

TRANSPORTATION CODE  
SUBTITLE Z. MISCELLANEOUS ROADWAY PROVISIONS  
CHAPTER 471. RAILROAD AND ROADWAY CROSSINGS

Sec. 471.001. DUTY TO MAINTAIN CROSSINGS. (a) A railway company shall maintain the part of its roadbed and right-of-way that is crossed by a public street of a Type B general-law municipality in proper condition for use by travelers.

(b) A railway company that does not make needed repairs before the 31st day after the date the municipal marshal gives written notice to the section boss of the section where repairs are needed is liable to the municipality for a penalty of \$25 for each week the railway company does not make needed repairs. The municipality may sue to recover the penalty.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.002. SIGNS AT CROSSINGS. (a) A railway company shall place at each place where its railroad crosses a first or second class public road a sign with large and distinct letters giving notice that the railroad is near and warning persons to watch for railroad cars. The sign must be high enough above the road to permit the free passage of vehicles.

(b) A railway company that does not erect a sign required by Subsection (a) is liable for a resulting injury to a person or resulting damage to property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.003. TELEPHONE SERVICE TO REPORT MALFUNCTIONS OF MECHANICAL SAFETY DEVICES AT CROSSINGS. (a) The Department of Public Safety shall maintain a statewide toll-free telephone service to receive a report of a malfunction of a device, including a signal or crossbar, placed at an intersection of a railroad track and a public road to promote safety.

(b) At each intersection of a railroad track and a public road that is maintained by the state or a municipality and at which a mechanical safety device is placed, the Texas Department of Transportation shall affix on the crossbars of the device the telephone number, an explanation of its purpose, and the crossing number. At each intersection of a railroad track and a public road that is maintained by a political subdivision other than a municipality and at which a mechanical safety device is placed, the political subdivision shall affix on the crossbars of the device the telephone number, an explanation of its purpose, and the crossing number. The Texas Department of Transportation shall provide to the political subdivision the sign or label displaying the telephone number. A railway company shall permit personnel to affix the telephone number on the company's property as required by this subsection.

(c) The Department of Public Safety shall notify the identified railway company of each report of a malfunction received under Subsection (a).

(d) The Department of Public Safety shall maintain a computerized list of each intersection of a railroad track and a public road and of the railroad crossing safety equipment located at each intersection, using crossing numbers compiled by the Texas Department of Transportation.

(e) Not later than the fifth day after the date it places railroad crossing safety equipment in operation at an intersection subject to this section, a state agency or a political subdivision of the state other than a municipality shall notify the Department of Public Safety of:

(1) the location and type of the equipment installed; and

(2) the date it was placed in operation.

(f) The state, an agency or political subdivision of the state, or a railway company is not liable for damages caused by an action taken under this section or failure to perform a duty imposed by this section. Evidence may not be introduced in a judicial proceeding that the telephone service required by this section exists or that the state or railway company relies on the service.

(g) Except as provided by Subsection (d), a state agency is not required to make or retain a permanent record of information obtained in implementing this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.004. WARNING SIGN VISIBILITY AT RAILROAD GRADE CROSSINGS. (a) The department shall develop guidelines and specifications for the installation and maintenance of reflecting material at each unsignaled crossing. The material shall be

affixed to the back and support post of each crossbuck in a manner that reflects light from vehicle headlights to focus attention on the presence of the unsignaled crossing.

(b) The department shall pay the cost of initial installation of reflecting material from money appropriated to the department to maintain grade crossing warning devices. The department or the local jurisdiction responsible for maintaining the roadway at each grade crossing shall pay the maintenance costs of the material.

(c) The state, an agency or political subdivision of the state, or a railway company is not liable for damages caused by an action taken under this section or failure to perform a duty imposed by this section. Evidence may not be introduced in a judicial proceeding that reflecting material exists or that the state or railway company relies on the material.

(d) The department shall adopt rules governing the installation and maintenance of reflecting material at grade crossings.

(e) A railway company shall permit department personnel to affix the reflecting material on the company's property.

(f) In this section:

(1) "Active warning device" means an automatically activated warning device, including a bell, flashing light, gate, or wigwag.

(2) "Crossbuck" means a standard grade crossing warning sign designated as Number R 15-1 and described in the Manual of Uniform Traffic Control Devices issued by the United States Department of Transportation, Federal Highway Administration.

(3) "Department" means the Texas Department of Transportation.

(4) "Grade crossing" means the intersection at grade of a railroad and a roadway constructed and maintained with public money.

(5) "Reflecting material" means material that reflects light so that the paths of the reflected light rays are parallel to those of the incident rays.

(6) "Unsignaled crossing" means a grade crossing not protected by active warning devices.

(7) "Warning device" means a traffic control sign, including an active warning device or crossbuck, the purpose of which is to alert motorists of a grade crossing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.005. DISMANTLING OF WARNING SIGNALS AT RAILROAD GRADE CROSSINGS; OFFENSE. (a) A person may not dismantle a warning signal at a grade crossing on an active rail line, as defined by rule of the Texas Department of Transportation, if the cost of the warning signal was originally paid entirely or partly from public money unless the person:

(1) obtains a permit from the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing; and

(2) pays that governmental entity an amount equal to the present salvage value of the warning signal, as determined by the governmental entity.

(b) The governmental entity shall grant the permit if:

(1) payment is received; and

(2) the entity finds that removal of the warning signal will not adversely affect public safety.

(c) Money received under Subsection (a)(2) shall be deposited in the state treasury.

(d) This section does not apply to a Class I or Class II railroad, as defined by Interstate Commerce Commission regulations.

(e) A person commits an offense if the person violates this section. An offense under this section is a Class C misdemeanor.

(f) The Texas Department of Transportation may adopt rules necessary to administer this section.

(g) In this section:

(1) "Grade crossing" has the meaning assigned by Section 472.004(f).

(2) "Warning signal" means 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.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.006. USE OF BELL AND WHISTLE OR SIREN AT CROSSINGS; OFFENSE. (a) A railway company shall place on each locomotive:

- (1) a bell weighing at least 30 pounds; and
- (2) a steam whistle, air whistle, or air siren.

(b) The engineer in charge of the locomotive shall ring the bell and blow the whistle or siren at least one-quarter mile from the place where the railroad crosses a public road or street. The engineer shall continue to ring the bell until the locomotive has crossed the road or stopped.

(c) The railway company is liable for any damages sustained by a person because of a violation of Subsection (a) or (b).

(d) The engineer in charge of the locomotive commits an offense if the engineer violates Subsection (b). An offense under this subsection is a misdemeanor punishable by a fine of not less than \$5 or more than \$100.

(e) Notwithstanding Subsections (a) and (b), the governing body of a municipality having a population of at least 5,000 may regulate by ordinance the ringing of bells and blowing of whistles and sirens within its limits. Compliance with the ordinance is compliance with those subsections and a sufficient warning to the public at a crossing the ordinance affects.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.007. OBSTRUCTING RAILROAD CROSSINGS; OFFENSE. (a) A railway company commits an offense if a train of the railway company obstructs for more than 10 minutes a street, railroad crossing, or public highway.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$300.

(c) An officer charging a railway company for an offense under this section shall prepare in duplicate a citation to appear in court and attach one copy of the citation to the train or deliver the copy to an employee or other agent of the railway company. The citation must show:

- (1) the name of the railway company;
- (2) the offense charged; and
- (3) the time and place that a representative of the

railway company is to appear in court.

(d) It is a defense to prosecution under this section that the train obstructs the street, railroad crossing, or public highway because of an act of God or breakdown of the train.

(e) The hearing must be before a magistrate who has jurisdiction of the offense in the municipality or county in which the offense is alleged to have been committed.

(f) An appearance by counsel complies with the written promise to appear in court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1023, Sec. 1, eff. Sept. 1, 1999.

Sec. 471.008. FRANCHISE TO OBSTRUCT STREET CROSSING. (a) The governing body of a municipality by ordinance may grant a franchise to a railway company to obstruct a street crossing, other than a crossing of a designated state highway, by a passenger train for the purpose of receiving or discharging passengers, mail, express, or freight for a longer period than specified by Section 472.007.

(b) Section 471.007 does not apply to a street crossing named in an ordinance granting a franchise under this section.

(c) This section does not apply to a municipality having a special charter unless it amends its charter to adopt this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.