. See MINN. STAT. § 169.28 (1994).

Minnesota law requires drivers of motor vehicles carrying passengers for hire, school buses, including Head Start Buses, whether carrying passengers or not and any vehicle carrying explosive substances, flammable liquids or liquid gas under pressure as cargo or part of a cargo to stop at highway-rail crossings. The stop is to be made not less than ten feet from the nearest rail. The driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train and may then proceed only when it is safe to do so. See MINN. STAT. § 169.28 (1994).

Exempt Crossings - Minnesota law has a provision that allows the local school administrative officer to designate a crossing at which a school bus driver may be flagged across. Otherwise, a school bus will not be flagged across a railroad crossing. See MINN. STAT. § 169.28(1) (1994).

MISSISSIPPI

Slow and Low Vehicles - Mississippi defines slow and low vehicles as those with an operating speed of six miles per hour or less and a clearance of nine inches above the level surface of the roadway. Also, the statutes make reference to "caterpillar" and not "crawler-type" tractors.

Mississippi law requires that drivers of slow and low vehicles stop before moving over a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail and the operator must listen and look for approaching trains and signals indicating an approaching train. Movement across the crossing can be made after it is determined safe to do so by the operator.

Prior to moving slow and low vehicles over a highway-rail crossing, Mississippi law requires that reasonable notification be given to a superintendent of the affected railroad.

Moving over a crossing is prohibited at crossings where warning of an approaching train is given by automatic signals, crossing gates, a flagman or other device. See MISS. CODE ANN. § 63-3-1013.

Special Vehicles - Mississippi requires drivers of vehicles carrying passengers for hire and hazardous materials as cargo or part of a cargo and school buses carrying any children to stop at crossings.

The stop must be made within fifty but not less than ten feet of the nearest rail of the crossing. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating an approaching train. After complying with the requirements, the driver may proceed when it is determined that it is safe to do so. See MISS. CODE ANN. § 63-3-1011(1) (1994).

Exempt Crossings - Mississippi exempts drivers of special vehicles from stopping requirements at crossings where a police officer or traffic control signal directs traffic to proceed and at crossings within a business or residential district. See MISS. CODE ANN. § 63-3-1011(2)-(3) (1994).

MISSOURI

Slow and Low Vehicles - Missouri has no regulation regarding stops by slow and low vehicles.

Special Vehicles - The law in Missouri requires drivers of motor vehicles carrying passengers for hire, school buses, motor vehicles transporting high explosives or poisonous or compressed inflammable gases and motor vehicles used for the transportation of inflammable or corrosive liquids in bulk whether loaded or empty to stop at crossings.

The stop must be made within fifteen to fifty feet of the nearest rail. After the required stop is made, a driver shall not proceed until due caution has been taken to ascertain that it is safe to do so. See MO. REV. STAT. § 304.030 (1993).

Exempt Crossings - Drivers of special vehicles are exempt from the stopping requirements at streetcar crossings within a business or residential district and at railroad grade crossings protected by a watchman, an on-duty traffic officer or a traffic control signal (not railroad flashing signal) that is giving positive indication to approaching vehicles to proceed. Stops also need not be made at any crossing at which the Missouri Division of Transportation has ordered the placement of an "EXEMPT" sign. See MO. REV. STAT. § 304.030 (1993).

Penalty- A violation of MO. REV. STAT. § 304.030 is punishable as a misdemeanor. See MO. REV. STAT. § 304.040 (1993).

MONTANA

Slow and Low Vehicles - Montana defines slow and low vehicles as those having an operating speed of ten miles per hour or less and a clearance of less than nine inches measured above the level surface of a roadway.

Montana law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail, the operator must listen and look in both directions for approaching trains and train signals, and, when it is safe to do so, the operator may proceed over the crossing.

Before moving slow and low vehicles across a highway-rail crossing, Montana law requires that reasonable notice be given to a station agent of the affected railroad.

No stop is to be made at a crossing where warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If the railroad provides a flagman, movement over the crossing should be made under the flagman's direction. See MONT. CODE ANN. § 61-8-350 (1994).

Special Vehicles - Montana statutes concerning this category of vehicles define a vehicle carrying passengers for hire as one which contains seven or more passengers. A driver of a vehicle carrying passengers for hire, a school bus with or without passengers or a vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo must stop within fifteen to fifty feet of the nearest rail of the crossing. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train and may not proceed until it can be accomplished safely. The driver may not manually shift gears while crossing the tracks. In the case of a school bus, the driver must open the door when listening and looking for trains and train signals.

A stop is not required at any crossing where a police officer, highway patrol officer or traffic control signal directs traffic to proceed. A traffic control signal, as defined in the statute, does not include a railroad grade crossing signal. See MONT. CODE ANN. § 61-8-349 (1994).

Exempt Crossings - Montana exempts slow and low vehicles from the stopping requirements at highway-rail crossings in business or residential districts.

NEBRASKA

Slow and Low Vehicles - Nebraska law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator shall not traverse the crossing until it is safe to do so. See NEB. REV. STAT. § 60-6,174(2) (1994).

No such crossing is to be made at any crossing where warning of an immediate approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, movement over the crossing shall be under the flagman's direction. See NEB. REV. STAT. § 60-6,174(3) (1994).

Special Vehicles - In the vehicle code of Nebraska, drivers of any bus carrying passengers for hire or any school bus must stop at highway-rail crossings. The stop must be made within fifty but not less than fifteen feet of the nearest rail. While stopped, the driver must listen and look along the track in both directions for an approaching train and for signals indicating the approach of a train. Having accomplished all of this, the driver may then proceed when it is safe to do so. While proceeding across the tracks, the driver is prohibited from manually shifting gears. See NEB. REV. STAT. § 60-6,172(1).

The Nebraska law concerning vehicles transporting hazardous materials requires drivers to stop not less than fifteen or more than fifty feet from the crossing. Drivers of buses and vehicles with hazardous materials must listen and look in both directions and may cross only when it is safe to do so. The law prohibiting drivers from shifting gears does not apply to drivers of vehicles carrying hazardous materials. See NEB. REV. STAT. § 60-6,173 (1994).

Exempt Crossings - Drivers of any bus carrying passengers for hire or of any school bus do not need to stop at any crossing where a police officer or flagman directs traffic to proceed, or at an abandoned or exempt crossing which is clearly marked as such with the consent of competent authority when such markings can be read from the driver's position. See NEB. REV. STAT. § 60-6,172(2) (1994).

Drivers of vehicles carrying hazardous materials need not stop at abandoned or exempt crossings. See NEB. REV. STAT. § 60-6,173 (1994).

NEVADA

Slow and Low Vehicles - Nevada's definition of slow and low vehicles refers to a normal operating speed of ten miles per hour or less and a clearance of less than nine inches. Also, Nevada refers to "power" not "steam" shovels.

Nevada law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifty but not less than fifteen feet of the nearest rail of the crossing. Upon stopping, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train, and must not proceed until it is safe to do so. See NEV. REV. STAT. ANN. § 484.355(2) (Michie 1993).

Nevada law expressly prohibits crossing when an automatic signal, crossing gates, a flagman or other device indicates an approaching train. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction. See NEV. REV. STAT. ANN. § 484.355(3) (Michie 1993).

Special Vehicles - Nevada requires drivers of any motor vehicles carrying passengers for hire, school buses carrying any children or vehicles carrying any explosive or flammable liquid as cargo or part of a cargo to stop at highway-rail crossings. The stop must be made within fifteen to fifty feet of the nearest rail of the crossing. After stopping, the operator is required to listen and look in both directions for any approaching train and for signals indicating the approach of a train. The operator may not cross until it is safe to do so. Manual shifting of gears while traversing the crossing is prohibited. See NEV. REV. STAT. ANN. § 484.353(1)-(2) (Michie 1993).

Exempt Crossings - Nevada does not require drivers of special vehicles to stop at crossings where a police officer or traffic control device is controlling the movement of traffic, a

crossing marked with a device indicating that it is abandoned, a streetcar crossing or one used for industrial switching purposes in a designated business district, and a crossing marked with a sign identifying it as an exempt crossing. See NEV. REV. STAT. ANN. § 484.353(4)a-b-c-d (Michie 1993).

Nevada law forbids the erection of an "EXEMPT" sign unless:

- 1) The tracks are an industrial or spur line.
- 2) It is by or with the consent of the appropriate public authority with jurisdiction.
- 3) It is after the state or local authority has held a public hearing to determine whether the crossing should be designated an "exempt" crossing. See NEV. REV. STAT. ANN. § 484.353(d)(1)-(2)-(3) (Michie 1993).

NEW HAMPSHIRE

Slow and Low Vehicles - New Hampshire law defines slow and low vehicles as those with a normal operating speed of ten miles per hour or less and a vertical body or load clearance of nine inches above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, New Hampshire law requires that a stop be made within fifteen to fifty feet of the nearest rail of the crossing. Before proceeding through the crossing, the operator must listen and look in both directions for trains and for signals indicating an approaching train. The operator may traverse the crossing only when it can be done safely. See N.H. REV. STAT. ANN. § 265:51(I)-(III) (1994).

Advanced notice of any intended crossing must be given to a station agent of the affected railroad and a reasonable time allowed the railroad to provide proper protection at the crossing. See N.H. REV. STAT. ANN. § 265:51(II) (1994).

New Hampshire law expressly prohibits crossing when an automatic signal, crossing gate, flagman or other device indicates the approach of a train. See N.H. REV. STAT. ANN. § 265:51(IV) (1994).

Special Vehicles - Drivers of school buses carrying children, vehicles carrying passengers for hire and vehicles carrying hazardous materials are required to stop at crossings. New Hampshire divides hazardous vehicles into three separate categories within the same code section:

- 1) Vehicles carrying explosive substances.
- 2) Vehicles transporting flammable liquids in cargo tanks, whether loaded or empty.
- 3) Vehicles used to transport cylinders of liquefied petroleum gas. See N.H. REV. STAT. ANN. § 265:50(I)-(III) (1994).

New Hampshire requires that stops by all special vehicles be made within fifteen to fifty feet of the nearest rail of the crossing.

The law in New Hampshire specifies that drivers of school buses, vehicles carrying passengers for hire and vehicles carrying explosives must listen and look in both directions for any approaching train and for signals indicating the approach of a train.

The New Hampshire law applicable to school buses or vehicles with explosives allows drivers to traverse the crossing only when it is safe to do so, and prohibits drivers from manually shifting gears while moving over the crossing. Drivers of vehicles with flammable liquids or

cylinders of liquified petroleum gas must use due caution and ascertain that the course is clear before crossing and are exempt from the prohibition on shifting gears. See N.H. REV. STAT. ANN. § 265:50(I)-(II)-(III) (1994).

Exempt Crossings - New Hampshire law exempts vehicles carrying passengers for hire, school buses carrying children and vehicles carrying explosive materials from the stopping requirements at crossings where a police officer or traffic control signal directs traffic to proceed. The New Hampshire Commissioner of Transportation may also designate an exemption for these same vehicles. See N.H. REV. STAT. ANN. § 265:50(II) (1994).

Vehicles transporting flammable liquids in cargo tanks, whether loaded or empty, and vehicles transporting cylinders of liquified petroleum gas are not required to come to a full stop at crossings where a police officer or traffic control signal (not a railroad flashing signal) directs traffic to proceed or at abandoned or exempt crossings that are clearly marked. See N.H. REV. STAT. ANN. § 265:50(II)-(III) (1994).

Penalty - New Hampshire law provides a penalty for violations of §§ 265:50 or 265:51. The first offense is a violation. The second offense is considered a misdemeanor and may result in the loss of a driver's license for at least ninety days. See N.H. REV. STAT. ANN. § 265:52 (1994).

NEW JERSEY

Slow and Low Vehicles - New Jersey expands the definitions in this category to include a wheel tractor, engine with or without trailer(s) attached, a self-propelled concrete mixer or any self-propelled vehicle, all having a normal operating speed of ten miles per hour or less or a clearance of nine inches or less measured above the level surface of the roadway.

Before moving a slow or low vehicle over a highway-rail crossing, New Jersey law requires that notice be given to the nearest superintendent or trainmaster of the affected railroad. The notice must specify the approximate time of the crossing and a reasonable period of time must be allowed to provide protection at the crossing.

New Jersey law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop is required to be made between fifteen and fifty feet from the nearest rail. The operator is then required to listen and look in both directions for trains and for signals indicating the approach of a train, and may not proceed unless it is safe to do so.

New Jersey expressly prohibits traversing any crossing when warning of the approach of a train is given by automatic signal, crossing gates, a flagman or other device. If a flagman is used by the railroad, moving over the crossing will be under the flagman's direction. See N.J. REV. STAT. § 39:4-128(b) (1993).

Special Vehicles - New Jersey adds an "omnibus" under this category and defines it as one that is designed for carrying more than six passengers.

New Jersey law requires drivers of any omnibus, a school bus carrying any children or of any vehicle carrying explosive substance or flammable liquids as cargo or part of a cargo to stop before traversing a highway-rail crossing. The stop is to be made between fifteen and fifty feet of the nearest rail. After stopping, the operator is required to listen and look in both directions for any

approaching train and for signals indicating the approach of a train. The driver may proceed when it is safe to do so but may not manually shift gears while crossing. See N.J. REV. STAT. § 39:4-128(a) (1993).

Penalties - A violation of this section, either by drivers of slow and low vehicles, or of special vehicles is punishable by a fine of not more than fifty dollars for the first offense and, for the second offense, a fine of not more than one hundred dollars, imprisonment for not more than thirty days or both. See N.J. REV. STAT. § 39:4-128(c) (1993).

Exempt Crossings - Drivers of special vehicles are not required to stop at grade crossings which are no longer used for railroad traffic and that have been abandoned by the railroad, provided that it is clearly marked as such. Stop requirements are also not applicable at crossings where the tracks or warning signs have been removed or paved over. Stopping is not required at grade crossings marked with a sign reading "EXEMPT CROSSING".

New Jersey law vests exclusive authority with the Commissioner of Transportation to designate and mark any highway-rail crossing with an "EXEMPT CROSSING" sign. The Commissioner may not do so without holding a public hearing. "The Commissioner shall designate a grade crossing an exempt crossing when the potential for damage and injury from accidents between motor vehicles required to stop at grade crossings and other motor vehicles traveling in the same direction exceeds that between a train and the vehicles required to stop by law. Crossings designated as exempt crossings may include, but shall not be limited to, industrial, spur line and secondary crossings." See N.J. REV. STAT. § 39:4-128(a) (1993).

NEW MEXICO

Slow and Low Vehicles - New Mexico's definitions for slow and low vehicles are consistent with a majority of other states and include those with an operating speed of ten miles an hour or less and a clearance of nine inches or less.

New Mexico law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may then proceed only after it is safe to do so. See N.M. STAT. ANN. § 66-7-344(A) (Michie 1994).

Before moving slow and low vehicles across a highway-rail crossing, New Mexico law requires that notice be given to a station agent of the railroad and a reasonable time be given to the railroad to provide proper support. See N.M. STAT. ANN. § 66-7-344(B) (Michie 1994).

New Mexico expressly prohibits crossing by operators of slow and low vehicles at crossings where an automatic signal, crossing gates, flagman or other device indicates the approach of a train. If a flagman is provided by the railroad, movement over the crossing must be made under the flagman's direction. See N.M. STAT. ANN. § 66-7-344(D) (Michie 1994).

Special Vehicles - New Mexico law requires the driver of any motor vehicle carrying passengers for hire, any school bus carrying children, or any vehicle carrying explosive substances or flammable liquids as cargo or part of a cargo to stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. The drivers must then listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers may move over the

crossing only when it is safe to do so and may not shift gears while traversing the crossing. See N.M. STAT. ANN. § 66-7-343(A) (Michie 1994).

A stop is not required at crossings where a police officer or a traffic control signal directs traffic to proceed. See N.M. STAT. ANN. § 66-7-343(B) (Michie 1994).

Exempt Crossings - Drivers of special vehicles are not required to stop at the following exempt crossings:

- 1) A streetcar crossing or railroad crossing used exclusively for industrial switching purposes.
- 2) A grade crossing where traffic is controlled by a "stop and go" traffic light.
- 3) A clearly marked abandoned crossing.
- 4) An industrial or spur line crossing clearly marked as an "exempt" crossing.

See N.M. STAT. ANN. § 66-7-343 C (1)-(2)-(3)-(4) (Michie 1994).

NEW YORK

Slow and Low Vehicles - New York law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. After stopping and before proceeding, the operator is required to listen and look in both directions for an approaching train and for signals indicating an approaching train and then proceed only when it is safe to do so. The driver is prohibited from manually switching gears while crossing the tracks. See N.Y. [VEH. & TRAF.] LAW § 1171(a) (McKinney 1994).

Special Vehicles - The law requiring drivers of special vehicles to stop is the same as the law concerning slow and low vehicles and is contained within the same section. See N.Y. [VEH. & TRAF.] LAW § 1171(a) (McKinney 1994).

New York requires drivers of any bus carrying passengers, any school bus and any vehicle carrying explosive substances or flammable liquids to stop at highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the crossing.

A listen and look requirement applies to drivers of special vehicles. Movement through the crossing may be commenced only when it is safe to do so. Drivers of special vehicles are also prohibited from shifting gears while crossing the tracks. See N.Y. [VEH. & TRAF.] LAW § 1171(a) (1994).

Exempt Crossings - Slow and low vehicles and special vehicles need not comply with stopping requirements at crossings where a police officer or a traffic control signal directs traffic to proceed or at a grade crossing within a business or residential district. See N.Y. [VEH. & TRAF.] LAW § 1171(b)-(c) (McKinney 1994).

NORTH CAROLINA

Slow and Low Vehicles - North Carolina defines slow vehicles as any equipment or structure having a normal operating speed of five miles per hour or less. See N.C. GEN. STAT. § 20-142.4(a) (1994).

Before moving slow or low vehicles across a highway-rail crossing, North Carolina law requires that notice be given to a superintendent of the railroad and a reasonable time be given to the railroad to provide protection at the intended crossing. See N.C. GEN. STAT. § 20-142.4(b) (1994).

Slow and low vehicles must stop within fifteen to fifty feet of the nearest rail of the tracks. The operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may proceed across the tracks only if it can be accomplished safely. See N.C. GEN. STAT. § 20-142.4© (1)-(2)-(3) (1994).

At no time shall a crossing be made at any crossing where warning of the approach of a train is given by automatic signals, crossing gates, a flagman or other device. See N.C. GEN. STAT. § 20-142.4(d) (1994).

Penalty - Any person violating the preceding sections shall be guilty of an infraction and punishment will be in accordance with N.C. GEN. STAT. § 20-176 (1994). See N.C. GEN. STAT. § 20-142.4(f). Also see N.C. GEN. STAT. § 20-176 concerning punishment.

Special Vehicles - North Carolina law contains a couple of different descriptions in the special vehicle category. Along with any school bus, the statute includes any motor vehicle carrying passengers for compensation, any property-hauling motor vehicle over ten thousand pounds which is carrying hazardous materials and any motor vehicle with a capacity of sixteen or more persons.

Drivers of special vehicles in North Carolina are required to bring their vehicles to a stop at a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is then required to listen and look in both directions for an approaching train. After complying with these requirements, the driver may proceed across the tracks only when it is safe to do so and may not manually shift gears while crossing. See N.C. GEN. STAT. § 20-142.3(a) (1994).

Exempt Crossings - Stopping requirements for drivers of slow and low vehicles are not applicable at any crossing "where the state or local authorities have determined that trains are not operating during certain periods or seasons of the year and have erected an official sign carrying the legend 'EXEMPT'."

Drivers of special vehicles, except for school buses, are not required to comply with the stopping provisions at crossings used exclusively for industrial switching purposes within a business district or at highway-rail crossings where a police officer or flagman directs traffic to proceed.

The stopping provisions are not applicable at any crossings protected by gates or flashing signals designed to stop traffic upon the approach of a train when the gates or flashing signs are not activated, at crossings which are clearly marked abandoned by the railroad and at an industrial or

spur line crossing marked with an "EXEMPT" sign erected by a competent local authority. See N.C. GEN. STAT. § 20-142.3 b-1 to -5 (1994).

NORTH DAKOTA

Slow and Low Vehicles - North Dakota defines slow vehicles those with a normal operating speed of ten miles per hour and low vehicles as those with a clearance of less than nine inches measured above the level surface of the roadway.

North Dakota law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail. While stopped, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. Movement over the crossing may only be commenced when it is safe to do so.

Traversing a crossing is prohibited at any crossing where warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is provided by the railroad, movement over the crossing must be done at the flagman's direction. See N.D. CENT. CODE § 39-10-67(1)-(2)-(3) (1993).

Special Vehicles - North Dakota law requires drivers of school buses and buses carrying passengers for hire to stop within a distance of fifteen to fifty feet of the nearest rail of a highway-rail crossing.

North Dakota law includes in its definition of vehicles carrying hazardous materials "any vehicle used to transport dangerous articles or any liquid having a flash point below 200° Fahrenheit (93.3° Celsius), cargo tank vehicles transporting a commodity having a temperature above its flash point at the time of loading, (and) certain cargo tank vehicles transporting commodities under special permits issued by the hazardous material regulation board...". See N.D. CENT. CODE § 39-10-43(1) (1993).

After stopping, drivers of these special vehicles must listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may proceed only when it can be done safely. Drivers of special vehicles are prohibited from manually shifting gears while moving across a highway-rail crossing. See N.D. CENT. CODE § 39-10-43(1) (1993).

Exempt Crossings - No stop is required at any grade crossing where traffic is being controlled by a police officer. See N.D. CENT. CODE § 39-10-43(2) (1993).

North Dakota exempts drivers from the stopping requirements at a crossing which the Director of the South Dakota Department of Highways has designated as an "out-of-service" crossing and is marked by signs bearing the words "TRACKS OUT OF SERVICE". The "out-of-service" designation applies only to crossings where the track has been abandoned or is no longer in use. See N.D. CENT. CODE 39-10-43(3)-(4) (1993).

OHIO

Slow and Low Vehicles - Ohio defines the vehicles in this category as any equipment or structure having a normal operating speed of six miles an hour or less or with a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

Before moving slow and low vehicles across a highway-rail crossing, Ohio law requires that notice be given to a station agent of the affected railroad to allow the railroad reasonable time to provide proper protection at the crossing. No notice is required however if the normal operating speed of the vehicle or structure is above three miles an hour. Ohio law further states that if the vehicle or equipment is used in repair work which makes repeated crossings necessary, only one daily notice giving the hours of the work is required. See OHIO REV. CODE ANN. § 4511.64 (Anderson 1994).

Ohio law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The operator must listen and look for trains and train signals and may cross only when it is safe to proceed. Ohio law does not specify where the stop is to be made with respect to distance from the nearest rail. See OHIO REV. CODE ANN. § 4511.64(A) (Anderson 1994).

By statute in Ohio, an operator of a slow or low vehicle is expressly prohibited from crossing at any crossing where an automatic signal, gate, flagman or other device indicates an approaching train. See OHIO REV. CODE ANN. § 4511.64(B) (Anderson 1994).

Special Vehicles - Ohio law requires drivers of school buses, vehicles carrying passengers for hire and vehicles carrying hazardous materials to stop and listen through an open door and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers are instructed to proceed only after exercising due care. The manual shifting of gears is prohibited while moving over the crossing. See OHIO REV. CODE ANN. § 4511.63(A) (Anderson 1994).

Also included in this category are trackless trollies carrying passengers. Ohio does not specify where the stop must be made with respect to the nearest rail.

Exempt crossings - Stops under the preceding section are not required at crossings within a municipal corporation or at abandoned, spur, side or industrial tracks when such exemption has been approved by the Public Utility Commission.

Ohio law also exempts special vehicles from the stopping requirements at any street railway crossing where out-of-service signs are posted. Note: According to the code section, this exemption is applicable through June 30, 1995. See OHIO REV. CODE ANN. § 4511.63(B)-1-2 (Anderson 1994).

OKLAHOMA

Slow and Low Vehicles - Oklahoma has no provisions regulating stops by drivers of slow and low vehicles.

Special Vehicles - Oklahoma law requires drivers of any motor vehicle carrying passengers for hire, school buses carrying children and vehicles carrying hazardous materials to stop at

highway-rail crossings. Upon stopping, drivers of special vehicles are required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers of special vehicles may proceed only when it is safe to do so but may not shift gears while crossing. See OKLA. STAT. tit. 47, § 11-702(a) (1994).

Exempt Crossings - Drivers of special vehicles are not required to stop at any crossing where a police officer or a traffic control signal directs traffic to proceed. See OKLA. STAT. tit. 47 § 11-702(b) (1994).

OREGON

Slow and Low Vehicles - Oregon defines "slow" vehicles as equipment or structures having an operating speed of ten miles per hour or less and a vertical body or load clearance of less than one-half inch per foot of the distance between two adjacent axles or in any event of less than nine inches. Oregon law requires that prior notice be given to a responsible officer of the railroad before moving any slow or low vehicles across a highway-rail crossing. The notice must be given to the railroad in time for protection to be given. See OR. REV. STAT. § 811.470(1)a (1994). Also see OR. REV. STAT. § 811.470(2) (1994).

Oregon law requires stops at a clearly marked line or, absent any marked line, within fifteen to fifty feet from the nearest rail of the tracks. After stopping and before proceeding, an operator of a slow or low vehicle is required to listen and look in both directions for approaching trains. The driver may not proceed over the tracks until it is safe to do so. See OR. REV. STAT. § 811.470(A)-(B)-(C) (1994).

Penalty - A violation for improper movement of heavy equipment across a highway-rail crossing is a Class C traffic infraction. See OR. REV. STAT. § 811.470(3) (1994).

Special Vehicles - Oregon refers to vehicles in this category as "high-risk vehicles". Listed in this category are school buses, school activity vehicles with a loaded weight of ten thousand pounds or more, worker transport buses, buses used for transporting children to and from church or a function or activity authorized by the church and vehicles used to transport persons for hire by a non-profit entity. Additional vehicles under this category include commercial buses and vehicles carrying hazardous materials. See OR. REV. STAT. § 811.460(2)-a to -g (1994).

Operators of high-risk vehicles are required to stop at a clearly marked stop line or, if there is no marked stop line, within fifteen to fifty feet of the nearest rail of the tracks. After stopping, operators are required to listen and look in both directions for approaching trains and for signals indicating an approaching train. An operator may proceed only when it is safe to do so and may not manually shift gears while moving over the tracks. See OR. REV. STAT. § 811.460(1)-A to -C (1994).

Penalty - Failing to follow rail crossing procedures for high-risk vehicles is a Class C traffic offense under Oregon law.

Exempt Crossings - All high-risk vehicles are exempt from the stopping requirements at a street or highway and street railroad tracks, and at interurban electric crossings where traffic control signals or a police officer directs traffic to proceed. All high-risk vehicles are also exempt from the stopping requirements at crossings protected by crossing gates, at industry tracks within districts in which the designated speed for vehicles is twenty miles per hour or less and at industry track crossings across which trains are required to be operating under the control of a flagman. See

OR. REV. STAT. § 811.465(1) to -(8) (1994). School buses are not exempt from these requirements (see OR. REV. STAT. § 811.460 concerning school buses).

Additional highway-rail crossings for which stopping requirements do not apply include tracks upon which operation has been abandoned and for which the Public Utilities Commission has plainly marked that no stop be made. Commercial buses need not stop under the same conditions as above, except in the case of an approaching train. See OR. REV. STAT. ANN. § 811.465 (3) (1994).

PENNSYLVANIA

Slow and Low Vehicles - In the statutory definition of slow and low vehicles, Pennsylvania refers to "power" not "steam" shovels. See 75 PA. CONS. STAT. ANN. § 3343(a) (1994).

Before moving slow and low vehicles across a highway-rail crossing, Pennsylvania law requires that reasonable notice be given to an authorized representative of the railroad so as to allow the affected railroad time to protect the crossing. See 75 PA. CONS. STAT. ANN. § 3343(b) (1994).

Pennsylvania law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. The operator must listen and look for trains and train signals, and may move over the crossing only when it can be done safely. See 75 PA. CONS. STAT. ANN. § 3343© (1994).

Pennsylvania expressly prohibits moving over crossings where a warning of an approaching train is indicated by an automatic signal, crossing gates, a flagman or other device. If the railroad supplies a flagman, movement over the crossing must be at the flagman's direction. See 75 PA. CONS. STAT. § 3343(d) (1994).

Special Vehicles - Pennsylvania law requires operators of school buses, whether or not they are carrying passengers, and every truck tractor combination transporting gasoline, diesel fuel, fuel oil, explosives or radioactive materials to stop within fifteen to fifty feet of the nearest rail of the tracks. After stopping, drivers of special vehicles are required to listen and look in both directions for an approaching train and for signals indicating an approaching train, and may proceed only when it is safe to do so. Operators of special vehicles are prohibited from manually shifting gears while traversing this crossing. See 75 PA. CONS. STAT. § 3342(b)(e) (1994).

Penalty- A violation of 75 PA. CONS. STAT. § 3342 is a summary offense punishable by a fine of from fifty to one hundred dollars, except for a violation by drivers of vehicles carrying explosives or flammable liquids, in which case the punishment is a fine of one hundred to three hundred dollars. See 75 PA. CONS. STAT. § 3342(e) (f) (1994).

Exempt Crossings - Pennsylvania exempts operators of special vehicles from stopping at crossings where traffic is controlled by a police officer, flagman or traffic control signal. Stops are also not required at any railroad grade crossing where a traffic control device gives notice that a stop is not necessary. See 75 PA. CONS. STAT. § 3342© 1-2-3 (1994).

RHODE ISLAND

Slow and Low Vehicles - Before moving slow and low vehicles across a highway-rail crossing, Rhode Island requires that reasonable notice be given to a station agent of the affected railroad so proper protection can be provided.

Rhode Island law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail of the tracks. After complying with the stopping requirements, operators are required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may then proceed only when it is safe to do so. See R.I. GEN. LAWS § 31-20-5(a)-(b)-(c) (1994).

Rhode Island law expressly prohibits crossing when warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is used, movement over the crossing must be done under the flagman's direction. See R.I. GEN. LAWS § 31-20-5(d) (1994).

Special Vehicles - Rhode Island requires drivers of school buses carrying children, vehicles carrying passengers for hire and vehicles transporting hazardous materials to stop at crossings. Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks. Drivers of special vehicles are required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may then proceed only when it is safe to do so and is prohibited from manually shifting gears while traversing the crossing. See R.I. GEN. LAWS § 31-20-4(a) (1994).

Exempt Crossings - Drivers of special vehicles need not stop at crossings where traffic is controlled by a traffic-control signal or a police officer, or at crossings located in a business or residential district. See R.I. GEN. LAWS § 31-20-4(b)(c) (1994).

SOUTH CAROLINA

Slow and Low Vehicles - South Carolina's definition of slow and low vehicles is any equipment or structure with a normal operating speed of ten miles an hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

South Carolina requires that reasonable notice be given to a station agent of the affected railroad before moving slow and low vehicles over highway-rail crossings.

South Carolina laws requires persons operating slow and low vehicles to stop at highway-rail crossings. The stops must be made within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may not move over the crossing until it is safe to do so. See S.C. CODE ANN. § 56-5-2725(a)-(b)-(c) (Law. Co-op. 1993).

Crossings are prohibited where warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, any movement over the crossing must be done under the flagman's direction. See S.C. CODE ANN. § 56-5-2725 (Law. Co-op. 1993).

Special Vehicles - South Carolina law requires drivers of school buses, motor vehicles with a capacity of sixteen or more persons and vehicles transporting hazardous materials to stop at crossings. Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, South Carolina law requires drivers to listen and look in both directions for an approaching train and for signals indicating an approaching train. The driver may proceed across the crossing only when it is safe to do so. See S.C. CODE ANN. § 56-5-2720(A) (Law. Co-op. 1993). Also see S.C. CODE ANN. § 59-67-230 (Law. Co-op. 1993).

Exempt Crossings - Drivers of special vehicles, with the exception of school buses, are exempt from the stopping requirements at crossings where traffic is controlled by a police officer or flagman, at crossings where there is a traffic control signal, at crossings with crossing gates or alternating flashing light signals where the gates or signals do not indicate the approach of a train and at crossings where an official traffic control device gives notice that stopping requirements do not apply. See S.C. CODE ANN. § 56-5-2720(B) 1- to -4 (Law. Co-op. 1993).

SOUTH DAKOTA

Slow and Low Vehicles - South Dakota defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. See S.D. CODIFIED LAWS ANN. § 32-29-8 (1994).

Before moving slow and low vehicles across a highway-rail crossing, South Dakota law requires that reasonable notice be given to a station agent of the affected railroad in order to allow a reasonable period of time to provide proper protection at the crossing.

South Dakota law requires drivers of slow and low vehicles to stop within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the driver must listen and look in both directions for an approaching train, and for signals indicating the approach of a train. The driver may proceed only when it can be done safely.

Moving over a crossing is prohibited at any crossing where warning of the approach of a train is given by an automatic signal, crossing gates, a flagman or other device. If a flagman is provided by the railroad, movement over the crossing is to be done under the flagman's direction. See S.D. CODIFIED LAWS ANN. § 32-29-9 (1994).

Penalty - Any violation of requirements by drivers of slow and low vehicles is a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-29-9 (1994).

Special Vehicles - South Dakota requires drivers of motor vehicles carrying passengers for hire, school buses carrying passengers, any vehicle carrying passengers owned or operated by a non-profit organization requiring inspection pursuant to § 32-21-3.1 of South Dakota Codified Laws or any vehicle carrying explosive substances or combustible or flammable liquids as cargo or part of a cargo to stop at highway-rail crossings. South Dakota law mandates stops be within fifty feet of the nearest rail of the tracks. Drivers may not proceed until it is safe to do so. See S.D. CODIFIED LAWS ANN. § 32-29-5 (1994).

Penalty- Drivers of special vehicles found in violation of these requirements are guilty of a Class 2 misdemeanor.

Exempt Crossings - The stopping requirements for special vehicles do not apply at crossings where a police officer or traffic control signal directs traffic to proceed or at crossings clearly marked with a special sign as provided in § 31-28-7. See S.D. CODIFIED LAWS ANN. § 32-29-5 (1994).

TENNESSEE

Slow and Low Vehicles - Tennessee defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

Tennessee law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the operator must listen and look in both directions for an approaching train and for signals indicating the approach of a train. The driver may not proceed until it is safe to do so.

Tennessee law prohibits crossing when an automatic signal, crossing gates, a flagman or other device gives warning of an approaching train. If a flagman is used by the railroad, any movement over the crossing must be done under the flagman's direction. See TENN. CODE ANN. § 55-8-148 (1994).

Special Vehicles - Tennessee law requires drivers of school buses carrying any children, vehicles carrying passengers for hire and vehicles transporting explosive substances or flammable liquids as cargo or part of a cargo to stop at crossings. The stops must be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may then proceed only when it is safe to do so. While proceeding over the highway-rail crossing, the driver is prohibited from shifting gears. See TENN. CODE ANN. § 55-8-147(a) (1994).

Penalty - A violation of the requirement by drivers of special vehicles is a Class B misdemeanor. See TENN. CODE ANN. § 55-8-147© (1994).

Exempt Crossings - Drivers of special vehicles are exempt from the stopping requirements at crossings where a police officer or a traffic control signal directs traffic to proceed. See TENN. CODE ANN. § 55-8-147(b).

TEXAS

Slow and Low Vehicles - Texas defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, Texas law requires that notice be given to a station agent so as to allow the affected railroad a reasonable period of time to provide proper protection at the crossing. See TEX. REV. CIV. STAT. ANN. art. 6701d § 90(b) (West 1994).

Texas law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made fifteen to fifty feet from the nearest rail of the

tracks. After stopping, the operator must listen and look in both directions for the approach of a train and for signals indicating the approach of a train. The operator may then proceed over the tracks when it is safe to do so. See TEX. REV. CIV. STAT. ANN. art. 6701d § 90© (West 1993).

Traversing a crossing is prohibited at crossings where warning of an approaching train is given by automatic signals, crossing gates, a flagman or other device. If a flagman is used by the railroad, movement over the crossing must be made under the flagman's direction. See TEX. REV. CIV. STAT. ANN. art. 6701d § 90(d) (West 1994).

Special Vehicles - Drivers of school buses and vehicles carrying passengers for hire must stop fifteen to fifty feet from the nearest rail of the tracks. Texas law allows drivers of special vehicles to proceed only when it is possible to do so safely. See TEX. REV. CIV. STAT. ANN. art. 6701d § 88(a) (West 1994).

Another law applicable to drivers of vehicles carrying hazardous materials requires stops but only in cities and towns. Outside cities and towns, drivers of these vehicles must slow to twenty miles per hour before coming within two hundred feet of the nearest rail and listen and look for an approaching train and for signals indicating the approach of a train. See TEX. REV. CIV. STAT. ANN. art. 6701d § 89(a)(b) (West 1994).

In Texas, bus drivers are prohibited from shifting gears while moving over a highway-rail crossing. Laws applicable to drivers of vehicles with hazardous materials do not have this prohibition. See TEX. REV. CIV. STAT. ANN. art. 6701d § 88 (West 1994).

Exempt Crossings - Texas does not require school buses, buses or vehicles carrying hazardous materials to stop at highway-rail crossings where a traffic control signal or a police officer directs traffic to proceed.

Stops are not required at crossings which are abandoned or exempt and are clearly marked as such. This exception does not apply to school buses. Stops are also not required at industrial tracks in business districts. See TEX. REV. CIV. STAT. ANN. art. § 6701d § 89(c)-1 to-5 (West 1994).

UTAH

Slow and Low Vehicles - Utah defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Utah refers to "power" and not "steam" shovels. See UTAH CODE ANN. § 41-6-98(1) (1994).

Before moving slow and low vehicles across a highway-rail crossing, Utah law requires that notice be given to a station agent of the affected railroad. It also provides that the railroad be given reasonable time to provide proper protection at the crossing. See UTAH CODE ANN. § 41-6-98(2) (1994).

Utah requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within ten to fifty feet of the nearest rail of the tracks and the operator must listen and look for approaching trains and for signals indicating the approach of a train. Having complied with these requirements, the operator may then proceed only if it is safe to do so. See UTAH CODE ANN. § 41-6-98(3) (1994).

Crossing is prohibited at any crossing where warning is given of an approaching train by an automatic signal, crossing gates, a flagman or other device. If the railroad provides a flagman, then movement over the crossing shall be done at the flagman's direction. See UTAH CODE ANN. § 41-6-98(4) (1994).

Special Vehicles - Utah does not specifically mention school buses, vehicles transporting passengers for hire and vehicles transporting hazardous materials as being included in the stopping requirements at highway-rail crossings. The statute specifies that the Utah Department of Transportation is responsible for adopting any necessary rules describing the vehicles that must comply with the stopping requirements. See UTAH CODE ANN. § 41-6-97(3)(a)(b).

Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks. Drivers are required to listen and look in both directions for any approaching train and for signals indicating the approach of a train.

After informing the drivers of special vehicles to stop, listen and look, Utah law requires that the drivers proceed over the crossing only when it is safe to do so. In moving over the crossing, the driver is prohibited from manually shifting gears. See UTAH CODE ANN. § 41-6-97(a)(b) (1994).

Exempt Crossings - Utah law exempts drivers of special vehicles from the stopping requirements at crossings where traffic is controlled by a police officer, flagman or traffic control signal and at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See UTAH CODE ANN. § 41-6-97(2)a-b-c (1994).

VERMONT

Slow and Low Vehicles - Vermont defines slow vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less. Before moving slow and low vehicles over highway-rail crossings, Vermont law requires that stops be made within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. Having complied with these requirements, the driver may then proceed over the crossing, but only when movement can be accomplished safely. See VT. STAT. ANN. tit. 23, § 1073(a)(b) (1994).

No stop need be made at crossings where warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction. See VT. STAT. ANN. tit. 23, § 1073(c)(d) (1994).

Special Vehicles - Vermont requires drivers of school buses or other motor vehicles transporting children, or any motor vehicle carrying passengers for hire except jitneys designed to carry not more than seven passengers including the driver, to stop at highway-rail crossings. Stops are to be made within fifteen to fifty feet of the nearest rail of the tracks.

While stopped, the driver of a special vehicle is required to listen and look in both directions for any approaching train and may not proceed until it is safe to do so. See VT. STAT. ANN. tit. 23, § 1072(a) (1994). Drivers of a Type I school bus stopping as required shall open the door of the bus before crossing. Drivers of Type II school buses are required to open the left front window. See VT. STAT. ANN. tit. 23, § 1072© (1994).

"A stop is not required at any crossing where an attendant, an enforcement officer or a traffic-control signal directs traffic to proceed." See VT. STAT. ANN. tit. 23, § 1072(b) (1994).

Exempt Crossings - Stopping is not required at a crossing that has been designated as "EXEMPT" by the Vermont Transportation Board. See VT. STAT. ANN. tit. 23, § 1072(d) (1994). See also VT. STAT. ANN. tit. 30, § 1376(a)-(b)-(c) (1994), for a discussion of the state requirements in determining which crossings may qualify as exempt.

A flagman must be stationed at every crossing where a train is crossing a highway where an "EXEMPT" sign is located. See VT. STAT. ANN. tit. 30 § 1376(b) (1994).

VIRGINIA

Slow and Low Vehicles - Virginia defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, Virginia law requires that notice be given to a station agent of the affected railroad and that reasonable time be afforded to provide proper protection at the crossing.

Virginia law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. While stopped, the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and shall not proceed until it is safe to do so. This section does not apply in cities or towns. See VA. CODE ANN. § 46.2-887 (Michie 1994).

Special Vehicles - Virginia law requires drivers of school buses, motor vehicles carrying passengers for hire and vehicles carrying explosive substances or flammable liquids as cargo or part of a cargo to stop at highway-rail crossings. This section does not apply at crossings within cities or towns. Stops are required to be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is then required to listen and look in both directions for any approaching train and for signals indicating the approach of a train. Drivers may proceed through the crossing only when it is safe to do so and are prohibited from manually shifting gears while crossing. See VA. CODE ANN. § 46.2-886 (Michie 1994).

Exempt Crossings - Drivers of special vehicles are exempt from the stopping requirements at any crossing where a law enforcement officer or a traffic control signal directs traffic to proceed. See VA. CODE ANN. § 46.2-886 (Michie 1994).

WASHINGTON

Slow and Low Vehicles - Washington defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before moving slow and low vehicles across a highway-rail crossing, Washington law requires that notice be given to a station agent of the affected railroad in sufficient time so as to allow the railroad to provide protection for the crossing.

Washington law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to twenty feet of the nearest rail of the tracks and the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may move over the crossing only when it is safe to do so. See WASH. REV. CODE ANN. § 46.61.355(1)-(2)-(3) (West 1994).

Washington expressly prohibits crossing when warning of an approaching train is given by an automatic signal, crossing gates or a flagman. If a flagman is used by the railroad, movement over the crossing will be done under the flagman's direction. See WASH. REV. CODE ANN. § 46.61.355(4) (West 1994).

Special Vehicles - Washington requires drivers of school buses carrying children, private carrier buses carrying passengers, vehicles carrying passengers for hire, excluding passenger cars, and vehicles transporting hazardous materials as cargo or part of a cargo, to stop at highway-rail crossings. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. Drivers may proceed over the crossing only when it is safe to do so. While proceeding over the crossing, the driver is prohibited from manually shifting gears. See WASH. REV. CODE ANN. § 46.61.350(1) (West 1994).

Exempt Crossings - The stopping requirements for drivers of special vehicles do not apply at a highway-rail crossing where traffic is controlled by a police officer or a duly authorized flagman or at any crossing where traffic is regulated by a traffic control signal. Stops are also not required at crossings protected by crossing gates or alternately flashing lights designed to give warning of an approaching train. See WASH. REV. CODE ANN. § 46.61.350(2)a-b-c (West 1994). In addition, stops are not required at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See WASH. REV. CODE ANN. § 46.61.350(2)d (West 1994).

WEST VIRGINIA

Slow and Low Vehicles - West Virginia defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway.

Before moving slow and low vehicles across a highway-rail crossing, West Virginia law requires that notice be given to a station agent of the affected railroad in reasonable time so as to allow the railroad to provide proper protection at the crossing.

West Virginia law requires persons operating slow and low vehicles to stop before crossing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and may not move over the crossing until it can be done safely. See W. VA. CODE § 17C-12-4(a)-(b)-(c) (1994).

Movement over crossings is prohibited at crossings where warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is used by the railroad, movement over the crossing must be under the flagman's direction. See W. VA. CODE § 17C-12-4 (1994).

Special Vehicles - West Virginia requires drivers of school buses carrying children, vehicles carrying passengers for hire, vehicles transporting hazardous materials and vehicles owned by an employer that is carrying six or more employees to or from work to stop at highway-rail crossings. Stops must be made within fifteen to fifty feet of the nearest rail of the tracks. After stopping, the driver is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train, and then may move over the crossing only when it can be done safely. The driver is prohibited from manually shifting gears while crossing the tracks. See W. VA. CODE § 17C-12-3(a) (1994).

Exempt Crossings - West Virginia exempts drivers from the stopping requirements at any crossing where a police officer or traffic control signal directs traffic to proceed. In addition, West Virginia exempts drivers from the stopping requirements at crossings within business or residential districts. See W. VA. CODE § 17C-12-3© (1994).

WISCONSIN

Slow and Low Vehicles - Wisconsin law does not have requirements concerning slow and low vehicles at highway-rail crossings.

Special Vehicles - Wisconsin requires drivers of every motor bus transporting passengers and vehicles transporting hazardous materials to stop at highway-rail crossings. Wisconsin includes in the hazardous materials category, every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any liquid having a flash point below two hundred degrees Fahrenheit, and every cargo tank motor vehicle transporting a commodity which, at the time of loading, has a temperature above its flash point. See WIS. STAT. § 346.45(1) a-am-c-d-e (1993). All stops must be made within fifteen to fifty feet of the nearest rail of the tracks and the driver is required to listen and look in both directions for an approaching train. The driver may not proceed until it is safe to do so. If an auxiliary lane is provided for stopping at a highway-rail crossing, drivers of vehicles required to stop must use the lane to do so. See WIS. STAT. § 346.45(1)-(2) (1993).

Exempt Crossings - Wisconsin lists a number of circumstances at crossings which exempt drivers of special vehicles from the stopping requirements. They are as follows:

- 1) At crossings where a police officer or flagman directs traffic to proceed.
- 2) At crossings where an official traffic control signal allows traffic to proceed.
- 3) At crossings clearly marked abandoned.
- 4) At crossings marked with a sign in accordance with § 195.285. of the Wisconsin statutes. See WIS. STAT. § 195.285 for explanation.

Wisconsin does not exempt those crossings with gates or flashing lights. See WIS. STAT. § 346.45(3)-a to -d (1993).

WYOMING

Slow and Low Vehicles - Wyoming defines slow and low vehicles as any equipment or structure having a normal operating speed of ten miles per hour or less or a vertical body or load clearance of less than nine inches measured above the level surface of the roadway. Before

moving slow and low vehicles across a highway-rail crossing, Wyoming law requires that notice be given to a station agent of the affected railroad with reasonable time so as to allow for the provision of proper protection at the crossing.

Wyoming law requires persons operating slow and low vehicles to stop before traversing a highway-rail crossing. The stop must be made within fifteen to fifty feet of the nearest rail of the tracks. The operator is required to listen and look in both directions for an approaching train and for signals indicating the approach of a train. The operator may not proceed over the crossing until it is safe to do so.

No crossing may be made when warning of an approaching train is given by an automatic signal, crossing gates, flagman or other device. If a flagman is used by the railroad, movement through the crossing must be made under the flagman's direction. See WYO. STAT. § 31-18-602(a) to -(d) (1994).

Special Vehicles - Wyoming requires drivers of any motor vehicle carrying passengers for hire, school buses whether empty or carrying children and vehicles transporting hazardous materials to stop at highway-rail crossings. Drivers of vehicles in this category are required to activate their four-way hazard flashers prior to stopping at the crossing. Stops must be made within fifteen to fifty feet of the nearest rail of the tracks. The driver is then required to listen and look in both directions for any approaching train and for signals indicating the approach of a train. The driver is prohibited from manually shifting gears while moving over the crossing. See WYO. STAT. § 31-5-511(a) (I)- to -(iv) (1994).

Exempt Crossings - Except for school buses, drivers of other special vehicles do not have to comply with the stopping requirements at crossings where traffic is controlled by a police officer, a flagman or a traffic control signal, at crossings protected by crossing gates or alternately flashing light signals, and at crossings where an official traffic control device gives notice that the stopping requirements do not apply. See WYO. STAT. § 31-5-511(b) (I)- to -(iv) (1994).

CHAPTER 9: DRIVER ACTION

CHAPTER OVERVIEW

This chapter presents an overview and survey of the various laws and regulations concerning a motorist's responsibility with respect to highway-rail crossings.

The laws and regulations cover such things as reduced speed when approaching and crossing a highway-rail crossing, standing, stopping or parking in close proximity to tracks at highway-rail crossings, limitation of driving to the left side of the roadway to pass or overtake another vehicle and regulations covering full stops at highway-rail crossings.

Penalties are included where they are mentioned. Relevant citations are included in the text for ease of reference.

STATE LAWS, REGULATIONS AND PENALTIES

ALABAMA

Except where a lower speed is specified, it is lawful for a motorist to drive at a speed not exceeding fifteen miles per hour when approaching within fifty feet of a highway-rail crossing when the view of the motorist is obstructed. A motorist's view is considered to be obstructed when, at any time during the last two hundred feet of the approach to the crossing, there is not a clear and uninterrupted view of the approach to the crossing or of any traffic on the railroad track for a sight distance of four hundred feet in each direction from the crossing. See ALA. CODE § 32-5-91 (1994).

It is unlawful for any motorist in Alabama to proceed onto a railroad grade crossing unless there is adequate space on the other side of the crossing to accommodate his vehicle without obstructing the passage of other vehicles or trains, notwithstanding any traffic control signal indication to proceed. See ALA. CODE § 32-5A-61 (1994).

Unless the right side of the highway is obstructed or impassable, all motorists are required to keep to the right side of the highway when traversing a highway-rail crossing. See ALA. CODE § 32-5A-54 (1994).

Under certain conditions, drivers of all vehicles in Alabama are required to bring their vehicles to a complete stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. The driver may not proceed until it is safe to do so. These requirements are applicable at all highway-rail crossings where the following conditions exist:

- 1) When a clearly visible electrical or mechanical device is giving warning of an approaching train.
- 2) When a crossing gate is down or a flagman is indicating the approach of a train.

- 3) When a railroad train is within fifteen hundred feet of the crossing and is emitting an audible signal.
- 4) When an approaching train is clearly visible.

Alabama prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or in the process of being opened or closed. See ALA. CODE § 32-5A-150 (a)(b).

Penalties- Penalties are assessed against motorists who break state traffic laws at highway-rail crossings under a general set of violations which occur. This usually includes a fine with a stated minimum and maximum dollar amount and a term of incarceration within specific time parameters.

ALASKA

Editor's note - Alaska's laws concerning driver responsibilities and motor vehicle laws are contained in the Alaska Administrative Code and not the Alaska Statutes. All citations are to the Alaska Administrative Code.

Alaska law requires a person driving any vehicle, when approaching a highway-rail crossing, to bring the vehicle to a stop within fifteen to fifty feet of the nearest rail of the crossing. The driver may not proceed over the crossing until it is safe to do so. These requirements are applicable at all highway-rail crossings where the following circumstances exist:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered, a flagman is giving a signal to a motorist to stop or a flagman is indicating that a train is approaching or passing.
- 3) When a train approaching within fifteen hundred feet of a highway-rail crossing is emitting a signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is clearly visible.

Alaska law prohibits motorists from driving a vehicle through, around or under a closed crossing gate or barrier or a gate or barrier that is being opened or closed at a highway-rail crossing. See ALASKA ADMIN. CODE tit. 13, § 02.240 (1994).

It is unlawful for any driver to drive onto a highway-rail grade crossing unless there is sufficient room on the other side for his vehicle without obstructing the passage of other vehicles, pedestrians or trains, even when a traffic control signal at the crossing is giving an indication to proceed. See ALASKA ADMIN. CODE tit. 13, § 02.265 (1994).

ARIZONA

Arizona law requires drivers of any vehicles approaching a highway-rail crossing to stop within fifty but not less than fifteen feet of the nearest rail of the tracks and to remain stopped until

movement over the crossing may be accomplished safely. The requirements apply in the following situations:

- 1) Where a clearly visible electrical or mechanical signal device gives warning of the approach of a train.
- 2) Where a crossing gate is lowered or when a flagman is giving a signal of the approach of a train.
- 3) When a train approaching within fifteen hundred feet of the crossing emits a signal audible from that distance and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where an approaching train is plainly visible.

Arizona law prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or being opened or closed. See ARIZ. REV. STAT. ANN. § 28-851 (1994).

Arizona law requires the driver of any vehicle to stop within fifteen to fifty feet of the nearest rail of the tracks at highway-rail crossings where local government authorities have designated a grade crossing as particularly dangerous and have erected a STOP sign at that crossing. Drivers may proceed only after exercising due care. See ARIZ. REV. STAT. ANN. § 28-852 (1994). See also chapter on passive warning devices.

Except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device, it is unlawful to stop, stand or park a vehicle within fifty feet of the nearest rail of a railroad crossing or within eight feet, six inches of the center of any railroad track, except while loading or unloading a train. See ARIZ. REV. STAT. ANN. § 28-873 (1994).

ARKANSAS

Arkansas motorists are required to stop their vehicles within ten to fifty feet of the nearest rail of any crossing which the State Highway Commission and local authorities have designated as particularly dangerous and at which they have erected a STOP sign. See ARK. CODE ANN. § 27-51-706 (Michie 1993). See also chapter on passive warning devices.

Penalty- A violation of § 27-51-706 subjects a driver to a fine of not less than five but not more than twenty-five dollars. See ARK. CODE ANN. § 27-51-706 (Michie 1993).

Under certain circumstances, Arkansas law requires motorists to come to a full stop not less than fifteen and not more than fifty feet from the nearest rail of the tracks at highway-rail crossings. The requirements apply under the following conditions:

- 1) When a visible electrical or mechanical signal device gives warning of the approach of a train.
- 2) Where a crossing gate is lowered or a flagman is giving a signal of the approach or passage of a train.
- 3) When a railroad train approaching within fifteen hundred feet of the crossing emits a signal audible from that distance and, due to its speed and close proximity to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

It is unlawful for any person in Arkansas to drive a vehicle through, around or under any crossing or barrier at a highway-rail crossing while the gate or barrier is closed or is being opened or closed. See ARK. CODE ANN. § 27-51-702 (Michie 1993).

Arkansas law prohibits any person from stopping, standing or parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device. See ARK. CODE ANN. § 27-51-1302 (Michie 1993).

Arkansas lists many provisions relating to speed limitations. Generally, no person may drive a vehicle on a highway at a speed greater than what is reasonable and prudent under the conditions present and with regard for the actual and potential hazards that exist. Specifically, drivers must use an appropriately reduced speed when approaching and crossing an intersection or railway grade crossing. See ARK. CODE ANN. § 27-51-201 (Michie 1993).

CALIFORNIA

California requires motorists to slow to a speed of fifteen miles per hour while traversing highway-rail crossings when, during the last one hundred feet of the approach to the crossing, the motorists' view is so obstructed that they cannot see down the tracks for four hundred feet in both directions. This law does not apply at crossings where there is a flagman or traffic control signal that does not then indicate the immediate approach of a train. See CAL. [VEH.] CODE § 22352 (West 1994).

California requires that the driver of any vehicle stop not less than fifteen feet from the nearest rail of a highway-rail crossing and shall not proceed until it is safe to do so. This law applies when the following conditions exist:

- 1) When a clearly visible electrical or mechanical signal, or a flagman is giving warning of an approaching train.
- 2) When an approaching train is visible or is emitting an audible signal.

See CAL. [VEH.] CODE § 22451 (West 1994).

It is unlawful in California for any driver to proceed through, around or under any closed railroad gate. See CAL. [VEH.] CODE § 22451 (West 1994).

California law allows local authorities to adopt rules and regulations by ordinance or resolution requiring that all vehicles stop before entering or crossing the tracks at any highway-rail crossing when signs are in place giving notice of such requirement. No such ordinance can become effective unless approval is given by order of the Public Utility commission. See CAL. [VEH.] CODE § 21110 (West 1994).

It is unlawful in California for any vehicle to be driven to the left side of the roadway when approaching within one hundred feet or when traversing a highway-rail crossing. See CAL. [VEH.] CODE § 21752 (West 1994).

It is unlawful in California for any person to park a vehicle on any railroad track or within seven feet, six inches of the nearest rail of the track. See CAL. [VEH.] CODE § 22521 (West 1994).

COLORADO

It is unlawful in Colorado for any driver to traverse a highway-rail crossing unless there is sufficient space on the other side of the crossing to accommodate the driver's vehicle without obstructing the passage of other vehicles or trains, notwithstanding the indication of a traffic control signal to proceed. See COLO. REV. STAT. § 42-4-709 (1994).

Penalty - A violation of § 42-4-609.5 is considered a Class A traffic infraction under Colorado law. See COLO. REV. STAT. § 42-4-709 (1994).

Any driver approaching a highway-rail crossing is required to stop at a marked stop line. If no stop line exists, the stop must be within fifteen to fifty feet of the nearest rail of the tracks. The driver is forbidden from proceeding until it is safe to do so. See COLO. REV. STAT. § 42-4-706(1)a (1994).

Additionally, Colorado requires stops at the point nearest the crossing where the driver has a reasonable view of approaching trains if, by complying with the stop line and distance requirements, the driver's view is obstructed. See COLO. REV. STAT. § 42-4-706(b)1 (1994). Colorado law provides that stops are to be made at a traffic control device, where a flagman exists and for safety. See COLO. REV. STAT. § 42-4-706 (1994).

It is unlawful in Colorado for any person to drive any vehicle through, around or under any crossing gate or barrier while the gate or barrier is closed or is being open or closed. See COLO. REV. STAT. § 42-4-706(2) (1994).

Penalty- A violation of any subpart of the preceding section is considered a Class A traffic infraction. See COLO. REV. STAT. § 42-4-706(3) (1994).

When approaching within one hundred feet of or traversing any railroad grade crossing, Colorado prohibits driving any vehicle to the left of the roadway to overtake or pass another vehicle. See COLO. REV. STAT. § 42-4-905 (1994).

Colorado law gives the state Highway Department authority to designate a highway-rail crossing as particularly dangerous and erect STOP signs at such a crossing. When a STOP sign is erected, drivers of vehicles are required to stop within fifteen to fifty feet of the nearest rail and may not proceed without exercising due care. See COLO. REV. STAT. § 42-4-607 (1994).

It is unlawful for a driver to drive onto any highway-rail grade crossing unless there is sufficient space on the other side to accommodate the passage of other vehicles, pedestrians or railroad trains. See COLO. REV. STAT. § 42-4-709 (1994).

Penalty - A violation of § 42-4-709 is a Class A traffic infraction. See COLO. REV. STAT. § 42-4-709 (1994).

CONNECTICUT

When approaching within one hundred feet of or crossing any highway-rail crossing, Connecticut law prohibits drivers from driving to the left side of the highway. See CONN. GEN. STAT. § 14-235 (1992).

Connecticut requires motorists to stop at crossings but does not prescribe a specific stopping distance from the crossings.

Penalty - Any driver who fails to come to a full stop at a highway-rail crossing, when warned of an approaching train by flashing lights erected at the crossing, may be fined one hundred and fifty dollars. See CONN. GEN. STAT. § 14-249 (1994).

DELAWARE

Delaware law requires any person driving a vehicle in the state to stop at highway-rail crossings under certain conditions. These requirements apply at crossings under the following conditions:

- 1) Where a clearly visible electrical or mechanical signal gives warning of a train.
- 2) Where a crossing gate is lowered or a flagman gives or continues to give a signal of the approach of a train.
- 3) When a train approaching within fifteen hundred feet of the crossing is emitting a signal audible from that distance.
- 4) Where an approaching train is clearly visible.

See DEL. CODE ANN. tit. 21, § 4161 (1992). All stops are to be made within fifteen to fifty feet of the nearest rail of the tracks and the driver shall not proceed until it is safe to do so.

It is unlawful in Delaware for any person to drive any vehicle through, around or under any crossing gate or barrier when the gate or barrier is closed or being opened or closed. See DEL. CODE ANN. tit. 21, § 4161 (1992).

Delaware prohibits drivers from driving on the left side of the roadway (passing) when approaching within one hundred feet of or traversing a highway-rail grade crossing. See DEL. CODE ANN. tit. 21, § 4119 (1994).

Delaware prohibits persons driving vehicles on its highways to drive at a speed greater than that which is reasonable and prudent considering the conditions present and the existing and potential hazards. This requirement applies when approaching and traversing a highway-rail crossing. See DEL. CODE ANN. tit. 21, § 4168(a-b) (1994).

DISTRICT OF COLUMBIA

All requirements concerning the responsibility of motorists in the District of Columbia with respect to highway-rail crossings are listed in a series of volumes entitled Municipal Regulations. All citations will refer to sections in Municipal Regulations rather than the District of Columbia Code.

District of Columbia law requires motorists to bring their vehicles to a stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing and to remain stopped until crossing can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical signal.
- 2) When a crossing gate is lowered or when a flagman is giving a signal of the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is plainly visible.

See D.C. Mun. Regs. tit. 18, §§ 2216.1 -.2 (1987).

The District of Columbia prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this requirement, the law requires motorists to drive at appropriately reduced speeds when approaching or moving over a highway-rail crossing. See D.C. Mun. Regs. tit. 18, §§ 2200.3 -.5 (1987).

Penalty- Any violation of §§ 2216.1 and 2200.3 -.4 is subject to a civil fine pursuant to the District of Columbia Traffic Adjudication Act. See D.C. Mun. Regs. tit. 18, § 2200.11 (1987).

It is unlawful for anyone in the District of Columbia to stand or park a vehicle, whether occupied or not, within fifty feet of the nearest highway-rail crossing (including stops for the purpose of loading or unloading materials). Standing or parking a vehicle in this manner is permitted when it is necessary to avoid conflict with other traffic or under the direction of a police officer or a traffic control signal. See D.C. Mun. Regs. tit. 18, § 2405.2(e) (1987).

It is unlawful for anyone in the District of Columbia to drive a vehicle to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See D.C. Mun. Regs. tit. 18, § 2202.3(b) (1987).

FLORIDA

Under certain circumstances, Florida requires all persons driving a vehicle to stop at highway-rail crossings. The stopping requirement applies:

- 1) Where the warning of an approaching train is given by a clearly visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered or a flagman gives or continues to give a signal indicating the approach of a train.
- 3) Where an approaching train emits an audible signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where an approaching train is plainly visible.

Florida law prohibits drivers from driving any vehicle through, around or under any crossing gate or barrier while the gate or barrier is closed or is being opened or closed. See FLA. STAT. ANN. § 316.1575 (West 1994). A violation of this statute may bring a penalty of up to fifteen hundred dollars. See FLA. STAT. ANN. § 318.18(14) (West 1994).

It is unlawful in Florida to park a vehicle within fifty feet of the nearest rail of a highway-rail crossing, whether occupied or not, except for the purpose of and while actually engaged in loading and unloading merchandise or passengers. The Florida Department of Transportation may establish a different distance due to unusual circumstances. See FLA. STAT. ANN. § 316.1945 (West 1994).

It is also unlawful for any person to drive a vehicle at a speed greater than is reasonable and prudent considering the conditions present and any actual and potential hazards. A driver must drive at an appropriately reduced speed when approaching and crossing an intersection or highway-rail crossing. See FLA. STAT. ANN. § 316.183 (West 1994).

Florida law prohibits motorists from driving to the left of the center of the roadway when approaching within one hundred feet of or traversing any highway-rail grade crossing. See FLA. STAT. ANN. § 316.087 (West 1994).

GEORGIA

Georgia prohibits any person from stopping, standing or parking a vehicle on any railroad tracks, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control device. See GA. CODE ANN. § 40-6-203 (1994).

Georgia requires the driver of any vehicle to stop within fifteen to fifty feet of the nearest rail of the tracks when approaching a highway-rail crossing. The driver may not proceed across the crossing until it can be done safely. The stopping requirements apply in the following situations:

- 1) Where a clearly visible electrical or mechanical signal device gives warning of the approach of a train.
- 2) Where a crossing gate is lowered or a flagman gives a signal indicating the approach or passage of a train.
- 3) Where an approaching train is visible and is in hazardous proximity to the crossing.

It is unlawful for anyone to drive a vehicle through, around or under any crossing gate or barrier while such gate or barrier is closed or is being opened or closed. See GA. CODE ANN. § 40-6-140 (1994).

No person may drive a vehicle at a speed greater than is reasonable and prudent considering the conditions present and the actual and potential hazards. Every person must drive at a reasonable and prudent speed when approaching and crossing a highway-rail crossing. See GA. CODE ANN. § 40-6-180 (1994).

HAWAII

In Hawaii, motorists are prohibited from driving a vehicle at a speed greater than is reasonable considering the actual and potential hazards and road conditions. Every person must drive at a reasonable and prudent speed when approaching and crossing a highway-rail crossing. See HAW. REV. STAT. § 291C-101 (1994).

Hawaii prohibits driving to the left side of the roadway (passing) when approaching within one hundred feet of or traversing a highway-rail crossing. See HAW. REV. STAT. § 291C-46 (1994). See also § 291C-161 as to the penalty for violation of this section.

Hawaii requires motorists to stop within fifteen to fifty feet of the nearest rail of the tracks at a highway-rail crossing. The driver shall not proceed until it is safe to do so. These requirements apply under the following circumstances:

- 1) When there is a clearly visible electrical or mechanical signal device giving warning of an approaching train.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passing of a train.
- 3) When a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible from that distance, and, because of its nearness and speed, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

It is unlawful in Hawaii for any person to drive through, around or under any crossing gate or barrier while the gate or barrier is closed or is being opened or closed. See HAW. REV. STAT. § 291C-91(a)-(b) (1994).

In Hawaii, the Director of Transportation and the individual counties are authorized to designate a highway-rail crossing as particularly dangerous and to erect STOP signs at such crossings. The driver of any vehicle approaching a crossing is required to stop within fifteen to fifty feet of the nearest rail of the tracks and is authorized to proceed only after exercising due caution. See HAW. REV. STAT. § 291C-92 (1994). See also same section under Crossing Treatment Procedures.

IDAHO

Idaho prohibits motorists from driving left of the center of the highway (passing) when approaching within one hundred feet of or traversing a highway-rail crossing, unless otherwise indicated by a traffic control device. See IDAHO CODE § 49-635 (1994).

Idaho requires drivers to stop within fifteen to fifty feet of the nearest rail of the tracks at a highway-rail crossing. The driver may not proceed until it is safe to do so. The stopping requirements apply under the following circumstances:

- 1) Where a warning of an approaching train is given by a clearly visible electrical or mechanical signal device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.

- 3) When a train approaching within fifteen hundred feet of the crossing is emitting a signal audible at that distance and, due to its speed or nearness, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

In addition to requiring motorists to stop when a crossing gate is down, Idaho law forbids driving through, around or under any gate or barrier while it is closed or is being opened or closed. See IDAHO CODE § 49-648 (1994).

Idaho law requires the driver of any vehicle stopped at a highway-rail crossing to listen and look in both directions for any approaching train and for signals indicating the approach of a train. After complying with the stopping requirements, drivers may move over the crossing when it is safe to do so and are forbidden from manually shifting gears while crossing the tracks. See IDAHO CODE § 49-649 (1994).

These requirements do not apply at crossings where traffic is controlled by a police officer or a flagman, or at crossings regulated by a traffic control signal, at crossings protected by crossing gates or an alternately flashing light signal intended to give warning of an approaching train or at any crossing where a traffic control device gives notice that the stopping requirements do not apply. See IDAHO CODE § 49-649 (1994). See also exempt crossings in chapter on Slow, Low and Special Vehicles.

Idaho law prohibits the parking of a vehicle, whether occupied or not, within fifty feet of the nearest rail of highway-rail crossing, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers. See IDAHO CODE § 49-660 (1994).

Idaho law prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent. Consistent with this prohibition, motorists in Idaho are required to drive at a safe and appropriate speed when approaching and crossing a highway-rail crossing. See IDAHO CODE § 49-654 (1994).

ILLINOIS

Illinois prohibits parking on railroad tracks except when necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer or official traffic control device. See 625 ILCS 5/11-1303(1)h (Michie 1994).

It is unlawful for anyone to stand or park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing, except momentarily while loading or unloading property or passengers. See ILCS 5/11-1303(3)a (Michie 1994).

Drivers are prohibited from traversing any railroad crossing unless there is sufficient space on the other side to accommodate the vehicle they are operating without obstructing the passage of other vehicles or trains, notwithstanding any traffic control signal indication to proceed. See 625 ILCS 5/11-1425 (Michie 1994).

Illinois prohibits driving to the left of the center of the roadway (passing) when approaching within one hundred feet of or traversing a railroad crossing. 625 ILCS 5/11-706 (Michie 1994).

Illinois law requires drivers approaching a highway-rail crossing to exercise due caution and to recognize the existing crossing as a sign of danger. When approaching a crossing, the driver must stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so.

The stopping requirements apply:

- 1) When warning of an approaching train given by a clearly visible electrical or mechanical signal device.
- 2) When a crossing gate is lowered or a flagman is giving a signal to indicate the approach or passage of a train.
- 3) When an approaching train is emitting a warning signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is visible and its proximity constitutes an immediate hazard.
- 5) When an approaching train is so close that an immediate hazard is created.

It is unlawful in Illinois for any person to drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. See 625 ILCS 5/11-1201(a)(b) (Michie 1994).

The Illinois Department of Transportation, in consultation with local authorities, is authorized to designate a highway-rail as particularly dangerous and to install STOP signs at the crossing. When the driver of any vehicle approaches a highway-rail crossing, the driver must stop within fifteen to fifty feet of the nearest rail of the tracks and is not to proceed over the crossing until it is safe to do so. See ILCS 5/11-1201(c) (Michie 1994).

INDIANA

When a STOP sign is erected at any highway-rail crossing in Indiana, drivers are required to stop within ten to fifty feet of the nearest rail of the crossing and may only proceed after exercising due caution. See IND. CODE ANN. § 9-21-4-16 (Burns 1994).

Indiana law requires persons driving a vehicle to stop within ten to fifty feet of the nearest rail of the tracks at a highway-rail crossing. The driver may not proceed over the crossing until it is safe to do so. The stopping requirements apply under the following circumstances:

- 1) At crossings where warning of an approaching train is given by a clearly visible electrical or mechanical signal device.
- 2) Where a crossing gate is lowered or when a flagman is giving a signal of the approach or passage of a train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible at that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) At a crossing where an approaching train is clearly visible. See IND. CODE ANN. § 9-21-8-39 (Burns 1994).

IOWA

Iowa law requires drivers of any vehicle approaching a highway-rail crossing to stop at the first opportunity, either at a clearly marked stop line or at a point near the crossing where the driver has a clear view of any approaching railroad traffic.

The statute requires drivers to stop at crossings with a STOP sign, a railroad sign directing traffic to stop or an official traffic control signal that is displaying a flashing red or steady circular red colored light. See IOWA CODE § 321.342 (1993). Also see § 321.252 concerning signs.

In Iowa, any person driving a vehicle approaching a highway-rail crossing where warning of an approaching train is given by an automatic signal, crossing gates, a flagman or other device, is required to stop within fifteen to fifty feet of the nearest rail of the crossing. See IOWA CODE § 321.341 (1993).

Iowa law has a code section which states that a driver shall stop, remain standing and not traverse a crossing when a crossing gate is lowered or when a flagman is giving a signal indicating the approach or passage of a train. See IOWA CODE § 321.341 (1993).

Iowa law expressly prohibits the stopping, standing or parking of a vehicle within fifty feet of the nearest rail of a crossing, except when parked parallel to the rail and exhibiting a red light. This prohibition does not apply if the stopping, standing or parking was necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or a traffic control device. See IOWA CODE § 321.358 (1993).

KANSAS

Kansas law requires drivers, when approaching a highway-rail crossing, to drive their vehicle at a safe and appropriate speed. See KAN. STAT. ANN. § 8-1557 (1993).

Kansas expressly prohibits drivers from driving on the left side of the roadway (passing) when approaching within one hundred feet of or traversing a highway-rail crossing. This prohibition does not apply however, at any intersection on a state or county maintained road located outside city limits unless that intersection is clearly marked with a traffic control device or pavement markings exist indicating that passing is prohibited. See KAN. STAT. ANN. § 8-1519 (1993).

When approaching a highway-rail crossing, motorists are required to stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. The stopping requirements are applicable at highway-rail crossings when the following conditions are present:

- 1) Where there is a clearly visible electrical or mechanical device giving warning of the immediate approach of a train.
- 2) Where a crossing gate is lowered or when a flagman is giving a signal of the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

It is unlawful for any person to drive any vehicle through, around or under any crossing gate or barrier at a highway-rail crossing while the gate or barrier is closed or is being opened or closed. See KAN. STAT. ANN. § 8-1551(a)-(b) (1993).

Kansas law prohibits motorists from driving onto any railroad grade crossing unless there is adequate space on the other side to accommodate the driver's vehicle without obstructing the passage of other vehicles, pedestrians or trains, notwithstanding any traffic control signal indication to proceed. See KAN. STAT. ANN. § 8-1584 (1993).

The Secretary of Transportation of Kansas and local authorities may designate a highway-rail crossing as particularly dangerous and erect a STOP sign at such crossings. Drivers are then required to stop within fifteen to fifty feet of the nearest rail of the crossing and must not proceed without exercising due care. See KAN. STAT. ANN. § 8-1552 (1993).

KENTUCKY

Kentucky law requires the operator of any vehicle to stop at a highway-rail crossing and remain standing when any of the following circumstances exist:

- 1) When warning of the immediate approach of a train is being given by a visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered giving warning of the immediate approach or passage of a train.
- 3) When a train is in hazardous proximity to the crossing and is plainly visible.

These requirements also apply at highway-rail crossings that the Kentucky Public Protection and Regulation Cabinet has designated as "unsafe" and at which a STOP sign has been erected within sixty days of the designation. No "unsafe" determination may be made and no STOP sign installed at highway-rail crossings where protection is provided by a crossing gate, electrical warning signals or other automatic audible signal, or where protection is provided by a watchman. See KY. REV. STAT. ANN. § 189.560(1)(2)(3) (Baldwin 1994).

At any crossing where a STOP sign has been installed, Kentucky law requires motorists operating any vehicle to come to a full stop within ten to thirty feet of the nearest rail of the tracks.

Kentucky law prohibits drivers from driving to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See KY. REV. STAT. ANN. § 189.345 (Baldwin 1994).

LOUISIANA

It is unlawful in Louisiana to drive to the left side of the highway (pass) when approaching within one hundred feet of or traversing a highway-rail crossing. See LA. REV. STAT. ANN. § 32:76 (West 1993).

Louisiana law expressly prohibits the stopping, standing or parking of a vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or when complying with the directions of a police officer or traffic control device. See LA. REV. STAT. ANN. § 32:143 (West 1993).

Louisiana law requires that drivers of motor vehicles come to a full stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. Drivers may not proceed until it can be done safely. The stopping requirements apply at crossings where the following conditions prevail:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving warning of the approach or passage of a train.
- 3) When a train approaching within approximately nine hundred feet of the crossing is emitting a warning signal and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is clearly visible.

Louisiana prohibits persons from driving through, around or under any crossing gate or barrier when the gate or barrier is closed or is being opened or closed. See LA. REV. STAT. ANN. § 32:171(A)(C) (West 1993).

It is unlawful for anyone in Louisiana to stop a motor vehicle on any railroad track or to drive a vehicle across any railroad crossing while the signal devices are flashing and an approaching train is plainly visible. See LA. REV. STAT. § 32:171(B)(D) (1993).

Louisiana law provides that the Department of Highways may designate any highway-rail crossing as particularly dangerous and may erect STOP signs at these crossings. Drivers of all vehicles are required to stop within fifteen to fifty feet of the nearest rail of the tracks and may proceed only after exercising due care. See LA. REV. STAT. § 32:172 (1993). See also the chapter on crossing treatments.

When approaching a highway-rail crossing that is marked by the presence of a railroad crossbuck sign, a motorist is required to slow down, or stop if necessary, before entering a crosswalk. If there is no crosswalk, then the driver must stop at a clearly marked stop line or if none, then at the point nearest the intersecting rail where the driver has a clear view of any approaching trains. The driver is then required to listen and look in both directions for any approaching train and for signals indicating the approach of a train, and is required to yield the right of way to any approaching train. The driver may proceed over the crossing only after exercising due care. See LA. REV. STAT. ANN. § 32:175(A) (West 1993). Louisiana law does not require a motorist to yield at any highway-rail crossing where a police officer or traffic control signal directs traffic to proceed. See LA. REV. STAT. ANN. § 32:175(B) (West 1993).

MAINE

Drivers of motor vehicles in Maine are required to reduce their speed to a reasonable and proper rate beginning one hundred feet from a highway-rail crossing, to look in each direction and only proceed over the crossing with caution. See ME. REV. STAT. ANN. tit. 29-A, § 2076(1) (West 1994).

Motorists are required to bring their vehicles to a full stop at a distance of not less than ten feet from the nearest rail of a crossing where a gate has been or is being lowered, or a flagman or automatic signal is indicating that a train is approaching. Motorists may proceed through a highway-rail crossing when the gates have been raised or the flagman indicates that no train is approaching. Motorists proceeding over a highway-rail crossing under the direction of an automatic signal are required to use extra caution and may proceed only when they have ascertained that no train is approaching. See ME. REV. STAT. ANN. tit. 29-A, § 2076(2) (West 1994).

The Maine Department of Transportation has the statutory authority to designate a highway-rail crossing as particularly dangerous and to install and maintain STOP signs at the crossing. The Department also has the authority to designate crossings as particularly dangerous within the limits of municipalities and to order the municipality to erect and maintain STOP signs at the crossings. At any highway-rail crossing where STOP signs are in place, drivers are required to stop within ten to fifty feet of the nearest rail of the railroad and may not proceed over the crossing without exercising due care. See ME. REV. STAT. ANN. tit. 23, § 1253-A (West 1994).

Penalty - A motorist operating a vehicle in violation of § 1253-A is guilty of a misdemeanor and punishment may be fixed as a fine not to exceed fifty dollars, imprisonment for not more than sixty days or both. See ME. REV. STAT. ANN. tit. 23, § 1253-A (West 1994).

MARYLAND

The State of Maryland requires motorists to stop within fifteen to fifty feet of the nearest rail at a highway-rail crossing and to proceed only when it can be done safely. This requirement applies at highway-rail crossings where the following circumstances exist:

- 1) Where warning of an approaching train is given by an electrical or mechanical device.
- 2) Where a crossing gate is lowered.
- 3) Where a flagman is signaling the approach or passage of a train.
- 4) When a train approaching the crossing within fifteen hundred feet is giving a signal audible at such a distance and, due to its speed or nearness to the crossing, constitutes an immediate hazard.
- 5) When a train is plainly visible and is dangerously near the crossing.

It is unlawful for anyone in Maryland to drive a vehicle through, around or under any crossing gate or barrier at a highway-rail crossing while the gate or barrier is closed or is in the process of being opened or closed. See MD. ANN. CODE art. 21, § 701(a)(b) (1994).

Maryland law prohibits the parking of a vehicle within fifty feet of the nearest rail of a highway-rail crossing unless it is necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device. See MD. ANN. CODE art. 21, § 1003(t) (1994).

Maryland law prohibits driving to the left of the center of the highway for the purpose of overtaking and passing while crossing or approaching within one hundred feet of a highway-rail crossing. See MD. ANN. CODE art. 21 § 305(ii) (1994).

The State Highway Administration in Maryland, in consultation with local authorities, is authorized to designate a highway-rail crossing as particularly dangerous and to erect a STOP sign at the crossing. Motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the crossing and shall proceed only after exercising due care. See MD. ANN. CODE art. 21, § 702(a)(b) (1994).

Maryland law prohibits motorists from driving a vehicle at a speed that, "...with regard to the actual and potential dangers existing, is more than that which is reasonable and prudent under the conditions." Consistent with these requirements, when motorists are approaching and crossing a highway-rail crossing, they must drive at an appropriate reduced speed. See MD. ANN. CODE art. 21, § 801(a)(d) (1994).

MASSACHUSETTS

Massachusetts law pertaining to speed at highway-rail crossings is discussed in driver duties and not in its basic speed law. The pertinent section of the statute states that motorists must reduce their speed to a reasonable and proper rate before moving over any highway-rail crossing. They must not cross until they can proceed safely with regard to the current circumstances. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

Massachusetts requires drivers to stop within fifteen to fifty feet of the nearest rail at a highway-rail crossing protected by red lights which flash as a warning. Motorists are further prohibited from proceeding through the crossing until the red lights stop flashing. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994). Stops within fifteen to fifty feet of the nearest rail are also required at highway-rail crossings protected by a lowered automatic gate. Drivers are prohibited from crossing until the gate is raised. Additionally, stops are required at crossings protected by "...a railroad employee waving a red flag or white lantern." Drivers are forbidden to move through the crossing until the railroad employee gives the signal. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op. 1994).

Within the same section of the statute, Massachusetts requires a train approaching within approximately fifteen hundred feet of a highway-rail crossing to emit a warning signal audible at that distance. See MASS. ANN. LAWS ch. 90, § 15 (Law. Co-op 1994).

Penalty - A violation of any part of this section requiring stopping at highway-rail crossings will bring a maximum fine of two hundred dollars but not less than one hundred dollars. See MASS. ANN LAWS ch. 90, § 15 (Law. Co-op 1994).

MICHIGAN

Michigan law requires any person driving a vehicle to stop within fifteen to fifty feet of the nearest rail of a highway-rail crossing. Drivers may not proceed over the crossing until it is possible to do so safely. Stops are required in all of the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal of the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where an approaching train is in hazardous proximity to the crossing and is plainly visible.

It is unlawful in Michigan for any driver to attempt to drive through, around or under a gate or barrier at highway-rail crossings while the gate or barrier is closed or is being opened or closed. See MICH. STAT. ANN. § 9.2367(1)(2) (1993).

Motorists are prohibited from parking within fifty feet of the nearest rail of a highway-rail crossing, except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device. See MICH. STAT. ANN. § 9.2374 (1993).

MINNESOTA

Minnesota law prohibits motorists from parking their vehicles within fifty feet of the nearest rail of a highway-rail crossing. See MINN. STAT. § 169.34 (1993).

Minnesota has a basic speed rule which requires that no person shall drive a vehicle on any highway at a speed greater than that which is reasonable and proper. Accordingly, motorists in Minnesota are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See MINN. STAT. § 169.14 (1993).

When approaching a highway-rail crossing in Minnesota, motorists are required to come to a full stop not less than ten feet from the nearest rail of the crossing and may not proceed until it is safe to do so. The stopping requirements apply when the following circumstance are present:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered.
- 3) When an approaching train is clearly visible and its close proximity constitutes an immediate hazard.

Minnesota law states that the fact that a train approaching a crossing is visible is prima facie evidence that it is not safe for motorists to move over the crossing. See MINN. STAT. § 169.26(a)(b) (1993).

It is unlawful in Minnesota for a motorist to move over a highway-rail crossing when a flagman is signaling the approach or passage of a train. Motorists are prohibited from driving a vehicle past a flagman until the flagman signals that the way is clear to proceed. See MINN. STAT. § 169.26© (1993).

Penalty- A police officer in Minnesota may arrest any driver of a motor vehicle violating the stopping requirements of § 169.26(a)(b) if the officer has probable cause to believe that the motorist has violated the stopping requirements within the past four hours. See Minn. Stat. § 169.26(1a). A motorist who violates the stopping requirements is guilty of a misdemeanor. See MINN. STAT. § 169.26(2a) (1993).

MISSISSIPPI

Whenever any motorist in Mississippi approaches a highway-rail crossing, the motorist must stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it can be done safely. Stops are required when the following circumstances are present:

- 1) When warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where an approaching train is clearly visible and close enough to the crossing that it constitutes a hazard.
- 4) Where a train approaching a crossing within nine hundred feet is emitting a warning signal and, because of its speed or nearness to the crossing, constitutes an immediate hazard.

Mississippi law prohibits motorists from driving through, around or under any downed crossing gate or barrier or one that is being opened or closed. See MISS. CODE ANN. § 77-9-249(1)(2) (1994).

Penalty- Mississippi law makes it a misdemeanor to fail to meet the stopping requirements or to drive through, around or under a downed crossing gate or barrier. Anyone convicted may be fined not more than fifty dollars, be imprisoned for not more than thirty days or both. See MISS. CODE ANN. § 77-9-249(4) (1994).

Editor's Note: Mississippi has another stopping requirement that seems to conflict with § 77-9-249(1). The relevant code section states, in part, that when any motorist approaches a highway-rail crossing where warning is being given of an approaching train by a clearly visible electrical or mechanical signal device, the motorist must stop within ten to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. See MISS. CODE ANN. § 63-3-1007 (1994).

Mississippi law requires motorists to come to full stop within ten to fifty feet of the nearest rail of the crossing and to proceed only after exercising due care at any highway-rail crossing with a STOP sign. The Mississippi Highway Commission is authorized to designate a crossing as particularly dangerous and to erect a STOP sign at the crossing. See MISS. CODE ANN. § 63-3-1009 (1994).

MISSOURI

It is unlawful in Missouri to stop, stand or park on any railroad tracks, or park a vehicle, whether empty or not, within fifty feet of the nearest rail of a highway-rail crossing. An exception exists that states a motorist may park within fifty feet of the nearest rail temporarily to load or unload merchandise or passengers. See MO. REV. STAT. § 300.440(1a)(3a) (1993).

Missouri requires motorists approaching a highway-rail crossing to stop within fifteen to fifty feet of the nearest rail of the tracks. Motorists are prohibited from moving over the crossing until they can do so safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When an approaching train is plainly visible and in hazardous proximity to the crossing.
- 4) Where any other traffic sign, device or any other act, rule, regulation or statute requires a vehicle to stop.

Motorists are prohibited from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or is in the process of being opened or closed. See MO. REV. STAT. § 304.035(1)(2) (1993). See also MO. REV. STAT. § 300-295(1)(2) (1993).

Penalty - Any motorist who violates any provision of these requirements is guilty of a Class C misdemeanor. See MO. REV. STAT. § 304.035(3) (1993).

Missouri law prohibits motorists from driving to the left side of a roadway when the view is obstructed when approaching within one hundred feet of or at a highway-rail crossing. See MO. REV. STAT. § 304.016(4)(2) (1993).

MONTANA

Montana prohibits drivers from stopping, standing or parking any vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic, when in compliance with the law or when in response to the commands of a police officer or traffic control device. See MONT. CODE ANN. § 61-8-354(1i) (1994).

Montana's basic speed rule requires that motorists on a public highway drive in a careful and prudent manner and at a rate of speed not to exceed that which is reasonable and proper. Motorists must therefore drive at an appropriate reduced speed when they are approaching and moving over a highway-rail crossing. See MONT. CODE ANN. 61-8-303(1)(5) (1994).

Montana law prohibits motorists from driving to the left side of the center of the highway (passing) when approaching within one hundred feet of or moving over a highway-rail crossing. See MONT. CODE ANN. § 61-8-325(2b) (1994).

All motorists in Montana, when approaching a highway-rail crossing, are required to stop within fifteen to fifty feet of the nearest rail of the crossing and may not proceed over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by an electrical or mechanical device.
- 2) When a crossing gate is down or a flagman is giving signal to indicate an approaching or passing train.
- 3) When a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where a train is plainly visible and is in hazardous proximity to a crossing.

It is unlawful in Montana for a motorist to drive any vehicle through, around or under any crossing gate or barrier at a highway-rail crossing while the gate or barrier is closed or is in the process of being opened or closed. See MONT. CODE ANN. § 61-8-347(1)(2) (1994).

The Montana Department of Transportation, along with the local authorities, is authorized to designate a highway-rail crossing as particularly dangerous and to install a STOP sign at the crossing. Motorists are then required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed over the crossing without exercising due care. See MONT. CODE ANN. § 61-8-348 (1994).

NEBRASKA

When approaching a highway-rail crossing, all motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the crossing. The motorists may not proceed over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is signaling the approach or passage of a train.
- 3) When a train approaching within one-quarter mile of a highway-rail crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is plainly visible and close enough to the crossing to be a hazard.

Nebraska law prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or is being opened or closed. See NEB. REV. STAT. 60-6,170 (1994).

In Nebraska, the Department of Roads, along with the local highway authority, has statutory authority to designate a highway-rail crossing as particularly dangerous and shall erect STOP signs at those crossings. Motorists are then required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across without exercising due care. See NEB. REV. STAT. § 60-6,171 (1994).

Nebraska law prohibits motorists from overtaking and passing another vehicle to the left of the center of the roadway when approaching within one hundred feet or traversing any highway-rail crossing. See NEB. REV. STAT. § 60-6,136(b) (1994).

Nebraska law prohibits motorists from driving a vehicle at a speed greater than is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, motorists are required to drive at a safe and appropriate speed when approaching and moving over a highway-rail crossing. See NEB. REV. STAT. § 60-6,185 (1994).

Nebraska law prohibits the stopping, standing or parking of a vehicle on any railroad track, except when necessary to avoid conflict with other traffic or when complying with the directions of a law enforcement officer or traffic-control device. The same law forbids the parking of a vehicle, whether occupied or not, within fifty feet of the nearest rail at any highway-rail crossing, except for the purpose of loading or unloading merchandise or passengers. See NEB. REV. STAT. § 60-6,166(I) (1994).

NEVADA

Nevada law requires all motorists to stop within fifteen to fifty feet of the nearest rail of the tracks at highway-rail crossings. After stopping, motorists are prohibited from proceeding through the crossing unless it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving signals indicating an approaching or passing train.
- 3) Where an approaching train within approximately fifteen hundred feet is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to the crossing and is plainly visible.

Nevada law prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or is in the process of being opened or closed. See NEV. REV. STAT. ANN. § 484.349 (Michie 1993).

The Nevada Department of Transportation and local authorities with the approval of the Department of Transportation have statutory authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. Motorists are then required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across without exercising due care. See NEV. REV. STAT. ANN. § 484.351 (Michie 1993).

Nevada law prohibits motorists from overtaking and passing another vehicle by driving to the left of the center of the roadway within one hundred feet of a highway-rail crossing. See NEV. REV. STAT. ANN. § 484.299 (Michie 1993).

NEW HAMPSHIRE

New Hampshire law requires that motorists come to a full stop within fifteen to fifty feet of the nearest rail at a highway-rail crossing. Drivers may not proceed through the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or closeness to the crossing, constitutes an immediate hazard.
- 4) When a train is plainly visible and is in hazardous proximity to a crossing.

New Hampshire prohibits motorists from driving through, around or under any crossing gate or barrier while the gate or barrier is closed or in the process of being opened or closed. See N.H. REV. STAT. ANN. § 265:48 (1994).

The New Hampshire Commissioner of Transportation is vested with the statutory authority to designate a highway-rail crossing particularly dangerous and may erect a STOP sign at the crossing. The Commissioner may also order local jurisdictions to do the same if the effected crossing lies within their jurisdiction. At any crossing where a STOP sign has been erected, motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across without exercising due care. See N.H. REV. STAT. ANN. § 265:49 (1994).

It is unlawful for motorists to drive to the left side of the roadway when approaching within one hundred feet of or moving through a highway-rail crossing. See N.H. REV. STAT. ANN. § 265:21 (1994).

It is unlawful for motorists in New Hampshire to drive a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to any actual and potential hazards. Consistent with this rule, motorists are required to drive at an appropriate speed when approaching and crossing a highway-rail crossing. See N.H. REV. STAT. ANN. § 265:60(IV) (1994).

NEW JERSEY

New Jersey law requires motorists to reduce their speed appropriately when approaching and moving across a highway-rail crossing. See N.J. REV. STAT. § 39:4-98 (1993).

New Jersey prohibits the parking of vehicles within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, traffic sign or traffic signal. See N.J. REV. STAT. § 39:4-138(j) (1993).

New Jersey law requires motorists to keep vehicles to the right half of the roadway in traversing a highway-rail crossing. See N.J. REV. STAT. § 39:4-83 (1993).

New Jersey law requires motorists approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the railroad. They are prohibited from proceeding over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical signal.
- 2) Where a crossing gate is lowered or a flagman is giving a signal of an approaching or passing train.
- 3) When a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in New Jersey for a motorist to drive any vehicle through, around or under any crossing gate or barrier that is closed or is being opened or closed. See N.J. REV. STAT. 39:4-127.1 (1994).

NEW MEXICO

New Mexico law prohibits the parking of any vehicle within fifty feet of the nearest rail of a highway-rail crossing, except when it is necessary to avoid conflict with other traffic or in compliance with the law or directions of a police officer or traffic control device. See N.M. STAT. ANN. § 66-7-351(A-9) (Michie 1994).

New Mexico requires the drivers of all vehicles, when approaching a highway-rail crossing, to come to a stop between fifteen and fifty feet from the nearest rail of the tracks. The drivers may not move over the crossing until it may be done safely. These requirements apply at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is plainly visible and is in hazardous proximity to a crossing.

It is unlawful for motorists to drive through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See N.M. STAT. ANN. § 66-7-341(A)(B) (Michie 1994).

The New Mexico Highway Commission and local authorities have the power to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. Motorists are then required to stop between fifteen and fifty feet from the nearest rail of the tracks and must not proceed over the crossing except after exercising due care. See N.M. STAT. ANN. § 66-7-342 (Michie 1994).

New Mexico law prohibits drivers from driving to the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See N.M. STAT. ANN. § 66-7-313 (Michie 1994).

NEW YORK

All motorists in New York are prohibited from driving through a highway-rail crossing without first coming to a full stop within fifteen to fifty feet of the nearest rail of the railroad. The motorist is then permitted to move over the crossing only if it can be done safely. These requirements are applicable at highway-rail crossings where the following circumstances exist:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or closeness to the crossing, constitutes an immediate hazard.
- 4) When a train is plainly visible and is in hazardous proximity to a crossing.

It is unlawful for motorists to drive through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See N.Y. [VEH. & TRAF.] LAW § 1170(a)(b) (McKinney 1994).

Penalty - Every motorist convicted of a violation for driving through, around or under a closed crossing gate or barrier shall, for a first conviction, be punished by a fine of not less than one hundred fifty or more than two hundred fifty dollars, imprisonment for not more than thirty days or both. For a second conviction of the same section, if within a period of eighteen months, punishment shall be a fine of not less than three hundred fifty or more than five hundred dollars, imprisonment for not more than ninety days or both. For a third or subsequent violation within a period of eighteen months, a person shall be punished by a fine of not less than six hundred or more than seven hundred dollars, imprisonment for not more than one hundred eighty days or both. See N.Y. [VEH. & TRAF.] LAW § 1170(b) (McKinney 1994).

It is unlawful in New York for a motorist to drive a vehicle to the left of the center of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See N.Y. [VEH. & TRAF.] LAW § 1125 (McKinney 1994).

New York law prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, motorists are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See N.Y. [VEH. & TRAF.] LAW § 1180 (McKinney 1994).

It is unlawful in New York to stop, stand or park a vehicle on any railroad track, except when it is necessary to avoid conflict with other vehicles or when complying with the law or the directions of police officer or traffic control device. Except when actually engaging in loading or unloading passengers or merchandise, no person may park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing, unless a different distance is specified by signs, markings or parking meters. See N.Y. [VEH. & TRAF.] LAW § 1202(1)(h)-(3) (McKinney 1994).

NORTH CAROLINA

It is unlawful for any motorists in North Carolina to drive to the left side of the center of the highway to overtake and pass another vehicle at any highway-rail crossing. See N.C. GEN. STAT. § 20-150© (1994). Also, motorists are required to keep to the right half of the highway at all times while passing over a highway-rail crossing. See N.C. GEN. STAT. § 20-147 (1994).

North Carolina law prohibits motorists from driving onto any highway-rail unless there is adequate space on the other side of the crossing to accommodate their vehicle without obstructing the passage of other vehicles, pedestrians or trains, even if there is a traffic signal indicating it is safe to proceed. See N.C. GEN. STAT. § 20-142.5 (1994).

Penalty - A motorist violating any provision of § 20-142.5 is guilty of an infraction and may be punished. See N.C. GEN. STAT. § 20-142.5 (1994). Effective Jan. 1, 1995, the penalty was fixed at a period of imprisonment not to exceed sixty days, a fine of not more than one hundred dollars or both. See N.C. GEN. STAT. § 20-176 (1994).

The North Carolina Department of Transportation has the authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. The driver of any vehicle is then required to stop within fifteen to fifty feet of the nearest rail of the railroad and may not move over the crossing except upon exercising due care. See N.C. GEN. STAT. § 20-142.2 (1994).

Penalty- Any motorist violating any provision of § 20-142.2, is guilty of an infraction and may be punished. See N.C. GEN. STAT. § 20-142.2 (1994). See also N.C. GEN. STAT. § 20-176 concerning punishment.

North Carolina law requires motorists approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the railroad and to remain stopped until they can proceed over the crossing safely. These requirements are applicable at highway-rail crossings when the following circumstances prevail:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving warning of an approaching or passing train.
- 3) When a train approaching a highway-rail crossing within fifteen hundred feet is emitting a signal audible from that distance, and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible.

It is unlawful in North Carolina for any motorists to drive any vehicle through, around or under any crossing gate or barrier that is closed or is being opened or closed. See N.C. GEN. STAT. § 20-142.1(a)(b) (1994).

When complying with the stopping requirements at a highway-rail crossing, a motorist must keep his vehicle as far to the right of the highway as possible and may not form two lanes of traffic unless the roadway is marked with four or more lanes of traffic. See N.C. GEN. STAT. § 20-142.1© (1994).

Penalty- A violation of any of the provisions of § 20-142.1 constitutes an infraction and is punishable. See N.C. GEN. STAT. § 20-142.1(d) (1994). See also § 20-176 concerning punishment.

NORTH DAKOTA

Upon approaching a highway-rail crossing in North Dakota, motorists are required to bring their vehicles to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed across until it is safe to do so. These regulations apply at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is down or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train approaching a crossing within approximately thirteen hundred fifty feet is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in close proximity to the crossing and is clearly visible.

Motorists are prohibited from driving any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. Motorists are also prohibited from driving past a flagman until the flagman signals the way is clear to proceed. See N.D. CENT. CODE § 39-10-41(1)(2) (1993).

The North Dakota Highway Department, along with local authorities if applicable, is vested with statutory authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. When motorists approach a crossing where a STOP sign has been installed, they must bring their vehicle to stop within fifteen to fifty feet of the nearest rail of the tracks and may only proceed after exercising due care. See N.D. CENT. CODE § 39-10-42 (1993).

Except in an instance when a lower speed is specified, motorists in North Dakota are prohibited from exceeding a speed of twenty miles an hour when approaching within fifty feet of a highway-rail crossing when the motorist's view is obstructed. "A motorist's view is considered to be obstructed when at any time during the last two hundred feet of the approach to the crossing he does not have a clear and uninterrupted view of the crossing and of any traffic on the railway for a distance of four hundred feet in each direction from the crossing." See N.D. CENT. CODE § 39-09-02(a) (1993).

North Dakota's basic speed rule refers to speed at highway-rail crossings in addition to the prohibition identified in § 39-09-02(a). The statute says, in part, that no person may drive a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, motorists are required to drive at a safe and appropriate speed when approaching and crossing a highway-rail crossing. See N.D. CENT. CODE § 39-09-01 (1993).

North Dakota law prohibits motorists from driving to the left side of the center of the roadway to pass or overtake another vehicle while within one hundred feet of or when moving over a highway-rail crossing. See N.D. CENT. CODE § 39-10-14 (1993).

North Dakota law prohibits the stopping, standing or parking of a vehicle within fifteen feet of the nearest rail of a highway-rail crossing. See N.D. CENT. CODE § 39-10-49(9) (1994).

No motorist may enter onto a highway-rail grade crossing unless there is sufficient space on the other side to accommodate trains, notwithstanding the signal giving an indication to proceed. See N.D. CENT. CODE § 39-10-68 (1994).

OHIO

Ohio law requires motorists approaching a highway-rail crossing to bring their vehicles to a full stop within fifteen to fifty feet of the nearest rail of the railroad. They may not proceed across until it is safe to do so. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical signal.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When an approaching train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in Ohio for anyone to drive any vehicle through, around or under a crossing gate or barrier that is closed or is being opened or closed. See OHIO REV. CODE ANN. § 4511.62(A)(B) (Anderson 1994).

The Ohio Department of Transportation and local authorities with approval from the Department of Transportation may designate a highway-rail crossing as particularly dangerous and may require that a STOP sign be erected at the crossing. At highway-rail crossings with STOP signs, the driver of any vehicle must bring that vehicle to a full stop within fifteen to fifty feet of the nearest rail of the railroad and may not proceed across the crossing except after exercising due care. See OHIO REV. CODE ANN. § 4511.61 (Anderson 1994).

Ohio law prohibits motorists from driving vehicles on the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See OHIO REV. CODE ANN. § 4511.30 (Anderson 1994).

Ohio prohibits motorists from standing or parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing. See OHIO REV. CODE ANN. § 4511.68(I) (Anderson 1994).

It is unlawful in Ohio for anyone to drive a vehicle onto any highway-rail crossing unless there is sufficient space on the other side of the crossing to accommodate the vehicle without obstructing the passage of other vehicles, pedestrians or trains, even if the traffic control signal indicates that it is safe to proceed. See OHIO REV. CODE ANN. § 4511.712 (Anderson 1994).

Penalties - Ohio lists first and subsequent offenses of all of the foregoing sections as misdemeanors of different degrees. The reader may find them by referring to § 4511.99.

OKLAHOMA

Oklahoma law prohibits any person driving a vehicle from passing through a highway-rail crossing without first coming to a full stop within fifteen to fifty feet of the nearest rail of the railroad. The driver may then proceed only when it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible at that distance, and because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in Oklahoma for any motorists to drive a vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See OKLA. STAT. tit. 47, § 11-701(a)(b) (1994).

Oklahoma motorists are prohibited from stopping, standing or parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing except when it is necessary to avoid conflict with other traffic, when in compliance with the law or when under the direction of a police officer or traffic control device. See OKLA. STAT. tit. 47, § 11-1003 (1994).

Oklahoma's basic speed rule requires motorists at all times to drive their vehicles at a careful and prudent speed not greater nor less than what is reasonable and proper with regard to existing conditions. Consistent with this basic speed rule, motorists in Oklahoma are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See OKLA. STAT. tit. 47, § 11-801(d) (1994).

It is unlawful in Oklahoma for motorists to drive to the left side of a roadway when approaching within one hundred feet of or over any highway-rail crossing. See OKLA. STAT. tit. 47, § 11-306(a) (1994).

OREGON

It is unlawful for any person driving a vehicle to drive upon or over a highway-rail crossing without first coming to a full stop at a clearly marked stop line or, if there is no line, within fifteen to fifty feet of the nearest rail of the tracks. Drivers may not proceed across the tracks until it is safe to do so. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of a train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train is clearly visible and because of its nearness to the crossing constitutes an immediate hazard.
- 4) Where an approaching train is giving an audible signal because its speed and nearness to the crossing constitute an immediate hazard.

It is unlawful for any driver to drive through, around or under a crossing gate or barrier that is closed or is in the process of being opened or closed. See OR. REV. STAT. § 811.455(a)(b)(c) (1994).

Penalty - A motorist in Oregon is guilty of failure to stop for a railroad signal, a Class C traffic infraction, for failure to comply with the requirements stated in § 811.455. See OR. REV. STAT. § 811.455(1)(2) (1994).

Oregon law prohibits motorists from driving onto a highway-rail crossing when there is not sufficient space on the other side to accommodate their vehicles without obstructing the passage of other vehicles, pedestrians or trains, notwithstanding a traffic control device indicating it is safe to proceed. See OR. REV. STAT. § 811.475(1)(2) (1994).

Penalty - A violation of § 811.475 constitutes the offense of obstruction of a rail crossing and is a Class C traffic infraction. See OR. REV. STAT. § 811.475(1)(3) (1994).

Oregon prohibits motorists from driving to left of the center of the roadway when approaching a highway-rail crossing where the driver's view is obstructed for such a distance as to create a hazard if a vehicle approaches from the opposite direction and is prohibited from driving to the left side of the center of the road at any highway-rail crossing. See OR. REV. STAT. § 811.305(1) (1994).

Penalty - Any motorist failing to comply with the provisions of § 811.305 commits the offense of driving on the left at a highway-rail crossing which is a Class B traffic infraction. See OR. REV. STAT. § 811-305(3). Editor's note: An explanation of the classification of traffic infractions and a listing of fines for offenses under the foregoing sections, consult §§ 153.610 -.623 contained in Oregon's criminal statutes.

PENNSYLVANIA

Pennsylvania law prohibits motorists from moving through a highway-rail crossing without first coming to a complete stop within fifteen to fifty feet of the nearest rail of the tracks.

Motorists are not permitted to traverse the crossing unless it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where a train approaching within fifteen hundred feet of a crossing is emitting a signal audible from that distance and, because of its speed or nearness to the crossing, constitutes an immediate hazard.
- 4) Where a train is in close proximity to the crossing and is plainly visible.

It is unlawful in Pennsylvania for any motorist to drive any vehicle through, around or under any crossing gate or barrier while the gate or barrier is closed or is in the process of being opened or closed. See 75 PA. CONS. STAT. § 3341(a)(b) (1994).

Pennsylvania law prohibits anyone from parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing. See 75 PA. CONS. STAT. § 3353(3) (1994).

Penalty - A person violating § 3353(3) is guilty of a summary offense and, if convicted, shall receive a fine of not more than fifteen dollars. See 75 PA. CONS. STAT. § 3353(E) (1994).

It is unlawful in Pennsylvania for a motorist to drive any vehicle on the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See 75 PA. CONS. STAT. § 3306(a)(2) (1994).

Pennsylvania's basic speed rule prohibits motorists from driving a vehicle at a speed greater than that which is reasonable and prudent under the existing conditions and having regard to the actual and potential hazards, "...nor at a speed greater than will permit the driver to bring his vehicle to a stop within the assured clear distance ahead." Consistent with the speed prohibition, drivers are required to drive at a safe and appropriate speed when approaching and crossing a highway-rail crossing. See 75 PA. CONS. STAT. § 3361 (1994).

RHODE ISLAND

Rhode Island law requires drivers approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers must not proceed until the crossing can be made safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible at that distance, and because of its speed or close proximity to the crossing, constitutes an immediate hazard.

- 4) Where a train is in hazardous proximity to a crossing and is plainly visible. See R.I. GEN. LAWS § 31-20-1 (1994).

It is unlawful for anyone in Rhode Island to drive any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See R.I. GEN. LAWS § 31-20-2 (1994).

The State Traffic Commission in Rhode Island and local authorities with the approval of the state traffic commission have the authority to designate a highway-rail crossing as particularly dangerous and erect a STOP sign at the crossing. At any crossing where a STOP sign has been installed, motorists are required to stop within fifteen to fifty feet of the nearest rail of the tracks and may only proceed after exercising due care. See R.I. GEN. LAWS § 31-20-3 (1994).

Rhode Island's basic speed rule may be found at § 31-14-1. Consistent with the requirements of that rule, drivers are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See R.I. GEN. LAWS § 31-14-3 (1994).

Motorists in Rhode Island are prohibited from driving to the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See R.I. GEN. LAWS § 31-15-7(2) (1994).

SOUTH CAROLINA

South Carolina law prohibits motorists from traversing a highway-rail crossing without first bringing their vehicle to a complete stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers must refrain from passing over the crossing until it can be done safely. These requirements are applicable under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in South Carolina for any motorist to drive any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See S.C. CODE ANN. § 56-5-2710(a)(b) (Law. Co-op. 1993).

The South Carolina Department of Highways and Public Transportation and local authorities with the approval of the Department have the authority to designate a highway-rail crossing as particularly dangerous and may erect a STOP sign at the crossing. At any crossing where a STOP sign is placed, motorists are required to stop within fifteen to fifty feet from the nearest rail and must proceed only upon exercising due care. See S.C. CODE ANN. § 56-5-2715 (Law. Co-op. 1994).

Motorists in South Carolina are prohibited from driving to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See S.C. CODE ANN. § 56-5-1880 (Law. Co-op. 1994).

South Carolina law prohibits motorists from driving at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this rule, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See S.C. CODE ANN. § 56-5-1520 (Law. Co-op. 1994).

It is unlawful in South Carolina to stop, stand or park a vehicle on any railroad track, except when it is necessary to avoid conflict with other traffic, when in compliance with the law or under the direction of a police officer or official traffic control device. See S.C. CODE ANN. § 56-5-2530(A) 1-h (Law. Co-op. 1994). No person may park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing, except while actually loading or unloading property or passengers. See S.C. CODE ANN. § 56-5-2530(3-a) (Law. Co-op. 1994).

SOUTH DAKOTA

The South Dakota Department of Transportation and local authorities with the approval of the Department have statutory authority to designate a highway-rail crossing as particularly dangerous and may place a STOP sign at the crossing. At any crossing where a STOP sign is located, motorists must stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. See S.D. CODIFIED LAWS ANN. § 32-29-7 (1994).

Penalty- A violation of § 32-29-7 is a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-29-7 (1994).

South Dakota law prohibits motorists from driving any vehicle on the left side of the highway when approaching within one hundred feet of or traversing a highway-rail crossing. S.D. CODIFIED LAWS ANN. § 32-26-36 (1994). Also see S.D. CODIFIED LAWS ANN. § 32-26-2 concerning staying to the right when moving over a crossing.

Penalty- Failing to keep to the right of the roadway within one hundred feet of a highway-rail crossing is considered a Class 2 misdemeanor in South Dakota. See S.D. CODIFIED LAWS ANN. § 32-26-36 (1994).

South Dakota law requires motorists to slow to a speed of fifteen miles per hour near a highway-rail crossing when their view is obstructed. A driver's view is considered to be obstructed if, at any time during the last two hundred feet of approach to the crossing, a driver is unable to clearly see any railroad traffic within four hundred feet in each direction from the crossing. See S.D. CODIFIED LAWS ANN. § 32-25-13 (1994).

Penalty - A violation of § 32-25-13 is considered a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-25-13 (1994).

It is unlawful for anyone driving a vehicle in South Dakota to traverse a highway-rail crossing where warning of an approaching train is being given by a clearly visible or audible signal. At any such crossing, motorists must bring their vehicles to a full stop with fifteen to fifty

feet of the nearest rail of the tracks and are forbidden to proceed until it can be done safely. See S.D. CODIFIED LAWS ANN. § 32-29-4 (1994).

Penalty - A violation of § 32-29-4 is considered a Class 2 misdemeanor. See S.D. CODIFIED LAWS ANN. § 32-29-4 (1994).

It is unlawful in South Dakota to stop, stand or park a vehicle on any railroad tracks, except when necessary to avoid conflict with other traffic or when responding to directions from a police officer or traffic control device. See S.D. CODIFIED LAWS ANN. § 32-30-6.1 (1994).

Penalty - A violation of both §§ 32-29-4 and 32-30-6.2 is a petty offense. See S.D. CODIFIED LAWS ANN. §§ 32-29-4, 32-30-6.2 (1994).

TENNESSEE

All drivers in Tennessee are required to stop within fifteen to fifty feet of the nearest rail of the tracks at any highway-rail crossing and may not proceed over the crossing until it can be done safely. These requirements apply under any of the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within approximately fifteen hundred feet of the crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is clearly visible.

It is unlawful in Tennessee for any person to drive any vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See TENN. CODE ANN. § 55-8-145(a)(b) (1994).

Penalty - A violation of the above stated requirements is considered a Class C misdemeanor. See TENN. CODE ANN. § 55-8-145(c) (1994).

The Tennessee Department of Transportation and local authorities with the approval of the Department have statutory authority to designate a highway-rail crossing as particularly dangerous one and may require a STOP sign be erected at the crossing. At any such crossing, motorists are required to bring their vehicles to a complete stop within fifteen to fifty feet of the nearest rail of the tracks and may proceed only while exercising due care. See TENN. CODE ANN. § 55-8-146(a) (1994).

Penalty- Failing to comply with any of the provisions of § 55-8-146 is considered a Class 2 misdemeanor in Tennessee. See TENN. CODE ANN. § 55-8-146(c) (1994).

It is unlawful in Tennessee for anyone to stop, stand or park a vehicle within fifty feet of the nearest rail of the tracks at a highway-rail crossing, except where stopping, standing or parking is necessary to avoid conflict with other traffic or under the direction of a police officer or traffic

control device. These requirements are only applicable outside the limits of an incorporated municipality in Tennessee. See TENN. CODE ANN. § 55-8-160(a) (1994).

Penalty - Failure to comply with any provision of § 55-8-160 is considered a Class C misdemeanor. See TENN. CODE ANN. 55-8-160(d) (1994).

TEXAS

When approaching a highway-rail crossing in Texas, all motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed over the crossing until it may be done safely. These requirements apply at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating that a train is approaching or passing.
- 3) Where a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible. See TEX. REV. CIV. STAT. ANN. art. 6701d § 86 (West 1994).

The Texas State Highway and Public Transportation Commission (formerly the Highway Commission, the name was changed by statute and codified at art. 6663), and local authorities with appropriate jurisdiction are "...authorized to designate a highway-rail crossing as a particularly dangerous one and to erect STOP signs or other standard [*italics mine*] traffic-control devices thereat." At any such crossing, motorists are required to stop their vehicles within fifteen to fifty feet of the nearest rail of the tracks and may not proceed except upon exercising due care. See TEX. REV. CIV. STAT. ANN. art. 6701d § 87 (West 1994).

No vehicle in Texas may be driven to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See TEX. REV. CIV. STAT. ANN. art. 6701d § 57 (West 1994).

It is unlawful for anyone to stop, stand or park a vehicle on a railroad track, except when it is necessary to avoid conflict with other traffic, when complying with the law or when following the directions of a police officer or traffic control device. See TEX. REV. CIV. STAT. ANN. art. 6701d § 95 (West 1994). Except to temporarily load or unload passengers or merchandise, no one in Texas may park a vehicle, whether occupied or not, within fifty feet of the nearest rail of a highway-rail crossing. See TEX. REV. CIV. STAT. ANN. art 6701d § 95 (West 1994).

It is unlawful for a person to drive a vehicle on a highway at a speed greater than that which is reasonable and prudent under the existing circumstances. Consistent with the prohibition concerning speed, the driver of any vehicle must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See TEX. REV. CIV. STAT. ANN. art 6701d § 166 (West 1994).

UTAH

Utah law prohibits any person from operating a vehicle at a speed other than what is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. This prohibition applies when approaching and crossing a highway-rail crossing. See UTAH CODE ANN. § 41-6-46(1) (1994).

When operating a vehicle approaching a highway-rail crossing, motorists are required to come to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may not proceed until it is safe to do so. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is being given by an electrical or mechanical signal.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where a train approaching within approximately fifteen hundred feet of a crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) When a train is in hazardous proximity to a crossing and is plainly visible.

In Utah, it is unlawful for any person to drive any vehicle through, around or under a crossing gate or barrier that is closed or is in the process of being opened or closed. See UTAH CODE ANN. § 41-6-95(a)(b) (1994).

Utah prohibits motorists from driving a vehicle over a crossing if there is not sufficient room on the other side of the crossing to accommodate their vehicles without obstructing the passage of other vehicles, pedestrians or trains, even if a traffic control signal is giving an indication to proceed. See UTAH CODE ANN. § 41-6-109.10 (1994).

No vehicle in Utah may be operated on the left side of the roadway when approaching within one hundred feet of a highway-rail crossing unless otherwise indicated by a traffic control device or a law enforcement officer. See UTAH CODE ANN. § 41-6-58 (1994).

VERMONT

Vermont law requires motorists, when approaching a highway-rail crossing, to bring their vehicles to a stop within fifteen to fifty feet of the nearest rail of the tracks. Moving over the crossing is forbidden unless it can be done safely. These requirements apply at highway-rail crossings under the following conditions:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) Where a train approaching within eighty rods (thirteen hundred twenty feet) of the crossing is emitting a signal audible at that

distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.

- 4) When a train is in hazardous proximity to a crossing and is plainly visible.
- 5) Where a STOP sign has been erected. See § 1006 pertaining to regulations concerning STOP signs at highway-rail crossings.

It is unlawful in Vermont for any person to drive any vehicle through, around or under any crossing gate or barrier while it is closed, or is in the process of being opened or closed. See VT. STAT. ANN. tit. 23, § 1071(a)(b) (1994). Also see tit. 23, § 1006.

Vermont's § 1071 differs from other laws regulating stops at highway-rail crossings. Part (c) of the pertinent section states "Nothing in this section prohibits a person from operating a motor vehicle across the tracks of a railroad at grade while a mechanical warning signal is in operation, provided he first brings the vehicle to a full stop and reasonably ascertains that the tracks can be crossed safely." See VT. STAT. ANN. tit. 23, § 1071(c) (1994).

In Vermont, the Traffic Committee has the authority to designate a highway-rail crossing as particularly dangerous and the agency of transportation (Department of Highways) shall erect a STOP sign at any such crossing. See VT. STAT. ANN. tit. 23, § 1006 (1994).

It is unlawful for any vehicle to be driven to the left side of the center of the roadway in overtaking and passing another vehicle when approaching within one hundred feet of or traversing a highway-rail crossing. See VT. STAT. ANN. tit. 23, § 1035(b) (1994).

Vermont prohibits persons from driving a vehicle on a highway at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, drivers are required to drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See VT. STAT. ANN. tit. 23, § 1081(d) (1994).

VIRGINIA

Except within the limits of cities or towns, Virginia law requires drivers of motor vehicles when approaching a highway-rail crossing to come to a full stop within fifteen to fifty feet of the nearest rail of the railroad and not proceed over the crossing until it can be done safely. These regulations are applicable under the following conditions:

- 1) Where warning of an approaching train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) When a train is approaching a highway-rail crossing and is emitting signals within a distance of three hundred to six hundred yards from the crossing. See code § 56-414 for whistle and horn requirements in the chapter on Warning Device - Train Borne.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible.

Virginia law prohibits drivers of all vehicles from driving through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See VA. CODE ANN. § 42.2-885 (Michie 1994).

Virginia law expressly prohibits drivers from disobeying a clearly visible or audible railroad crossing signal when giving warning of the immediate approach of a train at a highway-rail crossing. See VA. CODE ANN. § 46.2-884 (Michie 1994).

Virginia law makes it an offense of reckless driving when any driver overtakes or passes another vehicle at any highway-rail crossing, unless permitted to do so by a traffic light or law enforcement officer. See VA. CODE ANN. § 46-2-858 (Michie 1994).

WASHINGTON

Washington law requires any person driving a vehicle approaching a highway-rail crossing to bring their vehicle to a stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers may not proceed over the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of an approaching train is given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating an approaching or passing train.
- 3) Where an approaching train is in hazardous proximity to a crossing and the train is plainly visible.

Washington law expressly prohibits persons from driving their vehicle through, around or under any crossing gate or barrier that is closed or is being opened or closed. See WASH. REV. CODE ANN. 46.61.340 (West 1994).

Washington law prohibits the stopping, standing or parking of a vehicle on a railroad track or within fifty feet of the nearest rail of the track except when it is necessary to avoid conflict with other traffic or when in compliance with the law or the direction of a police officer or an official traffic control device. In the case of the prohibition against parking within fifty feet of the nearest rail, an exception is made for the temporary loading or unloading of property or passengers. See WASH. REV. CODE ANN. § 46.61.570(1)(c) (West 1994).

The Washington State Department of Transportation and local authorities within their respective jurisdictions have statutory authority to designate a highway-rail crossing as particularly dangerous and may erect STOP signs at the crossing. At any crossing where a STOP sign has been erected, all drivers must bring their vehicles to a full stop within fifteen to fifty feet of the nearest rail of the tracks and may move over the crossing upon exercising due care. See WASH. REV. CODE ANN. 46.61.345 (West 1994).

Washington law expressly prohibits any person from driving a vehicle at a speed greater than that which is reasonable and prudent given the present conditions and with regard to the actual and potential hazards. Consistent with this prohibition, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See WASH. REV. CODE ANN. §46.61.400(3) (West 1994).

WEST VIRGINIA

West Virginia law requires any person driving a vehicle approaching a highway-rail crossing to bring the vehicle to a full stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers must not proceed through the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of train is being given by a clearly visible electrical or mechanical device.
- 2) Where a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible from that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to a crossing and is plainly visible.

It is unlawful in West Virginia for any person to drive a vehicle through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See W. VA. CODE § 17C-12-1(a)(b) (1994).

West Virginia law prohibits any driver from driving to the left side of the roadway when approaching within one hundred feet of or traversing any highway-rail crossing. See W. VA. CODE § 17C-7-6(a) (1994).

West Virginia law prohibits anyone from stopping, standing or parking a vehicle within fifty feet of the nearest rail of a railroad crossing. See W. VA. CODE § 17C-13-3(a) (1994).

It is unlawful for anyone in West Virginia to drive a vehicle at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See W. VA. CODE § 17C-6-1© (1994).

WISCONSIN

Wisconsin expressly prohibits drivers from driving on or over a highway-rail crossing when any of the following circumstances exist:

- 1) Where a signal to stop is being given by a traffic officer or railroad employee.
- 2) Where any warning device is giving a signal to stop, except when the driver of a vehicle, after complying with the stop signal, finds that no train is approaching. In that case, the driver may proceed.

It is unlawful for the driver of a vehicle to drive through, around or under any crossing gate or barrier that is closed or is in the process of being opened or closed. See WIS. STAT. § 346.44 (1993).

Wisconsin prohibits vehicles from overtaking and passing any other vehicle proceeding in the same direction within one hundred feet of or traversing any highway-rail crossing, unless the roadway is of sufficient width for two or more lines of vehicles to lawfully proceed simultaneously or unless the driver is directed to pass by a traffic officer. See WIS. STAT. § 346.10(1) (1994).

Wisconsin law prohibits drivers from driving a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, drivers must drive at an appropriately reduced speed when approaching and crossing a highway-rail crossing. See WIS. STAT. § 346.57(3) (1994).

It is unlawful to stop or leave standing any vehicle, whether occupied or not, and whether temporary or otherwise, within twenty-five feet of the nearest rail of a highway-rail crossing. See WIS. STAT. § 346.52(1) (1994).

Wisconsin law requires every operator of a motor vehicle approaching a highway-rail crossing to stop the vehicle within ten to thirty feet from the nearest rail. See WIS. STAT. § 346.46(3) (1993).

WYOMING

Wyoming law requires any driver approaching a highway-rail crossing to bring their vehicle to a stop within fifteen to fifty feet of the nearest rail of the tracks. Drivers are not to proceed through the crossing until it can be done safely. These requirements are applicable at highway-rail crossings under the following circumstances:

- 1) Where warning of the immediate approach of a train is given by a clearly visible electrical or mechanical device.
- 2) When a crossing gate is lowered or a flagman is giving a signal indicating the approach or passage of a train.
- 3) When a train approaching within approximately fifteen hundred feet of a highway-rail crossing is emitting a signal audible at that distance and, because of its speed or close proximity to the crossing, constitutes an immediate hazard.
- 4) Where a train is in hazardous proximity to the crossing and is plainly visible.

Wyoming law prohibits drivers from driving through, around or under any crossing gate or barrier that is closed or is being opened or closed. See WYO. STAT. 31-5-510 (1994).

No vehicle in Wyoming may be driven to the left side of the roadway when approaching within one hundred feet of or traversing a highway-rail crossing. See WYO. STAT. § 31-5-205(a) (1994).

Wyoming law prohibits anyone from driving a vehicle on a highway at a speed greater than that which is reasonable and prudent under the conditions present and with regard to the actual and potential hazards. Consistent with this prohibition, everyone must drive at a safe and reduced speed when approaching and crossing a highway-rail crossing. See WYO. STAT. 31-5-301(a) (1994).

It is unlawful in Wyoming for any person to stop, stand or park a vehicle on any railroad track, except when it is necessary to avoid conflict with other traffic or when complying with the law or directions of a police officer or a traffic control device. See WYO. STAT. 31-5-504(H) (1994). Wyoming also prohibits anyone from parking a vehicle within fifty feet of the nearest rail of a highway-rail crossing, except temporarily to load or unload property or passengers. See WYO. STAT. 31-5-504(iii-A) (1994).

CHAPTER 10: TRESPASSING

CHAPTER OVERVIEW

Trespassing on railroad property and facilities has become a more serious problem in recent years. Current statistics provided by the Federal Railroad Administration indicate a total of 529 people killed and 452 people injured during the 1994 calendar year. It is against the law in every state to trespass on private property without permission of the owner or without having an official reason. As such, all states list unlawful or criminal trespass as a crime with minimal punishments.

One interesting example of legislative efforts undertaken to curb unlawful trespassing on railroad property in other parts of the world comes from Canada. The Canadian House of Commons enacted an amendment to the Railway Safety Act in May of 1994 making trespassing on railroad property a federal law and added a stiff punishment. If a corporation is found guilty of violating the Canadian trespass law, it will be subject to a fine not exceeding two hundred thousand dollars. In the case of an individual, the punishment may be a fine not exceeding ten thousand dollars, a term of imprisonment not to exceed one year or both.

This chapter provides a state-by-state listing of trespassing laws as they pertain to railroad property and equipment only. In the majority of states, trespassing is found in sections of the codes concerned with property crimes and general offenses. A number of states expressly forbid trespassing on railroad property and facilities, and codify it in sections concerned with railroads or utilities. As in other chapters, the relevant code sections are included.

STATE LAWS AND REGULATIONS AND PENALTIES

ALABAMA

Any person in Alabama who knowingly enters or remains unlawfully in or upon premises is guilty of a criminal trespass in the third degree - a violation. See ALA. CODE § 13A-7-4 (1994). Also see section 13A-7-3 which defines criminal trespass in the second degree as a Class C misdemeanor if the premises are fenced or otherwise enclosed.

Section 13A-7-1 defines "premises" and includes any railroad box car or other railroad equipment in the definition. See ALA. CODE § 13A-7-1 (1994).

ALASKA

Alaska has no trespass regulations or laws specifically targeted to railroad property or equipment.

ARIZONA

State law in Arizona makes it a third degree crime for a person to knowingly enter or remain unlawfully on the railroad right-of-way, the storage or switching yards or rolling stock of a railroad company. The section does not specify a range of punishment. See ARIZ REV. STAT. ANN. § 13-1502 (1994).

ARKANSAS

Arkansas law prohibits any person from using any railroad track as a common highway for horses, cattle or vehicles. Upon conviction, the person may be fined a sum of not more than twenty-five dollars for each offense and may be imprisoned for a period not exceeding 30 days. See ARK. CODE ANN. § 23-12-803 (1994).

It is unlawful for anyone in Arkansas to board any passenger, freight, or other railway train, whether moving or standing still for any purposes without intending to become a passenger, and without lawful business, and with the intent to obtain a free ride. If convicted of such an offense, the punishment shall be a fine of not less than one dollar or more than ten dollars. See ARK. CODE ANN. § 23-12-802 (Michie 1994).

CALIFORNIA

It is unlawful in California for anyone to enter or remain upon the property of any railroad where entry, presence or conduct upon the property interferes with or interrupts the safe and efficient operation of any locomotive. A violation of this section is a misdemeanor under California law. See CAL. [PENAL] CODE § 369i (West 1994).

COLORADO

Colorado law prohibits anyone from driving a snowmobile upon the right-of-way of any operating railroad in the state, except at grade crossings. A violation is a misdemeanor and is punishable by a fine of twenty-five dollars. See COLO. REV. STAT. § 33-14-112 (1994).

CONNECTICUT

Any person in Connecticut who enters or remains in a building knowing he is not licensed to do so is guilty of a criminal trespass in the second degree - a class B misdemeanor. A railroad car is included in the definition of "building". See CONN. GEN. STAT. §§ 53a-100 -108 (1994)

DELAWARE

It is unlawful for any person, other than those connected with the railroad, to walk along the tracks, except when the tracks are laid along a public road or street. No person may lead or drive any horse or other animal upon railroad property within the fences and guards other than at farm crossings. Violation results in a ten dollar penalty in addition to all damages which are sustained thereby to the aggrieved party. See DEL. CODE ANN. tit. 2, § 1811 (1994).

DISTRICT OF COLUMBIA

The District of Columbia has no trespass regulations or laws specifically targeted to railroad property or equipment.

FLORIDA

It is unlawful for anyone in Florida to enter or remain in any structure or conveyance without being authorized to do so. Whoever does so commits the offense of trespass - a misdemeanor or the second degree. Florida law includes a railroad car in its definition of a conveyance. See FLA. STAT. ANN. §§ 810.08 -.011 (West 1994).

GEORGIA

Georgia law states that any person intruding unlawfully upon the tracks of a railroad without consent is guilty of a misdemeanor. See GA. CODE ANN. § 46-8-380 (1994).

A person is guilty of criminal trespassing when he knowingly and without authority:

- 1) Enters upon the land or premises of a railroad or into a railroad car.
- 2) Enters a railroad car after being notified by the owner that such entry is forbidden.
- 3) Remains upon the land after being told to leave.

Violation of this section is a misdemeanor. See GA. CODE ANN. § 16-7-21 (1994).

HAWAII

Hawaii has no trespass regulations or laws specifically targeted to railroad property or equipment.

IDAHO

Idaho has no trespass regulations or laws specifically targeted to railroad property or equipment.

ILLINOIS

Illinois has a prohibition against trespassing on railroad property but outlines several exceptions when unlawful trespass may not apply. It is prohibited for anyone to walk, drive or ride along the right-of-way or rail yard of any railroad. Unlawful trespass does not apply to passengers on trains, persons entering the property to protect human life, persons crossing at farm crossings and anyone having written permission. See 625 ILCS 5/18c-7503 (1994).

INDIANA

Indiana code specifies that it is a Class B misdemeanor for anyone to drive, walk or ride along the right-of-way or yard of a railroad company at a place other than a public crossing. The code section also defines the terms used and outlines the differences between the various classes of misdemeanors and felonies. See IND. CODE § 8-3-15-3 (1994).

IOWA

Iowa has no trespass regulations or laws specifically targeted to railroad property or equipment.

KANSAS

Kansas has no trespass regulations or laws specifically targeted to railroad property or equipment.

KENTUCKY

A person is guilty of criminal trespass in the third degree if they are on the railroad track, property or right-of-way, other than while passing over the track or right-of-way at a public or private crossing. Anyone doing so is subject to a maximum fine of twenty-five dollars for the first violation, fifty dollars for the second and a maximum fine of one hundred dollars for third and subsequent violations. See KY. REV. STAT. ANN. § 277.350 (Baldwin (1994)).

Kentucky law does not mention railroad property or equipment specifically, but includes "a place where people assemble for public transportation" in its definition of "Building". See KY. REV. STAT. ANN. § 511.010 (Michie 1994).

It shall be a criminal trespass of the third degree for a person to knowingly enter or remain unlawfully upon premises. Criminal trespass in the third degree is a violation. See KY. REV. STAT. ANN. § 511.080 (Michie 1994).

It shall be a criminal trespass of the second degree when a person knowingly enters or remains unlawfully in a building or upon premises as to which notice is given against trespass by fencing or other enclosure. KY. REV. STAT. ANN. § 511.070 (Michie 1994).

LOUISIANA

Louisiana prohibits unauthorized entry to railroad property. An initial conviction under the section brings a fine of not more than five hundred dollars, imprisonment of not more than ninety days or both. A second and any subsequent convictions are punishable by a fine not to exceed five hundred dollars or imprisonment for a term not to exceed six months. See LA. REV. STAT. ANN. § 14:63.6 (West 1993).

MAINE

The State of Maine prescribes a fine of not less than five or more than twenty dollars for anyone who, without right, stands or walks on a railroad track or bridge, or passes over such a bridge. See ME. REV. STAT. ANN. tit. 23, § 7007 (West 1994).

MARYLAND

Maryland has no trespass regulations or laws specifically targeted to railroad property or equipment.

MASSACHUSETTS

Massachusetts prohibits a person from being present, standing, walking or riding a bicycle, snow vehicle, recreational or other vehicle on the right-of-way of a railroad or other property used or controlled by that railroad except at a highway or other authorized grade crossing. Violation brings a fine of one hundred dollars. Any person who violates this section can be arrested without a warrant by law enforcement authorities. See MASS. ANN. LAWS ch. 160, § 218 (Law. Co-op. 1994).

It is unlawful in Massachusetts for anyone to enter or remain or loiter within a station, waiting room, or terminal of a public transportation facility, or upon the platform, stairs, or ground or other premises of a public transportation facility after having been forbidden to do so either by posted notice or by verbal communication from an appropriate official. Punishment is a fine of not more than one hundred dollars. See MASS. ANN. LAWS ch. 161, § 95 (Law. Co-op. 1994).

MICHIGAN

Michigan law prohibits walking, riding, driving or being present on the right-of-way of a railroad or a railroad yard. The law lists a number of exceptions, such as legitimate passengers, railroad employees and authorized representatives of the railroad. A violation of this section is considered a misdemeanor and is punishable by imprisonment for not more than thirty days, a fine of not more than one hundred dollars or both. See MICH. STAT. ANN. § 22.1263 (273) (Law. Co-op. 1993). Also see § 257.1515 for a right-of-way exception for a demonstration snowmobile trail.

MINNESOTA

Minnesota law makes it a misdemeanor to trespass or permit animals under one's control to trespass upon a railroad track. See MINN. STAT. § 609-605.

MISSISSIPPI

Mississippi has no trespass regulations or laws specifically targeted to railroad property or equipment.

MISSOURI

It is unlawful for anyone to walk upon the track of a railroad in Missouri, except at a crossing. Violation of this section is considered a trespass. See MO. REV. STAT. § 389.650(6) (1993).

MONTANA

Montana has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEBRASKA

Nebraska has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEVADA

Nevada has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEW HAMPSHIRE

Any person in the state who enters upon any railroad property without license or privilege to do so shall be guilty of criminal trespass. See N.H. REV. STAT. ANN. § 381:14 (1993). Also see § 635:2 for a definition of criminal trespass.

NEW JERSEY

It is unlawful in New Jersey for anyone to walk upon the tracks of any railroad. Any person so doing will be deemed to have contributed to any injury sustained and may not recover damages. See N.J. REV. STAT. § 48:12-152 (1993). Also see § 39:3C-19 for prohibition against the operation of a snowmobile upon a railroad right-of-way.

New Jersey law prohibits anyone from riding, leading or driving any cattle, horses or other animals upon any railroad protected by fences or guards, other than at farm crossings, without the consent of the railroad company. A violation is a civil penalty and brings a forfeit of ten dollars and all damages to the railroad company for each offense. See N.J. REV. STAT. § 48:12-47 (1993).

NEW MEXICO

New Mexico has no trespass regulations or laws specifically targeted to railroad property or equipment.

NEW YORK

New York prohibits the operation of snowmobiles on railroad property except at the crossing of streets or highways, or at farm or forest crossings. See N.Y. [R.R.] § 83-a (McKinney 1994).

NORTH CAROLINA

North Carolina has no trespass regulations or laws specifically targeted to railroad property or equipment.

NORTH DAKOTA

North Dakota has no trespass regulations or laws specifically targeted to railroad property or equipment.

OHIO

It is unlawful for any person to draw, drive or cause to be moved any vehicle on or between the rails or tracks of a railroad. Violation of this section is a minor misdemeanor.

No person may climb, jump, step or stand upon a locomotive, engine or car upon the track of a railroad without permission. Violation is a minor misdemeanor. See OHIO REV. CODE ANN. §§ 4999.01 -.02 (Baldwin 1994).

Ohio law makes it a criminal offense - a misdemeanor of the fourth degree - for anyone to knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes, or hours, when such offender knows he is in violation of any such restriction or is reckless in that regard. See OHIO REV. CODE ANN. § 2911.21 (Anderson 1994).

OKLAHOMA

It is unlawful for anyone without authority to ride upon a train in Oklahoma. Violation of this section is a misdemeanor. See OKLA. STAT. tit. 21, § 1365 (1994).

OREGON

Oregon has no trespass regulations or laws specifically targeted to railroad property or equipment.

PENNSYLVANIA

Pennsylvania has no regulations or laws specifically targeted to railroad property or equipment.

RHODE ISLAND

Rhode Island forbids any person to stand or walk on a railroad right-of-way without authorization, except for when crossing at a highway or other authorized crossing. Violation may bring a fine of not more than one thousand dollars, imprisonment for not more than one year, or both. Any person violating this section may be arrested without a warrant by a law enforcement officer. See R.I. GEN. LAWS § 11-36-6 (1994).

SOUTH CAROLINA

It is a misdemeanor offense in South Carolina for anyone to, without right, loiter or remain within a station house of a railroad or upon the platform or grounds adjacent to such station after having been requested to leave by an authorized railroad official or employee. If convicted the penalty imposed shall be a fine of not more than fifty dollars or confinement in the county jail, or a work requirement of a chain gang for not more than thirty days. See S.C. CODE ANN. § 58-17-4110 (1993).

SOUTH DAKOTA

South Dakota has no trespass regulations or laws specifically targeted to railroad property or equipment.

TENNESSEE

Tennessee has no trespass regulations or laws specifically targeted to railroad property or equipment.

TEXAS

It is unlawful in Texas for anyone to enter or remain on railroad property, knowing that it is railroad property. An offense committed under this section is a Class C misdemeanor. See TEX. PENAL CODE ANN. § 28.07 (West 1994).

UTAH

Utah has no trespass regulations or laws specifically targeted to railroad property or equipment.

VERMONT

It is unlawful in Vermont for any person to, without right, loiter, or remain in a depot, platform, approaches or grounds adjacent to any depot or platform, after being requested to leave by law enforcement authorities. The penalty for such an offense under the statute is a fine of not less than two-dollars or more than twenty dollars. See VT. STAT. ANN. tit. 30, § 1649 (1994).

All persons in Vermont are forbidden to ride, lead or drive a horse or other animal, or operate a vehicle or snowmobile upon any railroad, other than at road or farm crossings, without the consent of the affected railroad. Punishment is a civil penalty of a forfeit not more than fifty dollars to be recovered by the affected railroad plus payment for any damages sustained by the railroad. See VT. STAT. ANN. tit. 30, § 1478 (1994).

VIRGINIA

It is unlawful in Virginia for anyone to enter upon the track of a railroad other than to pass over the track at a public or private crossing without the consent of the railroad company, or person operating the railroad.

It shall be a Class 4 misdemeanor for the first violation. If a second violation occurs within two years of the first violation, it is punishable as a Class 3 misdemeanor. A third violation within two years of a second, is punishable as a Class 1 misdemeanor. See Va. Code Ann. § 18.2-159 (Michie 1994).

WASHINGTON

Washington has no trespass regulations or laws specifically targeted to railroad property or equipment.

WEST VIRGINIA

It is unlawful in West Virginia for anyone to trespass upon any railroad property in the state, except when driving across a public, private or farm crossing. Violation of this section is a misdemeanor and punishment shall be a fine not to exceed twenty-five dollars or imprisonment in the county jail for a period of time not to exceed thirty days. See W. VA. CODE § 61-3-43 (1994).

WISCONSIN

- 1) "No person, other than a licensee or authorized newspaper reporters or those connected with or employed upon the railroad, shall walk, loiter or be upon or along the track of any railroad"; and,
- 2) "Each railroad corporation shall post notices containing substantially the provisions and penalties of this section, in one or more conspicuous places in or about each railroad station." See WIS. STAT. § 192.32 (1993).

WYOMING

Wyoming has no trespass regulations or laws specifically targeted to railroad property or equipment.

CHAPTER 11: VANDALISM

CHAPTER OVERVIEW

Every state has a law against the defacing and destruction of private property. Not every state lists a law or regulation specifically concerning railroad property. This chapter presents a state-by-state survey of the laws and regulations concerning acts of vandalism against railroad property, warning devices and equipment, along with any prescribed punishments. Each state regulation is accompanied by the appropriate citation.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama law lists no applicable statute.

ARIZONA

No person shall, without lawful authority, attempt to alter, deface, injure, knock down or remove any official traffic control device, any railroad sign or signal, or any inscription, shield or insignia thereon, or any part thereof. See ARIZ. REV. STAT. ANN. § 28-649 (1994).

ARKANSAS

It is a misdemeanor for any person who, without lawful authority, alters, defaces, mutilates, destroys or knocks down a railroad crossing sign or signal. A first violation brings a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment for not more than ten days. See ARK. CODE ANN. § 27-52-101 (1994).

It is unlawful in Arkansas for any person to willfully perpetrate an act whereby any building, construction, or work of any railroad corporation in the state, or any engine, machine, structure, or any matter or thing appertaining to the corporation shall be stopped, obstructed, injured, impaired, weakened, or destroyed. Upon a finding of guilty of this misdemeanor a person shall be required to forfeit and pay to the affected railroad, treble the amount of damages sustained as a result of the offense. See ARK. STAT. ANN. § 23-12-805(a) (1994).

It is unlawful for anyone in Arkansas to wantonly, maliciously, or mischievously discharge a firearm or throw stones, sticks, clubs, or other missiles at, into, or against any locomotive, railroad car, or street car on any railroad. Upon a finding of guilty, a person may be punished by a fine of not less than twenty-five dollars or more than two-hundred fifty dollars, or by imprisonment in the county jail for not more than three months, or by the imposition of both. See ARK. STAT. ANN. § 23-12-804 (1994).

CALIFORNIA

The California Penal Code makes it a misdemeanor for any person who, absent any authority from the owner, manipulates or in any way tampers or interferes with any air brake or other device, appliance or apparatus in or upon any car or locomotive upon such railroad, or with any switch, signal or other appliance or apparatus used or provided for use in the operation of a railroad. See CAL. [PENAL] CODE § 587a (West 1994).

COLORADO

In Colorado, it is a Class B traffic infraction to alter, deface, injure, knock down, remove or interfere with the effective operation of any official traffic control device, any railroad sign or signal, or any inscription, shield or insignia thereon, or any part thereof. See COLO. REV. STAT. § 42-4-607 (1994).

CONNECTICUT

In Connecticut, a person is guilty of criminal mischief in the second degree for damaging or tampering with the tangible property of a public utility or mode of public transportation, power or communication. Criminal mischief in the second degree is a Class A misdemeanor. See CONN. GEN. STAT. § 53a-116 (1992).

Connecticut law imposes a fine of not more than ten dollars or imprisonment of not more than thirty days or both for any person who without right, removes, throws down, damages or defaces any active or passive warning signs at highway-rail crossings. See CONN. GEN. STAT. § 13b-346 (1992).

DELAWARE

In Delaware, if a person willfully impairs, injures, destroys or obstructs the use of any railroad or any of its works, wharves, bridges, carriages, engines, cars, machines or other property, he must pay to the railroad fifty dollars and be liable for all damages sustained. See DEL. CODE ANN. tit. 21, § 1812 (1992).

It is illegal for anyone to attempt to alter, or alter, damage, deface, injure, twist, knock down, interfere with the operation of, or remove a railroad signal or sign. Violation of this offense will result in a fine of not less than fifty-seven dollars and fifty cents nor more than two hundred-thirty dollars, or imprisonment for not more than ten days or both. Each subsequent offense committed within two years will bring a fine of not less than one hundred-fifteen nor more than four hundred-sixty dollars or imprisonment for a maximum of thirty days. A person found guilty of this offense is also responsible to the state for actual costs incurred in replacing the sign or device. See DEL. CODE ANN. tit. 21, § 4112 (1992).

DISTRICT OF COLUMBIA

It is a crime for anyone in the District of Columbia to maliciously place an obstruction on or near the track of any steam or street railway, or for anyone to displace or injure anything

appertaining to such track, with the intent to endanger the passage of any locomotive or car. A finding of guilt of an offense under this section may subject the person to a term of imprisonment for not more than ten years. See D.C. CODE ANN. § 22-3119 (1994).

If the act or acts described in section 22-3119 cause the death of another, the responsible person is guilty of murder in the first degree. See D.C. CODE ANN. § 22-2402 (1994).

FLORIDA

Florida has a couple of statutes related to vandalism of railroad signals or traffic control devices. A person is guilty of a felony of the third degree for knowingly or willfully interfering with or removing any railroad system used to control railroad operations, any railroad crossing warning devices, or any lantern, light, lamp, torch, flag, fuse, torpedo or other signal used in connection with railroad operations. See FLA. STAT. ANN. § 860.08 (West 1994).

Florida law prohibits anyone from wantonly or maliciously injuring any bridge, trestle, culvert, cattle guard, or other superstructure of any railroad company or salts the track of any railroad for purpose of attracting cattle onto the track, or who actually drives cattle onto the track. A violation is a felony under Florida law. See FLA. STAT. ANN § 860.11 (1994).

No person shall, unless by lawful authority, attempt to alter, deface, injure, knock down or remove any railroad sign or signal, any inscription, shield or insignia on the sign or signal, or any other part thereof. See FLA. STAT. ANN. § 316.0775 (West 1994).

It is unlawful to shoot at, throw any object capable of causing death or great bodily harm, or place any object capable of causing death or great bodily harm in the path of any railroad train, locomotive, car, caboose or other railroad vehicle. The statute lists particular penalties based on specific circumstances. See FLA. STAT. ANN. § 860-121 (West 1994).

GEORGIA

In Georgia, it is unlawful for any person to mutilate, destroy or deface any crossing sign. Violation is a misdemeanor punishable under Georgia law by a fine not exceeding fifty dollars, imprisonment for not more than twelve months, or both. See GA. CODE ANN. § 46-8-196 (1994).

HAWAII

It is unlawful for any person to attempt to alter, deface, injure, knock down or remove any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. See HAW. REV. STAT. § 291C-37 (1994). Also see § 291C-161 as to penalty for violation.

IDAHO

It is a felony in Idaho for any person to maliciously remove, displace, injure or in any way interfere with, change or destroy any part of any railroad property, any track of any railroad, branch or branchway, switch, block or other signal or signaling device, turnout, bridge, viaduct, culvert, embankment, station house or other structure or fixture connected to the railroad. Punishment may be imprisonment for a period of time not exceeding ten years, a fine not exceeding fifty thousand dollars, or both. See IDAHO CODE § 18-6006 (1994).

A person may not attempt to alter, twist, deface, injure, knock down, remove or interfere with the effective operation of any traffic control device, any railroad sign or signal, any inscription, shield or insignia, or any other part of the device or signal. See IDAHO CODE § 49-1420 (1994).

Idaho makes it unlawful to place an obstruction on the rails or track of any railroad or to obstruct any switch, branch, branchway or turnout connected with any railroad. Violation is punishable by imprisonment not exceeding five years in the state prison or not less than six months in the county jail. See IDAHO CODE § 18-6009 (1994).

If such acts result in a death, the offense is a felony and punishment may be imprisonment for a term of not less than five years, but may extend to the natural life of the person responsible. The wrongdoer may also be tried and punished for murder. See IDAHO CODE §§ 18-6010 -6011 (1994).

ILLINOIS

Any person in Illinois found to have removed, taken, stolen, changed, added to, taken from or in any manner interfered with any of the parts or attachments of any locomotive or car, or any plant or property used in or connected with the operation of any locomotive or car is guilty of a Class 4 felony. If any of the actions described above results in death, the person found guilty shall be liable for first degree murder. See 625 ILCS 5/18c-7502 (1994).

Anyone found to have interfered with a railroad sign or signal or who in any way attempts to alter, deface, injure, knock down or remove any railroad sign or signal, any inscription, shield or insignia thereon or any other part thereof shall be guilty of a Class A misdemeanor punishable by a fine of not less than two hundred-fifty dollars in addition to any other penalties imposed. See 625 ILCS 5/11-311 (1994).

INDIANA

Indiana law lists no applicable statute.

IOWA

It is unlawful in Iowa to attempt to alter, or to alter, deface, injure, knock down or remove a railroad sign or signal. A person convicted of such an act is guilty of a serious misdemeanor and can be required to make restitution to the affected jurisdiction. See IOWA CODE § 321.260 (1993).

KANSAS

Kansas law makes it a Class C misdemeanor to tamper with a traffic signal, railroad switching device or other signal device erected or installed for the purpose of controlling or diverting the movement of railroad trains. Tampering is defined as intentionally manipulating, altering, destroying or removing such signals or devices. See KAN. STAT. ANN. §§ 21-3725 -8-1513 (1993).

KENTUCKY

Kentucky law lists no applicable statute.

LOUISIANA

Louisiana law defines throwing stones, missiles or other objects at any train, railway car, or locomotive as criminal mischief and makes the punishment a fine of not more than five hundred dollars, imprisonment for not more than six months in jail or both. It prescribes the same penalty for discharging a firearm at a train, locomotive or railway car. See LA. REV. STAT. § 14:59 (1993).

It is also against the law in Louisiana to give false signals to a person(s) in charge of a locomotive with intent to cause the stopping of the locomotive, train or cars. Violation brings a fine of not less than ten nor more than two hundred dollars, or imprisonment for not more than three months. See LA. REV. STAT. § 14:321 (1993).

MAINE

It is unlawful for anyone to willfully, mischievously or maliciously break the seal upon any freight car, or break and enter into any railroad car, locomotive or work equipment, or to destroy, injure, defile or deface any of the same. If found guilty, punishment may be a fine of not more than five hundred dollars or imprisonment for not more than two years. See ME. REV. STAT. ANN. tit. 17, § 2401 (West 1994).

It is unlawful in Maine to destroy or molest any signal of a railroad corporation or any line, wire, post, lamp or other structure or mechanism used in connection with any signal on a railroad. If found guilty, a person may be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than two years.

No one may alter, change, or in any manner interfere with any safety switch or switch lights on any railroad. This type of offense is a Class E crime. See ME. REV. STAT. ANN. tit. 23, §§ 7010 -7011 (West 1994).

MARYLAND

It is against the law in Maryland to alter, deface, injure, knock down, change the direction of, twist or remove parts of any traffic control device or railroad sign or signal. The statute contains no mention of a penalty. See MD. ANN. CODE art. 21, § 206 (1994).

MASSACHUSETTS

No person may lawfully remove, throw down, injure or deface any grade crossing sign. Violation of this section may result in a fine of not more than ten dollars to be paid to the county, city or town that maintains the sign, or to the commonwealth if the sign is placed and maintained by the Department of Highways. See MASS. GEN. LAWS ANN. ch. 160, § 146 (West 1994).

It is unlawful to intentionally injure, molest or destroy any railroad signal or any line, wire, post or other structure or mechanism used in connection with the signal, or in any way interfere with the proper functioning of the signal. The law also prohibits meddling or tampering with a track or car, or the mechanisms, or apparatus used in the operation of a railroad car. Violation will result in a fine of not more than five hundred dollars, or imprisonment for not more than two years, or both. See MASS. GEN. LAWS ANN. ch. 159, § 103 (West 1994).

It is unlawful to maliciously injure a railroad, or anything pertaining to a railroad, or any material or implements for the construction or use thereof. If found guilty, punishment may be a fine of not more than five thousand dollars, imprisonment for not more than one year, or both. See MASS. ANN. LAWS ch. 160, § 225 (Law. Co-op. 1994).

Massachusetts law prohibits anyone from willfully and maliciously stopping a train or causing a train to stop for the purpose of entering, leaving or delaying the train shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than one month. See MASS. ANN. LAWS ch. 160, § 227 (Law. Co-op. 1994).

It is unlawful for anyone in Massachusetts to use, remove, or tamper with any tools or appliances carried on railroad cars. Punishment shall be a fine of not more than one hundred dollars or by imprisonment for not more than three months, or both. See MASS. ANN. LAWS ch. 160, § 228 (Law. Co-op. 1994).

It shall be against the law in Massachusetts for anyone to willfully obstruct, or aid or abet in obstructing the passage of a railroad engine or car, or to willfully endanger, or aid or abet in endangering, or cause an act with the intent to endanger the safety of persons on a railroad engine or car. Punishment shall be a fine of not more than one thousand dollars or imprisonment for not more than twenty years, or both, and for each offense, a forfeit of treble the amount of damages to the railroad. See MASS. ANN. LAWS ch. 160, § 226 (Law, Co-op. 1994).

MICHIGAN

Michigan prohibits the altering, defacing, knocking down or removal of any railroad signal or any inscription, shield or insignia on the sign or signal, or any other part thereof. A penalty for violation is not described. See MICH. STAT. ANN. § 9.2316 (Law. Co-op. 1993).

Michigan also prohibits tampering with a light or banner attached to or connected with any switch or derauling device. Violation is a misdemeanor punishable by a fine of at least one hundred but not more than five hundred dollars, or by imprisonment of at least ten but not more than sixty days. See MICH. STAT. ANN. § 22.1263 (267) (Law. Co-op. 1993).

It is against the law in Michigan for any person to cause or attempt to cause the derailment of a railroad engine or cars, or track vehicle used on railroad tracks, whether the engine, cars or vehicle are thrown from the track or not, or by any other means, to willfully endanger or attempt to

endanger the lives of persons traveling or working on the railroad. A violation is a felony and subject to imprisonment for life, or at the discretion of the court, any number of years. See MICH. STAT. ANN. § 22.1263(257) (Law. Co-op, 1993).

Michigan law forbids the throwing of a stone, brick, or other missile at a train or track vehicle. A violation of this offense is a misdemeanor punishable by a fine of not less than one hundred dollars, or more than five hundred dollars, or imprisonment for not less than ten nor more than ninety days, or both. See MICH. STAT. ANN. § 22.1263(257)(2) (Law. Co-op. 1993). See also section 28.779 of MSA. See also section 28.611 MSA, concerning malicious destruction of any railroad.

MINNESOTA

It is unlawful for anyone in Minnesota to maliciously injure, remove, displace, deface or destroy the signs or signals that are regulated and mandated by statute at railroad crossings with roads. See MINN. STAT. § 219.30 (1993).

It is a misdemeanor for a person to exhibit a false light or signal or to interfere with a light, signal or sign controlling or guiding traffic on a railroad track. If the person doing same knows that they are risking lives or serious injury or property damage, the violation could be a felony. See MINN. STAT. § 609.851 (1993).

Minnesota law lists a number of crimes against the railroad in one section: Intent to cause derailment by throwing debris on the track or tampering with switches, tracks, etc., is punishable as a felony. Crimes such as creating a foreseeable risk, shooting at a train and throwing objects at a train are punishable as gross misdemeanors. Additional crimes such as placing obstructions on the track or allowing animals on the tracks are punishable as misdemeanors. See MINN. STAT. § 609.85 (1-2-3-4-5-6) (1993).

MISSISSIPPI

Mississippi law lists no applicable statute.

MISSOURI

Missouri law lists no applicable statute.

MONTANA

Montana law lists no applicable statute.

NEBRASKA

Nebraska law prohibits anyone without lawful authority from altering, defacing, injuring, knocking down, or removing any traffic sign, railroad sign or signal, or any part of any such device. See NEB. REV. STAT. § 60-6,129 (1994).

NEVADA

It is unlawful for anyone to attempt to, or alter, deface, knock down or remove any official railroad sign or signal or any inscription thereon. See NEV. REV. STAT. ANN. § 484.289 (Michie 1993).

It is unlawful for anyone in Nevada to willfully obstruct, hinder or delay the passage of any railroad car. The offender is guilty of a misdemeanor. See NEV. REV. STAT. ANN. § 705.450 (Michie 1993).

It is unlawful for anyone in Nevada to tamper with railroad property. "Tampering" is defined as willfully uncoupling or detaching any locomotive, tender or any car of the railroad train, either when standing or in motion on any track, or the releasing of the brake of any railroad car or train, or the putting in motion of any car or train. See NEV. REV. STAT. § 705.480(1a-c) (Michie 1993).

The law in Nevada prohibits anyone from throwing a stone, or rock, or missile, or any substance at any railroad train, car, locomotive or tender, or any part of a train, or to injure or deface or damage the same or any part thereof. See NEV. REV. STAT. ANN. § 705-480(2a-b) (Michie 1993).

Any person violating any provision of section 705-480 is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged, but in no event less than a misdemeanor. See NEV. REV. STAT. ANN. § 193.155 (Michie 1993).

It is unlawful for anyone in Nevada to willfully and maliciously place any obstruction on railroad tracks, or tear up or remove any part or portion of a railroad, or destroy, derange, misplace or injure any rail, switch, block or signaling device, culvert, viaduct, bridge, car tender or engine, or any such thing, or any other act whereby the life and limb of any person may be endangered. Punishment shall be imprisonment for a period of not less than two years or more than twenty years. See NEV. REV. STAT. ANN. § 705.460 (Michie 1993).

NEW HAMPSHIRE

It is unlawful in New Hampshire for a person to purposely damage the property of another. The offender is guilty of criminal mischief. Criminal mischief is a Class B felony if the person causes or attempts to cause a substantial interruption or impairment to transportation. See N.H. REV. STAT. ANN. § 634:2 (1994).

NEW JERSEY

It is unlawful in New Jersey for anyone to impair, injure, destroy or obstruct either the use of a railroad or the property of a railroad. Anyone violating this section shall forfeit to the affected railroad the sum of fifty dollars to be recovered in an action at law in any court having jurisdiction. See N.J. REV. STAT. § 48:12-167 (1993).

New Jersey law prohibits anyone from obstructing a railroad track or injuring, destroying, taking possession of, or removing the rolling stock, or other property of a railroad company, in connection with strike activity. Such an offense is a misdemeanor and punishable by a fine not exceeding five hundred dollars, and possible imprisonment for a period of time not exceeding one year, at the discretion of the court. See N.J. REV. STAT. § 48:12-165(b-c) (1993).

Any person who vandalizes railroad signals or protection devices in New Jersey shall be guilty of a disorderly persons offense. For any subsequent violations, the offender is guilty of a crime of the fourth degree. See N.J. REV. STAT. § 2C:33-14.1 (1993).

NEW MEXICO

New Mexico law lists no applicable statute.

NEW YORK

It is unlawful in New York for a person to throw, shoot or propel a rock, stone, brick, or piece of iron, steel or other metal, or any deadly or dangerous missile or fire bomb at any locomotive or car of a train which is occupied by any person or persons, with intent to cause personal injury or property damage. An offense under this section is a violation unless an offense carrying a higher classification is charged. See N.Y. [R.R.] Law § 53-d (Consol. 1994).

New York law prohibits anyone from interfering with a railroad train by willfully intending to disrupt, delay, or disturb service, by placing any object or objects of any kind on, under or upon the tracks, which does or could cause physical damage to railroad equipment or property, or passengers, or both. An offense under this section is considered a Class D felony unless an offense carrying a higher classification is charged. See N.Y. [R.R.] Law § 53-e (Consol. 1994).

NORTH CAROLINA

North Carolina prohibits the placing of any matter or thing upon, over or near any railroad track, or destroying or tampering with the roadbed, rail or fixtures.

Effective October 1, 1994, the law in North Carolina makes a distinction as to whether the act was done with or without intent to cause injury and punishment is fixed accordingly. If there was intent to cause injury, the violation is a Class 1 felony. If there was no intent, the violation is a Class 2 misdemeanor. See N.C. GEN. STAT. §§ 14-278 -279 (1994).

NORTH DAKOTA

It is unlawful for anyone in North Dakota to tamper with, alter, or damage railroad property, or to exhibit any false lights or signals. Violation is a Class C felony. See N.D. CENT. CODE § 49-10.1-08 (1993).

It is unlawful in North Dakota for any person to cause a substantial interruption of or impairment to any transportation system by:

- a. Tampering with or damaging property;
- b. Incapacitating an operator of such service;
- c. Negligently damaging the tangible property of another by fire, explosives, or other dangerous means.

An offense under this section is considered a Class C felony if the conduct is intentional, and a Class A misdemeanor if the act was done knowingly or recklessly. Otherwise, an offense is considered a Class B misdemeanor. See N.D. CENT. CODE 12.1-21-06 (1993).

OHIO

Ohio law lists no applicable statute.

OKLAHOMA

Oklahoma law prohibits anyone from removing, displacing, injuring or destroying any part of any railroad or railroad equipment, including switches, bridges, viaducts, culverts, station houses and other structures.

Any person convicted of placing an obstruction on the rails or tracks may be imprisoned in the penitentiary for a period of time not to exceed four months or in a county jail for not less than six months. See OKLA. STAT. tit. 21, § 1751 (1)-(2) (1994).

It is unlawful in Oklahoma to mask, alter or remove any light or signal, or willfully exhibit any false light or signal with intent to bring a train into danger. Punishment shall be imprisonment for not less than three nor more than ten years. See OKLA. STAT. tit. 21, § 1778 (1994).

It is a violation of Oklahoma law to, without lawful authority, attempt to or actually alter, deface, injure, knock down or remove any official traffic control device, any railroad sign or signal, or any part thereof. See OKLA. STAT. tit. 47, § 11-207 (1994).

OREGON

It is a crime of criminal mischief in the first degree for any person in Oregon to damage property of a railroad, or to intentionally interfere with the service of a railroad, and to manipulate or rearrange any property of a railroad. Criminal mischief in the first degree is a Class C felony. See OR. REV. STAT. § 164.365 (1994).

It is unlawful for anyone to interfere with a railroad sign without lawful authority by trying to alter, deface, injure, knock down or remove the sign. The offense is a Class B traffic infraction. See OR. REV. STAT. § 810.240 (1994).

PENNSYLVANIA

A person is guilty of felonious criminal mischief in Pennsylvania if he or she intentionally causes pecuniary loss in excess of five thousand dollars, or substantially interrupts public transportation. If the loss is in excess of one thousand dollars, the offense is charged as a misdemeanor of the second degree and, if the loss is in excess of five hundred, the offense is charged as a misdemeanor of the third degree. Otherwise criminal mischief is a summary offense.

Criminal mischief is defined in the statute as the intentional reckless, or negligent damaging of tangible property by fire, explosives or other dangerous means, or tampering with tangible property so as to endanger persons or property, or by causing another to suffer pecuniary loss by deception or threat. See 18 PA. CONS. STAT. § 3304 (1994).

It is unlawful for anyone in Pennsylvania to intentionally or recklessly obstruct a railroad track. The offense is considered a summary offense, or could be considered a misdemeanor of the third degree if the offender fails to move on after warning by a law enforcement officer. See 18 PA. CONS. STAT. § 5507 (1994).

RHODE ISLAND

Any person who unlawfully and intentionally injures, molests or destroys any electric or other signal of a railroad or any part used in connection with that signal may be punished by a fine of up to five hundred dollars or by imprisonment for a period not to exceed two years.

There is another section of the code that deals with the tampering of railroad switches. Violation of the section brings a fine of up to one thousand dollars, by imprisonment for as much as three years or both. See R.I. GEN. LAWS §§ 11-36-4 -13 (1994).

"Every person who shall willfully place upon any railroad track any substance or thing with intent to hinder or impede the passage of any locomotive engine or car over the railroad, or shall willfully do any other act, matter, or thing, with intent to hinder, impede, or interrupt the passage of the locomotive engine or car, or whoever willfully throws into, against, or upon, or puts, places, or explodes, or causes to be exploded, in, upon or near a public highway, building, monument, bridge, railroad track, or car thereon, or vessel, any gunpowder or other explosive substance, or a bombshell, torpedo, or any instrument or package filled or loaded with an explosive substance, with intent unlawfully to destroy or injure such highway, building, monument, bridge, railroad track, car, or vessel, on any person or property, in, on or near such highway, building, monument, bridge, railroad track, car, or vessel, shall be imprisoned not less than two years nor more than twenty years, or be fined not exceeding ten thousand dollars, or both". See R.I. GEN. LAWS § 11-36-1 (1994).

SOUTH CAROLINA

South Carolina law forbids the injuring, molesting or destroying of railroad signals or any part of the signals. If found guilty of this misdemeanor, the punishment is a fine of up to five hundred dollars, imprisonment for a period not to exceed two years or both. See S.C. CODE ANN. § 58-15-860 (Law. Co-op. 1993).

It is unlawful for any unauthorized person in South Carolina to place any explosive substance whatever upon the rail of any railroad. Whoever aids or assists shall be guilty of a misdemeanor and, if convicted, shall be sentenced to pay a fine of not more than one hundred dollars or to imprisonment for a period of time not to exceed thirty days, at the discretion of the court or magistrate. See S.C. CODE ANN. § 58-15-830 (S.C. 1993).

South Carolina law prohibits anyone from willfully participating in or causing an action with intent to obstruct any engine, carriage, or car passing upon a railroad or with the intent to endanger the safety of persons within these vehicles. This offense is a felony, punishable by imprisonment for not more than five years or a fine of not more than five hundred dollars, and a forfeit of treble damages proved to have been sustained to the affected railroad for each offense. See S.C. CODE ANN. § 58-15-820 (S.C. 1993).

SOUTH DAKOTA

In South Dakota, anyone convicted of removing, displacing, injuring or destroying any railroad property is guilty of a Class 6 felony. In addition to railroad property, this section also mentions the track of any railroad, any branch, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture connected with the railroad. See S.D. CODIFIED LAWS ANN. § 49-16A-107 (S.D. 1994).

Anyone who masks, alters or removes a light or signal belonging to a railroad, or who exhibits a false light or signal with the intent of stopping the train is guilty of a Class 4 felony. See S.D. CODIFIED LAWS ANN. § 49-16A-90 (S.D. 1994).

It is a class 6 felony in South Dakota to place an obstruction on the rails or track of a railroad. See S.D. CODIFIED LAWS ANN. § 49-16A-108 (S.D. 1994).

If any person deposits, throws or propels any substance upon a railroad track, or at any vehicles while vehicle is either in motion or stationary, with intent to cause damage, such person is guilty of a class 1 misdemeanor. See S.D. CODIFIED LAWS ANN. § 22-34-27 (S.D. 1994).

TENNESSEE

Tennessee law makes it a class E felony to destroy or interfere with any railroad property. See TENN. CODE ANN. § 39-14-411 (Tenn. 1994).

Tennessee law makes it a class C misdemeanor for any person to obstruct a railway. See TENN. CODE ANN. § 39-17-307a(1) (Tenn. 1994)

TEXAS

It is unlawful for anyone in Texas to dismantle a warning signal at a grade crossing if that warning signal was originally paid for from public funds. The statute defines "warning signal" as a "traffic control device that is activated by the approach or presence of a train, including a flashing light signal, an automatic gate, or a similar device that displays to motorists a warning of the approach or presence of a train." An offense is a Class C misdemeanor. See TEX. REV. CIV. STAT. art. 6370d (West 1995).

"No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof". See TEX. REV. CIV. STAT. art. 6701d, § 37 (West 1995).

It is unlawful in Texas for anyone to throw an object or discharge a firearm or weapon at a train or rail-mounted work equipment, or to tamper with railroad property, or to place an obstruction on a track or right-of-way, or cause in any way the derailment of a train, car, or other railroad property that moves on tracks.

Offenses under this section shall be considered a Class B or C misdemeanor unless a person causes bodily injury to another, in which event the offense is a felony of the third degree. If any offense under this sections causes pecuniary loss, the classification and punishments run as follows: If the amount of loss is fifteen hundred to twenty thousand dollars, the offense is a state jail felony. If the amount of the loss exceeds twenty thousand, but remains less than one hundred thousand dollars, the offense is considered a felony of the third degree. When the loss exceeds one hundred thousand, but less than two hundred thousand dollars, the offense is considered a felony of the second degree. Should the loss be to two hundred thousand dollars or more, the offense is considered a felony of the first degree. See TEX. PENAL CODE ANN. § 28.07 (West 1994). Also see TEX. PENAL CODE § 28.03. (West 1994), concerning disruption to public transportation.

UTAH

Utah law lists no applicable statute.

VERMONT

It is unlawful in Vermont to interfere with, alter, deface, injure, knock down or remove any railroad sign or signal, or any part of that sign or signal. See VT. STAT. ANN. tit. 23, § 1028 (1994).

Any person who tampers with any safety appurtenance or device of a locomotive, passenger train car, freight train car, caboose or other train car may be imprisoned for not more than two years, fined not more than five hundred dollars or both. See VT. STAT. ANN. tit. 13, § 3104 (1994).

VIRGINIA

Virginia makes it a Class 1 misdemeanor to set in motion a locomotive or other rolling stock of a railroad with the intent to commit any crime, malicious mischief or injury. See VA. CODE ANN. § 18.2-147 (Michie 1994).

It is unlawful in Virginia for anyone to maliciously injure, destroy, molest or remove any switch lamp, flag or other signal used by any railroad, or destroy or interfere with the proper working of any signal. If the life of any person is put in peril by such action, the person responsible shall be deemed guilty of a Class 4 felony. In the event of the death of any person because of such action, the responsible person shall be deemed guilty of murder. If such act is done unlawfully but not maliciously, the offender shall be deemed guilty of a Class 1 misdemeanor. See VA. CODE ANN. § 18.2-155 (Michie 1994).

Virginia law makes it a class 4 felony to maliciously obstruct, remove or injure any part of railroad, or urban, suburban or interurban electric railway, or maliciously obstruct, tamper with, injure or remove any machinery, engine, car, trolley, or maliciously open, close, displace, tamper with or injure any switch, switch point, switch lever, signal lever or signal of any such railroad company, whereby the life of any person is placed in peril. If any such act should cause the death of any person, the offender shall be deemed guilty of murder, the degree of which will be determined by a jury or the court. If any such act is committed unlawfully, but without maliciousness, the offender shall be deemed guilty of a Class 6 felony; and if a death results, the offender is deemed guilty of involuntary manslaughter. See VA. CODE ANN. § 18.2-153 (Michie 1994).

It is unlawful in Virginia for anyone to maliciously shoot at, or throw any missile at or against any train or cars of any railroad train, whereby the life of any person on the train or car is put in peril. Any such offense is considered a Class 4 felony. If such shooting or throwing results in the death of any person, the offender shall be deemed guilty of murder, the degree of which shall be determined by a jury or court. If any act under this section is committed unlawfully, but not maliciously, the offender shall be deemed guilty of a Class 6 felony and, in the event a death results from any such act, the offender shall be deemed guilty of involuntary manslaughter. See VA. CODE ANN. 18.2-154 (Michie 1994).

WASHINGTON

"Every person who, in such manner as might, if not discovered, endanger the safety of any engine, motor, car or train, or any person thereon, shall in any manner interfere or tamper with or obstruct any switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railway, or any train, engine, motor, or car on such railway, and every person who shall discharge any firearm or throw any dangerous missile at any train, engine, motor, or car on any railway, shall be punished by imprisonment in a state correctional facility for not more than twenty-five years." See WASH. REV. CODE ANN. § 81.60.070 (West 1994).

It is unlawful for any person, without lawful authority, to attempt to or actually deface, alter, knock down, injure or remove any official traffic control device, railroad sign or signal, or any part thereof. See WASH. REV. CODE ANN. §§ 46.61.080 and 47.36.130 (West 1994).

WEST VIRGINIA

West Virginia law forbids anyone from interfering with any railroad sign or signal. It does not list a penalty. See W. VA. CODE § 17C-3-9 (1994).

WISCONSIN

It is a Class A misdemeanor for any person to intentionally cause damage to a railroad switch, bridge, trestle or tunnel. See WIS. STAT. § 943.07 (1993).

WYOMING

It is unlawful for anyone to cause destruction to, remove or in any way injure any part of a railroad track or its fixtures, or for anyone to tamper with any signal or part of a signal. This includes any bridge, viaduct, culvert, trestle-work, embankment, parapet or other fixture. Violation of any part of this section could result in imprisonment for at least one but not more than twenty years. If any such mischief results in the death of any person, the offender would be deemed guilty of murder in the first or second degree or manslaughter, depending on the nature of the offense. See WYO. STAT. § 37-12-103 (1994).

CHAPTER 12: PRIVATE CROSSINGS

CHAPTER OVERVIEW

Private highway-rail grade crossings are those that are on roadways not open to use by the public nor are they maintained by public authority.

Typical types of private crossings are as follows:

- Farm crossings that provide access between tracts of land lying on both sides of the railroad.
- Industrial plant crossings that provide access between plant facilities on both sides of the railroad.
- Residential access crossings over which the occupants and their invitees reach private residences from another road, frequently a public road paralleling and adjacent to the railroad right-of-way.
- Temporary crossings established for the duration of a private construction project or other seasonal activity.

In some instances, changes in land use have resulted in expanded use of such private crossings to the extent that they have become public crossings as evidenced by frequent use of the general public. This occurs whether or not any public agency accepted responsibility for maintenance or control of the use of the traveled way over the crossing.

There are an estimated 109,881 private highway-rail crossings on the U.S. rail system (Source: *Rail-Highway Crossing Safety, Action Plan Support Proposals*. U.S. Department of Transportation). Casualties and property losses resulting from accidents at these crossings are a continual concern. At present, responsibilities for private crossings are not clear. Usually there exists some kind of an agreement between the land owner and the railroad that governs the use of the private crossing.

STATE LAWS AND REGULATIONS

ALABAMA

Alabama law lists no applicable statute.

ALASKA

Alaska law lists no applicable statute.

ARIZONA

Arizona law lists no applicable statute.

ARKANSAS

Arkansas law lists no applicable statute.

CALIFORNIA

California allows the owner of any lands through which a railroad is constructed to have the number of crossings considered necessary or convenient for ingress or egress from the land. The railroad responsible for building and maintaining such crossings and keeping them safe and passable. The Public Utility Commission is empowered to determine the necessity for these crossings and to prescribe the manner, place and conditions under which the crossings are to be built. The commission is also responsible for the apportionment of costs.

The State may order STOP signs be placed at all farm and private crossings where no automatic gates exist. The signs are not required however, if the Commission determines through a hearing that the sign(s) would constitute an additional safety hazard. See CAL. [PUB. UTIL.] CODE § 7538 (West 1994).

Any person who enters upon or crosses a railroad at any private crossing which is enclosed by bars or gates and fails or neglects to close the gates or bars is guilty of a misdemeanor. See CAL. [PENAL] CODE § 369d (West 1994).

COLORADO

Colorado law lists no applicable statute.

CONNECTICUT

The State Traffic Commission and the Commissioner of Transportation shall prescribe the nature of traffic control devices and measures at each private crossing. The Commissioner of Transportation is empowered to make all necessary orders for the closing of any private crossing. See CONN. GEN. STAT. § 13b-292(d)(e) (1992).

DELAWARE

Delaware law lists no applicable statute.

DISTRICT OF COLUMBIA

District of Columbia law lists no applicable statute.

FLORIDA

Florida requires crossbuck signs be erected at all private highway-rail crossings. See FLA. STAT. ANN. § 351.03 (West 1994).

GEORGIA

Georgia law lists no applicable statute.

HAWAII

Hawaii law lists no applicable statute.

IDAHO

Idaho law lists no applicable statute.

ILLINOIS

Illinois law lists no applicable statute.

INDIANA

Indiana law lists no applicable statute.

IOWA

Iowa requires the railroad to construct and maintain a private farm crossing when a person owns farmland on both sides of the railroad or if tracks of the railroad run between a farm and a public highway, thereby cutting off access to the public highway. The railroad has a duty to construct the crossing at such reasonable place as the owner of the farmland shall designate. See IOWA CODE § 327G.11 (1993).

Iowa law states that a landowner may request in writing more than one private crossing. If the affected railroad refuses to comply with the request within thirty days, the owner may make written application to the Iowa Department of Transportation. The Department of Inspections and Appeals within the Department of Transportation hears the application and makes an order which is subject to review by the Department of Transportation. The decision of the Iowa Department of Transportation is final. See IOWA CODE § 327G.12 (1993).

KANSAS

Whenever any railroad runs through any farm in such a way as to divide it, the railroad, at the request of the owner of the farm, shall construct and maintain a crossing either on, over or under the railroad track.

In the event the railroad refuses or neglects to comply, Kansas law allows the farm owner, through appropriate action, to compel compliance of the railroad. See KAN. STAT. ANN. §§ 66-301-303 (1993).

KENTUCKY

Kentucky law lists no applicable statute.

LOUISIANA

Louisiana law lists no applicable statute.

MAINE

"In a municipality in which a private way is crossed by a railroad crossing, the municipal officers may act as agents for a railroad corporation in collecting maintenance and insurance charges from those persons using that crossing." See ME. REV. STAT. ANN. tit. 23, § 7229 (West 1994).

MARYLAND

The Maryland Secretary of Transportation has statutory authority to construct, reconstruct, improve, widen, relocate or otherwise alter a private road over a railroad. For purposes of this section the conversion of a private grade crossing into a public highway grade crossing is a projection of a public highway over the railroad by the public authority taking jurisdiction. See MD. ANN. CODE art. 8, § 639 (1994).

MASSACHUSETTS

If a railroad lays its track through any private land without having the consent of the owner of the land, separates a portion of the land from another or from a public way and the owner cannot agree with the railroad as to the place or manner in which the owner shall cross, or if a crossing is inconvenient, either party may, in a case which does not involve the abolition of an at-grade crossing, apply to the county commissioners. The county commissioners may order the matter resolved. In no case however, shall the county commissioners order the railroad to construct or maintain a crossing without its consent, unless the railroad is liable by law or by agreement to construct a crossing. See MASS. ANN. LAWS ch. 160 § 109 (1994).

MICHIGAN

A farm crossing in Michigan shall be constructed and maintained by the railroad at the expense of the requesting party.

A railroad can permit the establishment of private crossings on such terms as may be negotiated between the requesting party and the railroad. See MICH. STAT. ANN. § 22.1263 (323) (2)-(3) (Law. Co-op. 1993).

MINNESOTA

Minnesota law provides that the Commissioner of Transportation, by December 31, 1992, shall adopt rules that establish minimum safety standards at all private railroad grade crossings in the state. See MINN. STAT. § 219.165 (1993).

MISSISSIPPI

Mississippi law lists no applicable statute.

MISSOURI

The Division of Transportation of the Department of Economic Development, after receiving application from any person, firm or corporation, has responsibility for determining if an existing or proposed private crossing is or will become utilized by the public to such an extent that is necessary to protect the public safety. If such is found to be the case, the division may order the installation of crossing warning devices and apportion the cost among the parties according to the benefits accruing to each. In the event of that the orders of the division are not complied with, the division may close the private crossing to public use. See MO. REV. STAT. § 389.610 (1993).

MONTANA

Montana law lists no applicable statute.

NEBRASKA

Nebraska law lists no applicable statute.

NEVADA

Nevada law lists no applicable statute.

NEW HAMPSHIRE

When it appears to the New Hampshire Department of Transportation that a private crossing and its adjacent approaches are being used to an extent that it may be considered a public highway, the Department may require the grade crossing to be laid out as a public highway, constructed and equipped as such. The railroad will not be charged with any of the cost involved. See N.H. REV. STAT. ANN. § 373:6-a (1993).

NEW JERSEY

New Jersey places duty upon the railroads to provide and keep in good repair suitable and convenient crossings over, under and across the railroad where it intersects the land of an individual (at a private crossing) and construct and maintain proper cattle guards at all such crossings. See N.J. REV. STAT. § 48:12-49 (1993).

NEW MEXICO

New Mexico law lists no applicable statute.

NEW YORK

New York law allows the Commissioner of Transportation regulatory authority over the new construction of private crossings. The Commissioner may also order alterations to existing ones. Any such private crossings must be located on an existing intercity rail passenger service corridor. If a new private crossing is approved by the Commissioner, he or she may prescribe the manner of the crossing, whether it is to be at-grade or grade separated, the location, the type of warning devices and the apportionment of responsibility for the maintenance thereof.

The statute defines "intercity rail passenger corridor as a continuous railroad route which contains one or more segments of railroad track or tracks where intercity rail passenger service is operation by the national rail passenger corporation" *Amtrak* (italics mine).

The statute also provides a definition for private crossings. "Private rail crossing shall mean a crossing which traverses a railroad track or tracks and may be used by the owner by the owner of the right-of-way, the owner's invitees and others, including the public, but has not been declared or recognized as a public rail crossing by the Commissioner." See N.Y. [R.R.] LAW § 97 (McKinney 1994).

NORTH CAROLINA

North Carolina law lists no applicable statute.

NORTH DAKOTA

North Dakota law lists no applicable statute.

OHIO

Ohio law provides that a person who owns fifteen or more acres of land in one body intersected by a railroad track in such a manner as to preclude freedom of movement by the owner to his land across the tracks may request that the railroad construct, within four months from the date of request, a good and sufficient private crossing. If the railroad neglects to construct the crossing, the landowner may proceed to build it himself. The railroad then becomes liable to the

landowner for all reasonable expense of the construction, not exceeding fifty dollars. See OHIO REV. CODE ANN. §§ 4955.27-.28 (Baldwin 1994).

OKLAHOMA

The railroad is required to build and maintain a causeway or other safe and adequate means for crossing when any person who owns land on both sides of the track makes a request for such a causeway. See OKLA. STAT. tit. 66, § 127 (1994).

OREGON

Oregon law refers to private crossings as "unauthorized crossings." The Public Utility Commission in Oregon has broad authority to regulate these unauthorized crossings. The Commission may order a railroad to install and maintain warning devices at an unauthorized highway-rail crossing and order the public authority in interest to install and maintain STOP signs at and other warning devices in advance of such crossing. The Commission has no authority to authorize the railroad to install automatic or train-activated warning devices. The costs of installation and maintenance of the devices are apportioned to the railroad, in the absence of an agreement to the contrary. See OR. REV. STAT. § 763.220 (1994).

PENNSYLVANIA

Pennsylvania law lists no applicable statute.

RHODE ISLAND

The Public Utilities Commission of Rhode Island has the authority to consent to the establishment of any new private crossing and to order that an existing private crossing be barricaded if found to be dangerous and a hazard to safety. See R.I. GEN. LAWS §§ 39-8-1.3 -1.4 (1994). Also see Section 39-8-1.2 for definition of private crossing.

SOUTH CAROLINA

South Carolina law lists no applicable statute.

SOUTH DAKOTA

South Dakota law provides that the Department of Transportation may order the railroads to construct and maintain a private farm crossing or other causeway when the tracks of the railroad pass through private land leaving a portion of the land on each side of the railroad right-of-way. See S.D. CODIFIED LAWS ANN. § 49-16A-86 (1994).

TENNESSEE

Tennessee law lists no applicable statute.

TEXAS

Texas law lists no applicable statute.

UTAH

Utah law lists no applicable statute.

VERMONT

Vermont law lists no applicable statute.

VIRGINIA

Virginia law lists no applicable statute.

WASHINGTON

Washington law lists no applicable statute.

WEST VIRGINIA

West Virginia law lists no applicable statute.

WISCONSIN

Wisconsin law lists no applicable statute.

WYOMING

Wyoming law lists no applicable statute.

CHAPTER 13: MISCELLANEOUS

CHAPTER OVERVIEW

This chapter is intended to present an overview of a number of different laws and requirements concerning highway-rail crossings not covered within the other chapters.

Not every state has an entry. The entries presented were selected by the author and represent no order of importance.

As in other chapters, the relevant citations are listed in the narrative.

STATE LAWS AND REGULATIONS

COLORADO

Colorado law requires railroads to pay all expenses of keeping public and private crossings planked and in good repair. See COLO. REV. STAT. § 40-24-104 (1994).

Where gates are constructed and maintained at farm crossings, it shall be the duty of the owner or the occupant of the fields or pastures so provided with gates to see that such gates are kept closed when not in use. If it can be shown that any such gate has been left open, the owner or occupant shall be held responsible for stock killed or damaged property. See COLO. REV. STAT. § 40-27-102(3) (1994).

CONNECTICUT

Connecticut law requires a railroad operating in the state to guard its rails by plank or otherwise at its own expense so as to secure a safe and easy way across its road at all highway-rail crossings. The Commissioner of Transportation has the authority, after receiving a complaint, to inspect any crossing at which the railroad is alleged to not be in compliance with this section and may order anything that he/she deems necessary to bring the crossing into compliance. See CONN. GEN. STAT. § 13b-294 (1992).

The Commissioner of Transportation in Connecticut is empowered to make regulations concerning the speed at which locomotives and cars shall cross highways and generally may make any order which he/she deems necessary for the convenience of the public relating to highway-rail crossings or obstruction of the highways by locomotives and cars. Any railroad company which violates any such order shall forfeit to the state fifty dollars for each day the violation occurs. See CONN. GEN. STAT. § 13b-342 (1992).

DISTRICT OF COLUMBIA

If the Mayor of the District of Columbia decides to pave or repave any of the streets over or along which railroad tracks are authorized to be constructed, the affected railroad company is required to assume the expense of the paving and/or the repairs to pavement between the rails and for a distance of two feet on either side of the tracks. See D.C. CODE ANN. § 7-1422 (1994).

IDAHO

Idaho law prohibits pedestrians from passing through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or being open or closed. See IDAHO CODE § 49-710 (1994).

ILLINOIS

At any highway-rail crossing outside the corporate limits of any municipality, the responsibility for clearing such crossings lies with the highway authority having jurisdiction. The highway authority is responsible for the removal of all obstructions to view, such as unauthorized signs and billboards, brush and shrubbery, and must trim all hedges and trees on the highway for a distance of not less than three hundred feet from each side of the crossing. See 605 ILCS 5/9-112 (1994).

INDIANA

Once any grade separation construction is completed, the Indiana Department of Transportation has the responsibility for maintaining the highway and the structures supporting it. The railroad shall have the responsibility to maintain its roadway and track and the structures supporting the same. See IND. CODE ANN. § 8-23-9-44 (Burns 1994).

Every railroad in the state whose road or tracks lie in any public street, road or alley in any city, town or county is responsible to properly grade, plank, grave or asphalt the road and tracks in accordance with the grade and surfacing material of any such street, road or alley.

If the affected railroad company fails to comply with the provisions of this section, the affected city, town or county may do the work themselves after thirty days written notice to the railroad. Having done the work, the unit of local government may recover the costs of doing the work by suit, in which case they may also collect attorney fees or the governmental unit may certify the amount owed to the county auditor and collect the money as a special tax to be collected along with property tax. See IND. CODE ANN. § 8-6-12-1-(2) (Burns 1994).

All gates and bars at farm crossings with railroad tracks are to be constructed, maintained and kept closed by the owner of the farm crossing. See IND. CODE ANN. § 8-4-33-5 (Burns 1994).

IOWA

Every railroad in Iowa is responsible to build, maintain and keep in good repair all construction necessary at highway-rail crossings. The railroad shall be liable for all damages sustained by any person by reason of neglect or violation of the provisions of this chapter. See IOWA CODE § 327F.2 (1993).

KANSAS

"The Board of County Commissioners of each county are authorized to cut all hedge fences, trees and shrubs growing upon the highway right-of-way boundary, within three hundred fifty feet of a highway-rail crossing ... and thereafter keep the same trimmed...". See KAN. STAT. ANN. § 19-2612 (1993).

Individual railroads are responsible to make and keep in good repair all their crossings with public highways. The railroads are responsible for grading, bridges, ditches and culverts that may be necessary to make a safe crossing. All such highway-rail crossings are to be not less than twenty-four feet in width on county roads or twenty feet in width on township roads and must be on the same grade as the track for thirty feet on each side of the center of the track. See KAN. STAT. ANN. § 66-227 (1993).

LOUISIANA

The governing authority of any municipality within which the tracks of a railroad cross a street or alley may require the railroad company to notify the authority in writing before commencing any work on the crossing. See LA. REV. STAT. ANN. § 3701 (West 1993).

MAINE

The Maine Department of Transportation has the authority to designate the highway-rail crossings in the state at which, from all points on the highway within three hundred feet of these crossing, a traveler can have a fair view (emphasis mine) of an approaching train continuously from the time the train is three hundred feet from the crossing until it has passed over the crossing, either under existing conditions or by bushes, trees, fences, signboards or encroachments being trimmed, cut down or removed. See ME. REV. STAT. ANN. tit. 23, § 7222 (West 1994).

When the Department of Transportation deems that trees, bushes or other encroachments are obstructing the view at highway-rail crossings and such a condition is dangerous to travelers, it may order the removal of any such obstacles. See ME. REV. STAT. ANN. tit. 23, § 7234 (West 1994).

The Maine Department of Transportation is authorized to fix a maximum speed limit for trains at highway-rail crossings and no engine or train may be run over the crossing at a speed greater than that fixed by the Department. Any violation of this section may cause a railroad corporation to forfeit not more than one hundred dollars for each violation. See ME. REV. STAT. ANN. tit. 23, § 7220 (West 1994).

MASSACHUSETTS

"If the view of a railroad crossing or highway at-grade is obstructed by standing wood in woodlands, the railroad corporation or ten citizens of a town may petition the county commissioners for the county where such crossing is situated for the removal of such standing wood ...". See MASS. GEN. LAWS ANN. ch. 160, § 150 (1994).

The Massachusetts Department of Transportation, upon petition, and after proper notice to the railroad corporation, may recommend to such railroad corporation any change that it considers proper to the sounding of whistles on locomotives. The Department may, by written order, forbid or regulate the sounding of whistles at any specified highway-rail crossings. See MASS. GEN. LAWS ANN. ch. 160, § 139 (1994).

MISSOURI

All railroads in Missouri are responsible for the maintenance of their right-of-way at highway-rail crossings. The crossing must be kept clear of vegetation, undergrowth or other debris for a distance of two hundred and fifty feet each way from the near edge of the crossing. See MO. REV. STAT. § 389.665 (1993).

NEW YORK

The responsibility of a railroad to maintain and keep in good repair a highway-rail crossing does not terminate upon the abandonment by the railroad of the crossing. Instead, the responsibility continues until the at-grade crossing has been removed and the highway pavement restored by the railroad and/or pursuant to agreements with the railroad by the state or municipality having jurisdiction. If an affected railroad has not removed an abandoned crossing within one year after the date of abandonment, the municipality with jurisdiction may petition the Commissioner of Transportation for an order compelling removal. See N.Y. [R.R.] LAW § 93-a (McKinney 1994).

OKLAHOMA

Every railroad in Oklahoma has a duty to construct a crossing across a public highway and maintain such crossing in good condition for the use by the public. In case any railroad fails to construct or maintain any crossing for thirty days after written notice by the road overseer of any road district, the Council or Board of Trustees of any city or town or fifty petitioners of any city or town, the railroad shall pay to the county, road district, city or town complaining, the sum of twenty-five dollars per day for every day the railroad fails to comply. See OKLA. STAT. tit. 66, § 128 (1994).

SOUTH CAROLINA

South Carolina law requires a railroad whose road is crossed by a highway or other way at-grade within the corporate limits of any city or town to guard and protect its rails by plank, timber or otherwise so as to secure a safe and easy passage across its road. See S.C. CODE ANN. § 58-17-1350 (Law. Co-op. 1994).

TENNESSEE

All railroads in Tennessee are required to maintain or construct a plane with the rails of the railroad and to keep in good repair every public road crossing where the railroads intersect for a distance of ten feet on each side of the railroad track and between the rails. See TENN. CODE ANN. § 65-11-103 (1994).

TEXAS

Every railroad corporation in the state of Texas is required to keep that portion of its roadbed and right-of-way over or across any public county road in proper condition for use by the traveling public. In the event the railroad fails to comply with this requirement within thirty days after receiving written notice to do so from by the overseer of such public road, it shall be liable for a penalty of ten dollars for each week it is in noncompliance. See TEX. REV. CIV. STAT. ANN. art. 6327 (1995).

Railroads are required to keep that portion of their roadbed and right-of-way over or across any public street of any incorporated town or village, in proper condition for the use of the traveling public. In the event the railroad fails to comply with these requirements within thirty days after written notice by the town Marshall of the affected town or village, it will be liable for a penalty of twenty-five dollars for each week it is in noncompliance. See TEX. REV. CIV. STAT. ANN. art. 1151 (1995).

WASHINGTON

Every railroad is required to keep its right-of-way clear of all brush and timber in the vicinity of a railroad grade crossing with a county road for a distance of one hundred feet from the crossing so as to allow a person an unobstructed view in both directions of an approaching train. Likewise, the county legislative authority shall keep their right-of-way clear for one hundred feet in both directions. See WASH. REV. CODE § 36.86.100 (1994).

Every railroad is required to keep its right-of-way clear of all brush and timber in the vicinity of a railroad grade crossing with a state highway for a distance of one hundred feet from the crossing so as to allow a person an unobstructed view in both directions of an approaching train. Likewise, the Washington Transportation Department is responsible to clear their right-of-way in the same manner and for the same distance. See WASH. REV. CODE § 47.32.140 (1994).

The right to fix and regulate the speed of a railway train within the limits of any city or town other than a first class city and at-grade crossings outside the limits of cities and towns is vested exclusively in the utilities and transportation commission. This does not apply to street railways which may now or in the future be operating within the limits of cities and towns. See WASH. REV. CODE § 81.48.030 (1994).

WISCONSIN

Every railroad company owning or operating tracks crossing streets or highways at-grade must keep the surface of the crossings between the tracks and rails and extending to a point four feet on either side of the outside rails, in good condition and in good repair for highway travel. The county board or the common council, village board or town board of the municipality in which

the subject crossing is located may, by resolution, order the affected railroad to pave, plank, repair, change or otherwise improve the crossing.

In the event a railroad fails to comply with any such resolutions within thirty days after service, the affected county board, common council, village board or town board may file a complaint with the Office of the Commissioner of Railroads which shall investigate and make a determination in the matter. See WIS. STAT. § 86.12 (1993).

Every railroad in Wisconsin must keep its right-of-way clear of brush or trees for a distance of at least three hundred thirty feet in each direction from the center of its intersection with any public highway, and for such further distance as is necessary to provide an adequate view of approaching trains. See WIS. STAT. § 195.29(6) (1993).

Wisconsin law provides that any governing body of any city or village or any railroad corporation may make petition to the Office of the Commissioner of Railroads alleging that any railroad crossing of one or more public highways or streets in the city or village is dangerous to human life and that public safety requires a designation of the maximum speed of the train over the crossing(s) of concern. The Office of the Commissioner of Railroads may then by order determine the maximum speed of a train over the crossing based on a determination of what is reasonably required for public safety and consistent with the public need for expeditious passenger and freight service. When the Office has designated the maximum speed of any train over the crossing, the rate of speed becomes the lawful maximum speed and the railroad may not exceed it under penalty of a fine of not less than ten dollars nor more than one hundred dollars. See WIS. STAT. § 192.29 (1994).

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