

CHAPTER 12: VEGETATION CLEARANCE

CHAPTER OVERVIEW

This chapter is intended to present an overview of laws and regulations covering responsibility for the removal of brush, shrubbery, and trees from the railroad right-of-way within a reasonable distance from the crossing.

If the relevant statute prescribes a penalty, it is listed here. As in other chapters, the relevant citations are listed in the narrative.

STATE LAWS, REGULATIONS AND PENALTIES

ALABAMA

Alabama has no such regulation.

ALASKA

Alaska has no such regulation.

ARIZONA

Arizona has no such regulation.

ARKANSAS

Arkansas law requires all railroads operating within the state to maintain their right-of-way at or around any railroad crossing of a public road or highway free from grass, trees, bushes, shrubs, or other growing vegetation which may obstruct the view of pedestrians and vehicle operators using the public highway.

The maintenance of the right-of-way must be for a distance of fifty feet on each side of the centerline between the rails for the maintenance width and for a distance of one hundred yards on each side of the centerline from the public road or highway for the maintenance length.

Penalty

Any railroad corporation failing or refusing to comply shall be subject to a fine of not less than one hundred dollars or more than five hundred dollars for each violation. Ark. Code Ann. § 23-12-201 (1999).

CALIFORNIA

California has no applicable statute.

COLORADO

Colorado law requires railroads to pay all expenses of keeping public and private crossings planked and in good repair. Colo. Rev. Stat. § 40-24-104 (1999).

CONNECTICUT

If the view of that portion of the tracks of any railroad, crossing a highway at grade, which adjoins such crossing, is obstructed by trees, shrubbery, embankments of earth or structures of any kind, the Commissioner of Transportation may, after proper notice to the railroad company and to the selectmen of the town, mayor of the city or warden of the borough wherein such crossing is located and to the owners of the land adjoining the crossing, conduct a hearing and make such orders for or concerning the removal of any such obstruction as will afford an unobstructed view of the railroad tracks and highway for a distance of at least one hundred and fifty feet in each direction from the crossing. The entire expense occasioned by any order of the Commissioner is to be paid for by the owner of the land upon which the obstruction is located. Conn. Gen. Stat. § 13b-281(Supp. 2002).

DELAWARE

Delaware has no applicable statute.

DISTRICT OF COLUMBIA

District of Columbia has no applicable statute.

FLORIDA

Florida law prohibits the removal, cutting, marring, defacing, or destruction of any trees or other vegetation, either by direct personal action or by causing any other person to take such action, within the rights-of-way of roads located on the State Highway System or within publicly owned rail corridors unless prior written permission has been granted by the Department of Transportation, except where normal tree trimming is required to ensure the safe operation of utility facilities, and such tree trimming is performed in accordance with the provisions of its utility accommodations guide. The Department is required to adopt rules for the implementation of this section to achieve protection of vegetation while at the same time assuring safe utility operations.

Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree. Fla. Stat. § 337.405 (Supp.1999). See also, Sections 775.082 and 775.083, concerning punishment.

GEORGIA

Georgia has no applicable statute.

HAWAII

Hawaii has no applicable statute.

IDAHO

Idaho law requires that the owner of real property be responsible for the removal from his property of any hedge, shrubbery, fence, wall or other sight obstructions of any nature, except public traffic or highway signs, buildings and trees, where these sight obstructions constitute a potential traffic hazard. A sight obstruction shall not extend more than three feet, or less than ten feet, in height above the existing center line highway elevation within the vision triangle of vehicle operators. The boundaries of the vision triangles are defined by measuring from the intersection of the edges of two adjacent highways forty feet along each highway and connecting the two points with a straight line. The sight distance obstruction restriction is also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty feet along the railroad property line when intersecting with a highway.

The failure of the owner to remove the traffic hazard after being notified, within a specified period of time as determined by the Department of Transportation shall constitute a misdemeanor and every day the owner fails to remove the obstruction may be considered a separate and distinct offense. Civil action may be initiated by state or local officials to enforce vision triangle restrictions. Idaho Code § 49-221(2)(3) (Lexis Supp.1999).

ILLINOIS

Every rail carrier operating within the State of Illinois is required to remove from its tight of way at all grade crossings within the State, all brush, shrubbery, and trees as is reasonably practical for a distance of not less than five hundred feet in either direction from each grade crossing. 625 ILCS 5/18c7401 (1999).

INDIANA

Indiana Law requires that all railroad corporations doing business in Indiana must, between July 1 and August 20 in each year, destroy detrimental plants (see Section 15-3-4-1, for definition of detrimental plants), noxious weeds, and rank vegetation growing on lands occupied by the railroad. Ind. Code Ann. § 8-3-7-1 (LexisNexis Supp.2002).

Penalty

Any railroad failing to comply with these requirements will be liable for a penalty of twenty-five dollars. Ind. Code Ann. § 8-3-7-2 (1999).

Each railroad in Indiana shall maintain each public crossing under its control in such a manner that the operator of any licensed motor vehicle has an unobstructed view for fifteen hundred feet in both directions along the railroad right-of-way subject only to terrain elevations or depressions, track curvature, or permanent improvements. However, the Indiana Department of Transportation may adopt rules to adjust the distance of the unobstructed view requirement based on variances in train speeds, number of tracks, angles of highway and rail crossing intersections, elevations, and other factors consistent with accepted engineering practices.

A public crossing equipped with a train-activated crossing gate is exempt from these requirements (a), if the railroad maintains an unobstructed view for at least two hundred fifty feet in both directions along the railroad right-of-way. Ind. Code Ann. § 8-6-7.6-1 (2001)

Penalty

A railroad that violates the provisions of this chapter shall be held liable to the State of Indiana in a penalty of one hundred dollars a day for each day the violation continues subject to a maximum fine of five thousand dollars to be recovered in a civil action at the suit of said state, in the circuit or superior court of any county wherein such crossing may be located. Ind. Code Ann. § 8-6-7.6-2 (2001)

IOWA

Iowa law requires every railroad operating in the state to insure that vegetation on their property which is on or immediately adjacent to the roadbed be controlled so that it does not:

- (1) Become a fire hazard to track-carrying structures.
- (2) Obstruct visibility of railroad signs and signals.
- (3) Interfere with railroad employees performing normal trackside duties.
- (4) Prevent proper functioning of signal and communication lines
- (5) Prevent railroad employees from visually inspecting moving equipment from their normal duty stations. Iowa Code § 327F.27 (1999).

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. Kan Stat. Ann. § 19-2612 (1999).

KENTUCKY

Kentucky has no applicable code section.

LOUISIANA

All railroads in Louisiana are required to maintain their rights-of-way for a length of three hundred feet on each side of the centerline of public road or highway, and for a distance of fifty feet on each side of the centerline between the rails or the width of the operating right-of-way, whichever is shorter. The measurement for grade crossings with multiple tracks shall be from the centerlines of the outside tracks.

All railroad companies in Louisiana shall maintain their rights-of-way at any public road or highway railroad grade crossing that is not protected by an active warning device that includes lights and cross-arms, in such a manner that the vegetation and structures and others obstructions do not obstruct the view of motorists approaching the crossing.

Railroad companies shall cut vegetation and remove structures and other obstructions that obstruct the view of the operator of any motor vehicle approaching any public road or highway railroad grade crossing that is not protected by an active warning devices that includes lights and cross-arms, from either direction, and that are located within the maintenance width (fifty feet), and maintenance length (three hundred feet) of the crossing.

The Department of Transportation and Development may periodically inspect and evaluate all state highway-rail grade crossings on state highways to determine whether such crossings are maintained in compliance with the provisions of this section. If the Department determines that a particular grade crossing is not in compliance with the requirements, the Department shall inform the parish or municipal governing authority in whose jurisdiction the crossing is located, and the respective governing authority shall notify the railroad.

Each parish or municipal governing authority may periodically inspect and evaluate all non-state public road or highway-rail grade crossings located within its jurisdiction to determine whether such grade crossings are maintained in compliance. If a parish or municipal governing authority determines that a particular grade crossing is not in compliance, the governing authority shall notify the respective railroad company.

Notification to a railroad company must be in writing transmitted by certified mail, return receipt requested, to the person listed as the registered agent of the railroad for service of process.

Penalty

Every railroad that fails or refuses to maintain, or to cause a grade crossing to be in compliance with the provisions of this section within fifteen working days after receipt of notification shall be subject to a civil fines of not less than one hundred dollars for each day of the violation after receipt of the notification subject to a maximum fine not to exceed five thousand dollars, payable to the appropriate parish or municipal governing authority. La. Rev. Stat. Ann. § 386.1 (West 2002)

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 crossings, a traveler can have a “fair view” (emphasis author's) 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. Me. Rev. Stat. Ann. tit. 23, § 7222 (West 1999).

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. Me. Rev. Stat. Ann. tit. 23, § 7234 (West 1999).

Title 23 of the Maine Revised Statute, at section 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, ensure that the motorist or traveler through the crossing has a clear view of an approaching train three hundred feet from the crossing. Me. Rev. Stat. Ann. tit. 23, § 7222 (1999).

MARYLAND

Maryland has no applicable statute.

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; and the commissioners, after proper notice and hearing, may make orders as to such removal as the public safety demands. They shall also prescribe the limits within which such standing wood shall be taken, and shall determine the damage sustained. Any damage and expense incident thereto may be recovered from the railroad corporation. Mass. Gen. Laws Ann. ch. 160, § 150 (1999).

MICHIGAN

Michigan law allows the road authority and the railroad to agree in writing for clear vision areas on crossings in high speed rail corridors. The portions of the right-of-way and property owned and controlled by the respective parties within an area to be provided for clear vision shall be considered as dedicated to the joint usage of both the railroad and the road authority.

The acquisition of right-of-way, purchase, and removal of obstructions within a clear vision area, including buildings and other artificial construction, trees, brush, and other growths,

and grading or earthwork, and including the maintenance of such conditions, shall be at the equal cost and expense of the railroad and the road authority. Mich. Comp. Laws § 462.317 (1999).

MINNESOTA

If a railroad, road authority, or abutting property owner fails to control the growth of trees or vegetation or the placement of structures or other obstructions on its right-of-way or property as to interfere with the safety of the public traveling on a public or private grade crossing, the local governing body of the town or municipality where the grade crossing is located may, by notice, require the obstruction to be removed as necessary to provide an adequate view of oncoming rains as the crossings. The Commissioner is required to adopt rules establishing minimum standards for visibility at public and private grade crossings.

Penalty

A railroad company, road authority, or property owner failing to comply within 30 days after being notified in writing is subject to a fine of fifty dollars for each day that the condition is not corrected. Minn. Stat. § 219-384(1)(2) (1998).

MISSISSIPPI

Mississippi has no applicable code section.

MISSOURI

All railroads operating 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. Mo. Rev. Stat. § 389.665 (1993).

MONTANA

Montana has no applicable code section.

NEBRASKA

Nebraska has no applicable code section.

NEVADA

Nevada has no applicable code section.

NEW HAMPSHIRE

Whenever, after a hearing upon petition or upon its own motion, the Department of Transportation shall be of the opinion that the protection required by its order demands that the

land adjacent to any crossing shall be kept clear of buildings, trees, brush, or other obstructions, it may order the railroad corporation to clear the land of such obstruction. N.H. Rev. Stat. Ann. § 373:18 (1998).

NEW JERSEY

New Jersey has no applicable code section.

NEW MEXICO

New Mexico has no applicable code section.

NEW YORK

New York has no applicable code section.

NORTH CAROLINA

North Carolina has no applicable code section.

NORTH DAKOTA

North Dakota has no applicable code section.

OHIO

Every railroad company is required to destroy or remove plants, trees, brush, or other destructive vegetation upon its right-of-way at each intersection with a public road or highway, for a distance of six hundred feet, or a reasonably safe distance from the roadway of the public road as shall be determined by the Public Utilities Commission.

Whenever any railroad fails to destroy or remove such vegetation after ten-day written notice served on its local agent, the Commission, Board of County Commissioners, Board of Township Trustees, or legislative authority of a municipal corporation, in which the intersection is located, having the care of such road or highway, shall remove such plants, trees, brush, or other obstructive vegetation and shall recover the cost of removal from the responsible railroad company.

Penalty

If the railroad company fails to pay the amount demanded within thirty days after notification by certified mail, the Commission, Board of County Commissioners, Board of Township Trustees, or legislative authority of a municipal corporation shall certify the amount demanded to the county auditor to be collected as other taxes and assessments and upon collection shall be credited to the general fund of the public body causing the work to be performed. Ohio Rev. Code Ann. § 4955.36 (1999).

OKLAHOMA

Oklahoma has no applicable code section.

OREGON

Oregon has no applicable code section.

PENNSYLVANIA

Pennsylvania has no applicable code section.

RHODE ISLAND

Rhode Island has no applicable code section.

SOUTH CAROLINA

South Carolina law requires that all railroad crossings on public highways must be inspected for conditions which unsafely obstruct a motorist's view of approaching trains, for the presence of crossbucks, and for the presence of STOP signs. The Department of Transportation is responsible for inspecting crossings on state maintained highways, the governing body of each county is responsible where railroads cross county maintained highways, and the governing body of each municipality are responsible for inspecting railroad crossings on road and street right-of-way maintained by municipalities. The Department is required to inform the counties and municipalities of the railroad crossings they are responsible for inspecting. By January 1, 1989, the governing body of each county and municipality must notify the Department of the office and public official to whom the governing body has assigned responsibility for performing the inspections.

If the person inspecting a railroad crossing finds that a motorist's view of approaching trains is unsafely obstructed by vegetation, growth, or objects not permanently affixed to realty which are within the right-of-way of the railroad, the inspector must immediately notify the Deputy Director of Engineering within the Department of Transportation of the hazard. Notice from the Department shall direct the railroad to cut or remove the vegetation, growth, and objects that are obstructing a motorist's view.

Penalty

The railroad is then required to cut or remove the vegetation, growth, and objects within sixty days' of receipt of the notice. If the railroad company fails to do what is required within the specified period of time will result in a civil penalty of not less than one hundred or more than five hundred dollars. The railroad company is subject to an additional civil penalty of one hundred dollars a day for each day obstructions remain after the specified period of time.

If the inspector finds that a motorist's view of approaching trains is obstructed by vegetation, growth, or objects not permanently affixed to realty that lie outside the right-of-way of the railroad but within right-of-way of highways and roads maintained by the state, county, or municipality, the inspector shall give written notice to the appropriate department of the state, county, or municipality. The Department, counties, and municipalities have sixty days to eliminate the hazard. If counties and municipalities fail to remove the obstruction, the Department of Transportation must do so. Counties and cities will then be required to reimburse the Department.

If the inspector finds that motorist's view is obstructed by vegetation, growth, or objects not permanently affixed to realty that lie on private property outside the right-of-way of both the railroad and the highway or a right-of-way of the state, county or municipality, he or she must give appropriate notice. The owner of the property shall then have sixty days to remove the obstruction.

By January 1 of each year, counties and municipalities are required to report all railroad crossings that were inspected during the preceding year and at which no obstructions were found. The Department of Transportation must also make a similar annual report and provide the report to the Senate Transportation Committee and Education and Public Works Committee of the House of Representatives of the South Carolina Legislature. S.C. Code Ann. § 58-17-1450 (1999).

SOUTH DAKOTA

South Dakota has no applicable code section.

TENNESSEE

Tennessee has no applicable code section.

TEXAS

Texas has no applicable code section.

UTAH

Utah has no applicable code section.

VERMONT

Vermont has no applicable code section.

VIRGINIA

Every railroad operating in Virginia is required to clear from its right-of-way trees and brush for one hundred feet on each side of public road crossing at grade when such trees or brush would otherwise obstruct the view of approaching trains.

Penalty

A violation by a railroad brings a fine of not more than five hundred dollars for each offense, to be imposed by the State Corporation Commission after due notice and hearing. Va. Code Ann. § 56-411 (1999).

WASHINGTON

Every railroad operating within the State of Washington 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. Wash. Rev. Code § 36.86.100 (1999).

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. Wash. Rev. Code § 47.32.140 (1999).

WEST VIRGINIA

West Virginia has no applicable code section.

WISCONSIN

Every railroad operating 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. Wis. Stat. § 195.29(6) (1999).

WYOMING

Wyoming has no applicable code section.