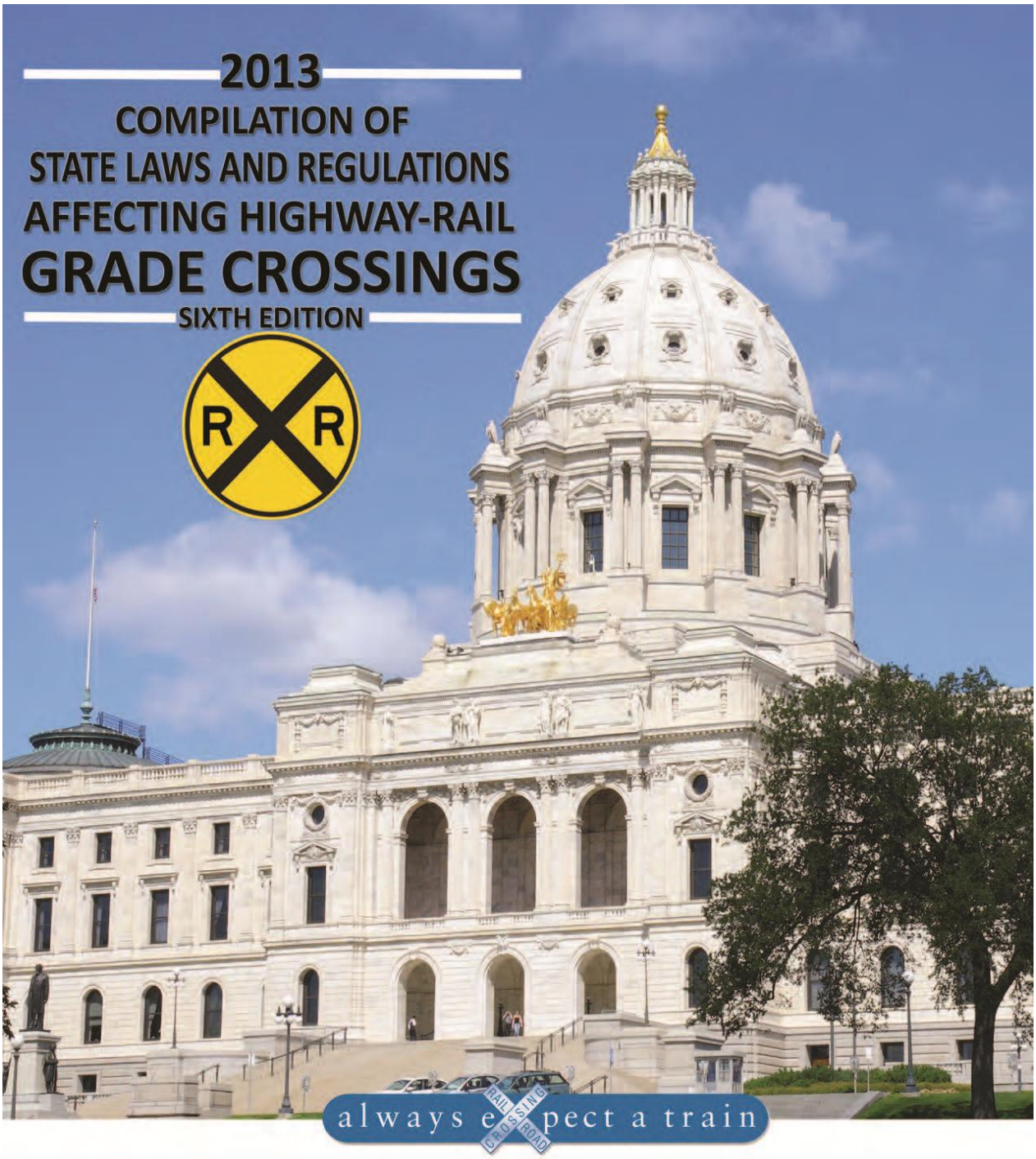
2013 COMPILATION OF STATE LAWS AND REGULATIONS AFFECTING HIGHWAY-RAIL GRADE CROSSINGS

SIXTH EDITION



U.S. Department of Transportation
Federal Railroad Administration

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DISCLAIMER

This compilation is intended to present the laws of the various jurisdictions as of February 2013. Every effort has been made to ensure accuracy. However, due to the broad scope of this project and the fluid nature of State statutory law, the author cannot guarantee complete accuracy of the material presented.

This compilation is intended to provide a general overview of the laws and regulations contained in all 50 states and the District of Columbia and should not be considered a definitive resource. For more detailed and up-to-date information, the reader is strongly encouraged to review the relevant State laws and regulations.

The publishing of this compilation does not constitute the rendering of legal advice in any jurisdiction.

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Preface

The Federal Railroad Administration (FRA) has identified roughly 250,523[1] public and private highway-rail grade crossings in the United States. Most aspects of jurisdiction over highway-rail grade crossings reside with the States. Within some States, responsibility is divided between several public agencies. In other states, jurisdiction over highway-rail grade crossings is assigned to a regulatory agency such as the public utility commission, public service commission, or state corporation commission. Still other states divide the authority among public administrative agencies of the state, county, city, and town having jurisdiction and responsibility for their respective highway systems.

State and local law enforcement agencies are responsible for the enforcement of traffic laws at highway-rail grade crossings. In a number of cases, local governments are responsible for certain operational matters related to crossings and this is accomplished through various ordinances. *The Compilation of State Laws and Regulations Affecting Highway-Rail Grade Crossings, 6th Edition* (Sixth Edition) is a reference for researchers, engineers, students, and legal practitioners in the field of highway-rail grade crossing safety seeking state-specific laws and regulations affecting highway-rail grade crossings. This Sixth Edition publication provides an overview of new and existing state laws and regulations as of February 2013.

Overview

The Sixth Edition is intended to provide an up-to-date look at the various state laws and regulations concerning the regulation of highway-rail grade crossings and driver behavior at those crossings. Laws and regulations of the 50 states and the District of Columbia that address highway-rail grade crossings have been compiled into one easy-to-use document.

Each chapter presents a different highway-rail grade crossing subject area and contains an introductory overview of the subject area. Moreover, unlike the Fifth Edition, excerpts from the laws of each individual state and the District of Columbia relative to the subject matter are presented, in order to serve as a practical tool for legislators, policymakers, and lawyers.

In addition, each subject area is addressed from a practical orientation. Therefore, while there are some laws that deal with multiple subject areas, excerpts of applicable statutes have been published in the most relevant sections. The Sixth Edition also marks with an asterisk (*) statutes that have been added since the 2009 publication of the Fifth Edition.

This publication is available on FRA's Office of Railroad Safety Web site and can be emailed in electronic form upon request. The source material collected for this book was obtained from legal research services such as Lexis Nexis and Westlaw, as well as individual State legislative Web sites that contain the laws and regulations published by each State and the District of Columbia. The style of legal citation used in this Sixth Edition follows conventions

[1] According to the USDOT Highway-Rail Grade Crossing Inventory Data Management System as of September, 30, 2013.

set forth in The Bluebook: A Uniform System of Citation, Seventeenth Edition, Cambridge, Massachusetts. (Harvard Law Review Association, 2000.)

Chapter 1: Crossing Consolidations and Closures

CHAPTER OVERVIEW

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

In a small number of states, the responsibility for crossing elimination is vested in other regulatory bodies. These entities are referred to by various names, such as the public utilities commission and the state corporation commission. A couple of states provide for collective responsibility between a state agency and a unit of local government, while a few more provide for shared responsibility between the state department of transportation and another state agency, such as the highway department.

The agency charged with the responsibility for elimination (or abolishment, as the process may be called) has not changed a great deal since the original publication of this book. In the few instances where the responsible agency has changed, the powers and functions of the agency have been assumed by another agency. For example, in Missouri, the exclusive responsibility for altering or abolishing highway-rail grade crossings is now vested in the highways and transportation commission within the Missouri Department of Transportation. The State of Texas has also shifted responsibility from the railroad commission to its department of transportation.

This chapter provides an overview of the procedures for grade crossing elimination on a state-by-state basis. The state or local agency with statutory authority to order the elimination or consolidation of a grade crossing is identified, along with an indication of whether the authority is exclusive or shared, and the statutory responsibility for the costs of replacement or consolidation is also listed. The appropriate citation(s) is noted for each state.

Alabama

§ 37-2-84. Abandonment and discontinuance of grade crossings.
(a) The Department of Transportation is given authority and power to abandon and discontinue any portion of a state highway, or street on a state highway route with the approval of the city council or governing body of any municipality, crossing the tracks or right-of-way of any railroad or street railway within the state, and to close the grade crossing, whenever in the judgment of the department the grade crossing has ceased to be necessary for the public as a part of any state highway, because of relocation of the highway, or because of the construction of an underpass or overpass, or other provision made for the elimination of the grade crossing. Whenever the department orders the abandonment of a portion of the highway or street and the closing of a grade crossing, it shall enter its order providing therefor in the department minutes. Notice in writing of the abandonment and discontinuance of the portion of the highway or street and the closing of the grade crossing shall be 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.

Thereafter, the railroad or street railway shall not be required to maintain the grade crossing for use as a public highway or street.
(b) Notwithstanding any other provision of law, the Department of Transportation may abandon, close, and discontinue a portion of a municipal or county highway, street, or right-of-way crossing the tracks or right-of-way of any railroad within the state whenever in the judgment of the department the grade crossing is dangerous or redundant or the enhancement of public safety resulting from the closing outweighs any inconvenience caused by rerouting the vehicular traffic. In the event the closing is deemed by the department to cause substantial inconvenience to vehicular traffic or materially impair the provision of police, fire, or ambulance service, the department may also order a relocation of the crossing or the building of an alternate crossing at another location. If the department orders the relocation of the crossing or the building of an alternate crossing, the crossing shall be built at no costs to the municipality or county unless the municipality or county enters into an agreement to share in the costs of the relocation of the crossing or the building of an alternate crossing.
(c) Prior to issuing the order to close a crossing, the Department of Transportation shall give written notice of intention to close the crossing to the municipality or county in the event it is a municipal or county road or street. In addition, the department shall 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 issuance of the order of closure. The notice shall state the procedure to request a hearing prior to the closure. Any citizen who uses a crossing or who owns property abutting a crossing or the county or municipality may give a notice in writing to the Department of Transportation requesting a hearing prior to the closing. Upon request for a hearing, the department shall conduct a public hearing in the municipality or county in which the crossing is located by giving at least 10 days' notice to the person or persons requesting the hearing and to the municipality or county in which the crossing is located. At the public hearing, a department official designated by the Director of Transportation shall hear all persons interested and shall receive any written statements from interested persons. The official conducting the hearings shall file a written report with the director together with all written statements filed by persons attending the hearing and shall make a written recommendation to the director concerning the proposed closing. After consideration of the report, the recommendation and the statements submitted therewith, the director shall enter an order closing the crossing or requiring the crossing to remain open or requiring the crossing to be relocated within the judgment of the director. The order of the director shall be final.
(d) Upon the issuance of the order by the Director of Transportation, it is the responsibility of the railroad or railroads involved to physically remove the crossing from the tracks and it is the responsibility of the municipality or county where the crossing is located to install any signs or barricades which might be appropriate. The costs of any signs or barricades shall be shared equally by the Department of Transportation and the city or county where the crossing is located.
(e) Whenever a railroad crossing or any highway, street, or right-of-way crossing the tracks or right-of-way of any railroad is closed, abandoned, or discontinued pursuant to this section, that action shall not affect any right-of-way for the lines, structures, equipment, and facilities of any utility as defined in Title 37, which cross the tracks or right-of-way of the railroad at the crossing or along, over, or through the highway, street, or right-of-way abandoned.
(f) The provisions of subsections (a) through (d) of this section shall be the exclusive method of closing railroad grade crossings located on any public drive, street, road, or highway in this state.
Ala. Code § 37-2-84 (LexisNexis 2012)

Alaska

No applicable statute related to this topic

Arizona

§ 40-337. Power of commission over railway crossings
B. The commission shall have the exclusive power:
1. To determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each of the crossings.
2. To alter or abolish crossings.
3. To prescribe the terms upon which and the proportions in which the expense of the alteration or abolition of the crossing shall be divided between the parties affected or in interest.
Ariz. Rev. Stat. § 40-337(B) (LexisNexis 2012) Excerpt from applicable statute published.

Arkansas

23-12-301. Railroad crossings to be under supervision of the State Highway Commission
The State Highway Commission shall have exclusive power to:
(1) Determine and prescribe the manner, including the particular point, of crossing and the terms of installation, operation, maintenance, apportionment of expenses, use, and protection of each crossing of one (1) railroad by another railroad or street railroad by a railroad, so far as applicable;
(2) Alter or abolish any such crossing; and
(3) Require, where, in its judgment, it would be practical, a separation of grades of any such crossing and prescribe the terms upon which the separation shall be made and the proportions in which the expense of the alteration or abolition of the crossings or the separation of the grades shall be divided between the railroad or street railroad corporations affected or between the corporations and the state, county, municipality, or other public authority in interest.
Ark. Code Ann. § 23-12-301 (2012)

California

Pub. Util. Code § 1202. Powers of commission
The commission has the exclusive power:
(a) To determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public or publicly used road or highway by a railroad or street railroad, and of a street by a railroad or of a railroad by a street.
(b) To alter, relocate, or abolish by physical closing any crossing set forth in subdivision (a).
(c) To require, where in its judgment it would be practicable, a separation of grades at any crossing established and to prescribe the terms upon which the separation shall be made and the proportions in which the expense of the construction, alteration, relocation, or abolition of crossings or the separation of grades shall be divided between the railroad or street railroad corporations affected or between these corporations and the state, county, city, or other political subdivision affected.
Cal. Pub. Util. Code § 1202 (Deering 2012) Excerpt from applicable statute published.

***Pub. Util. Code § 1202.3. Crossing involving publicly used road or highway not on publicly maintained road system; apportioning expenses for improvements**

Notwithstanding any other provision of this chapter, in any proceeding under Section 1202, in the case of a crossing involving a publicly used road or highway not on a publicly maintained road system, the commission may apportion expense for improvements to the county in the case of unincorporated territory, city or other political subdivision if the commission finds (a) that the owner or owners of private property served by such publicly used crossing agree to expressly dedicate and improve, and the affected public agency agrees to accept, a right-of-way or roadway over such property for a reasonable distance from such crossing as determined by the commission, or (b) that a judicial determination of implied dedication of such road or highway over the railroad right-of-way to public use, based on public user in the manner and for the time required by law, has taken place.

If neither of these conditions is found to exist, the commission shall order the crossing abolished by physical closing.

In no event shall a railroad be required to bear costs for the improvement of a publicly used crossing in excess of what it would be required to bear in connection with the improvement of a public street or highway crossing.

Cal. Pub. Util. Code § 1202.3 (Deering 2012)

Colorado

40-4-106. Rules for public safety - crossings - allocation of expenses

3) (a) (I) The commission also has power upon its own motion or upon complaint and after hearing, of which all the parties in interest including the owners of adjacent property shall have due notice, to order any crossing constructed at grade or at the same or different levels to be relocated, altered, or abolished, according to plans and specifications to be approved and upon just and reasonable terms and conditions to be prescribed by the commission, and to prescribe the terms upon which the separation should be made and the proportion in which the expense of the alteration or abolition of the crossing or the separation of the grade should be divided between the railroad corporations affected or between the corporation and the state, county, municipality, or public authority in interest.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), the affected railroad corporation, the commission, the department of transportation, or the local government responsible for supervising and maintaining the intersecting public highway or road may abolish any crossing at grade of any public highway or road over the tracks of a corporation if:

(A) The crossing is without gates, signals, alarm bells, or warning personnel and is located within one-quarter mile of a crossing with gates, signals, alarm bells, or warning personnel or a separated grade crossing;

(B) The crossing is not the only crossing that provides access to property;

(C) No less than sixty days prior to the proposed abolition date, the railroad corporation, commission, department of transportation, or local government posts conspicuous notice of the proposed abolition at the crossing and gives written notice of the proposed abolition to all other entities authorized to initiate abolition of the crossing pursuant to this subparagraph (II); and

(D) Neither any entity given notice nor any other interested party files an objection to the abolition pursuant to subparagraph (III) of this paragraph (a).

(III) A crossing shall not be abolished pursuant to subparagraph (II) of this paragraph (a) if an entity given notice pursant to sub-subparagraph (C) of subparagraph (II) of this paragraph (a) or any other interested party, within sixty days of receiving such notice, files with the commission

and provides to the entity that gave notice of the proposed abolition a written objection to the abolition. The written objection shall include a statement by a professional engineer licensed to practice in Colorado that indicates that the engineer is familiar with the requirements of subparagraph (II) of this paragraph (a) and all relevant aspects of the crossing and has examined the crossing and believes that it is safe as designed. However, nothing in this subparagraph (III) shall preclude the abolition of the crossing pursuant to subparagraph (I) of this paragraph (a).
(b) (I) (A) The commission is authorized to approve individual projects wherein the allocation of the total expenses of the separation of grades to be paid by the railroad corporation or railroad corporations may exceed two million five hundred thousand dollars. The commission may approve more than one project, the sum totals of which may exceed the two-million-five-hundred-thousand-dollar cap set forth in this subparagraph (I), but in no event shall an individual class I railroad corporation pay more than two million five hundred thousand dollars of the cost of a single project or the cost of more than one project in any calendar year. Nothing in this subparagraph (I) shall preclude any railroad corporation from voluntarily contributing more than its allotted share for grade separation construction in one year, and, in such event, all amounts contributed by such railroad exceeding its allotted share in any one year shall be credited to and shall serve to reduce any payment for grade separation construction expenses by that railroad in subsequent years.
(B) Repealed.
(II) If the cost of a project is such that it calls for payment by a railroad corporation in more than one calendar year or if the amount due from the railroad corporation exceeds two million five hundred thousand dollars and thus must be made in consecutive calendar years, nothing in this section shall be construed to require that the approved project must be subjected to reapplication or rereview by the commission.
(III) In determining how much of the total expense of the separation of grades shall be paid by the railroad corporation or railroad corporations and by the state, county, municipality, or public authority in interest, consideration shall be given to the benefits, if any, which accrue from the grade separation project and the responsibility for need, if any, for such project. The railroad corporation or railroad corporations and the state, county, municipality, or public authority in interest shall share the costs for that portion of the project which separates the grades and constructs the approaches thereto. The commission shall consider the costs of obtaining rights-of-way, the costs of construction, and the costs of engineering. To the extent that the requirements of the railroad corporation or railroad corporations and the state, county, municipality, or public authority in interest generate additional costs beyond that necessary to provide the grade separation, such costs shall be borne by the responsible entity.
(IV) This paragraph (b) shall not apply to any project for the elimination of hazards at any railway-highway crossing when all or any part of the cost of such project will be paid from moneys made available for expenditure under title 23, U.S.C.; except that any amount paid by a railroad corporation for such an exempt project shall be credited against the two-million-five-hundred-thousand-dollar cap set forth in subparagraph (I) of this paragraph (b).
(c) (I) The state, county, municipality, or public authority, at its discretion, may withdraw its request for allocation determination at any time prior to the issue of the final order of the commission.
(II) The state, county, municipality, or public authority, at its discretion, after the hearing and prior to final order of the commission, may make a motion for a declaratory ruling on the cost allocation. In response to such a request, the commission shall make a declaratory ruling and

shall provide the movant reasonable time to withdraw the request for allocation determination.
(III) After the final order is issued, the project shall proceed, unless the commission revises the order after consideration of a request for change by the state, county, municipality, or public authority in interest.
(d) The commission shall not order the abolition of any crossing for which a grade separation is determined to be necessary until this separation is constructed.
Colo. Rev. Stat. 40-4-106 (2012) Excerpt from applicable statute published.

Connecticut

Sec. 13b-270. (Formerly Sec. 16-100). Removal of grade crossings
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 or is crossed by a railroad, or the directors of any railroad company whose road crosses or is crossed by a highway, may bring their petition in writing to the Commissioner of Transportation, alleging that public safety requires an alteration in such crossing, its approaches, the method of crossing, the location of the highway or crossing, the closing of a highway crossing and the substitution of another therefor, not at grade, or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered. Thereupon said commissioner shall appoint a time and place for hearing the petition, and shall give such notice thereof to such petitioners, the company, the municipality or municipalities in which such crossing is situated and the owners of the land adjoining such crossing and adjoining that part of the highway to be changed in grade, as said commissioner judges reasonable; and, after such notice and hearing, said commissioner shall determine what alterations or removals, if any, shall be made and by whom made. If such petition is brought by the directors of a railroad company or on behalf of any such company, said commissioner shall order the expense of such alterations or removals, including the damages to any person whose land is taken and the special damages which the owner of any land adjoining the public highway sustains by reason of any such change in the grade of such highway, to be paid by the company owning or operating the railroad in whose behalf the petition is brought; and, if such petition is brought by the selectmen of any town, the mayor and common council of any city or the warden and burgesses of any borough, said commissioner may, if the highway affected by such determination was in existence when the railroad was constructed over it at grade or if the layout of the highway was changed for the benefit of the railroad after the layout of the railroad, order an amount not exceeding one-quarter of the whole expense of such alteration or removal, including the damages, to be paid by the town, city or borough in whose behalf the petition is brought, and the remainder of the expense shall be paid by the company owning or operating the road which crosses such public highway. If the highway affected by such last-mentioned order has been constructed since the railroad which it crosses at grade, said commissioner may order an amount not exceeding one-half of the whole expense of such alteration or removal, including the damages, to be paid by the town, city or borough in whose behalf the application is brought, and the remainder of the expense shall be paid by the company owning or operating the road which crosses such public highway. Railroad companies may take land for the purpose of this section.
Conn. Gen. Stat. § 13b-270 (2012)

Sec. 13b-273. (Formerly Sec. 16-101). Elimination of grade crossings by removing railroad.
Any railroad company may bring its petition in writing to the Commissioner of Transportation, alleging that public safety requires the elimination of the crossing of its railroad at grade by a

highway or highways through the removal of such line of railroad between any two contiguous stations or any two points between which there is no station so as to coincide with some other line of railroad owned and operated by such company between the same two points or stations, and praying that the same may be ordered; whereupon the commissioner shall appoint a time and place for hearing the petition and shall give such notice thereof as he judges reasonable to such company and the municipalities in which such crossing and such two points or stations are situated. If, upon such hearing, it appears to the commissioner that proper and adequate service will be afforded to the public in the transportation of passengers and freight within the towns in which such line of railroad to be moved is located, he shall order the removal, and such railroad company shall thereupon have the right to remove its line of railroad to such other line and to abandon such portion of its railroad as may be removed to such other line and its franchise thereto.

Conn. Gen. Stat. § 13b-273 (2012)

Sec. 13b-274. (Formerly Sec. 16-102). Commissioner of Transportation may order removal of crossings. Land to be taken limited.

The Commissioner of Transportation may, in the absence of any application therefor, when in the commissioner's opinion public safety requires an alteration in any highway crossed at grade by a railroad or by railroads belonging to or operated by more than one company, after a hearing had upon such notice as the commissioner deems reasonable to the company or companies owning or operating such railroad or railroads and to the selectmen of the town, mayor of the city or warden of the borough within which such highway is situated and to the owners of the land adjoining such crossing, order such alterations in such highway as the commissioner deems best, and shall determine and direct by whom such alterations shall be made, at whose expense and within what time; provided, in all cases arising under this section, one-fourth of the expense, including damages and special damages as aforesaid, shall be paid by the state and the remainder shall be assessed upon the railroad company or companies benefited by such order; and provided such alterations as are thus made at the primary instance of the commissioner shall not be ordered so as to direct the construction of more than one bridge in any one year on any one railroad. Railroad companies may take land for the purpose of this section. No land shall be taken by any railroad company for the purpose mentioned in this section, except such as the commissioner finds to be necessary for such purpose; but no such taking need be based upon any special finding that public necessity and convenience require such taking.

Conn. Gen. Stat. § 13b-274 (2012)

Sec. 13b-276. (Formerly Sec. 16-104). Elimination of dangerous condition. Report re railroad crossings at grade.

(a) The Commissioner of Transportation, if he finds that a dangerous condition exists at such crossing, except a dangerous condition arising out of improper or inadequate maintenance, shall issue such order to such municipality or to any such public service company directing the removal, change or relocation of such crossing, highway, tracks, pipes, wires, poles or other fixtures or tree or building or other structure, as may be necessary to eliminate such dangerous condition; and shall apportion the cost thereof among such public service company or companies, such municipality and the state, and shall determine the conditions and the time and manner of the payment of such apportionments, provided the portion of the cost to be paid by such public service company in the elimination of any such dangerous conditions on state maintained highways shall not exceed ten per cent. The party or parties ordered by said commissioner to perform the work necessary to remove such dangerous condition shall serve

written notice, at least thirty days prior to the approximate date of the commencement of such work, upon all other parties in interest, including any public service company whose plant is involved or affected by such work, and any such public service company shall provide such means as may be necessary for the continued use of such plant in such manner as to best serve the interests and convenience of the public.
(b) The Commissioner of Transportation shall, not later than October 1, 2009, and every three years thereafter, provide a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to transportation and finance, revenue and bonding, regarding any railroad crossing at grade. Such report shall (1) list all the at-grade rail crossings in the state, (2) identify such crossings that create a hazardous situation, (3) provide a budget and identify funding sources, including any available federal funding, for upgrading or eliminating such hazardous crossings, (4) prioritize the upgrades or eliminations that are recommended in such report, and (5) for reports submitted pursuant to this subsection after the initial report, describe the progress to date in upgrading or eliminating hazardous at-grade crossings.
Conn. Gen. Stat. § 13b-276 (2012)

***Sec. 13b-278. (Formerly Sec. 16-106 Not to affect other provisions concerning removal of grade crossings.**
The provisions of sections 13b-275, 13b-276 and 13b-277 shall not be construed to affect the provisions of any other statute concerning the removal of grade crossings.
Conn. Gen. Stat. § 13b-278 (2012)

***Sec. 13b-279. (Formerly Sec. 16-107). Highway crossed by more than one railroad.**
When the Commissioner of Transportation, upon an application brought under the provisions of section 13b-270, finds that any highway crosses or is crossed by the tracks of more than one railroad, and the tracks of such railroads are so near together that public convenience requires the work of separating the grades to be done under and in compliance with one order, he shall give notice to all the companies operating such railroads to appear before him and be heard upon the application. After such notice and hearing, said commissioner shall determine what alterations shall be made, if any, so as to separate the grades of all of such crossings at the same time and shall determine by whom such work shall be done, and he shall apportion the expense to be borne by the railroad companies among such companies in such manner as he deems equitable.
Conn. Gen. Stat. § 13b-279 (2012)

***Sec. 13b-282. (Formerly Sec. 16-110). Change in location of highways crossed by a railroad.**
When any highway passes over or under a railroad, if the convenience and necessity of the public require a change in such highway, the town, city or borough in which such highway is located may bring a petition to the Commissioner of Transportation in the manner prescribed in section 13b-270, and, after the notice prescribed by said section, said commissioner shall proceed to a hearing on such matter and may make such order as the commissioner deems necessary for the convenience and necessity of the public or the safe and suitable operation of the railroad. For the purposes of this section, said commissioner shall have and exercise all powers of said commissioner concerning the removal of grade crossings, and land may be taken. The party upon whom is imposed, by such order, the duty of making such changes in such highway may use the material and abutments of any existing bridge in the old highway in the construction of a bridge in the substituted or changed highway. The expense of any changes ordered as hereinbefore

provided shall be apportioned, among the railroad company and the town, city or borough interested therein, in such manner as the commissioner deems equitable; but in no case shall an amount in excess of one-half of the expense of such alteration, including land damages or special damages, be assessed upon any such town, city or borough.
Conn. Gen. Stat. § 13b-282 (2012)

Delaware

§ 1804. Railroad crossings; construction and protection

(a) No public carrier engaged in the transportation of passengers or property shall, without prior order of the Department, construct its facilities across the facilities of any other such public utility or across any public highway at grade or above or below grade, or at the same or different levels; and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated or abolished.
(b) The Department is hereby vested with exclusive power to determine and prescribe, by regulation or order, the points at which, and the manner in which, such crossing may be constructed, altered, relocated or abolished, and the manner and conditions, including protective devices, in or under which such crossings shall be maintained, operated and protected to effectuate the prevention of accidents and the promotion of the safety of the public.
(c) Upon its own motion or upon complaint, the Department shall have exclusive power after hearing upon notices to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be abolished upon such reasonable terms and conditions as shall be prescribed by the Department. The Department may order the work of construction, relocation, alteration, protection or abolition of any crossing aforesaid to be performed in whole or in part by any public carrier or municipal corporation or county concerned or by the Department, or, in the case of any crossing on private land, by the owner thereof; provided, however, that when the Department or other governmental authority maintaining any public highway determines to use federal aid moneys in the construction, relocation, alteration, protection or abolition of any crossing aforesaid, then the Department shall take this into account in allocating costs.
Del. Code Ann. tit. 2, § 1804(a)-(c) (2012) Excerpt from applicable statute published.

District of Columbia

§ 9-107.04 [Formerly § 7-137]. Grade crossing elimination projects

The Mayor of the District of Columbia is authorized to construct grade crossing elimination and other wholly District construction projects or those authorized under § 8 of the Act of June 16, 1936 (49 Stat. 1521), and § 1(b) of the Federal Aid Highway Act of 1938, in accordance with the provisions of such acts. Pursuant to this authority, the Mayor may make payment to contractors and payment for other expenses in connection with the costs of surveys, design, construction, and inspection pending reimbursement to the District of Columbia by the Federal Highway Administration, Department of Transportation, or other parties participating in such projects.
D.C. Code § 9-107.04 (LexisNexis 2012)

§ 9-1201.14. Streets to be under or over railroad tracks [Formerly § 7-1414]

(a) Any and all streets or highways within the District of Columbia now or hereafter planned or projected to cross any line of railroad, other than a street railway, in the District of Columbia, which may be hereafter opened to public use, shall be located, constructed, and maintained either beneath such railroad by a suitable subway, or above the same by a suitable viaduct bridge at

such altitude as will not interfere with the free and safe operation thereof; provided, however, that nothing herein contained shall require the location, construction, or maintenance of any such street or highway under or above any spur, industrial, switching or sidetrack, or branch line of any railroad unless the Mayor of the District of Columbia shall find the same is necessary in the public safety.

(b) The cost and expense of any project for opening any such street or highway within the limits of such railroad company's right-of-way, including the cost of constructing the portion of any viaduct bridge, within said limits, shall be borne and paid as follows:

(1) The District of Columbia shall apply to the payment of such cost and expense all federal-aid highway-railway grade separation funds available for use by the District of Columbia at the time any such project is programmed and all such funds which become available for use on such projects by the District of Columbia during the construction of such project;

(2) If such federal-aid highway-railway grade separation funds are insufficient to pay the cost and expense of any such project, the portion not so covered shall be paid one-half by the railroad company, its successors and assigns, whose tracks are crossed and one-half by the District of Columbia; provided, that in no case shall the obligation of the railroad company affected exceed 10 per centum of the total cost and expense of such project;

(3) After construction, the cost of maintenance shall be wholly borne and paid in the case of highway overpasses by the District of Columbia, and in the case of highway underpasses by the railroad company, its successors and assigns, whose tracks are crossed; and

(4) The portions of such streets planned or projected as above which lie within a right-of-way belonging to such railroad company shall be dedicated by such company as a public thoroughfare when the portions of such street adjoining such right-of-way have been similarly dedicated or otherwise acquired.

D.C. Code § 9-1201.14 (LexisNexis 2012)

9-1201.15. Subways and viaducts to eliminate grade crossings authorized [Formerly § 7-1415]

(a) The Mayor of the District of Columbia be, and he is hereby, authorized and directed to construct viaducts and approaches thereto, to carry Fern and Varnum Streets over the tracks and right-of-way of the Baltimore and Ohio Railroad Company and to construct a viaduct and approaches thereto to carry Eastern Avenue over the tracks and rights-of-way of The Philadelphia, Baltimore, and Washington Railroad Company and the Baltimore and Ohio Railroad Company, in accordance with plans and profiles of said works to be approved by the said Mayor; provided, that one-half of the total cost of constructing the viaduct and approaches thereto at Varnum Street and one-half of the total cost of constructing the viaduct and approaches thereto at Fern Street shall be borne and paid by the said Baltimore and Ohio Railroad Company, its successors and assigns, and that one-half of the total cost of constructing the viaduct and approaches thereto at Eastern Avenue shall be borne and paid by the said Philadelphia, Baltimore and Washington Railroad Company and the said Baltimore and Ohio Railroad Company, their successors and assigns, in proportion to the widths of their respective land holdings, to the Collector of Taxes of the District of Columbia for deposit to the credit of the District of Columbia, and the said half cost shall be valid and subsisting liens against the franchises and property of the railroad companies concerned and shall constitute a legal indebtedness against the said railroad companies in favor of the District of Columbia, and said liens may be enforced in the name of the District of Columbia by a bill in equity brought by the said Mayor in the Superior Court of the District of Columbia, or by any other legal proceeding against the said

railroad companies; provided, that no street railway company shall use the said viaduct or any approaches thereto herein authorized for its tracks until said companies shall have paid to the Collector of Taxes of the District of Columbia, a sum equal to one-fourth of the total cost of constructing said viaducts and approaches, to be applied to the credit of the District of Columbia. No limitation shall run against claims made by the District of Columbia under the provisions of this section.

(b) For the purpose of carrying into effect the provisions of this section, the sum of $ 405,000 is hereby authorized to be appropriated, payable in like manner as other appropriations, for the expenses of the government of the District of Columbia, and the said Mayor is authorized to expend such sum or sums as may be necessary for personal services, engineering, and incidental expenses. The said Mayor is further authorized to acquire, out of the appropriation herein authorized, the necessary land, or any portion of the same, by purchase at such price or prices as in his judgment he may deem reasonable and fair, or, in his discretion, by condemnation in accordance with the provisions of §§ 9-1217.12 to 9-1217.24 [repealed], under a proceeding or proceedings in rem instituted in the Superior Court of the District of Columbia; provided, that of the entire amount found to be due and awarded by the jury as damages for, and in respect of, the land to be condemned to carry the provisions of this section into effect, plus the costs and expenses of the proceeding or proceedings taken pursuant hereto, not less than one-half thereof shall be assessed by the jury as benefits, the amounts collected as benefits to be covered into the Treasury of the United States to the credit of the District of Columbia.

(c) Hereafter, the Mayor of the District of Columbia is authorized, whenever in his judgment it may be necessary for the public safety, and subject to appropriations to be made therefor by Congress, to construct subways or viaducts and approaches thereto, in accordance with plans and profiles of said works to be approved by him, to carry any street or highway crossing at grade any line of railroad track or tracks in the District of Columbia, or any street or highway within the District of Columbia now or hereafter planned or projected to cross any such line of railroad, under or over said track or tracks; provided, that the total cost of constructing any project for such viaduct or subway and approaches thereto shall be borne and paid as follows:

(1) The District of Columbia shall apply to the payment of the cost of such project all federal-aid highway-railway grade separation funds available for use by the District of Columbia at the time any such project is programmed and all such funds which become available for use on such project by the District of Columbia during the construction of such projects; and

(2) If such federal-aid highway-railway grade separation funds are insufficient to pay the cost of any such project, the portion not so covered shall be paid one-half by the railroad company, its successors and assigns, whose tracks are crossed and one-half by the District of Columbia; provided further, that in no case shall the obligation of the railroad company affected exceed 10 per centum of the total cost of such project; provided further, that in the event the rights-of-way of 2 or more railroad companies are so crossed said half cost as herein provided shall be paid by the said railroad companies, their successors and assigns, in proportion to the widths of their respective landholdings, but the obligations of such companies shall not, in the aggregate, exceed 10 per centum of the cost of such project; provided further, that after construction the cost of maintenance shall be wholly borne and paid in the case of highway overpasses by the District of Columbia, and in the case of highway underpasses by the railroad company, its successors and assigns, whose tracks are crossed; provided further, that in the event the rights-of-way of 2 or more railroad companies are so crossed, the cost of maintenance shall be borne and paid in the case of highway underpasses by the said railroad companies, their successors and assigns, in

proportion to the widths of their respective landholdings. All provisions in respect to the method of payment and credit of said half cost, creation of a lien in respect thereto and enforcement thereof, conditions of use thereof by street railway companies, and every other kind of condition provided in subsection (a) of this section, and the authorization and every condition in respect thereto for the acquisition of any necessary land provided in subsection (b) of this section, in relation to the viaducts and their approaches therein authorized, are hereby made applicable to the subways, viaducts, and approaches authorized in this section the same as if enacted at length herein.
D.C. Code § 9-1201.15 (LexisNexis 2012)

Florida

§ 335.141. Regulation of public railroad-highway grade crossings; reduction of hazards
(1) (a) The department shall have regulatory authority over all public railroad-highway grade crossings in the state, including the authority to issue permits which shall be required prior to the opening and closing of such crossings.
(b) A "public railroad-highway grade crossing" is a location at which a railroad track is crossed at grade by a public road.
(2) (a) The department, in cooperation with the several railroad companies operating in the state, shall develop and adopt a program for the expenditure of funds available for the construction of projects for the reduction of the hazards at public railroad-highway grade crossings. The department and the railroad companies are not liable for any action or omission in the development of such program or for the priority given to any crossing improvement.
(b) Every railroad company maintaining a public railroad-highway grade crossing shall, upon reasonable notice from the department, install, maintain, and operate at such crossing traffic control devices to provide motorists with warning of the approach of trains. The department shall base its notice on its adopted program for the reduction of hazards at such crossings and on construction efficiency considerations relating to the geographical proximity of crossings included in such program. The design of the traffic control devices must be approved by the department, and the cost of their purchase and installation must be paid from the funds described in paragraph (a).
Fla. Stat. Ann. § 335.141 (LexisNexis 2012) Excerpt from applicable statute published.

Georgia

§ 32-6-193. Authority of department, counties, and municipalities to eliminate grade crossings
When it is reasonably necessary in the interest of public safety, the department, in respect to the state highway system, a county, in respect to its county road system, or a municipality, in respect to its municipal street system, may authorize and direct the elimination of a grade crossing by construction of an underpass or overpass or by physical removal of the grade crossing and barricading or removing the approaches thereto without construction of an underpass or overpass, provided that any grade crossing elimination shall be in accordance with this part and that no grade crossing on a county road system or municipal street system shall be eliminated by construction of an underpass or overpass upon order of the county or municipality until and unless the department shall approve the plans and specifications of the proposed construction. No grade crossing on a public road shall be permanently closed except by elimination in accordance with this part.
Ga. Code Ann. § 32-6-193 (2012)

§ 32-6-193.1. Elimination of grade crossings by physical removal; procedures(a) The department shall by rule or regulation prescribe uniform criteria for its own use and that of local governing authorities in assessing whether elimination of a grade crossing on a public road by physical removal of the grade crossing and barricading or removing the approaches thereto without construction of an underpass or overpass is reasonably necessary in the interest of public safety. For purposes of this Code section, "reasonably necessary in the interest of public safety" means that the enhancement of public safety resulting from such elimination of the grade crossing will outweigh any inconvenience to the reasonable passage of public traffic, specifically including without limitation emergency vehicle traffic, caused by such rerouting of traffic. Such criteria shall include consideration of each of the following factors:

(1) Number and timetable speeds of passenger trains operated through the crossing;

(2) Number and timetable speeds of freight trains operated through the crossing;

(3) Distance to alternate crossings;
(4) Accident history of the crossing for the immediately preceding five-year period;
(5) Type of warning device present at the crossing, if any;
(6) The alignments, horizontal and vertical, of the roadway and the railroad and the angle of the intersection of those alignments;
(7) The average daily traffic volume in proportion to the population of the municipality if the crossing is located within a municipality or the population of the county if the crossing is located within an unincorporated area of a county;
(8) The posted speed limit over the crossing;
(9) The effect of closing the crossing upon access by persons utilizing:
(A) Hospital or medical facilities and public health departments, specifically including without limitation utilization by medical personnel;
(B) Facilities of federal, state, or local government, specifically including without limitation court, postal, library, sanitation, and park facilities; and
(C) Commercial, industrial, and other areas of public commerce;
(10) Any use of the crossing by:
(A) Trucks carrying hazardous material;
(B) Vehicles carrying passengers for hire;
(C) School buses;
(D) Emergency vehicles; or
(E) Public or private utility vehicles, specifically including without limitation water, sewer, natural gas, and electric utility maintenance and repair vehicles; and
(11) Any other relevant factors as prescribed by the department.
(b) (1) Any railroad may file a written petition requesting an order to eliminate a grade crossing on a public road by physical removal of the grade crossing and barricading or removing the approaches thereto without construction of an underpass or overpass. Any such petition shall be filed by certified mail or statutory overnight delivery, return receipt requested, with the department in respect to the state highway system, a county governing authority in respect to its county road system, or a municipal governing authority in respect to its municipal street system.
(2) Any petition by a railroad under this subsection shall include without limitation information as to each of the factors set forth in paragraphs (1) through (5) of subsection (a) of this Code section.

(3) The department or the local governing authority, whichever is applicable, shall conduct a public hearing on the matter prior to deciding whether to grant or deny such a petition.

(4) (A) No railroad shall have a duty to file a petition for elimination of a grade crossing as authorized by this subsection.

(B) Neither the failure of a railroad to file such a petition nor any decision by the department or any local governing authority regarding such a petition shall give rise to a cause of action against the railroad, the department, or a local governing authority by a person for injuries or damages arising from the existence or use of such crossing.

(c) (1) If the department in respect to the state highway system, a county governing authority in respect to its county road system, or a municipal governing authority in respect to its municipal street system determines that elimination of a grade crossing in accordance with this Code section is reasonably necessary in the interest of public safety, the department or the local governing authority may issue an order to eliminate the crossing. Such order shall be in writing, and a copy shall be served upon the railroad. If a local governing authority issues such an order, it shall make a record of its findings and transmit a copy of the same along with the order to the department.

(2) If the department in respect to the state highway system, a county governing authority in respect to its county road system, or a municipal governing authority in respect to its municipal street system determines that elimination of a grade crossing in accordance with this Code section is not reasonably necessary in the interest of public safety, the department or the local governing authority may issue an order denying a petition to eliminate the crossing. Such order shall be in writing, and a copy shall be served upon the railroad. If a local governing authority denies a petition, it shall make a written record of its findings and transmit a copy of the same along with the order and petition to the department.

(3) (A) Any railroad aggrieved by an order of a local governing authority under this subsection may make a written request to the department for review of such order. Such request shall be accompanied by a $500.00 filing fee. The department shall within 60 days after the filing of such request review the matter.

(B) Upon review of the order and findings of the local governing authority and any filings by the railroad, if the department determines that elimination of a grade crossing in accordance with this Code section is not reasonably necessary in the interest of public safety, the department shall order that the crossing shall remain open.

(C) Upon review of the order and findings of the local governing authority and any filings by the railroad, if the department determines that elimination of a grade crossing in accordance with this Code section is reasonably necessary in the interest of public safety, the department shall issue an order to eliminate the crossing.

(D) Any such order of the department shall be in writing, and a copy of the order shall be served upon the railroad and the local governing authority. As part of such order, the department shall assess all its costs of investigating and reviewing the matter against the railroad if an order for the crossing to remain open is issued or against the county or municipality if an order to eliminate the crossing is issued, and the party so assessed shall be liable therefor to the department; provided, however, that any filing fee paid to the department by a railroad shall be applied to any such amount assessed against the railroad, and the balance of such filing fee, if any, shall be refunded to the railroad. The department shall keep detailed records of its costs of investigation and review for purposes of this subparagraph, and

such records shall be subject to public inspection as provided by Article 4 of Chapter 18 of Title 50.

(d) If an order to close a grade crossing is issued, the railroad shall at its expense physically remove the crossing from the tracks and for two feet beyond the ends of the crossties on each side and extending four feet beyond the traveled way or flush with the edge of a paved shoulder, whichever is greater, of such crossing and erect a department approved barricade; and the department in respect to the state highway system, the county in respect to its county road system, or the municipality in respect to its municipal street system may at its expense remove approaches to the crossing. The provisions of Code Section 32-6-195 for division of costs of elimination of a grade crossing by construction of an underpass or overpass shall not apply to elimination of any grade crossing under this Code section.

Ga. Code Ann. § 32-6-193.1 (2012)

§ 32-6-198. Agreements as to grade crossing elimination

Nothing in this part shall be construed to prevent the department, a county, or a municipality from reaching special agreements with a railroad company providing for grade crossing elimination by means of relocation of either the railroad or public road involved or by other means not expressly provided for in this part and from arranging joint participation in the cost of such elimination in accordance with the procedures in Code Section 32-6-195.

Ga. Code Ann. § 32-6-198 (2012)

Hawaii

***§ 264-65. New and existing facilities; grade-crossing eliminations.**

The director of transportation may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing public highway as included within a controlled-access facility. The director may provide for the elimination of intersections at grade of controlled-access facilities with existing public highways by grade separation or service road, or by closing off the highways at the right-of-way boundary line of the controlled-access facility; and after the establishment of any controlled-access facility, no highway which is not part of the facility shall intersect the same at grade. No public highway shall be opened into or connected with any such controlled-access facility without the consent and previous approval of the director. The consent and approval shall be given only if the public interest is served thereby.

Haw. Rev. Stat. Ann. § 264-65 (LexisNexis 2012)

Idaho

§ 62-301. Crossings of state highways and railroads -- Elimination or alteration -- Cost

Whenever a state highway crosses or shall hereafter cross one or more railroads, and whenever the Idaho transportation department shall determine that the elimination of a grade crossing, whether by separation of grades or by relocation of the highway or railroad or both, or the reconstruction of an existing structure under or over the railroad or railroads, is necessary for public safety and convenience or for the proper construction or reconstruction of said state highway, the said Idaho transportation department shall have full authority to negotiate with and enter into an agreement with the railroad company or companies, and with any other persons and authorities concerned, to provide for the method of elimination or alteration and for the division of the cost thereof between the state and the railroad company or companies and any other parties to such agreement, such cost to include all changes of highway or railroads made

necessary by the existence of the crossing and by the elimination or alteration thereof, and the acquisition of any right of way required therefore.
Idaho Code Ann. § 62-301 (2012)

§ 62-302. Complaint to public utilities commission
If the Idaho transportation department shall be unable to agree with the railroad company or companies upon the elimination or alteration to be made or upon the division of the cost of such elimination or alteration, said department, or railroad company or companies, shall make written complaint to the public utilities commission, setting forth the changes and alteration desired and the necessity therefor.
Idaho Code Ann. § 62-302 (2012)

§ 62-303. Crossings not on state highways -- Elimination or alteration
Whenever a highway not a state highway crosses one or more railroads, the local authorities in their respective jurisdictions, or railroad company or companies, shall have the same authority and perform the same duties with respect to the elimination or alteration of such crossing as are granted to and required of the Idaho transportation department and railroad company or companies by this chapter.
Idaho Code Ann. § 62-303 (2012)

§ 62-305. Closing and abandonment of crossings upon relocation of highways or construction of underpasses or overpasses or otherwise -- Hearings

Wherever and whenever the location of any state highway, or other public street, road or highway, has been or shall be changed, the result of which has changed or will change the location of the place where such street, road or highway crosses any railroad tracks at grade, and a new crossing at grade or an overpass or underpass has been or shall be constructed at such 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. In the event any objection be made to the elimination and discontinuance of said old grade crossing, the Idaho transportation board or the owners, operators, or lessees of any such railroad, or both, may, upon the completion and placing in operation of said new grade crossing, overpass or underpass, or whenever for any other reason a crossing is to be closed and abandoned, the public authority having jurisdiction over the street, road or highway, or the owners, operators, or lessees of any such railroad, or both, shall petition the public utilities commission for an order eliminating and discontinuing said old grade crossing, whether said change of location has been made or construction of an underpass or overpass completed before or after the passage of this act, and said commission shall be and is hereby authorized and empowered to hear and determine said petition in accordance with the provisions of chapters 1 to 7, inclusive, title 61, Idaho Code, and if upon hearing duly had it shall find and determine that the closing and abandonment of such grade crossing is in the interest of, and reasonably necessary for the public safety, or that said crossing is no longer reasonably needed, it shall make an order authorizing the closing and abandonment of said crossing. Any order made by the commission concerning said matter shall be enforceable and subject to review in the same manner as other orders of the commission. Upon any order of closing and abandonment becoming final, said grade crossing may be closed either by the public authority having jurisdiction over the street, road or highway or by the owner, operator or lessee of such railroad.

Idaho Code Ann. § 62-305 (2012)

§ 62-307. Permission for new crossing of highways and railroads
No new railroad and no alteration or extension of an existing railroad shall hereafter cross any highway at grade, and no new highway shall hereafter cross any railroad at grade without the written permission of the Idaho transportation board first having been obtained. Neither a side track, team track, passing track nor house track shall be deemed a railroad within the meaning of this section. The term highway as used in this section shall not include streets and alleys in cities.
Idaho Code Ann. § 62-307 (2012)

Illinois

§ 70 ILCS 1905/2. Declaration of public purpose(Special District)
Sec. 2. Declaration of public purpose. It is hereby found and declared that there exist in cities within this State, having a population of 500,000 or more inhabitants as determined by the last preceding federal census, Railroad Terminal Areas, as defined herein; that such Railroad Terminal Areas contribute to the growth of blight in adjacent and surrounding areas; prevent the restoration and proper development of such areas necessary to promote the safety, health, welfare, comfort and convenience of its inhabitants; depress land values in adjacent and surrounding areas; unnecessarily isolate areas of unused land making it unavailable for any other use; obstruct the continuity of public roads and streets; create traffic congestion upon public roads and streets; cause undue delay and expense in the transportation of persons and property; and retard the proper economic and civic growth and development of the City; that in order to eradicate the undesirable conditions herein found to exist in such Railroad Terminal Areas, and thereby encourage the efficient and economic development of adjacent and surrounding areas and provide efficient and convenient terminal facilities in connection with the transportation of persons and property, it is hereby found and declared to be necessary and desirable to make possible the relocation of railroad freight facilities to outlying areas, the consolidation of railroad terminals and terminal facilities and the proper civic, manufacturing, commercial, business and residential development of the acreage to be so released; and that the eradication and elimination of these conditions and the acquisition, consolidation and redevelopment of land thereby released in the manner provided in this Act is hereby declared to be a public use essential to the public interest.
70 ILCS 1905/2(2012)

§ 70 ILCS 1915/10. Legislative declaration (Special District)
Sec. 10. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The Village of Franklin Park by reason of the location there of Grand Avenue and its use for vehicular travel in access to the entire west metropolitan Chicago area, including municipalities in 2 counties, as well as commercial and industrial growth patterns and accessibility to O'Hare International Airport and massive freight related services, has become and will increasingly be the hub of transportation from all parts of the region and throughout the west metropolitan area. Motor vehicle traffic, pedestrian travel and the safety of both motorists and pedestrians are substantially aggravated by the location of major railroad rights of way that divide the Village east from west and north from south. Those railroad rights of way have effectively impeded the development of highway usage and rights of way to further and enhance growth throughout the region. For the safety of the public it has been necessary to provide large numbers of protected crossings at great expense to

the railroads, but often without complete safety to the public. The presence of the railroad rights of way at grade crossings within the Village is detrimental to the orderly expansion of industry and commerce and to progress of the region. To alleviate this situation it is necessary to relocate the railroad tracks and right of way on Grand Avenue and to separate the grades at crossings and to acquire property for relocation or submergence of the railroad or highways and to create an agency to facilitate and accomplish that relocation.
70 ILCS 1915/10(2012)

§ 70 ILCS 1920/5. Legislative declaration (Special District)

Sec. 5. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The Village of Bellwood, the Village of Maywood, and the Village of Melrose Park, by reason of the location therein of 25th Avenue and the First Avenue vicinity between Lake Street on the North, Oak Street on the South, the Des Plaines River on the East, and Fifth Avenue on the West and their use for vehicular travel in access to the entire west metropolitan Chicago area, including municipalities in 2 counties, as well as commercial and industrial growth patterns and accessibility to O'Hare International Airport, Midway Airport, manufacturing, and freight related facilities, have become and will increasingly be the hub of transportation from all parts of the region and throughout the west metropolitan area. Motor vehicle traffic, pedestrian travel, and the safety of both motorists and pedestrians are substantially aggravated by the location of a major railroad right of way that divides the Village of Bellwood and the Village of Melrose Park. Additionally, certain development opportunities may exist in the project area that would stabilize and enhance the tax base of existing communities, maintain and revitalize existing commerce and industry, create opportunities for intersurface modal transportation efficiencies, and promote comprehensive planning within and between communities. The presence of the railroad right of way at the 25th Avenue grade crossing is detrimental to the orderly expansion of industry and commerce and to progress of the region. To alleviate this situation it is necessary to relocate the railroad tracks and right of way on 25th Avenue and First Avenue, to separate the grades at crossings, to acquire property for relocation or submergence of the railroad or highways, to create an agency to facilitate and accomplish that relocation, and to direct infrastructure and development improvements in the 25th Avenue vicinity between St. Charles Road and Lake Street and the First Avenue vicinity between Lake Street on the North, Oak Street on the South, the Des Plaines River on the East, and Fifth Avenue on the West.
70 ILCS 1920/5(2012)

§ 70 ILCS 1925/5-5. Legislative declaration(Special District)

Sec. 5-5. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The City of Dixon has become and will increasingly be the hub of transportation from all parts of the region. Motor vehicle traffic, pedestrian travel, and the safety of both motorists and pedestrians are substantially aggravated by the location of a railroad spur line running through the City of Dixon. The presence of the railroad spur line in the City of Dixon is detrimental to the orderly expansion of industry and commerce and to progress of the region. To alleviate this situation it is necessary to relocate the railroad, to acquire property for relocation of the railroad or highways, and to create an agency to facilitate and accomplish that relocation.

70 Ill. Comp. Stat. Ann. 1925/5-5 (LexisNexis 2012)

§ 70 ILCS 1930/5. Legislative declaration (Special District)

Sec. 5. Legislative declaration. The General Assembly declares that the welfare, health, prosperity, and moral and general well-being of the people of the State are, in large measure, dependent upon the sound and orderly development of municipal areas. The Southwest Suburban area, by reason of the location therein of vital roadways and their use for vehicular travel in access to the entire southwest metropolitan Chicago area, as well as commercial and industrial growth patterns and accessibility to manufacturing and freight-related facilities, has become and will increasingly be the hub of transportation from all parts of the region and throughout the southwest metropolitan area. Motor vehicle traffic, pedestrian travel, and the safety of both motorists and pedestrians are substantially aggravated by the location of railroad grade crossings. Additionally, certain development opportunities may exist in the project area that would stabilize and enhance the tax base of existing communities, maintain and revitalize existing commerce and industry, and promote comprehensive planning within and between communities. The presence of the railroad grade crossings are detrimental to the orderly expansion of industry and commerce and to progress of the region. To alleviate this situation it is necessary to relocate the railroad tracks, to separate the grades at crossing, to acquire property for relocation or submergence of the railroad or highways, to create an agency to facilitate and accomplish that relocation, and to direct infrastructure and development improvements in the Southwest Suburban area.

70 Ill. Comp. Stat. Ann. 1930/5 (LexisNexis 2012)

***§ 605 ILCS 5/8-106. Relocation of crossings or junctions at grade; elimination of crossings or junctions at grade**

Sec. 8-106. When as a result of an engineering and traffic study it is determined that it is necessary to traffic safety and convenience, the Department, or county board of any county may:

(a) Relocate the crossing or junction at grade of the freeway with any existing highway, road, street, alley or other public way or eliminate such crossing or junction at grade by carrying such public way over or under the freeway or by connecting it to a local service drive and may relocate or alter any such intersecting public ways in such manner as is necessary thereto. The Department, or county board, shall have the right to acquire by purchase or condemnation, in the manner the Department or county board now is, or hereafter may be authorized by law, all property and property rights necessary for such relocations and grade separations. The Department, and the county board is authorized to maintain, or to enter into maintenance agreements with the agencies having jurisdiction over the public ways prior to said relocation, for the public ways so relocated; or

(b) Eliminate the crossing or junction at grade of the freeway with any existing highway, road, street, alley or other public way by closing such public way at its intersection with the boundary of the freeway subject to the following conditions:

(1) Where the freeway is not a part of the National System of Interstate and Defense Highways or is not a highway where the authority to control access has been exercised to permit access only at certain selected public roads, by agreement with the county, road district, municipality or other authority having jurisdiction over the public way to be closed; or

(2) Where the freeway is a part of the National System of Interstate and Defense Highways or is a highway where the authority to control access has been exercised to permit access only at certain selected public roads, the Department and county board may close such public way, but

only after holding a public hearing, in the county where the crossing or junction at grade is situated, at which hearing the needs of local traffic and the effect of such closing on other highways in the locality shall be considered. Such hearing shall be held prior to the preparation of final construction plans, but only after reasonable notice has been given, and shall be conducted in accordance with rules and regulations prescribed by the Department. No crossings shall be eliminated which shall unduly discommode or interfere with local traffic, or will destroy reasonable access to schools, churches, markets, trade or community centers, and all crossings not eliminated shall be grade separated with the through traffic lanes of the interstate highway or the highway where the authority to control access has been exercised to permit access only at certain selected public roads. If the closing of a public way, as herein provided, makes it necessary to construct a new or additional highway connection to serve the public need, the Department and county board shall construct such connection. When property is damaged by the closing of any public way, the damage shall be ascertained and paid as provided by law.
605 Ill. Comp. Stat. Ann. 5/8-106 (LexisNexis 2012)

Indiana

8-6-7.7-3. Grade crossings -- Abolishment.
The Indiana department of transportation may order legally 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:
(1) Upon a finding that the enhancement of public safety resulting from the closing will outweigh any inconvenience caused by increased circuitry of highway routes; or
(2) Based upon criteria specified in rules adopted by the department under section 3.1 [IC 8-6-7.7-3.1] of this chapter.
The order by the department may be issued either in connection with, or independent of, an order relating to automatic train-activated warning signals. 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 to local units of government to close and abolish grade crossings. Upon the issuance of an order by the department, the railroad or railroads involved shall physically remove the crossing from the tracks, and the governmental unit maintaining the highway shall remove or barricade the approaches to the crossing.
Ind. Code Ann. § 8-6-7.7-3 (LexisNexis 2012)

8-6-7.7-3.1. Public railroad grade crossings -- Rules -- Criteria.
(a) The Indiana department of transportation shall adopt rules under IC 4-22-2 specifying criteria for:
(1) The department to use in determining whether to open a new public railroad grade crossing; and
(2) The department or a unit (as defined in IC 36-1-2-23) to use in determining whether to abolish a public railroad grade crossing.
(b) In applying criteria required by subsection (a) to determine whether to open a new public railroad grade crossing, deny a public grade crossing closure, or abolish a public railroad grade crossing, the department or unit shall consider the following:
(1) Timetable speed of passenger trains operated through the crossing.
(2) Distance to an alternate crossing.
(3) Accident history of the crossing for the five (5) years preceding the department's or the unit's consideration.

(4) Amount of vehicular traffic and posted speed limits for the crossing.
(5) Amount of freight trains and their timetable speeds operated through the crossing.
(6) Type of warning device present at the crossing, if any.
(7) Alignment of the roadway and the railroad, and the angle of the intersection of an alignment at the crossing.
(8) Use of the crossing by:
(A) Trucks carrying hazardous materials;
(B) Vehicles carrying passengers for hire;
(C) School buses; and
(D) Emergency vehicles.
(9) Other appropriate criteria as determined by the department.
Ind. Code Ann. § 8-6-7.7-3.1 (LexisNexis 2012)

8-6-7.7-3.2. Petition for closure of public railroad crossing.
(a) A person may petition a unit (as defined in IC 36-1-2-23) under whose jurisdiction a public railroad crossing lies for the closure of a public railroad crossing. The unit shall conduct a public hearing on the petition.
(b) Except as provided in subsection (c), if the unit determines that the crossing meets the criteria adopted by the Indiana department of transportation under section 3.1 [IC 8-6-7.7-3.1] of this chapter for closing a crossing, the unit shall approve the petition described in subsection (a) and issue an order to close the crossing. The unit shall provide a copy of the unit's findings to the Indiana department of transportation.
(c) If the unit determines that:
(1) The crossing meets the criteria for closure adopted by the Indiana department of transportation under section 3.1 of this chapter; and
(2) A compelling reason has been shown to exist for the crossing to remain open;
the unit shall deny a petition to close the crossing. The unit shall provide a copy of the unit's findings to the Indiana department of transportation.
(d) If the unit determines that the crossing does not meet the criteria for closure adopted by the Indiana department of transportation and section 3.1 of this chapter, the unit may deny a petition to close the crossing.
(e) Notwithstanding subsections (a) through (d), a unit and a railroad may agree to close a crossing within the jurisdiction of the unit.
Ind. Code Ann. § 8-6-7.7-3.2 (LexisNexis 2012)

8-6-7.7-3.3. Denial of petition -- Appeal -- Determination on review.
(a) If a unit denies a petition to close a crossing under section 3.2(c) [IC 8-6-7.7-3.2(c)] of this chapter, the Indiana department of transportation may schedule an appeal on the denial of the petition as set forth in this section. The decision to schedule or not schedule an appeal is:
(1) In the sole discretion of the department;
(2) Final and conclusive; and
(3) Not subject to review under IC 4-21.5.
(b) If the Indiana department of transportation after reviewing the findings of the local unit on the petition determines:
(1) The crossing meets the criteria for closure, opening, or denial of a closure, adopted by the Indiana department of transportation under section 3.1 [IC 8-6-7.7-3.1] of this chapter; and
(2) That a compelling reason has been shown for the crossing to remain open;

the Indiana department of transportation shall issue written findings that the crossing may remain open.
(c) If the Indiana department of transportation after reviewing the findings of the local unit on the petition determines:
(1) The crossing meets the criteria for closure adopted by the Indiana department of transportation under section 3.1 of this chapter; and
(2) That a compelling reason has not been shown for the crossing to remain open;
the Indiana department of transportation shall issue an order abolishing the crossing under section 3 [IC 8-6-7.7-3] of this chapter.
Ind. Code Ann. § 8-6-7.7-3.3 (LexisNexis 2012)

***8-6-7.7-3.4. Petition to open crossing -- Approval.**
If the Indiana department of transportation, upon receiving a petition to open a crossing, finds:
(1) That the proposed crossing meets the criteria required to open a new grade crossing adopted by the department under section 3.1 [IC 8-6-7.7-3.1] of this chapter; or
(2) That a compelling reason has been shown for the crossing to exist;
the department shall issue an order approving the petition.
Ind. Code Ann. § 8-6-7.7-3.4 (LexisNexis 2012)

<u>Iowa</u>

306.10. Power to establish, alter, or vacate.
In the construction, improvement, operation or maintenance of any highway, or highway system, the agency which has control and jurisdiction over such highway or highway system, shall have power, on its own motion, to alter or vacate and close any such highway or railroad crossing thereon, and to establish new highways or railroad crossing thereon which are or are intended to become a part of the highway system over which said agency has jurisdiction and control.
Iowa Code § 306.10 (2012)
***306A.6. New and existing facilities -- grade-crossing eliminations.**
Cities and highway authorities having jurisdiction and control over the highways of the state, as provided by chapter 306 may designate and establish an existing street or highway as included within a controlled-access facility. The state or any of its subdivisions shall have authority to provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads, and city or village streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access facility, the provisions of sections 306.11 to 306.17 shall apply and govern the procedure for the closing of such road or street and the method of ascertaining damages sustained by any person as a consequence of such closing, provided, however, that the highway authority desiring the closing of such road or street shall conduct the hearing and carry out the procedure therefor and pay any damages, including any allowed on appeal, as a consequence thereof, any law to the contrary notwithstanding, and after the establishment of any controlled-access facility, no highway or street which is not part of said facility shall intersect the same at grade. No city or village street, county or state highway, or other public way shall be opened into or connected with any such controlled-access facility without the consent and previous approval of the highway authority in the state, county, city or village having jurisdiction over such controlled-access facility. Such consent and approval shall be given only if the public interest shall be served thereby.
Iowa Code § 306A.6 (2012)

***313.27. Bridges, viaducts, etc., on municipal primary extensions.**
The department may construct or aid in the construction, and may maintain bridges, viaducts, and railroad grade crossing eliminations on primary road extensions in cities.
Iowa Code § 313.27 (2012)

***314.5. Extensions in certain cities.**
The agency in control of a secondary road, subject to approval of the council, may eliminate danger at railroad crossings and construct, reconstruct, improve, repair, and maintain any road or street which is an extension of the secondary road within a city. However, this authority does not apply to the extensions of secondary roads located in cities over twenty-five hundred population, where the houses or business houses average less than two hundred feet apart.

The phrase "subject to the approval of the council" as it appears in this section, shall be construed as authorizing the council to consider said proposed improvement only in its relationship to municipal improvements such as sewers, water lines, establishing grades, change of established street grades, sidewalks and other public improvements. The locations of such road extensions shall be determined by the agency in control of such road or road system.
Iowa Code § 314.5 (2012)

327G.15. Railway and highway crossing at grade
1. Wherever a railway track crosses or shall hereafter cross a highway, street or alley, the railway corporation owning such track and the department, in the case of primary highways, the board of supervisors of the county in which such 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 and flasher lights or gate arm signals at the crossing and allocation of costs thereof. The department shall become a party to the 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 at the crossing and an unlimited portion of the cost of installing flasher lights or gate arm signals at the crossing may be paid from the grade crossing safety fund.
2. Notwithstanding other provisions of this section, maintenance of flasher lights or gate signals installed or ordered to be installed before July 1, 1973, shall be assumed wholly by the railroad corporation.
3. a. Payments from the grade crossing safety fund shall be made by the treasurer of state upon certification by the department that the terms of the agreement have been followed.
B. The department shall promulgate rules according to chapter 17A for processing claims to the grade crossing safety funds.
4. The provisions of this section shall not apply to the repair of the grade crossing surface.
Iowa Code § 327G.15 (2012)

327G.16. Disagreement -- application -- notice.
If the persons specified in section 327G.15 cannot reach an agreement, either party may make written application to the department requesting resolution of the disagreement. The department shall request the department of inspections and appeals to set a date for hearing. The department of inspections and appeals shall give ten days' written notice of the hearing date.
Iowa Code § 327G.16 (2012)

***327G.25. Closing of crossing for repair or upgrade.**

A railway corporation shall not close a railway crossing to the traveling public for more than thirty days for the purpose of repairing or upgrading the crossing. A railway corporation violating this section shall, upon conviction, be subject to a schedule "one" penalty.
Iowa Code § 327G.25 (2012)

Kansas

12-1633. Railways and street railways; crossings; construction of viaducts or tunnels; regulation of speed; appraisement and payment of damages; liens; actions; penalties.
The governing body of cities of the first and second class shall have the power to regulate the crossings of railway and street-railway tracks and provide precautions and adopt ordinances regulating the same; to regulate the running of street railways or cars and to adopt ordinances relating thereto and to govern the speed thereof; to regulate the running of railway engines and cars, except speed, and to adopt ordinances relating thereto; and to make other and further provisions, rules and regulations to prevent accidents at crossings and on tracks of railways, and to prevent fires from engines, and to require all railway companies to erect viaducts over or tunnels under their tracks at the crossings of streets.
Kan. Stat. Ann. § 12-1633 (2011) Excerpt from applicable statute published.

12-1634. Same; cities in counties over 90,000; regulation of speed; bond issue.
The governing body of all cities of the first and second class in a county having a population of over 90,000 shall have the power to regulate the crossings of railway and street-railway tracks and provide precautions and adopt ordinances regulating the same; to regulate the running of street railways or cars and to adopt ordinances relating thereto and to govern the speed thereof; to regulate the running of railway engines and cars, except speed, and to adopt ordinances relating thereto; and to make other and further provisions, rules and regulations to prevent fires from engines, and to require all railway companies to erect viaducts over or tunnels under their tracks at the crossings of streets.
Kan. Stat. Ann. § 12-1634 (2011) Excerpt from applicable statute published.

***68-509. Elimination of grade crossings; division of costs between railroad and county; eminent domain; publication notice; appeal from award; warning signals.**

The county engineer and board of county commissioners, in designating the county road system, shall eliminate all steam or electric road grade crossings and all other dangerous places on the highways so far as practicable, by paralleling such steam or electric roads, constructing undergrade or overhead crossings, relocating the highways or using such other means as may be necessary to properly safeguard the traveling public. The expense of eliminating railroad crossings shall be divided between the railroad company and the county, in a fair and equitable proportion determined by the secretary of transportation, who shall determine the necessity for eliminating suchcrossing.

When the elimination, protection or improvement of a railroad grade crossing, as finally determined to be necessary by the secretary, requires the relocation, laying out, altering, widening or vacating of a highway, the board of county commissioners may purchase or acquire by donation any land required and, by order of the board, cause the highway to be relocated, laid out, altered, widened or vacated. Such order of the board of county commissioners shall cause any land so procured to become a public highway without further action. If the owner of any land required for the relocation, laying out, altering or widening of a highway for the purposes

mentioned in this section refuses to sell or donate such land, the board of county commissioners shall exercise the right of eminent domain in the following manner:

The board of county commissioners by order shall determine the nature of the changes required in such road, the approximate amount and location of land required to be taken therefor and the time and place at which the road will be viewed. The board shall publish a notice once in the official county paper, not less than 15 days and not more than 25 days before the viewing of the road. A similar notice shall be sent by certified mail to the owners of lands affected by such change, at the address where the owner's tax statement is sent. Such notice shall set out the substance of the order and its date, the time and place the commissioners will begin to view the road and give all parties a hearing.

The board shall direct the county engineer to meet with it at such time and place, unless the new locations of roads made necessary by the changes have already been definitely surveyed and located. Upon the day stated in the notice, or on the following day, the county commissioners shall meet at the place stated in the notice and proceed to view the road and changes required; shall view all lands required to be taken for the relocation, laying out, altering or widening of the highway for the purposes described in this section; and shall appraise the value thereof and assess the damages thereto. The county commissioners shall forthwith file in the office of the county clerk of the county a written report of their findings, along with the plat of the road as changed. All applications for damages must be filed in writing with the county clerk on or before the first day of the next regular session of the board following the filing of the report. The board at such session shall finally determine the amount to be paid as damages to any owner of the land. The amounts so allowed shall be paid from the general fund or the road fund of the county.

The right of appeal from the award of damages made by the board of county commissioners shall be the same as is now provided by law in other road cases, but such appeal shall not delay any work upon or in relation to the road. If lands are appropriated for the relocation of any county or township road, which relocation is deemed necessary to avoid one or more railroad crossings or other dangerous places, the railroad company shall pay such part of the cost, not less than 1/2 or more than 3/4, as determined by the secretary of transportation. Such part of the cost shall be paid by the railroad company to the county and shall be used to reimburse the funds from which the cost of land and damages were paid. The secretary of transportation, upon the request of any county or township board, may require suitable safety devices or warning signals at dangerous or obscure railroad crossings to indicate the approach of trains, which shall be installed and maintained by the railroad company. The secretary may require the removal of spoil banks and other obstructions to view and the grading of approaches to the tracks, the cost of which shall be borne by the railroad company and county or township jointly or severally in the proportions determined by the secretary. The secretary may require the construction of suitable warning signs at a distance of 200 to 300 feet on both sides of all railroad grade crossings if, in the judgment of the secretary, signs are necessary for the safety of travel. All such warning signs on township roads shall be erected by the townships and those on the county roads by the county.
Kan. Stat. Ann. § 68-509 (2011)

Kentucky

177.120. Department may order elimination of grade crossings or substitution -- Standards to be set by administrative regulations -- Closure of grade crossings.

(1) Whenever the department considers it necessary for the public safety, it may order any railroad company owning or operating a railroad in this state, to eliminate any grade crossing or change any existing overhead or underpass structure where any public road crosses the railroad tracks of the company. The department may determine whether a substitute crossing should be established and if so, the location of the crossing to be substituted, and whether it shall pass over or under the railroad tracks or intersect them at grade.
(2) In accordance with this section, the department shall promulgate administrative regulations by December 1, 1992, that contain standards governing the closure of public grade crossings. In adopting standards, the department shall request and consider written comments from affected local governments and shall consider that the number of redundant and inherently dangerous grade crossings in this state should be reduced and that public safety will be enhanced by reducing the number of redundant and inherently dangerous grade crossings.
(3) On or before July 1, 1993, and on or before July 1 of each of the next four (4) years, and as necessary thereafter, the department shall compose a list of grade crossings proposed to be closed. The list shall be developed by applying the standards set forth in the administrative regulations adopted under subsection (2) of this section. Grade crossings that are part of an abandonment, closing, or removal shall not be included in the list. The department shall notify the public officials having the necessary authority and the railway companies operating the railroads of the proposed closures. Either affected party may request a public hearing, and if requested, the department shall hold a public hearing and apply in its determination the information gained at the public hearing and administrative regulations developed under subsection (2) of this section. If after the hearing the department determines that closure is warranted, it may order the crossing closed.
(4) If a request for a hearing on a particular crossing is not received within thirty (30) days of notice of the opportunity for a public hearing advertised pursuant to the requirements of KRS Chapter 424, the department shall order the crossing closed.
Ky. Rev. Stat. Ann. § 177.120 (LexisNexis 2012)

***177.150. Final hearing -- Notice -- Final order -- Waiver of proceedings -- Appeal.**
(1) After receipt of the plans, specifications, and estimates of cost from the railroad company, the department shall give at least ten (10) days' notice by certified mail, return receipt requested, to the railroad company of a time and place for a conference with respect to the grade separation or change. If the department elects to prepare plans, specifications, and estimates of cost, it shall furnish copies thereof to the railroad company prior to or at the time it gives notice of the conference. At the conference, the department shall approve or modify the plans and specifications and shall consider and determine the method of doing the work, whether by the railroad company or by the department, or partly by one and partly by the other, and whether by contract or by the employees of the department or the railroad company, or both, or by any combination of these methods, and if by contract, the method and manner of advertising for bids, the time and place of opening the bids, the time when work shall be begun and completed, and all similar matters of an administrative nature. The department shall embody its conclusions in an order, a copy of which shall be sent by certified mail, return receipt requested, to the railroad company.
(2) The department and any railroad company may agree by contract as to the method of eliminating any grade crossing or changing any existing overhead or underpass structure. In event of an agreement, all notices, hearings, and proceedings shall be deemed to have been waived, and the work of eliminating the grade crossing or making the change shall be performed

in accordance with the terms of the contract, with the same effect as though the work was being performed pursuant to a final order of the department.
(3) Any person aggrieved by an order issued pursuant to subsection (1) of this section may appeal to the department, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
Ky. Rev. Stat. Ann. § 177.150 (LexisNexis 2012)

***177.270. Use of existing facilities -- Grade crossing elimination -- Public way connections.**
The highway authority of the state, county, city, town, or village may designate and establish limited access highways as new and additional facilities or may designate and establish an existing street or highway as included within a limited access facility. The state or any of its subdivisions shall have authority to provide for the elimination of intersections at grade of limited access facilities with existing state and county roads, and city and town or village streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such limited access facility; and after the establishment of any limited access facility, no highway or street which is not part of said facility shall intersect the same at grade. No city, town, or village street, county or state highway or other public way shall be opened into or connected with any such limited access facility without the consent and previous approval of the highway authority in the state, county, city, town, or village having jurisdiction over such limited access facility. Such consent and approval shall be given only if the public interest shall be served thereby.
Ky. Rev. Stat. Ann. § 177.270 (LexisNexis 2012)

178.355. Procedure for ordering elimination of grade crossings or change of existing overhead or underpass structure crossing county road.
(1) Whenever the fiscal court considers it reasonably necessary for the public safety, it may in the manner hereinafter provided, order any railroad company, either steam or electric, owning or operating a railroad in its county, to eliminate any existing grade crossing or change any existing overhead or underpass structure where any county road crosses the railroad tracks of such company.

(2) The fiscal court shall give at least ten (10) days' notice by certified mail, return receipt requested to the railroad company of a hearing to be held at a time and place stated in the notice, at which hearing it shall consider whether or not the proposed grade separation or change is reasonably necessary and the most advantageous method of effecting the grade separation or change. In determining whether the proposed grade separation or change is reasonably necessary, the fiscal court shall receive evidence of, and shall consider, all relevant facts, including the present and prospective density of highway traffic and the present and prospective frequency and speed of train movements over the crossing, the adequacy of existing or proposed signals or warning devices for the protection of highway traffic at the grade crossings, the possibility and probability of personal injury to the public using the highway and to employees and passengers of the railroad company and damage to property, and the cost of the grade separation or change in relation to benefits resulting from the proposed construction. If the fiscal court finds that the grade separation or change is reasonably necessary, it shall make an order to that effect and furnish a copy thereof by certified mail, return receipt requested to the railroad company. The order shall specify a general plan for the new or changed grade separation. The order shall direct the railroad company to prepare plans, specifications and estimates of cost for the grade separation or change in accordance with the general plan prescribed by the order, or may provide

that the plans, specifications and estimates of cost shall be prepared by the county if the grade separation structure shall pass over the railroad tracks. The plans, specifications and estimates of cost may, if requested by any public utility, provide facilities for such public utility.

(3) Within ninety (90) days after the entry of an order directing a grade separation or change, and the preparation of plans, specifications and estimates of cost by the railroad company, the railroad company shall present to the fiscal court, plans, specifications and estimates of cost for the grade separation or change, including the necessary approaches thereto.

(4) After receipt of the plans, specifications and estimates of cost from the railroad company the fiscal court shall give at least ten (10) days' notice by certified mail, return receipt requested to the railroad company of a time and place for final hearing with respect to the grade separation or change. If the fiscal court elects to prepare plans, specifications and estimates of cost, it shall furnish copies thereof to the railroad company prior to or at the time it gives notice of a final hearing. At the final hearing the fiscal court shall consider whether or not the plans make reasonably adequate provision for present and future safety and convenience of highway traffic and present and future safety and efficiency of operation of trains of the railroad company, its employees and passengers, and for the development of highway and railroad facilities, and shall approve or modify the plans and specifications. It shall then consider and determine the method of doing the work, whether by the railroad company or by the county, or partly by one and partly by the other, and whether by contract or by the employees of the county or the railroad company, or both, or by any combination of these methods, and if by contract, the method and manner of advertising for bids, the time and place of opening the bids, the time when work shall be begun and completed, and all similar matters of an administrative nature. The fiscal court shall embody its conclusions in a final order, a copy of which shall be sent by certified mail, return receipt requested to the railroad company.

(5) The fiscal court may reject or order the rejection of all bids submitted for the work, or any part thereof, and require a readvertisement for bids. The fiscal court may reject all bids and elect to do the work itself, or partly by itself and by the railroad company, or by contractors, or by a combination of these methods. If the work includes a structure to support the railroad tracks, the railroad company shall have the right to supervise the construction of that part of the work. If the fiscal court elects to do the work itself there shall not be charged to the railroad company any sum in excess of that it would have been required to pay had the contract been let to the lowest bidder.

(6) In all cases where the work is let by the railroad company on contract, the work shall be done under the general supervision of the county road engineer.

(7) The cost of all work incident to or occasioned by the elimination of the grade crossing and the construction of a substituted crossing, or the reconstruction of an existing overhead or underpass structure, including, without limitation of the generality of the foregoing, the cost of preparing plans and specifications, the cost of acquisition of necessary property and property damage, if any, the construction of approaches, drainage structures, and streets and pavements, shall be paid in the proportion of fifteen percent (15%) by the railroad company and eighty-five percent (85%) by the county.

(8) As the work progresses the fiscal court shall furnish to the railroad company, and the railroad company shall furnish to the fiscal court, a monthly statement showing in detail all amounts expended in connection with the work. On or about the fifteenth of each month, the county road engineer shall prepare a statement showing the total amount expended to the close of the preceding month, the amount paid or expended by each party up to that time, and the amount due from the county to the railroad company or from the railroad company to the county. Upon receipt of the statement each party shall pay to the other the amounts shown to be due thereby.

(9) All payments made on such monthly statements shall be considered only payments on account, and upon final completion of the work the county road engineer shall prepare and furnish to the railroad company a statement showing the total cost of the work, the amount paid or expended by the county or the railroad company, and the amount due from one to the other. Each party shall be afforded reasonable opportunities to verify the statements of expenditures by the other, and the balance due as certified by the county road engineer in his final statement shall be paid by one party to the other promptly upon receipt of such final statement.

(10) The fiscal court and any railroad company may agree by contract as to the method of eliminating any grade crossing or changing any existing overhead or underpass structure. In event of such agreement all notices, hearings and proceedings shall be deemed to have been waived, and the work of eliminating the grade crossing or making the change shall be performed in accordance with the terms of the contract, with the same effect as though the work were being performed pursuant to a final order of the fiscal court.
Ky. Rev. Stat. Ann. § 178.355 (LexisNexis 2012)

***178.360. Grade separation of proposed railroad and county road crossings.**
(1) After June 19, 1952, if the fiscal court proposes to construct a new county road across an existing railroad, or a railroad company proposes to construct a new railroad across an existing county road, the party proposing such construction shall provide the other party with plans and specifications for its proposed construction, showing the location thereof, and, if the proposed crossing is to be separated, a general plan for such separation. The fiscal court shall give at least ten (10) days' notice of a hearing to be held at a time and place stated in the notice, at which hearing it shall consider whether the proposed crossing shall be approved and whether a grade separation is reasonably necessary for the present and future safety and convenience of highway traffic and present and future efficient operation of the railroad company's facilities and the safety of its employees and passengers, and in accordance with the standards prescribed for grade separations in KRS 178.355.

(2) If the fiscal court shall find that a grade separation is reasonably necessary at such proposed crossing, it shall approve, or provide for the submission and subsequent approval of, plans and specifications for the grade separation. The determinations of the fiscal court shall be by order, and its final determination shall be by final order, which shall fix the method of doing the work in the manner provided in subsection (4) of KRS 178.355, and which shall be served on the railroad company by certified mail, return receipt requested. If the fiscal court orders a grade separation at such proposed crossing, the entire cost of such separation shall be borne by the party proposing the crossing.

(3) The fiscal court and the railroad company may agree by contract as to the method of constructing grade separations under this section and the distribution or allocation of cost thereof, under this section, and in such event, all notices, hearings and orders shall be deemed to have been waived, and the construction of the crossing shall be performed in accordance with the terms of the contract, with the same effect as though the work was being performed pursuant to a final order of the fiscal court.
Ky. Rev. Stat. Ann. § 178.360 (LexisNexis 2012)

***178.375. Appeals to Circuit Court from final orders of fiscal court.**
(1) Any railroad company dissatisfied with a final order of the fiscal court directing the elimination of any existing grade crossing or change of existing overhead or underpass structure under KRS 178.355, or a final order in respect of a new crossing under KRS 178.360, may, within twenty (20) days after receipt by the railroad company of a copy of the order, attested by the clerk of the fiscal court, file in the clerk's office of the Circuit Court of the county, together with a statement of the reasons why the order should not be enforced. On the filing of a copy of the order and the statement, the circuit clerk shall issue summons thereon in the same manner as summons is issued in equity actions in the Circuit Court. The trial of all appeals under this section shall be by a chancellor, and the evidence shall be taken by depositions or as the Circuit Court may direct.

(2) On the hearing of the appeal, the Circuit Court shall determine whether under the standards hereinbefore prescribed, a grade separation or change in an existing overhead or underpass structure is reasonably necessary for the public safety, whether the plans and specifications prescribed by such order make reasonably adequate provision for present and future safety and convenience of highway traffic and present and future safety of operation of trains of the railroad company, its employees and passengers, and for future development of highway and railroad facilities.

(3) Upon submission of the case, the Circuit Court shall embody its findings and conclusions of law in a final judgment, which may enjoin the fiscal court from enforcing its order, or direct the railroad company to proceed with the work in accordance with the order of the fiscal court, or in accordance with other plans and specifications prescribed by the court, or direct the fiscal court to proceed with the work in accordance with plans and specifications prescribed by the court.
Ky. Rev. Stat. Ann. § 178.375 (LexisNexis 2012)

See also Ky. Rev. Stat. Ann. § 177.190 in chapter 2

Louisiana

***§ 48:304 New and existing facilities; grade-crossing eliminations**
The highway authorities may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing street or highway as included within or being a controlled-access facility.
They may provide for the elimination of intersections at grade of controlled-access facilities with existing state and parish roads or municipal streets by grade separation or service roads or by closing off roads and streets at the right of way boundary line of the controlled-access facility. After the establishment of any controlled-access facility, no highway or street which is not part thereof shall intersect it at grade. No municipal, parish or state highway, or street, or other public

way shall be opened into or connected with any controlled-access facility without the consent and previous approval of the highway authority having jurisdiction over the facility. Such consent and approval shall be given only if the public interest is served thereby.
Provided however that notice of intent to establish such controlled-access facility within a municipality or within five miles thereof shall be delivered to the executive offices of such municipality together with plats outlining in reasonable detail the proposal not less than thirty days prior to the undertaking of such construction.
Provided further that in the event of objection to such proposal by the governing authorities of such municipality the same shall not be undertaken except after a public hearing by the board of highways.
After such public hearing a decision by the board of highways relative thereto shall be final.
La. Rev. Stat. Ann. § 48:304 (2012)

§ 48:390. Railroad grade crossing improvement and elimination; notification
A. The secretary shall complete a study of all public railroad grade crossings to establish priorities for improvement, relocation, or closure in compliance with federal guidelines and shall develop a prioritized plan for implementing railroad grade crossing improvements, relocations or closures pursuant to 23 U.S.C. § 130, known as the Federal Railroad Crossing Safety Program. The priority list shall be annually revised to reflect any changes made under the provisions of this Section. The department's plan shall be conducted in accordance with federal guidelines and Title 23 of the Code of Federal Regulations Part 646 relative to railroad-highway projects.
B. (1) The department, when it determines that it is necessary for the safety of the public, may improve, change the location of or abolish any existing public grade crossing on any state-maintained highway; however, prior to taking such action, the department shall take the following actions:
(a) Notify any and all affected persons owning land that is within a two-mile radius of the public grade crossing proposed to be improved, changed, or closed.
(b) Post a notice at the grade crossing proposed to be improved, changed, or closed.
(2) No provisions of this Section shall impose any liabilities of any nature upon the state of Louisiana or any agency thereof, nor shall any action or omission of the department be discoverable or admissible in any state court in Louisiana, and no record or document of the department compiled or prepared in connection with actions taken by the department pursuant to this Section,R.S. 48:390.1 or 23 U.S.C. 130 shall be discoverable or admissible in any state court in Louisiana.
C. to E. Repealed by Acts 2005, No. 347, § 3, effective August 15, 2005.
F. No railroad company operating in this state shall be authorized to close any public railroad grade crossing along Louisiana Highway 23 in Jefferson and Plaquemines parishes before December 31, 2006, and no such closure of a public railroad grade crossing along this route shall be closed unless the closure of such crossing has been deemed necessary by the Department of Transportation and Development pursuant to an evaluation conducted in accordance with the provisions of this Section or R.S. 48:390.1.
G. (1) Notwithstanding the provisions of this Section, R.S. 48:390.1, or any other provision of law or rule to the contrary, the closing of a railroad grade crossing by a railroad company shall not be considered interruption for purposes of acquisitive prescription, and any crossing closed by a railroad since January 1, 2006, shall be re-opened upon the attainment of thirty years peaceful and otherwise uninterrupted use or possession of servitude of use or passage across the railroad grade crossing with or without just title.

(2) For the purposes of this Subsection, a crossing shall include a private rural residence or agricultural crossing or other means of access over the railroad right-of-way

I. The department shall, no later than December 31, 2012, promulgate rules and regulations pursuant to the Administrative Procedure Act and subject to oversight of the House and Senate committees on transportation, highways, and public works, to implement the provisions of Subsections A, B, F, and G of this Section, including but not limited to notice, whom to notify, methods of notice, and posting requirements.

La. Rev. Stat. Ann. § 48:390(A)-(G), (I) (2012) Excerpt from applicable statute published.

***§ 48:390.1. Railroad grade crossing elimination; parish and municipal road**

A. (1) The department is authorized to evaluate the need to close any public railroad grade crossing on a non-state maintained highway within the territorial jurisdiction of any local governing authority in compliance with federal guidelines pursuant to 23 U.S.C. § 130, known as the Federal Railroad Crossing Safety Program. The department's evaluation shall be conducted in accordance with federal guidelines and Title 23 of the Code of Federal Regulations Part 646 relative to railroad-highway projects.

(2) If the evaluation suggests that closure of a public grade crossing on a non-state maintained highway is necessary for safety and in the best interest of the public, the department shall encourage public participation in accordance with the following procedure:

(a) Provide written notice to the local governing authority with jurisdiction over the non-state maintained highway, the railroad company whose railroad tracks are crossed at grade by the highway, any and all affected persons owning land that is within a two-mile radius of the public grade crossing proposed to be closed, and any other party deemed by the department to be interested in the necessity to close a public grade crossing.

(b) The notice shall establish a set time period of not less than thirty days for the local governing authority, railroad, any and all affected persons owning land that is within a two-mile radius of the public grade crossing proposed to be closed, or other interested party to respond to the department.

(c) The department shall attempt to address concerns of the local governing authority, the railroad, any and all affected persons owning land that is within a two-mile radius of the public grade crossing proposed to be closed, or other interested party timely communicated to the department in writing or received at any public hearing held by the local governing authority relative to closure.

(3) Upon compliance with Paragraph (2) of this Subsection, if the department opines that closure of a public grade crossing satisfies the guidelines established by the Federal Railroad Crossing Safety Program, is necessary for safety and in the best interest of the public, the department is authorized to issue a notice of intent and written determination to close an existing public grade crossing on a non-state maintained highway, which determination will include a summary of findings, the manner in which such closure is to be made, and any alterations to be made to the crossing.

(4) The department shall mail a copy of the notice of intent and determination pursuant to Paragraph (3) of this Subsection to the local governing authority with jurisdiction over the non-state maintained highway and the railroad. The local governing authority may submit a written request to the chief engineer for reconsideration of the department's determination. A reconsideration request shall be postmarked within fifteen calendar days, excluding weekends and holidays, from the date of mailing of the notice. A rail safety reconsideration board composed of the secretary, the chief engineer, and the executive director of the Louisiana

Highway Safety Commission shall consider the request and issue a final determination not later than fifteen calendar days, excluding weekends and holidays, of the date of receipt of the local governing authority's reconsideration request. The determination of the rail safety reconsideration board shall be final.

(5) Notwithstanding any provision of this Part or any other law to the contrary, when the department has finally determined that closure of a public grade crossing on a non-state maintained highway is necessary for the safety and in the best interest of the public, the public grade crossing on the non-state maintained highway shall be closed by cooperative action between the department and the railroad.

(6) Payment of costs to close a public grade crossing pursuant to a final closure determination pursuant to this Subsection shall not be an obligation of the local governing authority.

B. Notwithstanding any other law to the contrary, no provision of R.S. 48:390, this Section, or any action or omission of the department, railroad, or any local governing authority pursuant to 23 U.S.C. § 130 shall impose liability of any nature upon the state of Louisiana or any agency or department thereof or constitute transfer or assumption of care, custody and control of the non-state maintained highway and public grade crossing by the state of Louisiana, or any department or agency thereof, particularly the Department of Transportation and Development, nor shall any action or omission of the department or any local governing authority be discoverable or admissible in any state court in Louisiana, and no record or document of the department or any local governing authority compiled or prepared pursuant to R.S. 48:390, this Section or 23 U.S.C. § 130 shall be discoverable or admissible in any state court in Louisiana.

C. Nothing in this Section shall be construed as amending, repealing or modifying any duty or responsibility that a local governing authority or a railroad had, if any, immediately before August 15, 2005, with regard to any applicable state or federal law.

D. The department shall, no later than December 31, 2012, promulgate rules and regulations pursuant to the Administrative Procedure Act and subject to oversight of the House and Senate committees on transportation, highways, and public works, to implement the provisions of Subsection A of this Section, including but not limited to notice, whom to notify, methods of notice, and posting requirements.

La. Rev. Stat. Ann. § 48:390.1 (2012)

***§ 48:394. Private crossing elimination**

A. (1) Any railroad company operating in this state which desires to close or remove a private crossing shall, no less than one hundred eighty days prior to the proposed closing or removal, provide a written request by registered or certified mail to the Louisiana Public Service Commission and to the owner or owners of record of the private crossing traversed by the rail line. The written request shall state the manner in which such private railroad crossing unreasonably burdens or substantially interferes with rail transportation.

(2) The Louisiana Public Service Commission shall publish the written request from the railroad company in the commission's official bulletin for no less than twenty-five days.

B. No private crossing shall be closed or removed by any railroad company until after a public hearing by the Louisiana Public Service Commission at which parties in interest have had an opportunity to be heard. Notice of the time and place of the hearing shall be published in the official journal of the parish and the commission's official bulletin and at least fifteen days shall elapse between the publication and the date of the hearing. In addition to notice by publication, and at least ten days prior to the hearing, a good faith attempt to notify the owner or owners of record of the property where the private crossing is located shall be made by the commission by

sending an official notice by registered or certified mail of the time and place of the hearing to the address or addresses indicated in the mortgage and conveyance records of the parish. The public hearing shall be held not less than sixty days after receipt of request of the railroad company as provided in Subsection A of this Section.
C. If, after such public hearing, the commission determines that the private railroad crossing unreasonably burdens or substantially interferes with rail transportation, the commission shall publish in the official journal of the parish where such crossing is located and in the commission's official bulletin a notice stating the manner in which such closure or removal shall be made and the date of such.
D. The provisions of this Section shall not apply when a private landowner or landowners and a railroad company enter into a consensual or negotiated written agreement or agreements to close a private railroad crossing.
La. Rev. Stat. Ann. § 48:394 (2012)

Maine

§ 7207. Discontinuance of railroad crossings
Any railroad corporation or the municipal officers of a city or town in which a public way crosses or is crossed by a railroad, whether at grade or otherwise, may file a petition in writing with the Department of Transportation alleging that the crossing is no longer required by the public and praying that it may be closed or discontinued. The department shall, on receipt of a petition, appoint a time for hearing on the petition, after notice of not less than 10 days to the petitioners, the railroad corporation owning or operating the railroad and the city or town in which the crossing is located. After the notice and hearing, if the department finds that the crossing is no longer required by the public, it may order that the crossing be closed or discontinued. The department may close or discontinue railroad crossings, after notice of not less than 10 days to the railroad and municipality, or after hearing if requested within the 10 days either by the railroad or the municipality.
Me. Rev. Stat. Ann. tit. 23, § 7207 (2012)

Maryland

§ 8-639. Power of Secretary over railroad grade crossings
(a) When approval of Secretary required. -- Unless approved by the Secretary on application to him, and notwithstanding any other statute to the contrary:
(1) Except for an industrial track spur or siding, a railroad may not:
(i) Construct, reconstruct, improve, widen, relocate, or otherwise alter a railroad grade crossing over a State, county, or municipal highway, except in Baltimore City, or over a private road; or
(ii) Change the crossing protection equipment at such a crossing; and
(2) A person may not:
(i) Construct, reconstruct, improve, widen, relocate, or otherwise alter either a railroad grade crossing over a public highway or a private road over a railroad; or
(ii) Change the crossing protection equipment at such a crossing.
(b) Authority of Secretary. --
(1) The Secretary has authority, subject to the provisions of Division II of the State Finance and Procurement Article, to approve the construction or modification of a railroad grade crossing or a change of crossing protection equipment and to impose conditions necessary to insure public safety at the crossing.

(2) No other approval, safety condition, or protective measure may be required by any public authority.
(c) Hearing on application. -- When an application is made to the Secretary for approval of the construction or modification of a railroad grade crossing or a change of crossing protection equipment, the Secretary, after notice to all parties in interest, including adjacent property owners, shall hold a hearing on the matter if:
(1) The Secretary considers a hearing to be necessary;
(2) A hearing is requested by any party in interest; or
(3) The proposed change would diminish or discontinue any crossing protection.
(d) Decision by Secretary. -- With any technical advice from the Administration that the Secretary considers necessary, the Secretary may:
(1) Approve or disapprove the application; and
(2) Impose on the person initiating the crossing project, under uniform standards and regulations, any condition necessary to insure public safety at the crossing, including a requirement for the installation of, payment for, and maintenance of crossing protection equipment.
(e) Conversion of private crossing to public crossing. -- For purposes of this section, the conversion of a private road grade crossing into a public highway grade crossing is a projection of a public highway over the railroad by the public authority taking jurisdiction of the private road.
Md. Code Ann., Transp. § 8-639 (LexisNexis 2012)

§ 8-640. Construction and maintenance of railroad crossings by railroad and Administration.

(b) General powers of Administration. --
(2) If a railroad grade crossing is dangerous or inconvenient for public travel, the Administration may construct a railroad grade separation.

Md. Code Ann., Transp § 8-640 (b)(2) (2012) Excerpt from applicable statute published.

Massachusetts

§ 65. Process for Abolition of Grade Crossings Regulated.
The department of highways shall proceed to make an investigation of crossings where a public or private way and a railroad cross each other at grade, in sections sixty-five to eighty-two, inclusive, referred to as grade crossings. Said department shall annually on or before October first file with the department of telecommunications and energy lists of grade crossings the abolition of which it suggests for early consideration, to which lists additional grade crossings may from time to time be added by said department of highways. Such lists shall state the names of the grade crossings, the names of the corporations operating the railroads crossed and the counties, cities and towns in which such crossings are located. The department of highways shall receive all petitions for the abolition of grade crossings from the aldermen of the city, the selectmen of the town, or the county commissioners of the county, where such a crossing exists, or the board of directors of the railroad corporation operating the railroad crossed, and after a hearing, due notice of which shall have been given to said railroad corporation, city or town and county, may in its discretion place said crossing on one of said lists. The department of telecommunications and energy, after due notice to the department of highways, the counties and municipalities in which such crossings are located and the railroad corporations operating the

railroads crossed, shall proceed to hold public hearings upon such lists and such additional grade crossings as the department of highways shall have notified it to include. Upon the completion of such hearings the department of telecommunications and energy by order shall designate a program of grade crossings the abolition of which shall be considered; provided, that such program order may be amended or revised from time to time by the department of telecommunications and energy on request of the department of highways. In establishing such program the department of telecommunications and energy shall take into consideration the relative security and convenience of the public likely to result from the abolition of each particular grade crossing included therein as compared with the abolition of other grade crossings. Such program order shall state with respect to each grade crossing the name of the crossing, the name of the railroad corporation operating the railroad crossed, and the names of the counties, cities and towns in which the crossing is located. A copy of such program order and amendments and revisions thereof shall be filed in the office of the department of telecommunications and energy and of the department of highways
Mass. Gen. Laws ch. 159, § 65 (LexisNexis 2012)

***§ 70. Manner and Limits of Grade Crossing Abolitions; Apportionment of Costs.**

The department of highways shall proceed to consider the abolition of grade crossings in the order established by the program orders as adopted and amended or revised under section sixty-five, and shall hold public hearings on each such grade crossing abolition, due notice of which shall be given to such railroad corporations, counties, cities and towns as may be required by law to bear part of the cost of abolition. After hearing as aforesaid, it shall by order determine the manner and limits of the grade crossing abolition, what part, if any, of an existing public or private way shall be discontinued, and whether or not a new way shall be substituted therefor, the grade for the railroad and the way, the changes to be made in the location and grades of a street railway having a location in the part of such public way where the crossing exists or in ways connecting therewith, the general method of construction, and what land or other property it considers necessary to be taken, including, in its discretion, an easement in land adjoining the location of a public or private way, or of a railroad, consisting of a right to have the land of the location protected by having the surface of such adjoining land slope from the boundary of the location in a manner specified by it; provided, that so much of any such order as relates to the foregoing shall not be effective unless the consent of the department of telecommunications and energy thereto shall first be obtained, but no consent shall be given by said department to an order requiring a change in the grade of a railroad or street railway until the carrier interested, if it so requests, has been given an opportunity to be heard before said department on the sole question of such change. The department of highways shall determine in such order when the work shall be commenced, who shall do the work and how much shall be done by each. All such work not done in whole or in part by the department of highways shall be done under its general supervision. Except as otherwise provided in this section and section eighty, the total cost of the alterations aforesaid, including therein, in addition to the cost of construction, all damages on account thereof, but excluding the actual cost to a street railway of changing its railway or location to conform to the order of abolition, which shall be borne by it, and also moneys allotted under the provisions of the national industrial recovery act or other federal statutes and enabling state legislation for expenditure on such alterations from funds designated by the federal authorities exclusively for grade crossing abolitions shall be apportioned, by a board of five members constituted as hereinafter provided, among the railroad or railroads affected, the commonwealth, the county and the city or town where the crossing is situated, equitably and in

accordance with the relative benefit to be derived by each from such alterations; provided, that if in any case funds sufficient to cover the said total cost are allotted as aforesaid under the provisions of the said national industrial recovery act or other federal statutes and enabling state legislation, no such apportionment shall be made; and, provided further, that any of said parties aggrieved by said apportionment may petition the supreme judicial court, which shall appoint three commissioners to make such apportionment, subject to the approval of the court. Said board shall consist of the attorney general, the chairman of the commission having supervision and control of the department of telecommunications and energy and another member of said commission designated by said chairman, and the commissioner of highways and one of his associate commissioners designated by said commissioner. If the crossing is of a railroad and a private way, and no crossing of a public way is abolished in connection therewith, the total cost as aforesaid shall be paid by the parties affected by the abolition in such proportion as said department of highways may establish. Said department may require the railroad corporation or corporations and the cities, towns and counties affected by any such grade crossing abolition, or any of them, to cause to be prepared and submitted to it plans, specifications and estimates of the cost of such abolition. A copy of any order made under this section, after so much thereof as is required hereby to be consented to by the department of telecommunications and energy has been consented to as hereinbefore provided, shall be filed in the office of the department of highways and of the department of telecommunications and energy, and a copy thereof shall be served on the state comptroller, the railroad corporation or corporations, the county and city or town affected by such abolition. The department of highways shall include in its budget estimate in each year a sum sufficient to meet the cost of such portion of any abolition or abolitions of grade crossings, to be undertaken during the following year, as is to be paid by the commonwealth, counties and municipalities.
Mass. Gen. Laws ch. 159, § 70 (LexisNexis 2012)

***§ 72. State Highways.**
Whenever a grade crossing is abolished upon a state highway, county way, or way which has been petitioned for as a state highway, the said highway or way shall be so constructed that there shall be a clear view in each direction for at least one hundred and fifty feet from the center of said highway or other way where the same passes over or under the railroad, except in any particular case, when compliance with said requirement is deemed by the department of highways to be unnecessary and unreasonable under all the circumstances.
Mass. Gen. Laws ch. 159, § 72 (LexisNexis 2012)

***§ 73. Assessment upon or Contribution of Street Railway Company Deemed Part of Value of Its Property.**
The amount of any expenditure under section eighty by a street railway company toward the cost of abolishing a grade crossing shall be deemed and taken in all proceedings thereafter as a part of the value of its property for street railway purposes; and such company may issue stocks or bonds to such amount as the department of telecommunications and energy shall, subject to the laws relating to the issue of stocks and bonds by street railway companies, approve as reasonably necessary to provide for the payment of such expenditure.
Mass. Gen. Laws ch. 159, § 73 (LexisNexis 2012)

***§ 74. Change of Locations; Removal and Relocation of Tracks; "State Highway" Defined.**
If in an order of abolition under section seventy it is determined that the location of the railroad or of the public or private way shall be changed, such order when a copy thereof is filed with the department of telecommunications and energy shall establish the location as thus changed, and if

it is necessary to take land or an easement therein to provide such new location, the department of highways shall take the same by eminent domain under chapter seventy-nine, and in such case the order of taking shall be included in said order of abolition under section seventy. Said taking shall be on behalf of the commonwealth if the land or easement is to be used for or in connection with a state highway or on behalf of the city or town if the land or easement is to be used for or in connection with any other public way, or on behalf of the railroad corporation if the land or easement is to be used for or in connection with a private way or by the railroad corporation.

If in an order of abolition under section seventy it is determined that the location of a street railway shall be changed, such order when a copy thereof is filed with the department of telecommunications and energy shall establish the location as thus changed.

The department of highways may in any order entered under said section seventy, or from time to time thereafter with the approval of the department of telecommunications and energy, order the removal or relocation of any surface street railway tracks, and of any conduits, pipes, wires, poles or other property located in public ways or places which it deems to interfere with any such grade crossing abolition or the work or works required therefor, and may grant new locations for any such structures so removed or relocated. Such orders, to the extent specified therein, shall be deemed a revocation of the right or license to maintain such tracks, conduits, pipes, wires, poles or other property in such public ways or places, and the owner of any such structures shall comply with said orders without expense to the commonwealth or any party which said department of highways has determined shall do the whole or any part of the work. If any such owner shall fail to comply with the order of the department of highways within a reasonable time, to be fixed in the order, said department may discontinue and remove such tracks, conduits, pipes, wires, poles or other property or may relocate the same, and the cost of such discontinuance, removal or relocation shall be repaid by the owner, and if not repaid may be recovered by the commonwealth in an action of contract. No such discontinuance, removal or relocation shall entitle the owner of the property thus affected to any damages on account thereof. Any structures in or upon private lands may be removed and relocated by the department of highways as a part of the cost of the abolition, or if removed and relocated by the owner thereof the reasonable expense shall be paid to him by the commonwealth as a part of the cost of the abolition. If in any order hereunder or under said section seventy any location shall be changed, such order when a copy thereof is filed with the department of telecommunications and energy shall establish the location as thus changed. In this section and in sections seventy-five, seventy-seven, seventy-eight and eighty, the words “state highway” shall include any public way and part thereof in direct continuation of a state highway and not more than one hundred feet from the end thereof.
Mass. Gen. Laws ch. 159, § 74 (LexisNexis 2012)

***§ 129. Railroad Crossings -- Abolition of Grade Crossings.**
For the purpose of avoiding or abolishing a crossing of a railroad by the tracks of a street railway company at grade, the company may purchase or take by eminent domain under chapter seventy-nine land necessary therefor, not exceeding fifty feet in width, outside the limits of a public way; but no land shall be so taken which cannot lawfully be taken for the laying out of a railroad, nor shall it be so taken until a plan on an appropriate scale, showing by metes and bounds the land, and the names of the owners thereof, has, after notice to such owners, and after such public notice and hearing as is required by section seven, been approved in writing by the board of

aldermen of the city or the selectmen of the town where such land is situated; nor shall the land of a railroad corporation or of another street railway company be so taken without its consent, except with the approval of the department after notice and a hearing.
Mass. Gen. Laws ch. 161, § 129 (LexisNexis 2012)

Michigan

§ 462.307. Construction; approval required; investigation of proposed crossing location; changing location or abolishing existing public grade crossing;etc.

(2) The department, when it determines necessary for the safety of the public, may change the location of or abolish any existing public grade crossing after not less than 30 days' notice in the area affected by the crossing. A public hearing shall be held by the department if requested by any affected party. Within 30 days after the date of the hearing, the department may issue an order to close the existing grade crossing. Any person, local unit of government, or road authority having an interest in the abolishment of an existing grade crossing, within 30 days after the closure order of the department, may commence an action in the circuit court for the county of Ingham against the department as defendant to vacate or set aside the order.

(4) If the location of a proposed crossing is found to be necessary, feasible, and may be made reasonably safe for a crossing at grade, the department shall grant permission for the crossing. The department shall require installation of such traffic control devices as in its judgment may be appropriate. When a crossing necessitated by a new roadway across an existing track is permitted, the department shall simultaneously, after investigation and hearing, order the abolishment of 1 or more existing grade crossings having less than 100 vehicles a day within the same road authority jurisdiction, if the involved road authority and railroad may waive hearing thereon.
Mich. Comp. Laws Serv. § 462.307 (2012) Excerpt from applicable statute published.

Minnesota

219.072 ESTABLISHMENT OF NEW GRADE CROSSINGS

The establishment of all new grade crossings must be approved by the commissioner. When establishment of a new grade crossing is desired, either by the public officials having the necessary authority or by the railroad company, and the public officials and the railroad company cannot agree as to need, location, or type of warning devices required, either party may file a petition with the commissioner setting forth the facts and submitting the matter for determination. The commissioner, after notice as the commissioner deems reasonable, shall conduct a hearing and issue an order determining the matters submitted. If the commissioner approves the establishment of a new grade crossing, the commissioner may in the same order direct that the costs, including the costs of the type of warning devices required, be divided between the railroad company and the public authority involved as the parties may agree, or, if they fail to agree, then as determined by the commissioner on the basis of benefit to the users of each. However, the commissioner may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken.
Minn. Stat. § 219.072 (2012)

219.073 COMMISSIONER'S RULES ON GRADE CROSSINGS

In accordance with chapter 14, the commissioner of transportation shall adopt rules by December 1, 1991, that contain standards governing the establishment, vacation, relocation, consolidation,

and separation of grades at public grade crossings. In adopting standards, the commissioner shall consider that the number of grade crossings in this state should be reduced and that public safety will be enhanced by reducing the number of grade crossings.
Minn. Stat. § 219.073 (2012)

219.074 GRADE CROSSING CHANGE, VACATION
Subdivision 1. Agreement; hearing. --Public officials having the necessary authority and a railway company operating the railroad may agree to the vacation, relocation, consolidation, or separation of grades at grade crossings. If agreement cannot be reached concerning the location, manner of construction, or a reasonable division of expense, either party may file a petition with the commissioner, setting forth the facts and submitting the matter to it for determination. The commissioner shall then conduct a hearing under chapter 14 and shall apply the rules developed under section 219.073 in coming to a determination. The commissioner may also bring matters concerning vacation, relocation, consolidation, or separation of grades at public grade crossings to the commissioner for determination. If the commissioner determines that the vacation, relocation, consolidation, or separation is consistent with the standards adopted under section 219.073, the commissioner may order the crossing vacated, relocated, consolidated, or separated.
Subd. 2. Crossing vacation program. --On or before July 1, 1992, and on or before July 1 of each of the next four years, and as necessary afterward, the commissioner shall develop a list of grade crossings proposed to be vacated. The list must be developed by applying the standards set forth in the rules adopted under section 219.073. Grade crossings that are part of an abandonment, closing, or removal may not be included in the list. The commissioner shall notify the public officials having the necessary authority and the railway companies operating the railroads of the proposed vacations. Either affected party may request a hearing. If requested, the commissioner shall hold a contested case hearing applying in the commissioner's determination the rules developed under section 219.073. If after the hearing the commissioner determines that the vacation is consistent with the standards adopted under section 219.073, the commissioner may order the crossing vacated. If a request for a hearing on a particular crossing is not received within 30 days of the publication in the State Register, the commissioner shall order the crossing vacated.
Subd. 3. Crossing inventory. --By December 31, 1993, the commissioner shall complete an inventory of all public and private grade crossings in the state and shall annually revise the inventory to reflect grade crossing changes made under this section.
Minn. Stat. § 219.074 (2012)

<u>Mississippi</u>

§ 17-5-13. Power of county or municipality to apply for, receive and expend funds from federal government for railroad crossing improvements
The board of supervisors of any county and the governing authority of any municipality shall have the power and authority to apply for, receive and expend grants, loans or other funds from the federal government or any department or agency thereof for use in connection with the relocation or grade separation of railroad lines to eliminate grade level railroad crossings.
Miss. Code Ann. § 17-5-13 (2012)

***§ 57-43-15. Mississippi Highway-Railroad Grade Crossing Safety Account**
(1) There is established within the Railroad Revitalization Fund a new account to be entitled the Mississippi Highway-Railroad Grade Crossing Safety Account. The account shall be administered by the Mississippi Department of Transportation and shall consist of:

(a) Such monies as are transferred to it on July 1, 2001, from the Mississippi Grade Crossing Closure Account;
(b) Thirty-five percent (35%) of collections from the locomotive fuel tax imposed under Section 27-59-307 for the previous year; and
(c) Monies transferred to it from the Railroad Revitalization Fund, pursuant to the provisions of Section 2 of Chapter 497, Laws of 2009.

Unexpended amounts remaining in the account at the end of a fiscal year shall not lapse into the State General Fund; and any interest earned on amounts in the account shall be deposited to the credit of the account.
(2) The Mississippi Transportation Commission, after consulting with the railroads operating in Mississippi, shall promulgate rules to ensure equitable allocation of the funds described in subsection (1) of this section to projects throughout the state, and shall consider the proportionate number of main line track miles of each railroad and the number of public roadway/railroad grade crossings on each railroad's main line. Expenditure of monies from the Mississippi Highway-Railroad Grade Crossing Safety Account shall be limited to the following purposes:
(a) Financial aid for closure of public roadway/railroad grade crossings;
(b) Realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing;
(c) Monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad;
(d) Installation, maintenance or upgrade of highway-railroad grade crossing signals, at the discretion of the Mississippi Transportation Commission, based upon the Federal Railroad Administration ranking of all Mississippi highway-railroad grade crossings. Not less than ten percent (10%) of the monies necessary to defray the costs of such installations must be federal funds;
(e) Separation of grades of highway/railroad crossings;
(f) Improvement of any grade crossing including the necessary roadway approaches thereto of any railroad across a public road highway;
(g) Construction, reconstruction, repair or replacement of the grade crossing surface structure; and
(h) Installation of an automatic advance warning signal alerting a motorist that a grade crossing is ahead.
(3) The Mississippi Department of Transportation shall consider all requests from the state's diagnostic review of public roadway/railroad grade crossings and from individual railroads for expenditure of funds for the purposes described in subsection (2) of this section, and shall establish uniform criteria and guidelines relating to such crossings and the expenditure of funds.
Miss. Code Ann. § 57-43-15 (2012)

§ 65-1-8 Authority and powers of the commission

(2)(f) To regulate and abandon grade crossings on any road fixed as a part of the state highway system, and whenever the commission, in order to avoid a grade crossing with the railroad, locates or constructs said road on one side of the railroad, the commission shall have the power to abandon and close such grade crossing, and whenever an underpass or overhead bridge is substituted for a grade crossing, the commission shall have power to abandon such grade crossing and any other crossing adjacent thereto. Included in the powers herein granted shall be the power to require the railroad at grade crossings, where any road of the state highway system

crosses the same, to place signal posts with lights or other warning devices at such crossings at the expense of the railroad, and to regulate and abandon underpass or overhead bridges and, where abandoned because of the construction of a new underpass or overhead bridge, to close such old underpass or overhead bridge, or, in its discretion, to return the same to the jurisdiction of the county board of supervisors;
Miss. Code Ann. § 65-1-8(2)(f) (2012) Excerpt from applicable statute published.

§ 65-1-69. Crossings
Whenever any railroad and state highway or part thereof shall cross each other at the same level and, in the opinion of the State Highway Commission, such crossing is dangerous to public safety or traffic is unreasonably impeded thereby and such crossing should be removed, the State Highway Commission may order such crossing eliminated either by having the State Highway Department carry such state highway under or over the tracks of such railroad.

The plans covering such proposed changes may be made either by the director of the State Highway Department, subject to the approval of the highway commission or the railroad company affected, but shall in either event be approved by both the highway commission and the railroad company before contract is awarded; but such provision shall not be used to unreasonably delay the construction of any proposed structure. When plans have been approved, such proposed work shall be advertised and contract awarded as elsewhere provided in this chapter for the advertising and awarding of contracts. Joint supervision of construction may be had by both the State Highway Department and the railroad company. The state highway commission and the railroad company shall pay equal parts of the cost of any underpass or overpass across the right-of-way of the railroad company. Such work shall be so planned and prosecuted as to allow the safe and regular operations of trains at every stage of the work.

Appeals from decisions or determinations of the State Highway Commission may be made by any party affected under this section, and the procedure for such appeal shall be the same as is provided by law for appeals from decisions and determinations of the boards of supervisors.
Miss. Code Ann. § 65-1-169 (2012)

§ 65-1-175 Jurisdiction and powers of Department of Transportation with respect to roadway/railway crossings
(2) The Mississippi Department of Transportation shall have power, upon its own motion or upon complaint filed, after having made proper investigation, and after notice and hearing, if requested, to abolish any public roadway/railroad crossing heretofore or hereafter established, to vacate and close that part of the roadway on such crossing abolished, and to erect barricades across the roadway in such a manner as to prevent the use of such crossing as a roadway, when, in the opinion of the department, the public necessity served by the crossing in question is not such as to justify the further retention thereof. In any event, if a roadway/railway crossing is the subject of closure proceedings, both the local governmental entity and the rail carrier shall be given formal written notice by the department before any hearing is conducted by the department. However, a public hearing by the department to abolish a crossing shall not be required when the public roadway authority in interest vacates the roadway. In such instances, the rail carrier, following notification to the department and roadway authority, shall remove any grade crossing warning devices and the grade crossing surface.
Miss. Code Ann. § 65-1-175(2) (2012) Excerpt from applicable statute published.

***§ 65-5-13. Grade-crossing eliminations**
The highway authority of the state, county, city, town, or village may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing street or highway as included within a controlled-access facility. The state or any of its subdivisions shall have authority to provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads and city, town, or village streets by grade separation or service road, or by closing off such roads and streets at the right of way boundary line of such controlled-access facility; and after the establishment of any controlled-access facility, no highway or street which is not part of said facility shall intersect the same at grade unless it be an approved interchange. No city, town, or village street, county or state highway, or other public way shall be opened into or connected with any such controlled-access facility without the consent and previous approval of the highway authority in the state, county, city, town, or village having jurisdiction over such controlled-access facility. Such consent and approval shall be given only if the public interest shall be served thereby.
Miss. Code Ann. § 65-5-13 (2012)

Missouri

§ 389.610. Railroad crossings construction and maintenance, highways and transportation commission to have exclusive power to regulate and provide standards -- apportionment of cost

5. The state highways and transportation commission shall have the exclusive power to alter or abolish any crossing, at grade or otherwise, of a railroad or street railroad by a public road, highway or street whenever the state highways and transportation commission finds that public necessity will not be adversely affected and public safety will be promoted by so altering or abolishing such crossing, and to require, where, in its judgment it would be practicable, a separation of grades at any crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made. When a road authority lawfully closes or vacates a roadway which provided access to a railroad crossing, the state highways and transportation commission shall issue an order authorizing removal of the crossing by the railroad within thirty days of being notified of such action by the roadway authority or railroad.
6. The state highways and transportation commission shall have the exclusive power to prescribe the proportion in which the expense of the construction, installation, alteration or abolition of such crossings, the separation of grades, and the continued maintenance thereof, shall be divided between the railroad, street railroad, and the state, county, municipality or other public authority in interest.
Mo. Rev. Stat. § 389.610 (2012) Excerpt from applicable statute published.

***§ 389.615 Study on grade crossing closures -- due when -- division may employ additional track safety specialists, when**
The division of motor carrier and railroad safety shall conduct a study to establish priorities for grade crossing closures and a plan for implementing grade crossing closures. The study is to be completed by January 1, 1994, and is not to be paid for from the grade crossing safety account. To promote the safety of railroad tracks at crossings, the division may employ additional track safety specialists, subject to appropriations, or available federal or private funding.
§ 389.615 R.S.Mo. (2012)

Montana

69-14-603. Railroad crossings in unincorporated towns or villages.
In any unincorporated community ordinarily known as a village or town where the public necessity and convenience require a railroad crossing at the intersection of the railroad with any street or highway, whether lawfully established or otherwise, which is commonly used by the public, the board of county commissioners of the county may order the construction and maintenance of such railroad crossing. Upon such order becoming final and effective, it shall be the duty of the railroad company to construct and maintain in proper condition a good and safe crossing. The board of county commissioners may order more than one railroad crossing in such unincorporated community, as provided in this section, when the public necessity and convenience require more than one such crossing to afford reasonable facilities for public travel.
Mont. Code Ann. § 69-14-603 (2012)

69-14-606. Role of public service commission with respect to crossings.
(1) The commission may enforce the orders of any board of county commissioners for the construction of railroad crossings and may pass upon the reasonableness of any such order and modify, change, or annul the same.
(2) Whenever any railroad crossing has been ordered by the county commissioners, as herein provided, the railroad company may, within 30 days after the service of such order, serve upon the commission a notice stating why the order is considered unreasonable or unjust and requesting that the commission hold a hearing for the purpose of determining whether or not the construction of such crossing should reasonably be required. The commission shall thereupon institute a hearing for this purpose, and all interested parties shall be given reasonable notice and an opportunity to be heard. The commission may, after such hearing, either affirm, modify, or annul such order.
Mont. Code Ann. § 69-14-606 (2012)

69-14-607. Overhead or underground crossings.
(2) (a) The public service commission may, however, upon petition or request in writing of any board of county commissioners, order an overhead or underground crossing at any place where a railroad crossing has not been constructed and is required by the provisions of 69-14-601 through 69-14-611; provided, in its judgment, the safety, necessity, and convenience of the traveling public require such crossing.
(b) When any such petition or request is presented, the commission shall fix a date for hearing the same and shall give at least 10 days' written notice to the board of county commissioners and the owner or operator of the railroad to be affected by such order of the time fixed for the hearing. At such hearing, the commission shall hear all testimony offered as to the safety, necessity, and convenience of the traveling public requiring such a crossing and the expense of constructing and maintaining the same and shall make such investigation and inspection of the conditions at the place of crossing as may be deemed necessary or advisable and shall thereupon determine whether such order should be made.
Mont. Code Ann. § 69-14-607 (2012) Excerpt from applicable statute published.

<u>Nebraska</u>

***§ 39-1730. Public roads; elimination of railroad crossings; petition; procedure**
Upon the petition of the owner or operator of any railroad, the county board is authorized to vacate such part of a public road, outside of incorporated cities and villages, lying within the right-of-way of such railroad, and not part of a state highway, if it appears that such crossing should be eliminated in the interest of public safety. Such petition shall be filed with the county

clerk of the county in which such part of a public road is located. The same procedure shall be followed in the elimination of railroad grade crossings as is provided for the relocation, vacation, and abandonment of public roads as set forth insections 39-1722 to 39-1725.
Neb. Rev. Stat. Ann. § 39-1730 (LexisNexis 2012)

***§ 74-1311. Department; determine railroad crossing safety measures needed**
The department shall have authority to determine that (1) a railroad crossing shall be eliminated, (2) automatic railroad grade crossing protection devices shall be installed, modified, or improved, (3) an overpass or underpass is needed at a railroad crossing, or (4) other measures are necessary to improve public safety at railroad crossings.
Neb. Rev. Stat. Ann. § 74-1311 (LexisNexis 2012)

***§ 74-1318. Grade Crossing Protection Fund; Department of Roads; administer; procedure; division of cost; responsibility for protection devices; powers and duties**
The Department of Roads is hereby empowered to administer the funds deposited in the Grade Crossing Protection Fund as follows:
(1) If the department and the political subdivision with jurisdiction over the crossing agree that a grade crossing should be eliminated by closing the street, road, or highway, the political subdivision making such closing shall receive five thousand dollars from the fund and five thousand dollars from the railroad involved and the actual cost of closure not to exceed twelve thousand dollars from the fund. If pursuant to section 74-1305 it is agreed by the department and the political subdivision that such crossing should be eliminated by the removal of such rail line, the political subdivision paying for such removal, if any, shall receive two thousand dollars or the actual cost thereof not to exceed twelve thousand dollars from the fund;
Neb. Rev. Stat. Ann. § 74-1318(1) (LexisNexis 2012) Excerpt from applicable statute published.

***§ 74-1334 Crossings; public; safety regulations; gates and alarms; closure; when.**
(1) Wherever any railroad track crosses any public road in a cut, on a curve or side hill, in timber lands, near buildings, or near any obstruction of view from the road, the Department of Roads shall direct such precautions to be taken as it deems necessary for the safety of the traveling public. Each railroad carrier shall also provide and maintain such gates, crossings, signs, signals, alarm bells, and warning personnel as the department directs. The department may direct the placement of special signs where the physical conditions of any crossing warrant such action.
(2) Except as provided in subsection (3) of this section, any public railroad crossing without gates, signals, alarm bells, or warning personnel located within one-quarter mile from a public railroad crossing with gates, signals, alarm bells, or warning personnel shall be closed unless it is the only railroad crossing which provides access to property.
(3) An interested party may object to an action taken under subsection (2) of this section only if a written request is submitted to the Department of Roads by a professional engineer licensed to practice in the State of Nebraska. The engineer shall state in writing that the engineer is familiar with the requirements in this section and with all relevant aspects of the railroad crossing. The engineer shall also provide a detailed explanation of why subsection (2) of this section should not apply to the railroad crossing in question and a statement that the railroad crossing corridor has been examined by the engineer and the engineer believes that the railroad crossing will be safe as designed. Such a written request shall exempt a railroad crossing from being closed under subsection (2) of this section.
Neb. Rev.Stat. Ann. § 74-1334 (LexisNexis 2012)

§ 74-1337. Crossings; public; county board; agreement

Whenever railroad tracks cross a public highway at grade, outside of incorporated cities and villages, the owner of the railroad tracks and the county board of the county in which such crossing is located may agree upon any change, alteration, or construction of any crossing as will promote the public convenience or safety, and they may also agree upon the relocation of any highway so as to eliminate such crossings entirely or so as to carry them over or under such railroad and upon the apportionment of the expenses incident to any such change, alteration, relocation, or construction between the owner of the railroad tracks and the county or other public authority in interest.
Neb. Rev. Stat. Ann. § 74-1337 (LexisNexis 2012)

§ 74-1340. Crossings; department orders; violation; penalty
When the owner of railroad tracks fails, neglects, or refuses promptly to comply with any order of the Department of Roads issued under sections 74-1332 to 74-1339 or fails, refuses, or neglects to comply with such sections after the department has issued an order, the owner shall be guilty of a Class V misdemeanor and shall be fined in any sum not more than one hundred dollars for each such offense. Each week of such neglect, refusal, or failure shall constitute a separate offense.
Neb. Rev. Stat. Ann. § 74-1340 (LexisNexis 2012)

See also Neb. Rev. Stat. § 74-1338 in Chapter 2

Nevada

704.300. Railroad crossings: Powers of commission; payment of expenses.
2. The Commission shall order that the cost of any elimination, removal, addition, change, alteration or betterment so ordered must be divided and paid in such proportion by the State, county, town or municipality and the railroad or railroads interested as is provided according to the circumstances occasioning the cost in NRS 704.305.
Nev. Rev. Stat. Ann. § 704.300(2) (LexisNexis 2012) Excerpt from applicable section of statute published.

704.305. Railroad crossings: Apportionment of costs of construction, reconstruction and protective devices; maintenance of surface.
1. The entire cost of a new grade crossing or a new grade separation, including any automatic protection devices that may be required, where no existing grade crossing located at or in the immediate vicinity of the new grade crossing or grade separation structure is eliminated, shall be apportioned to and borne by the governmental unit or units affected if a governmental unit initiates the proceeding, or by the railroad or railroads if the proceeding is initiated by a railroad.
2. Where a new grade separation will directly result in the elimination of an existing grade crossing located at or in the immediate vicinity of the grade separation or an existing grade separation is reconstructed, 13 percent of the cost shall be apportioned to and borne by the railroad or railroads and the remainder of the cost shall be apportioned to and borne by the governmental unit or units affected. If a grade separation structure provides either more highway lanes or space for more highway lanes than are in place on the existing highway grade crossing being eliminated, the railroad share of cost shall be limited to 13 percent of the cost of constructing a grade separation structure having the same number of highway lanes that were in place on the highway prior to construction of the grade separation structure.

7. On projects where federal funds are used, apportionment and division of costs shall be in accordance with federal law and the rules, regulations and orders of the federal agency administering such law to the extent that such law, rule or regulations and orders require a different apportionment of costs than is set forth in this section. The provisions of this section may not otherwise be invoked on projects to the extent that such federal law, rules, regulations and orders are applicable.

8. The provisions of this section impose no limitation upon the right of governmental units or railroads to negotiate agreements apportioning costs. To the extent that costs are apportioned by such agreement, the commission shall order that costs be apportioned and borne in the manner provided by such agreement.
Nev. Rev. Stat. Ann. § 704.305(1), (2), (7), (8) (LexisNexis 2012) Excerpt from applicable statute published.

For additional information, see Nev. Rev. Stat. Ann. § 704.305 in chapter 2.

New Hampshire

***373:2 Reconstruction.**
Upon petition of a railroad, the selectmen of a town, or the mayor and council of a city, the department of transportation, after notice and hearing, may require a railroad (a) to separate the grades where a highway and railroad cross at grade or where a railroad crosses another railroad at grade, (b) to change the location of a highway or a railroad in order to avoid or improve a grade crossing or (c) to reconstruct or otherwise alter or improve any existing bridge or underpass and the approaches thereto in instances where separation of grades has been effected, or (d) to improve the approaches to any grade crossing so as to make them as nearly level as practicable where any such action is found necessary in the interest of safety to the railroad or the public. At any such hearing, the director of the division of motor vehicles shall sit and confer with the department of transportation in an advisory capacity in the determination of the necessity for such reconstruction and the apportionment of the cost of the same.
N.H. Rev. Stat. Ann. § 373:2 (LexisNexis 2012)

373:4 Consent of Department of Transportation.
No railroad hereafter constructed shall cross another railroad, a highway or other way, at grade, unless the consent in writing of the department of transportation is first obtained.
N.H. Rev. Stat. Ann. § 373:4 (LexisNexis 2012)

373:22 Department of Transportation Hearing.
Whenever, after hearing upon petition or upon its own motion, the department of transportation shall be of the opinion that the public safety requires the closing of any public or private crossing over a railroad, at grade or above or below such railroad, it shall order the same to be closed or shall make such order as in its opinion the public good may require, and it shall thereafter be the duty of the parties affected to comply therewith.
N.H. Rev. Stat. Ann. § 373:22 (LexisNexis 2012)

New Jersey

§ 27:1A-62. Transfer of functions, powers and duties of board of public utility commissioners with respect to railroad grade crossings and bridges to commissioner and department of transportation

The functions, powers and duties of the Board of Public Utility Commissioners with respect to elimination and regulation of railroad grade crossings and protective devices in connection therewith and the regulation of bridges or passages over or under any railroad or right-of-way pursuant to R.S. 48:2-28, R.S. 48:2-29, and articles 10, 11 and 12 of chapter 12 of Title 48 of the Revised Statutes are transferred to and shall be exercised and performed by the Commissioner and Department of Transportation.
N.J. Rev. Stat. Ann. § 27:1A-62 (West 2012)

***§ 27:7-14. Paving materials; width of roads; curves and crossings eliminated**
The state highways herein provided for shall be paved with granite, asphalt, or wood blocks, bricks, concrete, bituminous concrete, sheet asphalt or other pavement having a hard surface and of a durable character, but nothing in this chapter shall prevent the commissioner from maintaining roads heretofore improved with other materials or with their present or similar surfaces pending their paving with materials complying with this chapter.
In all cases the width of the pavement shall be at least eighteen feet and the total width of the roadway shall be at least thirty feet, except at bridges, culverts, or grade crossings, where the roadway shall be of such width or widths as the commissioner may deem necessary and determine.
All sharp turns and angles and railroad grade crossings shall be eliminated wherever practicable.
N.J. Rev. Stat. Ann. § 27:7-14 (West 2012)

***§ 40:37-144 Contracts for elimination of grade crossings**

The commission may enter into contracts with any municipality within which are located lands of the commission, and with any railroad company whose road divides such lands, to permit and facilitate the construction and maintenance of other than grade crossings of park roads, parkways, public ways, streets, roads or avenues, or make more convenient the access to the park lands so divided by the right of way of the railroad company from one to the other, or otherwise to effectuate the purposes of sections40:37-96 to 40:37-174 of this title.
In connection therewith the commission may contract with such municipality to vacate ways, streets, roads or avenues, or portions thereof, which border upon, are bounded by, or are included within lands of the commission and to locate, lay out, open, curb, gutter, pave, repave, construct sidewalks on, or alter the lines and change the grade of public ways, streets, roads or avenues in the lands of the commission, as and where and in such manner as may be determined by the terms of the contact. For these purposes the commission may dedicate, by resolution, such part of its lands as may be necessary, to public use as a public way, road, street or avenue.
The commission shall file with the county clerk, or register of deeds, as the case may be, a map of so much of the park or lands owned by it, and the environs as may be necessary to show the land intended to be dedicated for use as a public way, road, street or avenue.
The cost and expenses of any such changes and improvements shall be borne by the commission, municipality and railroad company in such shares or proportions as may be provided in the contract. Any such municipality is hereby authorized to enter into and perform any such contract.
N.J. Rev. Stat. Ann. § 40:37-144 (West 2012)

§ 48:12-61. Authority of board of public utility commissioners; manner of elimination
Whenever a public highway, other than a state highway and the tracks of a railroad, or of more than one railroad whose rights of way adjoin or are in such close proximity to each other as to be necessarily involved in one elimination project, cross each other at the same level, and it shall appear to the board of public utility commissioners that such crossing is or such crossings are

dangerous to public safety or that public travel on such highway is impeded thereby, the board may order the company or companies operating the railroad or railroads, within such time as the board may fix, to alter such crossing or crossings, according to plans to be approved by the board.
Such alterations may be made:
a. By substituting a crossing or crossings not at grade by carrying the highway under or over the railroad or railroads or by reconstructing the railroad or railroads under or over the highway; or
b. By vacating, relocating or changing the lines, width, direction or location of the highway and the opening of a new highway in the place of the one vacated; or
c. Where, in the judgment of the board, the owners of public or private property will be unduly injured by the elimination of the crossings, by relocating the tracks of the railroad or railroads.
N.J. Rev. Stat. Ann. § 48:12-61 (2012)

§ 48:12-64. Petition for removal of grade crossing; hearing; notice; determination
Any railroad company or companies whose tracks cross or are crossed at grade by a public highway, or the body having charge of the finances of any municipality or county having jurisdiction over any such highway, may present to the board a petition in writing setting forth the facts upon which relief under sections 48:12-61 to 48:12-67 of this Title is sought, or the board may of its own motion proceed with respect to any such crossing or crossings.

Thereupon the board shall fix a time and place for a hearing before it and shall order the railroad or railroads to give such notice thereof as it shall deem reasonable to the municipality or county and to the corporations, co-partnerships or individuals interested therein. After such hearing the board shall determine or order what, if any, alterations to or changes in or connected with the crossing or crossings and public highway shall be made.
N.J. Rev. Stat. Ann. § 48:12-64 (2012)

***§ 48:12-76. Closing, abandoning or combining crossings**
In connection with the elimination of any crossing at grade, the improvement, relocation, alteration or reconstruction of any crossing not at grade, or the location and construction of any new crossing not at grade under sections 48:12-68 to 48:12-75 of this Title, the Board of Public Utility Commissioners on petition of the State Highway Department or of any railroad company affected or of any party in interest may close, abandon or combine any railroad crossing or crossings at grade of any State, county or municipal highway or highways, when the board shall determine that the public safety so requires or public convenience so permits and that by reason of said State highway construction or improvement the crossing is or the crossings are no longer necessary.
N.J. Rev. Stat. Ann. § 48:12-76 (West 2012)

***§ 48:12-77. Sharing of expense of closing, abandoning or combining highway or crossing**
Where the total cost of work is to be borne by the State, the expense of closing, abandoning or combining any existing road or highway shall be borne solely by the railroad company or companies involved.
Where the cost of construction of the new State highway crossing is divided between the State and the railroad company or companies involved, the cost of closing, abandoning or combining the existing crossing shall be borne 95% by the State and 5% by the railroad company or companies involved.
N.J. Rev. Stat. Ann. § 48:12-77 (2012)

***§ 48:12A-21. Elimination or relocation of grade crossings**

(a) In connection with the improvement to capital facilities authorized by chapter 191, P.L.1962, to be undertaken by the Division of Railroad Transportation in the State Highway Department, the State Highway Department is hereby authorized to undertake, directly or by contract, the entire expense of eliminating or relocating such highway and railroad crossings at grade as shall be necessary or desirable to carry out the purposes of said chapter 191.

(b) To carry out the purpose of this act, the State Highway Department may expend such funds as are appropriated herein or otherwise provided for this purpose by law which funds shall be in addition to any funds heretofore authorized and appropriated to meet the public share of the cost of the improvements to capital facilities by chapter 191, P.L.1962.

N.J. Rev. Stat. Ann. § 48:12A-21 (West 2012)

***§48:12-81. Contracts between county and railroad for elimination of grade crossings; street railways**

Where a public road maintained at county expense or controlled by the county is intersected by a railroad, the board of chosen freeholders of the county and the company owning or operating the railroad may enter into a contract to provide for the relocation of the public road and the relocation of the tracks of the railroad and to provide for such grades or changes in the grades of the public road and railroad as will facilitate the construction or maintenance of other than grade crossings upon the public road.

For such purposes the board of chosen freeholders may locate, relocate or vacate and alter the lines and change the grades of the public road, construct sidewalks and pave, repave, gutter and otherwise improve the public road as part of the improvement.

The railroad company may locate, relocate, change, alter grades of, depress or elevate any of its tracks, bridges or facilities, and construct new or additional tracks, as provided for in the contract.

For the purposes above enumerated the county and the railroad company may take by purchase or condemnation any lands required for such improvements and may make such exchanges or conveyances of their respective lands or any interest therein as will facilitate the work.

The cost and expense of any such lands, changes and improvements shall be borne by the county and the railroad company in such proportions as may be provided in the contract.

Any company owning or operating a street railroad on the public road at such crossing or crossings may become a party to the contract.

N.J. Rev. Stat. Ann. § 48:12-81 (West 2012)

<u>New Mexico</u>

§ 63-3-37. Separation of grade crossing; determination; cost

Whenever a state, county, municipal or other street or highway, including a highway that may be designated as a part of the federal aid highway system, which may be constructed or reconstructed in such manner that it crosses or intersects any railroad, the state transportation commission, or other governing body, may, if in its opinion it is practicable and reasonably necessary for the protection of the traveling public, separate the grades at such crossing and, if unable to agree with the railroad as to the grade separation and the method of accomplishing the separation, may apply to the district court of the county in which the separation is located by verified petition praying for the separation of grades at the crossing and shall accompany the petition with plans and specifications of the proposed grade separation. The procedure on the petition shall be the same as in ordinary civil action. If the court determines in such proceeding

that the grade separation is practicable and reasonably necessary for the protection of the traveling public over the highway, it shall order the grade separation to be made, either in accordance with the plans and specifications filed with the petition or in accordance with such modification of the plans and specifications as the court determines to be proper, and upon condition that the then existing grade crossing shall be closed to all forms of street or highway traffic upon the completion of the grade separation. The orders of court in such proceedings shall be enforced in the same manner as decrees in equity. When any separation of grades is made either by agreement or by court order, the railroad company shall pay not to exceed ten percent of the cost between the grade separation limits, provided that the then existing grade crossing shall be closed to all forms of street or highway traffic upon the completion of the grade separation and provided that where funds are made available for such purposes under the provisions of the act of congress known as 23 USCA 101 et seq., as amended and supplemented, the participation of the railroad company in the cost of construction and maintenance of any grade separation structure and the approaches thereto shall be in conformity with and subject to the provisions of that act. In cases where two or more railroads are located in such proximity to each other as to be involved in any single separation of grades, the portion of the cost of the grade separation shall be apportioned between the railroads either by agreement or in such manner as may be just by order of court in such proceeding. Whenever the plans and specifications for a grade separation, as finally fixed by agreement or order of court, provide for raising or lowering the grade of the railroad tracks, the cost shall be included in the cost of the grade separation.
N.M. Stat. Ann. § 63-3-37 (2012)

***§ 67-11-7. New or existing facilities; elimination of grade crossings**
The state highway commission, alone, or in agreement with any county, city, town or village may designate and establish controlled-access highways as new and additional facilities or may designate and establish existing streets or highways as included within a controlled-access facility. The state or any of its subdivisions shall have authority to provide for the elimination of intersections at grade or controlled-access facilities with existing state and county roads and city or town or village streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary line of such controlled-access facility; and after the establishment of any controlled-access facility, no highway or street which is not part of said facility shall intersect the same at grade. No city, town or village street, county or state highway or other public way shall be opened into or connected with any such controlled-access facility without the consent and previous approval of the state highway commission. Such consent and approval shall be given only if the public interest shall be served thereby.
N.M. Stat. Ann. § 67-11-7 (LexisNexis 2012)

<u>New York</u>

§ 222. Applicability; general provisions of grade crossing elimination
1. This article shall apply to all highway-railroad grade crossing eliminations the construction work for which is commenced on or after March first, nineteen hundred seventy-one, except that any such projects authorized pursuant to the provisions of the highway law may be constructed in accordance therewith. Construction commenced on highway-railroad grade crossing elimination projects before March first, nineteen hundred seventy-one pursuant to orders of the public service commission shall be completed in accordance with this article.

2. The commissioner shall report not later than December first in each year to the governor, the chairman of the finance committee of the senate and the chairman of the ways and means committee of the assembly, the projects which have been completed during the preceding twelve months, those under construction, those ordered but upon which construction work has not been started, the amount expended on the completed and partially completed work, an estimate of the cost of work not completed and an estimate of the cost of eliminations ordered respecting which no expenditures have been made.
3. The governing body of any municipality in which a highway-railroad grade crossing is located or any railroad company for any railroad operated by it which has railroad tracks that are crossed at grade by a highway may petition the commissioner to institute grade crossing elimination procedures pursuant to this article. The commissioner shall hold public hearings on any elimination requested by such petition which in his judgment warrants examination. Upon his own motion, the commissioner may investigate any other highway-railroad grade crossing which he determines should be considered for elimination. The commissioner, upon such notice as he shall deem reasonable to the municipality in which the highway-railroad grade crossing is located, the railroad company whose railroad tracks are crossed at grade by the highway and any other party deemed by the commissioner to be interested in the elimination procedure, shall hold public hearings to consider any such elimination. The commissioner shall promulgate rules and regulations concerning the procedure to be followed at such hearings and the matters to be considered at such hearings.
4. After the conclusion of such hearings, the commissioner shall, by order, determine whether it is in the public interest to require the elimination of such highway-railroad grade crossing. Any elimination order shall also determine the manner in which such elimination shall be made including a determination as to the alteration to be made in such crossing, its approaches, the method of crossing, the character of the structure and approaches, the type and extent of pavement, the location of the crossing, the closing and discontinuance of a crossing and the diversion of traffic from an existing crossing to an existing or a new highway, road, street or crossing, or the opening of an additional crossing and also including, if so determined by the commissioner, a change in the location of the railroad when necessary to effect the elimination of such crossing. Whenever the commissioner shall have, by order, determined that it is in the public interest to require the elimination of two or more grade crossings, and if it appears that the cost would not substantially exceed the cost of the eliminations at the present locations, and if the public interest is better served and the number of such eliminations could be reduced by relocating the railroad, the commissioner after a hearing may order such relocation. Such hearing shall be held upon such notice as the commissioner shall deem reasonable, but not less than ten days, to the railroad company involved. Notice shall also be given to the municipalities and persons deemed by the commissioner to be interested in the elimination procedure. The commissioner shall serve a certified copy of all orders on the comptroller, the railroad, the municipalities affected thereby and all other parties to the proceeding.
5. In connection with a grade crossing elimination project, the commissioner shall determine the work on the railroad tracks or other railroad facilities which is to be performed by railroad company forces, shall direct the railroad company to perform such work and shall direct the railroad company to prepare plans and estimates of cost for such work and submit such plans and estimates to the commissioner for approval.
6. After the commissioner shall have issued an elimination order in connection with a grade crossing elimination project, the department of transportation, except for the work on the railroad

tracks or other railroad facilities to be performed by railroad company forces, shall cause to be prepared the plans, specifications and estimates of cost of such elimination project. Such plans shall specifically show that part of the work of the elimination which when completed shall be maintained by the railroad company and that part which shall be maintained by the state or the municipality in which the work of the elimination is located, as provided in the highway law where a state highway is involved and in the railroad law where a highway other than a state highway is involved, and such plans shall also show that part of the work of the elimination which shall be otherwise maintained.
N.Y. Transp. Law § 222 (Consol. 2012) Excerpt from applicable statute published.

§ 223. Expenses of elimination; approval and payment; costs of railroad improvements
The expense of every highway-railroad grade crossing elimination project constructed pursuant to the provisions of this article, including incidental improvements connected therewith, as determined by the commissioner to be necessary or desirable because of the elimination and reasonably included in the plans for such elimination and railroad improvements not an essential part of the elimination but desired by the railroad company, shall be paid in the first instance out of the state treasury to the persons and corporations entitled thereto from time to time on accountings and vouchers, approved by the commissioner, upon audit and warrant of the comptroller. Such expense shall be deemed to include any reasonable and necessary expenditures by a railroad company, state department, agency or commission, public authority or municipality and found by the commissioner to have been made in contemplation of the commencement of construction of an elimination project under the provisions of grade crossing elimination acts in effect on the date of enactment of this article. Where a railroad company, state department, agency or commission, public authority or municipality has been authorized to incur and has incurred any expense in connection with a highway-railroad grade crossing elimination, it shall file a statement thereof with the commissioner. The commissioner shall determine if such expenses are reasonable and necessary for the elimination or for incidental improvements made necessary or desirable thereby and, to the extent so determined, they shall be paid by the state to the party or parties entitled thereto and included in the cost of the project.
NY CLS Tra § 223 (2012)

***§ 227. Federal aid; receipt and expenditure**
The comptroller is hereby authorized to accept from the federal government or any department or agency thereof any moneys in any way granted, allocated or apportioned for the purpose of highway-railroad gradecrossing eliminations or the reconstruction or repair of existing grade crossing separation structures and deposit them in accordance with existing federal or state law or rules or regulations applicable thereto and the same shall be available for the purposes granted, allocated or apportioned. Such moneys shall be available to reimburse the state for its expenses in connection with a grade crossing elimination project including incidental improvements rendered necessary or desirable by such project. The expense of net benefit to be borne by the railroad company shall be the lesser of (1) the amount of net benefit determined by the commissioner in accordance with this act or (2) the difference between the cost of the project exclusive of incidental improvements and the amount of federal aid for the project exclusive of incidental improvements. State moneys made available for federal aid grade crossing elimination projects may be used in the first instance to pay the costs of said projects.
N.Y. Transp. Law § 227 (Consol. 2012)

***§ 359. Construction, reconstruction and improvement**

3. Highway and railroad grade crossings shall in general be separated by structures to be determined by the authority, and the authority is hereby authorized to combine or relocate intersecting highways, to adjust traffic to such grade separation structures, except that the grade crossing elimination structures involved in public service commission cases number fifty-four hundred seventy-two and nine thousand fifty-eight shall remain under the jurisdiction of such commission. The cost of all such structures, except such part as is otherwise payable, shall be borne by the authority. Telephone and telegraph wires, power transmission and gas, oil and water lines, conduits, cables of every kind and nature which may be affected by thruway construction, reconstruction or improvement, may, in the discretion of the authority, be relocated in suitable facilities and the expense of such relocation and of installing such facilities shall be borne by the authority. The work of such relocation may be done by the owner of such wires, lines, conduits and cables, and the authority is hereby empowered to enter into an agreement with such owner for the performance of all or any part of the work of such relocations at the expense of the authority.
N.Y. Pub. Auth. Law § 359(3) (Consol. 2012) Excerpt from applicable statute published.

§ 63. Discontinuance of part of highway due to grade crossing elimination
Whenever the commissioner of transportation shall determine that a state highway is affected by a side line or a new location by reason of the elimination of a highway-railroad crossing at grade pursuant to an order of the department of transportation, or by reason of the improvement or reconstruction of an existing railroad grade crossing, and as a result thereof a section of the said highway no longer serves a useful purpose as a part of the state highway system, he shall upon the completion and acceptance of the elimination work, make an official order that the said section of the highway including any and all bridges and culverts located thereon or immediately adjacent thereto, shall no longer be maintained by the state. If such section of highway or part thereof is located in an incorporated village, such section or part thereof including any bridge and culvert thereon, shall be maintained thereafter by the village in which such section or part thereof is located, excepting however that any bridge and culvert thereon, which were maintained by the town in which such village is located, before the improvement of the section by the state, shall be maintained by such town. If such section of highway was at the time of its improvement by the state on a county road, such section or as much thereof outside of the limits of an incorporated village, together with any bridge and culvert thereon, shall be maintained thereafter by the county or counties where it is located. The transfer of maintenance of a section of highway and of any bridge and culvert thereon to any county, town or village as herein provided shall become effective upon the mailing of a certified copy of such official order to the clerk or clerks of the board or boards of supervisors of the county or counties, to the town clerk or clerks or to the clerk or clerks of the village or villages, as the case may be.
NY CLS HAY § 63 (2012)

***§ 93-a. Maintenance and removal of highway-railroad crossing at grade**
The responsibility of a railroad corporation to maintain and keep in repair highway-railroad crossings at grade as provided by law shall not terminate upon the abandonment of the railroad or a portion thereof, but such responsibility with respect to state highways shall continue, unless otherwise agreed upon by the railroad corporation and the state, and with respect to highways other than state highways, shall continue unless otherwise agreed upon by the governing body, or its designee, of the municipality having jurisdiction over the highway. Such responsibility shall continue until the crossing at grade has been removed and the highway pavement restored by the railroad corporation and/or pursuant to agreement with the railroad corporation by the state or

municipality having jurisdiction over the highway, to such usable condition as the commissioner or the municipality having jurisdiction over the highway, respectively, shall deem reasonable. Such responsibility to maintain and remove may be transferred with the approval of the commissioner, and shall thereafter pass to the transferee of the railroad corporation or successor in interest to the abandoned railroad right-of-way. If such approval is not obtained, the responsibility for maintenance and removal shall continue with the railroad. Upon failure to remove abandoned railroad facilities at a highway-railroad crossing at grade within one year after the date of the abandonment by the railroad corporation, the municipality having jurisdiction over the highway may petition the commissioner for an order to compel removal. The commissioner upon receipt of such a petition, or on its own motion with respect to state highways, shall serve notice upon the party responsible for the removal of the highway-railroad crossing at grade that a hearing, at a specified date, will be held to determine whether the highway-railroad crossing at grade should be removed. After conclusion of such hearings, the commissioner shall, by order, determine whether it is in the public interest to require removal of the crossing at grade. If the commissioner determines that the crossing at grade should be removed, the order shall direct such removal and describe the manner of removal and the party responsible for such removal and may establish a penalty for non-compliance with such order at a sum equalling the actual cost, considering salvage, of such removal to be paid to the state with respect to state highways or to the municipality having jurisdiction over the highway with respect to highways other than state highways. Any funds so paid shall be utilized to effect such removal. Any person aggrieved by such decision, and who was a party to said proceeding, may within sixty days after the service of such decision appeal therefrom to the appellate division of the supreme court in the department in which such crossing is located, and to the court of appeals, in the same manner and with like effect as is provided in the case of appeals from an order of the supreme court.
N.Y. R.R. Law § 93-a (Consol. 2012)

***§ 94. Performance of work; division of expenses; accounting; claims for damages; valuation**

1. Whenever under section eighty-nine a new railroad is constructed across an existing highway, the expense of crossing above or below the grade of the highway including any expense incurred in altering or changing the highway under a determination of the commissioner of transportation shall be paid entirely by the railroad corporation.
2. Whenever under section ninety a new street, avenue, highway or road or new portion or additional lane of a street, avenue, highway or road is constructed across an existing railroad, the railroad corporation shall pay one-half and the municipal corporation having jurisdiction over such street, avenue, highway, or road or new portion or additional lane of a street, avenue, highway or road shall pay the remaining one-half. However, where such new street, avenue, highway or road or new portion or additional lane of a street, avenue, highway or road crosses a navigable stream or water adjacent to or near an existing railroad, which crossing of such navigable stream or water by a bridge or tunnel necessarily increases the height above or the depth below the crossing of such railroad or the length of the approaches to such bridge or tunnel, the railroad corporation shall pay such part or portion of the expense of making such crossing above or below the grade of the railroad as may be agreed to between the railroad corporation and the municipal corporation having jurisdiction over such street, avenue, highway or road or new portion or additional lane of a street, avenue, highway or road, and such municipal corporation shall bear and pay the remaining part of such expense. In case of the

failure or inability of the railroad corporation and the municipal corporation to agree upon the part or portion of such expense to be paid by the railroad corporation, the railroad corporation shall pay such part or portion of the expense of making such crossing above or below the grade of the railroad as the commissioner of transportation shall, after a hearing on at least ten days' notice to the railroad corporation, fix and determine, which shall be one-half of the cost as estimated of a bridge or structure and its approaches that would be required if such navigable stream or water did not so intervene as to affect the height or depth of such bridge or structure or the length of the approaches thereto to carry such street, avenue, highway or road or new portion or additional lane of such street, avenue, highway or road across such railroad, and the municipal corporation shall bear and pay the remaining part of such expense.

3. Whenever a change is made to an existing crossing other than a change made to an existing structure in accordance with the provisions of section ninety-one, fifty per centum of the expense thereof shall be borne by the railroad corporation and twenty-five per centum by the municipal corporation and twenty-five per centum by the state; except that whenever an existing crossing other than an existing structure in which a change is made under section ninety-one, is located wholly or partly within an incorporated village having not to exceed twelve hundred inhabitants, the portion of expense herein required to be borne by the municipal corporation shall be borne by the town or towns in which such crossing is situated. The expense of every change made in an existing structure in accordance with and ordered pursuant to the provisions of section ninety-one shall be borne eighty-five per centum by the state, and fifteen per centum by the municipal corporation. Provided, however, that a county may contribute funds to a city, town or village towards its fifteen per centum share of the cost of reconstructing a railroad bridge whether or not the road, of which the bridge is a part is under the jurisdiction of a city, village, town or county and regardless of who performs the work.

4. Whenever in carrying out sections ninety or ninety-one, two or more lines of steam surface railroad, owned and operated by different corporations cross a highway at a point where a change in grade is made, each corporation shall pay such proportion of fifty per centum of the expense thereof as shall be determined by the commissioner of transportation.

4-a. If moneys of the federal government are or may reasonably be expected to be available for the purposes of this subdivision, the commissioner of transportation is authorized to use such moneys to implement this subdivision. Within and to the extent of funds appropriated by the Legislature for the state's share of the cost, the commissioner of transportation may authorize or direct a railroad corporation or the department of transportation to install grade crossing facilities and appurtenances, which shall include but not be limited to protective devices and crossing surfaces, the cost of which including all accessories, labor and material shall be borne not more than ten per centum by the state and ninety per centum or more with use of the federal moneys. Installations so authorized or directed shall be completed by the department of transportation or the railroad corporation or corporations involved. Upon approval by the commissioner of transportation of the completed project by the railroad corporation or corporations, reimbursement of the state and federal shares of the cost thereof shall be effected by the comptroller upon vouchers approved by the commissioner. Whenever in carrying out the provisions of this subdivision, two or more lines of railroad owned and operated by different corporations cross a highway at a point where such installation is made, each corporation or the department of transportation shall perform such portion of the work as shall be determined by the commissioner of transportation. Such crossing facilities and appurtenances shall be maintained and operated by and at the expense of the railroad corporation or corporations. In the event that

state funds appropriated for the purposes of this subdivision are inadequate or are fully committed or exhausted, the authority herein contained shall not be deemed to restrict, limit or supersede the authority of the commissioner of transportation to order such installations under and pursuant to subdivision one of section fifty-three of this chapter.

5. In carrying out sections eighty-nine, ninety and ninety-one the commissioner of transportation shall cause to be prepared or may direct the municipal corporation or the railroad corporation to prepare plans, specifications and estimates of cost for the work. Plans, specifications and estimates of cost for the work prepared by the municipal corporation or the railroad corporation shall be submitted to the commissioner of transportation for his approval. The work shall be performed by the municipal corporation, the railroad corporation or the department of transportation as the commissioner of transportation shall direct. In all cases, except where the entire expense is paid by the railroad corporation, the expense of construction shall be paid in the first instance by the party directed by the commissioner of transportation to progress the work and the expense of acquiring lands, rights or easements shall be paid in the first instance by the party directed by the commissioner of transportation, or otherwise required by this chapter, to acquire such lands, rights or easements. When a municipal corporation or railroad corporation has been directed or authorized to take competitive bids for all or a portion of the work, it shall, prior to the award of a contract therefor, submit to the commissioner of transportation a tabulation of bids received, together with a recommendation for award, and if he concurs with the recommendation, he shall approve such award and submit the tabulation and recommendation to the state comptroller for his approval. If the commissioner of transportation does not concur with such recommendation or determines that the bids are excessive, he may require that the work be rebid. Work which the municipal corporation or the railroad corporation is directed to perform shall be subject to the supervision and approval of the commissioner of transportation. All work performed by the department of transportation, the municipal corporation or their agents upon or affecting railroad property, right of way or facilities shall be subject to the supervision and approval of the railroad corporation. No work upon or affecting railroad property, right of way or facilities shall be performed without the approval of the railroad corporation. The commissioner of transportation may employ temporarily such experts and engineers as may be necessary properly to supervise any work that may be undertaken under sections eighty-nine, ninety and ninety-one, the expenses thereof to be paid by the comptroller upon the requisition and certificate of the commissioner of transportation and included in the cost of the project and finally apportioned in the manner provided in this section. Upon the completion of work undertaken pursuant to section eighty-nine, ninety or ninety-one, the commissioner of transportation shall cause the same to be inspected and if he approves, accept the work and make an order certifying its completion.

6. Upon the completion of the work and its approval by the commissioner of transportation an accounting shall be had between the railroad corporation and the municipal corporation or the commissioner of transportation of the amount expended by each with interest, and if it shall appear that the railroad corporation or the municipal corporation or the commissioner of transportation has expended more than its or his proportion of the expense of the crossing as herein provided a settlement shall be forthwith made in accordance with this section. At any time after the work has commenced the commissioner of transportation may, upon its own motion or upon the petition of the railroad corporation or of any municipality interested, make an order for an intermediate settlement and direct payments to be made in connection therewith as in this section provided for a final accounting. All items of expenditures shall be verified under oath. In

case of a dispute between the railroad corporation and the municipal corporation as to the amount expended which dispute does not involve the nature or character of the work performed, any judge of the supreme court in the judicial district in which the municipality or the state or county highway is situated may appoint a referee to take testimony as to the amount expended, and the confirmation of the report of the referee shall be final. In the event of the failure or refusal of the railroad corporation to pay its proportion of the expense, the same with interest from the date of such accounting may be levied and assessed upon the railroad corporation and collected in the same manner that taxes and assessments are now collect by the municipal corporations within which the work is done; and in the event of failure or refusal of the municipal corporation to pay its proportion of the expense an action may be maintained by the railroad corporation for the collection of the same with interest from the date of such accounting, or the railroad corporation may offset such amount with interest against any taxes levied or assessed against it or its property by such municipal corporation.

7. In the event of the appropriation made by the state in any one year being insufficient to pay the state's proportion of the expense of any change that may be ordered the first payment from the appropriation of the succeeding year shall be on account of said change, and no payment shall be made on account of any subsequent change that may be ordered, nor shall any subsequent change be ordered, until the obligation of the state on account of the first named change in grade has been fully discharged, unless the same shall be provided for by an additional appropriation to be made by the legislature. The state's proportion of the expense of changing any existing grade crossing or the structure of any existing crossing above or below grade shall be paid from the state treasury on the audit and warrant of the comptroller, to which shall be appended the certificate of the commissioner of transportation to the effect that the work has been properly performed and a statement showing the situation of the crossing or structure that has been changed, the total cost and the proportionate expense thereof; and the money shall be paid in whole or in part to the railroad corporation or to the municipal corporation as the commissioner of transportation may direct, subject, however, to the rights of the respective parties as they appear from the accounting or intermediate accounting to be had as hereinbefore provided for.

8. No claim for damages to property on account of the change or elimination of any crossing or change in structure or approaches under this article shall be allowed unless notice of such claim is filed with the commissioner of transportation within six months after completion of the work necessary for such change or elimination.

9. Upon the acquisition of any railroad by the public, under the right of eminent domain or by and under any statute providing for the acquisition, use or operation thereof, any and all sums of money paid and contributed by the state or any political subdivision thereof toward the expense of constructing new crossings as in this article provided, shall be credited, allowed and deducted in determining the value of such property or the basis of computing or allowing compensation therefor.

10. In carrying out sections eighty-nine, ninety, and ninety-one, if a railroad corporation, state department, agency or commission, public authority or municipal corporation in which the work is located, desires to make or cause to have made changes or additions which in the opinion of the commissioner of transportation are not necessary to accomplish the work, such changes or additions may be embodied in an order containing findings specifying such changes or additions. Such order shall state an estimated cost of such desired changes or additions and the portions therefore chargeable respectively to the railroad corporation or state department, agency or commission, public authority or municipal corporation. Before any contract is let the state

department, agency or commission, public authority or municipal corporation shall certify to the commissioner of transportation that the necessary funds are available.
11. Notwithstanding any conflicting provisions of this chapter, a railroad and a municipal corporation having jurisdiction may mutually agree as to the allocation of their proportion of the expenses of: construction and reconstruction of a new street, avenue, highway or road or new portion or additional lane of a street, avenue, highway or road, or county highway or county road deviating from the line of an existing street, avenue, highway or road to be constructed at, above, or below grade, across a steam surface railroad, including the cost of the installation of automatic flashing light signals with automatic gates or automatic flashing light signals alone and all accessories, appurtenances and circuits; or the alteration in the manner which a railroad crosses or is crossed by a street, avenue, highway or road at, above, or below grade, including, its approaches, the method of crossing, the location of the crossing, a change in the existing structure by which such crossing is made, the closing and discontinuance of a crossing and the diversion of the travel thereon to another street, avenue, highway, road or crossing, or if not practicable to change such crossing from grade, below grade or above grade or to close or discontinue the same, the opening of an additional crossing for the partial diversion of travel from the grade, below grade or above grade crossing, and including the cost of the installation, alteration or relocation of automatic flashing light signals with automatic gates or automatic flashing light signals alone, and all accessories, appurtenances and circuits, whether in connection with such construction or otherwise.
The agreement shall not be entered into until a public hearing has been held by the governing body of the municipal corporation involved. Notice of the hearing shall be published at least once in at least one newspaper having a general circulation within the municipal corporation. The notice shall specify the time when and the place where the hearing will be held, and describe in general terms the proposed agreement. The first publication shall be at least ten days prior to the day specified for the hearing.
NY CLS RRD § 94 (2012)

***§ 95. Proceedings by commissioner of transportation for alteration of existing crossings**
The commissioner of transportation may, in the absence of any application therefor, when in his opinion public interest requires an alteration in an existing grade crossing or a change in any existing structure above or below grade, institute proceedings on his own motion for any alteration in an existing grade crossing or structure for which a municipal corporation may petition under section ninety-one, upon such notice as he shall deem reasonable, of not less than ten days however, to the railroad company, the municipal corporation and the person or persons interested, and proceedings shall be conducted as provided in section ninety-one.
Notwithstanding any other provision of law the commissioner of transportation shall not, within areas which were within the jurisdiction of the transit commission on March thirty-first, nineteen hundred forty-three, order the elevation of any railroad running longitudinally on a right-of-way in, upon or along a street, avenue, highway or road without the concurrent approval of the local authorities of the city on which the railroad or such part thereof is located. The changes in existing grade crossings or structures authorized or required by the commissioner of transportation in any one year shall be so distributed and apportioned over and among the railroads and the municipalities of the state as to produce such equality of burden upon them for their proportionate part of the expenses as herein provided for as the nature and circumstances of the cases before it will permit.
N.Y. R.R. Law § 95 (Consol. 2012)

North Carolina

§ 136-18. Powers of Department of Transportation

The said Department of Transportation is vested with the following powers:

(11) To regulate, abandon and close to use, grade crossings on any road designated as part of the State highway system, and whenever a public highway has been designated as part of the State highway system and the Department of Transportation, in order to avoid a grade crossing or crossings with a railroad or railroads, continues or constructs the said road on one side of the railroad or railroads, the Department of Transportation shall have power to abandon and close to use such grade crossings; and whenever an underpass or overhead bridge is substituted for a grade crossing, the Department of Transportation shall have power to close to use and abandon such grade crossing and any other crossing adjacent thereto.

N.C. Gen. Stat. § 136-18(11) (2012) Excerpt from applicable statute published.

§ 136-20. Elimination or safeguarding of grade crossings and inadequate underpasses or overpasses

(a) Whenever any road or street forming a link in or a part of the State highway system, whether under construction or heretofore or hereafter constructed, shall cross or intersect any railroad at the same level or grade, or by an underpass or overpass, and in the opinion of the Secretary of Transportation such crossing is dangerous to the traveling public, or unreasonably interferes with or impedes traffic on said State highway, the Department of Transportation shall issue notice requiring the person or company operating such railroad to appear before the Secretary of Transportation, at his office in Raleigh, upon a day named, which shall not be less than 10 days or more than 20 days from the date of said notice, and show cause, if any it has, why such railroad company shall not be required to alter such crossing in such way as to remove such dangerous condition and to make such changes and improvements thereat as will safeguard and secure the safety and convenience of the traveling public thereafter. Such notice shall be served on such railroad company as is now provided by law for the service of summons on domestic corporations, and officers serving such notice shall receive the same fees as now provided by law for the service of such summons.

(b) Upon the day named, the Secretary of Transportation shall hear said matter and shall determine whether such crossing is dangerous to public safety, or unreasonably interferes with traffic thereon. If he shall determine that said crossing is, or upon the completion of such highway will be, dangerous to public safety and its elimination or safeguarding is necessary for the proper protection of the traffic on said State highway, the Secretary of Transportation shall thereupon order the construction of an adequate underpass or overpass at said crossing or he may in his discretion order said railroad company to install and maintain gates, alarm signals or other approved safety devices if and when in the opinion of said Secretary of Transportation upon the hearing as aforesaid the public safety and convenience will be secured thereby. And said order shall specify that the cost of construction of such underpass or overpass or the installation of such safety device shall be allocated between the railroad company and the Department of Transportation in the same ratio as the net benefits received by such railroad company from the project bear to the net benefits accruing to the public using the highway, and in no case shall the net benefit to any railroad company or companies be deemed to be more than ten percent (10%) of the total benefits resulting from the project. The Secretary of Transportation shall be responsible for determining the proportion of the benefits derived by the railroad company from the project, and shall fix standards for the determining of said benefits which shall be consistent

with the standards adopted for similar purposes by the United States Bureau of Public Roads under the Federal-Aid Highway Act of 1944.

(d) Within 60 days after the issuance of the order for construction of an underpass or overpass or the installation of other safety devices as herein provided for, the railroad company against which such order is issued shall submit to the Department of Transportation plans for such construction or installation, and within 10 days thereafter said Department of Transportation, through its chairman of the Department of Transportation, shall notify such railroad company of its approval of said plan or of such changes and amendments thereto as to it shall seem advisable. If such plans are not submitted to the Department of Transportation by said railroad company within 60 days as aforesaid, the chairman of the Department of Transportation shall have plans prepared and submit them to the railroad company. The railroad company shall within 10 days notify the chairman of the Department of Transportation of its approval of the said plans or shall have the right within such 10 days to suggest such changes and amendments in the plans so submitted by the chairman of the Department of Transportation as to it shall seem advisable. The plans so prepared and finally approved by the chairman of the Department of Transportation shall have the same force and effect, and said railroad company shall be charged with like liability, and said underpass or overpass shall be constructed or such safety device installed in accordance therewith, as if said plans had been originally prepared and submitted by said railroad company. If said railroad company shall fail or neglect to begin or complete the construction of said underpass or overpass, or the installation of such safety device, as required by the order of the Secretary of Transportation, said Secretary of Transportation is authorized and directed to prepare the necessary plans therefor, which plans shall have the same force and effect, and shall fix said railroad company with like liability, as if said plans had been originally prepared and submitted by said railroad company, and the Department of Transportation shall proceed to construct said underpass or overpass or install such safety device in accordance therewith. An accurate account of the cost of said construction or installation shall be kept by the Department of Transportation and upon the completion of such work a statement of that portion thereof chargeable to such railroad company as set out in the order of the Department of Transportation shall be rendered said railroad company. Upon the failure or refusal of said company to pay the bill so rendered, the Department of Transportation shall recover the amount thereof by suit therefor against said company in the Superior Court of Wake County: Provided, that the payment by such railroad company of said proportionate part may be made under such rules and regulations and by such methods as the Department of Transportation may provide. If the Department of Transportation shall undertake to do the work, it shall not obstruct or impair the operation of the railroad and shall keep the roadbed and track safe for the operation of trains at every stage of work. If said railroad company shall construct such underpass or overpass or shall install such safety devices in accordance with the order of the Secretary of Transportation, the proportionate share of the cost thereof as set out in subsection (b) hereof shall upon the completion of said work be paid to the railroad company by the Department of Transportation. The Department of Transportation may inspect and check the expenditures for such construction or installation so made by the railroad company and an accurate account of the cost thereof shall upon the completion of said work be submitted to the Department of Transportation by the railroad company. If the Department of Transportation shall neglect or refuse to pay that portion of the cost of said construction or installation chargeable to it, the railroad company shall recover the amount thereof by suit therefor against the Department of Transportation in the Superior Court of Wake County.

(e) If any railroad company so ordered by the Secretary of Transportation to construct an underpass or overpass or to install safety devices at grade crossings as hereinbefore provided for shall fail or refuse to comply with the order of the Secretary of Transportation requiring such construction or installation, said railroad company shall be guilty of a Class 3 misdemeanor and shall only be fined not less than fifty dollars ($ 50.00) nor more than one hundred dollars ($ 100.00) in the discretion of the court for each day such failure or refusal shall continue, each said day to constitute a separate offense.
(f) The jurisdiction over and control of said grade crossings and safety devices upon the State highway system herein given the Department of Transportation shall be exclusive.
N.C. Gen. Stat. § 136-20(a), (b), (d)-(f) (2012) Excerpt from applicable statute published.

***§ 136-89.53. New and existing facilities; grade crossing eliminations**
The Department of Transportation may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing street or highway as included within a controlled-access facility. When an existing street or highway shall be designated as and included within a controlled-access facility the owners of land abutting such existing street or highway shall be entitled to compensation for the taking of or injury to their easements of access. The Department of Transportation shall have authority to provide for the elimination of intersections at grade of controlled-access facilities with existing State highways and county roads, and city and town streets, by grade separation or frontage road, or by closing off such roads and streets, or other public ways at the right-of-way boundary line of such controlled-access facility; and after the establishment of any controlled-access facility, no highway or street which is not part of said facility shall intersect the same at grade. No street or [of] any city or town and no State highway, county road, or other public way shall be opened into or connected with any such controlled-access facility without the consent and previous approval of the Department of Transportation. Such consent and approval shall be given only if the public interest shall be served thereby.
N.C. Gen. Stat. § 136-89.53 (2012)

***§ 136-195. To regulate crossings and to abolish grade crossings**

The Department may require the raising or lowering of any tracks or roadway at any grade crossing in a road or street not forming a link in or part of the State highway system and designate who shall pay for the same by partitioning the cost of said work and the maintenance of such crossing among the railroads and municipalities interested in accordance with the formula provided for grade crossing alterations or eliminations on the State highway system in G.S. 136-20(b).
N.C. Gen. Stat. § 136-195 (2012)

***§ 160A-298. Railroad crossings**
(d) A city shall have authority to require that a grade crossing be eliminated and replaced by a railroad bridge or by a railroad underpass, if the council finds as a fact that the grade crossing constitutes an unreasonable hazard to vehicular or pedestrian traffic. In such event, the city shall bear ninety percent (90%) of the costs and the railroad company shall bear ten percent (10%) of the costs. If the city constructs a new street which requires a grade separation and which does not replace an existing street, the city shall bear all of the costs. If a railroad company constructs a new track across at grade, or under, or over an existing street, the railroad company shall pay the entire cost thereof. The city shall pay the costs of maintaining street bridges which cross over railroads. Railroad companies shall pay the cost of maintaining railroad bridges over streets,

except that cities shall pay the costs of maintaining street pavement, sidewalks, street drainage, and street lighting where streets cross under railroads.
N.C. Gen. Stat. § 160A-298(d) (2012) Excerpt from applicable statute published.

For additional information, see also N.C. Gen. Stat. § 136-20 in chapter 2

North Dakota

***24-01-17. Grade crossing elimination.**
The director has the authority to contract, on an equitable basis with any railway company, and to let all the necessary contracts for the construction of bridges, underpasses, and approaches necessary for the separation of grades at points of intersection between railroads and the state highways.
N.D. Cent. Code § 24-01-17 (2012)

***24-01-33. New and existing facilities -- Grade crossing elimination.**
The highway authorities of the state, or any county, or municipality may designate and establish controlled-access highways as new and additional facilities or may designate and establish an existing street or highway as included within a controlled-access facility. The state or any of its subdivisions has authority to provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads, and municipal streets, by grade separation or service road, or by closing off such roads and streets at the right-of-way boundary lines of such controlled-access facility; and after the establishment of any controlled-access facility, no highway or street which is not part of said facility may intersect the same at grade. No municipal, county, or state highway, or other public way may be opened into or connected with any such controlled-access facility without the consent and previous approval of the highway authority in the state, county, or municipality having jurisdiction over such controlled-access facility. Such consent and approval may be given only if the public interest is served thereby.
N.D. Cent. Code § 24-01-33 (2012)

24-09-10. Changing or closing railroad crossing -- Power of public service commission -- Hearing.
It is in the interest of public safety to eliminate unnecessary railroad grade crossings whenever reasonable access can be safely provided at another crossing. Whenever it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to establish, vacate, or relocate any crossing of a public highway and a railroad, or to separate grades, and an agreement cannot be reached between the public official and the railway company, either as to the necessity for establishing, vacating, or relocating a crossing or for separating grades, as to place, manner of construction, or a reasonable division of the expense, either party may file a petition with the commission, setting forth the facts and submitting the matter to it for determination. The commission, after giving notice as it shall deem reasonable, shall conduct a hearing and shall issue its order determining whether there should be an establishment, vacation, or relocation of the crossing in question, or a separation of grades, and dividing the expense of the establishment, relocation, or separation of grades. Irrespective of the establishment, relocation, or the consideration of further reasonable protection of a crossing, if the commission finds any railroad crossing to be unnecessary or unsafe, it shall order the crossing closed after reasonable notice and hearing. Whenever a final order is entered vacating or closing a crossing, it must be vacated or closed at the railroad company's expense.

N.D. Cent. Code, § 24-09-10 (2012)

Ohio

§ 4957.01. Alteration or elimination of grade or other crossings
If the legislative authority of a municipal corporation in which a railroad and a street or other public highway cross each other at a grade or otherwise, or the board of county commissioners of a county in which a railroad and a public road or highway cross each other at grade, and the board of directors of the railroad company are of the opinion that the security and convenience of the public require alterations in such crossing, the approaches to such crossing, the location of the railroad or public way, or the grades thereof, so as to avoid a crossing at grade, or that such crossing should be discontinued with or without building a new way in substitution for it, and if they agree as to the alterations they may be made as provided in sections 4957.02 to 4957.09, inclusive, of the Revised Code. The board of county commissioners of a county 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 crossings, or to require any improvement in connection with them to be made, and to apportion the cost thereof between the county and such railroad as is provided in sections 4957.10 to 4957.26, inclusive, of the Revised Code.
Ohio Rev. Code Ann. § 4957.01 (LexisNexis 2013)

***§ 5523.01 Elimination of grade crossings**
For the purpose of eliminating one or more existing grade crossings on any road or highway on the state highway system or any extension thereof, the director of transportation may relocate any portion of a road or highway on the system or any portion of any extension thereof; or the director may raise or lower the grade of any road or highway on the system or of any extension thereof, above or below the existing tracks of a railroad and parallel and adjacent interurban railways and require any company owning, operating, managing, or controlling a railroad and any company owning, operating, managing, or controlling an interurban railway parallel and adjacent to such railroad to raise or lower the grade of its tracks above or below the grade of any highway on the state highway system, or on any extension of the system, and may construct ways or crossings for such highway or extension thereof above the tracks of any railroad and parallel and adjacent interurban railway, or require such company owning, operating, controlling, or managing any such railroad and any such parallel and adjacent interurban railway to construct ways or crossings for such highway or extension to be passed under its tracks, whenever, in the opinion of the director, the raising or lowering of any such railroad and parallel and adjacent interurban railway tracks, or the raising, lowering, or construction of such highway or extension is necessary, upon the terms of sections 5523.01 to5523.20 of the Revised Code.
Ohio Rev. Code Ann. § 5523.01 (LexisNexis 2013)

***§ 5523.02. Relocations to eliminate grade crossings**
When it is necessary, in the elimination of existing grade crossings, to change the location of any highway on the state highway system or any extension of the system, the director of transportation may relocate the highway or any part thereof, or the extension or any part thereof, and may vacate the whole or any portion of such highway or extension no longer needed by reason of such relocation, and cause the improvement contemplated to be placed in the relocated highway or extension. In the relocation of any such highway, the portion of the highway within the limits of the right-of-way of railroad companies participating in the cost of the improvement shall be vacated and closed to the public upon the opening of the relocated portion of the

highway or extension to the public. The director at such time shall declare the relocated highway, or portion or extension thereof, open to travel, and the portion of such highway no longer needed, including grade crossings over any steam, electric, or other railroad proposed to be eliminated, the director shall declare vacated and closed to the public. The director shall transmit a certified copy of the declaration to the companies affected, and upon receipt thereof, such companies may erect fences or other barriers barring the public from use of the crossings. The director shall file a certified copy of the declaration with the board of county commissioners of any county in which any part of the project is located.
Ohio Rev. Code Ann. § 5523.02 (LexisNexis 2013)

***§ 5523.03. Issuance of finding and order on crossing to be abolished; hearing**

The director of transportation, in a grade crossing elimination, shall proceed by issuing a finding and order, setting out a full written description of the existing grade crossing that is proposed to be abolished, showing its location, the reasons that tend to make its elimination necessary, the names of the companies owning, operating, controlling, or managing such railroads or interurban railways, the manner in which it is contemplated the proposed improvement should be accomplished, and the proposed relocation of the highway or extension if any relocation is to be made. In this finding and order the director shall fix a time and place for the holding of a hearing as to the necessity and expediency of the proposed improvement, and shall serve a copy of the finding and order on such companies at least thirty days prior to the time fixed for hearing. The director may adjourn the hearing as the director sees fit. Service shall be made by the sheriff of the county within which the crossing involved is located, in the same manner as is provided for the service of summons in civil actions, or by registered mail as determined by the director.

If, when the hearing is held, the director is of the opinion that the proposed improvement is or is not reasonably necessary and expedient, the director shall so find and order and issue such a finding and order.

A finding and order that the proposed improvement is not reasonably necessary and expedient shall not prevent a future hearing for the same purpose, involving the same crossing.
Ohio Rev. Code Ann. § 5523.03 (LexisNexis 2013)

***§ 5523.20. Grade separation when highway is adjacent to or near a railroad**

When a state highway or an extension or relocation thereof is parallel, adjacent, or near to a railroad, and the director of transportation deems it necessary to separate the grades of any intersecting highway, road, or street with such highway, extension, or relocation thereof, but which separation of grades should not, in the opinion of the director, be accomplished without eliminating an adjacent grade crossing over the tracks or reconstructing an existing separated crossing over or under the tracks of the railroad on such intersecting highway, road, or street, then the director was proceed with such proposed improvement, providing federal aid highway funds are used to pay costs involved, in whole or in part, including the elimination of the grade crossing over the tracks of such railroad, or the reconstruction of such existing separated crossing over or under such tracks, paying construction costs and acquiring and paying for property and rights therein as provided for in section 5531.02 of the Revised Code. Unless otherwise agreed upon, costs of the improvements to be borne by the railroad shall not be in excess of the amount or percentage set forth in an act of congress authorizing or appropriating federal aid highway

funds, or other federal funds for highway purposes, which are used to finance the cost of the improvement in whole or in part.
Ohio Rev. Code Ann. § 5523.20 (LexisNexis 2013)

***§ 5531.03. Acceptance of federal funds for elimination of grade crossings**
The director of transportation may accept any allotment of funds by the United States or any department or agency thereof, as appropriated under the "emergency relief appropriation act of 1935," 49 Stat. 115, or by the act of congress approved July 11, 1916, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads and for other purposes," known as the "federal road aid act of 1916," as amended by the act of congress approved June 16, 1936, and any subsequent legislation either supplementing or amending either of such acts, or otherwise providing funds for the same or similar purposes, in accordance with the rules and regulations issued thereunder, for or in connection with the separation of grades of a public highway and a railroad by the construction of a bridge, underpass, or highway, or railroad relocation, or for the alteration, relocation, reconstruction, change, or repair of any bridge or underpass carrying a public highway over or under a railroad, or for the protection of gradecrossings. If any allotment of funds is made by the United States or any department or agency thereof, for the purposes stated, the division of any expense, in connection with such improvement, between the state or any political subdivision thereof and the railroad involved, unless otherwise agreed upon, shall be in accordance with existing laws applying to municipal, county, or state highway grade separation projects, but the division of expense shall be limited to only that part of the expense of the improvement as remains after the application thereto of any funds accepted from the United States or any department or agency thereof.

To accomplish the improvements contemplated under the "emergency relief appropriation act of 1935," or the "federal road act of 1916," as amended, and any subsequent legislation supplementing or amending either of such acts, or under any other act of congress, the director, in all instances where it is necessary and expedient and the appropriate federal agency is in accord, may proceed with the separation of grades of any public highway or street and a railroad, or the alteration, relocation, reconstruction, change, or repair of any crossing of a public highway or street and railroad at which the grades are already separated. The procedure governing such improvements shall be in accordance with sections 5523.01 and 5523.19 and related sections of the Revised Code, as applicable to railroad crossings on the state highway system, except as provided in this section. On receipt of waiver of the notice of hearing provided for in section 5523.03 of the Revised Code from the affected railroad company, the director may dispense with a hearing under that section and issue an order declaring the grade separation improvement necessary and expedient. As a condition precedent to such a declaration in connection with a grade separation within a municipal corporation or on a county road not on the state highway system, the director must receive from the municipal corporation or county an ordinance or resolution, duly enacted by a majority of votes of the legislative authority of the municipal corporation or the board of county commissioners in which the improvement is located, consenting to the improvement and agreeing to assume the maintenance obligation imposed on that political subdivision in the case of a grade separation improvement constructed in co-operation with a railroad company under existing statutes.

The director may provide protection at grade crossings with federal funds, providing the appropriate federal agency is in accord, and upon application of a railroad company specifying

the type of protection requested, accompanied by its agreement to maintain the protection at the grade crossing.

The legislative authority of a political subdivision, when approved by the director and when co-operating with the department of transportation, may follow the procedure available to the director in grade elimination projects as provided in Chapters 5501., 5503., 5511., 5513., 5515., 5516., 5517., 5519., 5521., 5523., 5525., 5527., 5528., 5529., 5531., 5533., and 5535. of the Revised Code, as further modified by this section, but no contracts shall be awarded for the construction of such an improvement until the director is satisfied that all needed property is available. For the purpose of expediting such improvements as are undertaken under this section, work may begin on such improvement immediately after the completion of the publication of notice of the intention to proceed with the improvement required in section 5523.11 of the Revised Code, except that the notice need not name any owners not of record or whose place of residence is unknown and cannot, by the exercise of reasonable diligence, be ascertained, or who are nonresidents of the state. Service of notice upon the owners of all property to be taken, and on owners of land abutting on any portion of the highway to be physically changed, or that will be vacated in the construction of the improvement, shall be completed in accordance with section 5523.11 of the Revised Code within one hundred twenty days after the publication of the notice. Any owners whose place of residence is unknown and cannot, by the exercise of reasonable diligence, be ascertained, or who are nonresidents of the state shall be notified by a further publication of a time for the presentation of their claims, which shall be not less than twenty days after the completion of publication. Such further publication shall be in a newspaper and for such time as is provided in section 5523.11 of the Revised Code. The requirements of the holding of an open meeting to explain the plans, as provided in section 5523.11 of the Revised Code, shall be optional with the director in connection with such an improvement.

The board or legislative authority of any municipal corporation may co-operate with the director in any of the improvements described in this section, adopting the appropriate procedure set forth in sections 5521.02, 5521.07, and 5523.15 and related sections of the Revised Code. The portion of the cost to be borne by the board or legislative authority of a municipal corporation may be paid from any available county or municipal funds.
Ohio Rev. Code Ann. § 5531.03 (LexisNexis 2013)

See also excerpt from Ohio Rev. Code Ann. § 4957.02 (LexisNexis 2013) in Chapter 2.

Oklahoma

§ 84. Location and kind of crossing
The Corporation Commission shall have exclusive jurisdiction to determine and prescribe the particular location of highway crossings, for steam or electric railways, the protection required, to order the removal of all obstructions as to view of such crossings, to alter or abolish any such crossings, and to require, where practicable, a separation of grade at any such crossing, heretofore or hereafter established.
Okla. Stat. tit. 17, § 84 (2012)

***§ 1302 New and existing facilities--Grade crossing eliminations**
Each governing body shall have authority to designate and establish limited access facilities as new and additional highways, or may designate any existing street or highway as a limited access facility. The governing body shall have authority to provide for the elimination of intersections at

grade of limited access facilities with any highway, road, street, or alley now or hereafter existing, either by grade separation, or by closing off such other highway, road, street or alley, or by otherwise protecting such limited access facility.
Okla. Stat. tit. 69, § 1302 (2012)

Oregon

***824.202 Policy; authority vested in state and department.**
It is the policy of this state to achieve uniform and coordinated regulation of railroad-highway crossingsand to eliminate crossings at grade wherever possible. To these ends, authority to control and regulate the construction, alteration, and protection of railroad-highway crossings is vested exclusively in the state, and in the Department of Transportation as provided in ORS 824.200 to 824.256.
Or. Rev. Stat. § 824.202 (2011)

824.206 Elimination or alteration of crossing; installation or alteration of protective devices.
(1) The Department of Transportation may, upon its own motion or upon application by a railroad or the public authority in interest, subsequent to a hearing, unless a hearing is not required under ORS 824.214, and upon finding that such action is required by the public safety, necessity, convenience and general welfare:
(a) Eliminate a grade crossing by relocation of the highway;
(b) Alter or abolish any grade crossing or change the location thereof, or require a separation of grades at any such crossing;
(c) Alter or change any existing crossing at separated grades;
(2) The department shall prescribe the time and manner of such alteration, change, installation or alteration, and the terms and conditions thereof.
Or. Rev. Stat. § 824.206(1)(a)-(c), (2) (2011) Excerpt from applicable statute published.

Pennsylvania

§ 2702. Construction, relocation, suspension and abolition of crossings.
(a) General rule. --No public utility, engaged in the transportation of passengers or property, shall, without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated, suspended or abolished.
(b) Acquisition of property and regulation of crossing. --The commission is hereby vested with exclusive power to appropriate property for any such crossing, except as to such property as has been or may hereafter be condemned by the Department of Transportation for projects financed entirely by the Commonwealth and for Federal Aid Projects under section 1004 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," in which case the provisions of that statute shall be in effect, and to determine and prescribe, by regulation or order, the points at which, and the manner in which, such crossing may be constructed, altered, relocated, suspended or abolished, and the manner and conditions in or under which such crossings shall be maintained, operated, and protected to effectuate the prevention of accidents and the promotion of the safety of the public. The commission shall require every railroad the right-of-way of which crosses a public highway at grade to cut or otherwise control the growth of brush and weeds

upon property owned by the railroad within 200 feet of such crossing on both sides and in both directions so as to insure proper visibility by motorists.
(c) Mandatory relocation, alteration, suspension or abolition. --Upon its own motion or upon complaint, the commission shall have exclusive power after hearing, upon notice to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be suspended or abolished upon such reasonable terms and conditions as shall be prescribed by the commission. 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; and 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 of such crossings. The commission may order the work of construction, relocation, alteration, protection, suspension or abolition of any crossing aforesaid to be performed in whole or in part by any public utility or municipal corporation concerned or by the Commonwealth or an established nonprofit organization with a recreational or conservation purpose.
(f) Danger to safety. --Upon the commission's finding of an immediate danger to the safety and welfare of the public at any such crossing, the commission shall order the crossing to be immediately altered, improved, or suspended. Thereafter hearing shall be held and costs shall be allocated in the manner prescribed in this part.
66 Pa. Cons. Stat. § 2702(a)-(c), (f) (2012) Excerpt from applicable statute published.

***§ 5620 Coordination with the Pennsylvania Public Utility Commission**
(a) METHOD OF COORDINATION.-- Whenever the Pennsylvania Public Utility Commission receives or considers any request for the abandonment or removal of a railroad grade crossing, bridge or tunnel, the commission shall notify the Department of Environmental Resources. The department shall evaluate the proposed abandonment or removal in order to determine the impact of such action upon the development, expansion and existing use of public recreational trails and may participate in proceeding before the commission concerning such matter.
(b) ACTIONS BY THE COMMISSION.-- Before taking final action on any request for the abandonment or removal of a railroad grade crossing, bridge or tunnel, the commission shall consider the impact of such action upon the development, expansion and existing use of recreational trails pursuant to this act and identify and evaluate alternatives which will minimize any adverse impacts of commission actions upon the development and use of recreational trails.
32 Pa.Cons. Stat. § 5620 (2012)

Rhode Island

***§ 39-4-18. Review of grade crossing ordinances**
All orders, decisions, requests, or ordinances hereafter made by any town or city council under the provisions of §§ 39-8-2, 39-8-3, and 39-8-12, shall be subject to the supervision and control of the division as provided in this section. Upon the written complaint of any public utility, or by ten (10) qualified electors, residents of the town or city, the order of whose town or city council shall be drawn in question, upon the ground that the order, decision, request, or ordinance is unreasonable, the division shall set a hearing as provided in § 39-4-4, and if the commission shall find that the order, decision, request, or ordinance is unreasonable, the order, decision, request, or ordinance shall be void; provided, that nothing in this chapter shall be construed to take away or limit the existing powers of the town or city councils to abolish grade crossings.

R.I. Gen. Laws § 39-4-18 (2012)

§ 39-8-1.1. Commission control of grade crossings

In the exercise of the police power of the state for the safety of its inhabitants, the general assembly vests in the commission the authority and power to determine the point at which and the manner in which any grade crossing of a railroad and a street shall be 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.
R.I. Gen. Laws § 39-8-1.1 (2012)

§ 39-8-2. Raising or lowering of highway to eliminate grade crossing
If the city or town council of any city or town where a turnpike or highway crossed by a railroad on a level therewith is situated, is of the opinion that it is necessary for the security of the public that the turnpike or highway should be raised or lowered, so as to pass over or under the railroad, they may request in writing that the corporation owning the railroad to raise or lower the turnpike or highway. If the corporation neglects or refuses to do so, the city or town council may apply to the commission to decide upon the reasonableness of the request. If the commission, after due notice and hearing the parties, shall decide that the lowering or raising of grade is necessary for the security of the public, the corporation shall comply with the decision; provided, that either party shall have the right, in accordance with chapter 5 of this title, to petition the supreme court for relief, and the court shall have full power to finally decide the question as to the necessity of changing the grade. The cost and expense of making the change of grade shall be borne by the railroad corporation and the city or town asking for the change, in the proportion as may be decided by the court. If, after the decision of the court that a change of grade is necessary, or if, having taken no appeal from the decision of the commission, the corporation shall unreasonably neglect or refuse to change the grade, the city or town council may proceed to make the change, and may in an action against the corporation recover all charges and expenses occasioned by making the alterations.
R.I. Gen. Laws § 39-8-2 (2012)

<u>South Carolina</u>

***§ 57-17-100. Closing certain railroad-highway crossings.**
The various county authorities may, in their discretion, abandon and close to highway traffic railroad-highway crossings on highways not in the State highway system superseded by the construction of grade separation structures, the reconstruction of existing structures or the relocation of highways to eliminate such grade crossings.
S.C. Code Ann. § 57-17-100 (2011)

§ 58-15-1510. Commission may provide rules and regulations with reference to crossing.
The Public Service Commission may provide such rules and regulations with reference to the crossing of railroad tracks by public highways as in its judgment will be conducive to the public safety.
S.C. Code Ann. § 58-15-1510 (2011)

§ 58-15-1520. Investigation of crossings requiring overpass or underpass.

The commission upon petition may request the Office of Regulatory Staff to investigate crossings and may require that any necessary crossing be made either above or below grade, so as to avoid, as far as possible, any grade crossings.
S.C. Code Ann. § 58-15-1520 (2011)

§ 58-15-1530. Payment of expense of elimination or relocation of grade crossings.
If the Commission shall decide that such a crossing should be eliminated or relocated it shall apportion, assess and require the payment by such railroad company of its proper pro rata share of the expense incident to the construction and grading of any highway or road appurtenant to such elimination or relocation but the cost to be assessed against such railroad company shall not exceed its proper pro rata share for more than one fourth of one mile and, in the case of railroads independently operated having less than eighty miles of road within this State, shall not exceed its proper pro rata share for more than one eighth of a mile.
S.C. Code Ann. § 58-15-1530 (2011)

§ 58-15-1540. Eliminated crossings shall be closed.
Such crossings as are eliminated by virtue of this article shall be closed as public highways or travel places.
S.C. Code Ann. § 58-15-1540 (2011)

§ 58-15-1620. Application of article.
The provisions of this article shall apply throughout the State to the elimination of grade crossings, whether such elimination be made upon the order or request of the State Highway Commission, counties, cities, drainage districts or other subdivisions or departments of the State government.
S.C. Code Ann. § 58-15-1620 (2011)

§ 58-15-1625. Department of Transportation authorized to eliminate railroad grade crossings.
Notwithstanding any other provision of law, the Department of Transportation may order legally closed and abolished as a public way, within the limits of a railroad right-of-way, a grade crossing then in existence at the time the department assumes jurisdiction of the matter, upon a finding that the enhancement of public safety resulting from such closing outweighs any inconvenience caused by increased circuitry of highway routes. This order by the department may be issued either in connection with, or independent of, an order relating to automatic train-activated warning signals. The authority of the department legally to close and abolish grade crossings is in addition to authority granted by law to other state agencies or to local units of government to close and abolish grade crossings. Upon the issuance of the order by the department, the railroad or railroads involved shall physically remove the crossing from the tracks, and the governmental unit maintaining the highway shall remove or barricade the approaches to the crossing.
S.C. Code Ann. § 58-15-1625 (2011)

§ 58-15-1630. Notice to railroad and effort to agree on plan for elimination of grade crossing.
Whenever any such subdivision or department of the State government as is mentioned in § 58-15-1620, having jurisdiction, may determine upon the elimination of any grade crossing by means of a grade separation structure, prompt notice shall be given to the railroad company owning or operating the railroad involved. Within ten days thereafter the representatives of the

department and of the railroad involved shall meet and adopt a layout, with the grades and alignments mutually satisfactory.
S.C. Code Ann. § 58-15-1630 (2011)

§ 58-15-1640. Procedure when agreement shall not be reached.
Failing to agree, the department or subdivision may order the railroad involved to proceed with the construction of such a structure as it may require as indicated in plans and specifications accompanying its order. The railroad shall begin work thereon within sixty days after receipt of such order and shall complete the structure within a reasonable time.
S.C. Code Ann. § 58-15-1640 (2011)

***§ 58-15-1660. Division of costs.**
The division of the costs of the elimination of the grade crossings by means of grade separation structures shall be as follows:

(1) The total cost of a grade crossing elimination by the use of an overhead bridge shall be paid one half by the department or subdivision and one half by the railroad involved, the proportion to be paid by the railroad in no case to exceed the actual cost of that part of the structure over its tracks between the piers or abutments and foundations adjacent to such tracks and including the costs of such piers or abutments and foundations, except that in the case of a permanent structure of concrete, steel or other like substance, the railroad shall pay one half of the cost of such structure, including the approaches, for a distance of not exceeding one hundred and fifty feet on either side of the railroad, measured from the center of the space occupied by the tracks;
(2) In case the elimination of such grade crossing shall be by the building of an underpass, the department or subdivision shall pay one half and the railroad involved the other half of the cost of the cut through the railroad fill and of the cost of the bridge carrying the railroad, including the foundations and piers or abutments for such bridge, but the cost of the approaches to such underpass shall be paid by the department or subdivision and such department or subdivision shall construct it at its own expense and maintain the necessary drainage; but the railroad will be charged with the duty and cost of maintaining the entire structure carrying the railroad tracks, including the foundations and supports thereof;
(3) Whenever such railroad shall provide a floor for an overhead bridge, capable of carrying a road surface of rock asphalt or other like substance, the department or subdivision shall assume the duty and cost of the maintenance of the superstructure of such bridge and, if such floor is not so constructed, the department or subdivision shall assume the duty and cost of the maintenance of the superstructure of such bridge and render to the railroad company involved a bill for the cost thereof, which shall be paid by the railroad involved within sixty days after the rendition of such bill and, if not paid, interest shall be added thereto at the rate of seven per cent per annum; but in all cases of an overhead bridge, the railroad involved shall maintain at its own expense the foundations and piers or abutments supporting such superstructure;
(4) When more than one railroad is involved in the separation of crossings at grades, such portion of the cost of construction and maintenance as this article provides shall be paid by the railroad shall be borne by such railroads in such proportion as will be equitable, to be agreed upon by the railroad companies, and in case they cannot agree, to be fixed by the Public Service Commission on a hearing to be held in the usual manner, with the usual right of appeal; and
(5) In all cases of grade separation hereunder the railroad shall permit the use, free of cost, of so much of its right of way as is necessary and the department or subdivision involved shall be charged with the duty of acquiring such additional rights of way as shall be necessary and shall

be chargeable with liability for any property damages or other damages resulting from the change in topographical conditions.
S.C. Code Ann. § 58-15-1660 (2011)

§ 58-15-1690. Time within which railroad shall commence work; effect of failure so to do.
Whenever any department or subdivision shall require a railroad, under the provisions of this article, to construct an overhead bridge or underpass, such railroad shall begin work thereon within sixty days after receipt of the order of such department or subdivision. And in case such railroad shall not comply with such order within the period specified, the department or subdivision may proceed with the work and, upon its completion, bill the railroad for its proportion thereof and the railroad shall pay such bill, together with interest at the rate of seven per cent per annum from the date of the completion of the work. But before the railroad is required under this provision to proceed with the construction of such grade separation structure the estimated pro rata share of the department or subdivision shall be arranged for and appropriated.
S.C. Code Ann. § 58-15-1690 (2011)

***§ 58-15-1730. Continuance of crossings as private crossings.**
All existing grade crossings replaced by grade separation structures or avoided by relocation of highways and no longer habitually used by the general public may be continued only as private crossings and not subject to the provisions of the statutes of this State relating to railroad crossings.
S.C. Code Ann. § 58-15-1730 (2011)

***§ 58-15-1740 Special agreements.**
Nothing in this article shall be construed to prevent the department or subdivision from reaching special agreements with railroad companies providing for grade crossing eliminations by means of relocation of either the roads or railroads involved or by any other means and arranging for joint participation in the cost of such elimination on an agreed basis.
S.C. Code Ann. § 58-15-1740 (2011)

<u>South Dakota</u>

***§ 31-4-4. Changes made to trunk highway system prohibited -- Exceptions**
No change may be made in the state trunk highway system, except that the transportation commission may make relocations, additions and alterations in portions of the system it considers necessary for the purpose of bringing into and connecting the system with all presently unconnected first and second class municipalities having a population of more than four hundred and fifty according to the last federal census and for shortening the system distances between the interconnected county seats and connected municipalities of four hundred and fifty or more population. The commission may also make relocations, additions and alterations which make continuous the route of any state trunk highway through any municipality of over twenty-five hundred population or to improve the highway grade, or to eliminate a railroad crossing or crossings, or to avoid heavy city street traffic, or to construct a bypass around or alternate route through a municipality, with the consent of the governing body of such municipality affected and with a limitation of a maximum of five miles in length on each addition.
S.D. Codified Laws § 31-4-4 (2012)

***§ 31-8-11 Elimination of grade crossings**
The state or any of its subdivisions may provide for the elimination of intersections at grade of controlled-access facilities with existing state and county roads, and city or town streets, by grade separation or service road, or by closing off the roads and streets at the right of way boundary line of such controlled-access facility. After the establishment of any controlled-access facility, no highway or street which is not a part of the facility may intersect the facility at grade.
S.D. Codified Laws § 31-8-11 (2012)

§ 31-27-1. Relocation, alteration or abolishment of railroad crossings -- Terms -- Expense
The department of transportation may upon its own motion or upon complaint and after hearing and notice to all the parties in interest, including the owners of adjacent property and the railroad company, order any crossing now existing or hereafter constructed at grade or at the same or different levels to be relocated, altered, or abolished according to plans and specifications, terms and conditions to be prescribed by the department. The department shall determine the terms on which the separation should be made and shall allocate the expense of the alteration, or the abolition of the crossing, or the separation of the grade between the railroad companies affected or between the railroad companies and the county, municipality, or public authority at interest on the basis of the benefits received, if any, by each entity with an interest.
S.D. Codified Laws § 31-27-1 (2012)

***§ 31-27-5. Division of expense of eliminating crossings**
The expense of eliminating railroad crossings shall be divided between the railroad company and the state or counties, as the case may be, on the basis of the benefits received by each party.
S.D. Codified Laws § 31-27-5 (2012)

***§ 31-27-7. Determination to eliminate crossing when no right-of-way necessary for subway or overhead crossing on highway**
If no right-of-way is needed for the building of a subway or overhead crossing on a state or county highway, the governing body having jurisdiction over the highway shall determine when it is necessary to eliminate the crossing.
S.D. Codified Laws § 31-27-7 (2012)

§ 31-27-12. Determination to eliminate crossing when right-of-way necessary
If a new right-of-way is necessary for the building of a subway or overhead crossing on a state or county highway, the governing body having jurisdiction over the highway shall determine when it is necessary to eliminate the dangerous crossing.
S.D. Codified Laws § 31-27-12 (2012)

<u>Tennessee</u>

65-11-107. Elimination of grade crossings over public highways.
The department of transportation through its commissioner or the commissioner's designee has the power to eliminate grade crossings of any railroad or interurban railway track on any of the main traveled roads designated by the commissioner or the commissioner's designee as included in the general highway plan of the state, whenever, in the discretion of the commissioner or the commissioner's designee, the elimination of any such grade crossing is necessary for the protection of persons traveling on any such highway or any such railroad.
Tenn. Code Ann. § 65-11-107 (2012)

65-11-108. Location and character of substituted crossing.

When any such grade crossing is ordered to be eliminated, the commissioner of transportation or the commissioner's designee shall determine the location of the crossing to be substituted and the grade thereof, and whether it shall pass over or under the railroad tracks; provided, that on appeal from any such order by the railroad company affected to the chancery court in the judicial district in which the new grade crossing would be located, such chancery court shall have the power to make any change in the order appealed from with regard to the location and grade of the crossing to be constructed which may appear to the court to be necessary to adequately protect the safety of passenger and freight traffic on the railroad; and provided, further, that the appeal must be made within thirty (30) days of the date the order appealed from is certified to the railroad company affected.
Tenn. Code Ann. § 65-11-108 (2012)

65-11-109. Compliance with order to eliminate grade crossing.
When any such grade crossing shall be ordered to be eliminated as provided, it shall be the duty of the railroad company owning or operating the track at such crossing to comply with the order of the commissioner of transportation or the commissioner's designee within the time specified in such order by preparing and submitting to the commissioner or the commissioner's designee for approval detailed plans and specifications and estimates of cost for the construction of such underpass or overpass and by the construction of the underpass or overpass in accordance with the plans and specifications so approved, including the necessary approaches thereto; provided, that:

(1) Any such railroad company may request the commissioner of transportation or the commissioner's designee for an extension of time within which to begin and complete the actual construction of the underpass or overpass required by such order of the commissioner or the commissioner's designee. If the railroad company is dissatisfied with the commissioner's or the commissioner's designee's response to the request for an extension of time, such railroad company may file an appeal to the chancery court in the judicial district in which the grade crossing in question is located; provided that the appeal must be made within thirty (30) days of the date of the adverse response;

(2) The detailed plans and specifications and estimates of cost for any such underpass or overpass ordered by the commissioner or the commissioner's designee may be prepared in the discretion of the commissioner or the commissioner's designee by the department of transportation's own engineers, or by engineers employed for the purpose, in which event such plans and specifications and estimates of cost shall be subject to the approval of the railroad company affected;

(3) If any such railroad company shall, in obedience to the direction of the commissioner or the commissioner's designee make surveys and prepare estimates and plans, then the commissioner or the commissioner's designee shall within a reasonable time, not exceeding six (6) months, reimburse such railroad or railway for one half (1/2) of the expense and cost of such work; and if, after the making and preparation of any such surveys, plans, and estimates of cost by any railroad company under the orders of the commissioner or the commissioner's designee, or any part thereof, the order for the elimination of the grade crossing be revoked by the commissioner or the commissioner's designee, and the elimination of such crossing abandoned, the commissioner or the commissioner's designee shall, within a reasonable time, not exceeding six (6) months from the date of the revocation, reimburse the railroad or railway company for all the actual expense and cost of such work incurred by the company, upon a presentation of an

itemized and sworn statement of the expense and cost, the amount thereof to be included as a part of the cost of the highway of which such crossing is a part;

(4) Before any railroad company shall be obligated or required to commence and prosecute the actual and physical work of separating any such grade crossing, the commissioner or the commissioner's designee shall have available sufficient funds with which to reimburse the railroad company for that part of the expenses of the separation which is to be paid out of the public funds under the provisions of this chapter; and the commissioner or the commissioner's designee shall make to the railroad company, prosecuting such work, monthly payments in an amount which shall equal the proportion of the cost and expense which the public is required to pay under the provisions of this chapter of all that part of the work, including both labor and materials, completed at the date of any monthly payment; and

(5) When any grade crossing covered by §§ 65-11-107 and 65-11-108 shall have been ordered to be eliminated, as provided, it shall be the duty of the railroad company upon which such order of the state department of transportation may have been served, in accordance with the provisions of this chapter, at once to comply with such order, or avail itself of the right of an appeal, as set forth in subdivision (1), within sixty (60) days from the date of the service of the order, and in the event any such railroad company should fail to comply with such order directing the elimination of such grade crossing, or to appeal within sixty (60) days, the commissioner or the commissioner's designee shall have the authority to proceed immediately with the construction of such grade crossing separation, and upon the completion of same to assess one half (1/2) of the cost of preparation of plans and estimates and one half (1/2) of the cost of the work of construction against the railroad company affected thereby, and all such costs as are assessed in this manner against such railroad company shall be a lien upon the physical properties of such railroad company, which lien shall be prior to any lien then existing against such physical properties, and the amount of such cost may be recovered against such railroad company by a suit brought on behalf of the state by the attorney general and reporter, and the enforcement, in the name of the state, of the lien.

Tenn. Code Ann. § 65-11-109 (2012)

65-11-111. Apportionment of cost of eliminating grade crossing.

Each railroad company owning or operating the track or tracks at any grade crossing ordered or agreed to be eliminated under the provisions of this chapter shall bear fifty percent (50%) of the total cost of the elimination of any such grade crossing, the total cost to include the cost of the construction of the underpass or overpass substituted for the grade crossing, of the approaches thereto, of the surveys and preparations of the plans and estimates of cost for such underpass or overpass crossing ordered by the commissioner of transportation or the commissioner's designee, and of any revision of the grade and layout of the railroad tracks directly made necessary by such grade separation, but shall not include the cost of metal surfacing or road pavement required in accomplishing the elimination of any grade crossing; provided, that any disagreement between the commissioner or the commissioner's designee and the railroad company affected with regard to the extent or cost of any such revision of the grade and layout of the railroad tracks directly made necessary by any grade separation, shall be resolved by the commissioner, and the commissioner's decision shall be final. The remaining fifty percent (50%) of the total cost shall be borne out of the public funds as a part of the cost of the highway of which the crossing is a part; provided, that a detailed statement of the expense of all that part of the construction of such underpass or overpass crossing, including the preparation of the detailed plans and specifications, etc., which is conducted by the railroad company, shall be submitted to the commissioner or the

commissioner's designee, duly sworn to by some official of the railroad company, having knowledge of the facts; and provided, further, that this provision for the division of cost between the public and the railroad company shall apply only to crossings already in existence or hereafter made, or proposed over railroad tracks in existence at the date of the order for elimination thereof, and shall not apply to any crossing of any highway by any railroad track not in existence at the date of the designation of such highway as a part of the state highway system by the department of transportation.
Tenn. Code Ann. § 65-11-111 (2012)

Texas

§ 91.035 Use of Facilities Belonging to Public or Private Entity
(a) The department, for the purpose of acquiring, constructing, maintaining, and operating freight or passenger rail facilities and systems in this state, may:
(1) use a street, alley, road, highway, or other public way of a municipality, county, or other political subdivision with the consent of that political subdivision; and
(2) at the expense of the department, relocate, raise, reroute, or change the grade of the construction of a street, alley, highway, road, railroad, electric line and facility, telegraph and telephone property and facility, pipeline and facility, conduit and facility, and other properties, whether publicly or privately owned, as necessary or useful in the construction, maintenance, and operation of a rail facility or system.
(b) The department shall provide reasonable notice to the owner of the applicable facility of the need for the alteration under Subsection (a)(2) and allow that owner the opportunity to complete the alteration.
Tex. Transp. Code Ann. § 91.035 (2012)

§ 317.002. Definition
In this chapter, "facility" means property that the governing body of a municipality considers necessary for the elimination of a grade-level crossing by a railroad line from a street of the municipality or for the relocation of a railroad line within the municipality, including:

(1) land;
(2) a right-of-way;
(3) an elevated structure;
(4) a grade separation;
(5) an underpass or overpass;
(6) a passenger station, depot, or other building;
(7) an interchange yard;
(8) a railroad track; and
(9) any other improvement.
Tex. Transp. Code Ann. § 317.002 (Vernon 2012)

§ 317.003. Authority Regarding Facilities
(a) To decrease hazards to life or property, promote public safety or convenience, improve traffic conditions, or encourage the orderly development of the municipality, a municipality may acquire, construct, improve, enlarge, extend, maintain, repair, or replace a facility.
(b) Activities authorized by Subsection (a) include:
(1) removing and relocating railroad tracks, a utility line or pipe, or another improvement;

(2) removing or demolishing a building or another improvement;
(3) paying for damage to other property in connection with an activity described by that subsection; or
(4) improving a street in connection with an activity described by that subsection.
Tex. Transp. Code Ann. § 317.003 (Vernon 2012)

Utah

§ 54-4-15. Establishment and regulation of grade crossings
(2) The department shall have the power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad and of each crossing of a public road or highway by a railroad or street railroad, and of a street by a railroad or vice versa, and to alter or abolish any such crossing, to restrict the use of such crossings to certain types of traffic in the interest of public safety and is vested with power and it shall be its duty to designate the railroad crossings to be traversed by school buses and motor vehicles carrying passengers for hire, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected, or between such corporations and the state, county, municipality or other public authority in interest.
Utah Code Ann. § 54-4-15 (2012) Excerpt from applicable statute published.

Vermont

***§ 1708. New and existing facilities; grade crossing eliminations**
(a) The agency, with approval of the governor, may designate and establish new facilities, or existing highways, as included within a limited access facility. The agency, with approval of the governor, may eliminate intersections at grade of limited access facilities with existing state and town highways, by grade separation or service road, or by closing off those highways at the right-of-way boundary line of the limited access facility.
(b) After the establishment of any limited access facility, no highway which is not part of the facility shall intersect it at grade. No highway or other public way may be opened into or connected with any limited access facility without prior written consent and approval of the board. Its approval and consent shall be given only if the board, after conducting a public hearing and giving due consideration to the technical recommendations of the agency, finds that the public interest will be served. Notice of the date, time, and place of the public hearing shall be given to the secretary of transportation, the legislative body of the municipality, the municipal planning commission, the regional planning commission, and the agency of natural resources and shall be published in a newspaper having general circulation in the municipality in which the limited access facility lies.
Vt.Stat. Ann. tit. 19, § 1708 (2013)

§ 3783. Alteration, petition for; hearings
The selectboard of a town within which a public highway crosses or is crossed by a railroad, or the general manager or attorney of a railroad corporation whose road crosses or is crossed by a public highway, may bring their petition in writing to the transportation board, alleging that

public safety requires an alteration in such crossing, its approaches, the method of crossing, the location of the public highway, the elimination of such crossing, the closing of such public highway crossing and the substitution of another therefor, not at grade, or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered, or such proceedings may be instituted by the agency of transportation or the board of its own motion and without petition. The board shall thereupon appoint a time and place for hearing the petition on notice of not less than ten days to the petitioners, the railroad, the municipality in which such crossing is situated, the owners of the land adjoining such crossing, and adjoining that part of the highway to be changed in grade, and to the attorney general, who shall, by himself or herself or through the state's attorney of the county wherein the crossing is located, represent the interests of the state at such hearing. After such notice and hearing, the board shall determine what alterations, changes, or removals, if any, shall be made and by whom.
Vt. Stat. Ann. tit. 5, § 3783 (2013)

***§ 3786. Tracks of more than one railroad**
Under the provisions of section 3783 of this title, the board finds that a public highway crosses or is crossed by the tracks of more than one railroad and the tracks of such railroads are so near together that public convenience requires the work of separating the grades to be done under and in compliance with one order, it shall give notice to all the corporations operating such railroads to appear before it and be heard upon the application. After such notice and hearing, the board shall determine what alterations shall be made, if any, so as to separate the grades of all such crossings at the same time, and shall determine by whom such work shall be done, and shall apportion the expense to be borne by the railroad corporations between such corporations in such manner as the board deems just and proper.

Vt.Stat. Ann. tit. 5, § 3786 (2013)

See also Vt. Stat. Ann. tit. 5, § 3784 in chapter 2

Virginia

***§ 33.1-145.1. Grade crossing closing and safety**
It is the public policy of the Commonwealth of Virginia to enhance public safety by establishing safe highway/rail grade crossings; to consolidate and close unsafe, unnecessary, or redundant crossings; and to limit the establishment of new crossings. The Commonwealth Transportation Board has the authority to close public highway/rail grade crossings on the system of highways for which it has responsibility.

The Commissioner on his own motion or by request of any interested landowner, railroad corporation, county board of supervisors, or other governing body may petition the Commonwealth Transportation Board to close the highway/rail grade crossing as a public road.

The Commissioner shall, prior to petitioning the Commonwealth Transportation Board, conduct a traffic engineering study to determine the validity of closing the crossing. The traffic engineering study shall consider all factors including but not be limited to: (i) the number of freight and passenger trains passing the crossing and their timetable speeds, (ii) the distance to an alternate crossing, (iii) the availability of alternate access, (iv) the crossing's accident history during the five-year period immediately prior to the study, (v) the number of vehicles per day

using the crossing, (vi) the posted speed limit at the crossing, (vii) the type of warning devices present at the crossing, (viii) the alignment of the roadway and railroad and their angle of intersection, (ix) the number of trucks per day carrying hazardous materials through the crossing, (x) the number of vehicles per day carrying passengers for hire through the crossing, (xi) the number of school buses per day using the crossing, and (xii) the use of the crossing by emergency vehicles.

The results of the traffic engineering study shall be made public in accordance with the procedures set forth in § 33.1-145. The Commissioner shall present his findings and recommendations to the Commonwealth Transportation Board and the Board shall decide what actions to be taken regarding the crossing(s) at issue.
Va. Code Ann. § 33.1-145.1 (2012)

§ 56-365.1. Closing and or consolidation of grade crossings
Whenever the public safety requires that an existing crossing of a railroad by a public highway at grade be eliminated or that multiple grade crossings be consolidated, either the public road authority or the affected railroad may petition the Commonwealth Transportation Board to provide funding for and to require the elimination of the existing grade crossing as a condition of participating in the funding. Upon a finding that the public safety requires elimination of the existing grade crossing, and the Commonwealth Transportation Board funds are available for the improvement, the Commonwealth Transportation Board may order the elimination of the crossing or the consolidation of multiple grade crossings. The affected railroad may contribute to the cost of eliminating or consolidating grade crossings. The Commonwealth may apply for, receive, and contribute any available federal or other funds for the elimination or consolidation of grade crossings.
Va. Code Ann. § 56-365.1 (2012)

***§ 56-366.1. Proceedings to avoid or eliminate grade crossings by grade separation or to widen, strengthen, remodel, relocate or replace existing crossing structures on public highways**
Whenever a road in the State Highway System or a public highway maintained by a locality (i) crosses a railroad, (ii) is projected across a railroad, or (iii) is to be so changed as to cross a railroad, or an existing overpass or underpass crossing of any such road and a railroad is in need of widening, strengthening, remodeling, relocating or replacing, and funds are (or are to be) allocated by the Commonwealth Transportation Board or public road authority for payment of the locality's or state's portion of the cost of constructing such an overpass or underpass structure or for widening, strengthening, remodeling, relocating or replacing such an existing structure, the Commissioner of Highways or representative of the public road authority may agree with the railroad company or companies involved, on such terms and conditions as he shall deem in the best interests of the Commonwealth or locality regarding the plans and specifications, the method and manner of construction and the division of costs and maintenance responsibility of any such separation of grade structure. In case of a separation of grade by structure at a new, or an existing, grade crossing, the project, except in special cases and under special circumstances to be mutually agreed upon by the Commissioner of Highways, the public road authority, and the railroad company or companies involved, shall be deemed to start at points on each side of the tracks of the railroad or railroads where the grade, under the proposed plans and specifications, leaves the ground line to go over or under, as the case may be, the tracks of the railroad or railroads.

In the event the Commissioner of Highways, the public road authority, and the railroad company or companies involved are unable to agree on (i) the necessity for the construction of such underpass or overpass structure or for the widening, strengthening, remodeling, relocating or replacing of any existing overpass or underpass structure, (ii) the plans and specifications for and method or manner of construction thereof, or (iii) the portion of the work, if any, to be done and the share of the cost of such project, if any, to be borne by each of the railroad company or companies involved, the Commissioner of Highways or the public road authority shall petition the State Corporation Commission setting forth the plans and specifications for and the method and manner of construction of such project and the facts which in his opinion justify the elimination of the crossing, the erection of a new separation of grade structure or the widening, strengthening, remodeling, relocating or replacing of an existing structure and the maintenance responsibility. Copies of the petition and the plans and specifications shall forthwith be served by the State Corporation Commission on the railroad company or companies involved. Within twenty days after service on it of such petition and plans and specifications, the railroad company or companies shall file an answer with the State Corporation Commission setting out its objections to the proposed project and the Commission shall hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine (a) whether public necessity and convenience justifies or requires the construction of such new separation of grade structure or whether an existing structure is so dangerous to or insufficient to take care of traffic on the highway as to require the widening, strengthening, remodeling, relocating or replacing proposed, (b) whether the plans and specifications or method and manner of construction are proper and appropriate, and (c) what portion of the work, if any, to be done and what share of the cost of such project, if any, to be borne by each of the railroad company or companies involved (excluding the cost of right-of-way) is fair and reasonable, having regard to the benefits, if any, accruing to such railroad or railroads from the elimination of such grade crossing or the widening, strengthening, remodeling, relocating or replacing any existing overpass or underpass structure, and either dismiss the proceeding as against the railroad company or companies involved or enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction.

Grade crossings shall be closed when replaced by a new public highway. However, the Commonwealth Transportation Board or the public road authority may authorize the continued use of the crossing for a period of two years following the construction of the new highway to familiarize the public with the new route.
Va. Code Ann. § 56-366.1 (2012)

***§ 56-369. Elimination of public grade crossings by change of alignment of public highways or construction of replacement public highways**

Whenever the Commissioner of Highways or the appropriate public road authority in improving the alignment of public highways proposes to change the alignment of the highway or construct a replacement public highway and thereby permanently eliminate as a public crossing one or more crossings of a railroad at grade, he may agree with the railroad company involved, on such terms and conditions as he or the representative of the public road authority shall deem in the best interest of the Commonwealth or locality regarding the plans and specifications, the method and manner of construction and the division of costs of so changing the alignment of the highway.

Grade crossings shall be closed when replaced by a new public highway. However, the Commonwealth Transportation Board or the public road authority may authorize the continued use of the crossing for a period of two years following the construction of the new public highway to familiarize the public with the new route.

In the event the Commissioner of Highways or the public road authority and the railroad company are unable to agree (i) on the necessity for such change in the alignment of the highway, or (ii) the plans and specifications for the method and manner of construction thereof, or (iii) the portion of the work, if any, to be done and the share of the cost of such project, if any, to be borne by the railroad company involved, the Commissioner of Highways or the public road authority shall petition the State Corporation Commission setting forth the plans and specifications for the method and manner of changing the alignment of the public highway and the facts which, in his opinion, justify the proposed elimination as a public crossing of one or more crossings of the railroad at grade. Copies of the petition and the plans and specifications shall forthwith be served by the State Corporation Commission on the railroad company involved. Within twenty days after service on it of such petition and plans and specifications, the railroad company involved shall file an answer with the State Corporation Commission setting out its objections to the proposed project and the Commission shall hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine (a) whether public necessity and convenience justifies or requires the proposed change in the alignment of the highway which shall not, in respect to any particular project within the meaning of this section, exceed five miles in length, (b) whether the plans and specifications or method and manner of construction are proper and appropriate, and (c) what portion of the work, if any, to be done and what share of the cost of such project, if any, to be borne by the railroad company involved is fair and reasonable, having regard to the benefits, if any, accruing to such railroad from the elimination of such grade crossing or crossings, and either dismiss the proceeding as against the railroad company involved or enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction, provided, however, that the share of the cost of such project which the Commission may find proper to be borne by the railroad under the provisions of this section, shall not exceed what the Commission might otherwise decide would be the proportion of the cost of constructing an overpass or underpass structure or structures at the point or points where such public grade crossing or crossings are to be eliminated.
Va. Code Ann. § 56-369 (2012)

Washington

§ 81.53.030. Petition for crossing -- Hearing -- Order
Whenever a railroad company desires to cross a highway or railroad at grade, it shall file a written petition with the commission setting forth the reasons why the crossing cannot be made either above or below grade. Whenever the legislative authority of a county, or the municipal authorities of a city, or the state officers authorized to lay out and construct state roads, or the state parks and recreation commission, desire to extend a highway across a railroad at grade, they shall file a written petition with the commission, setting forth the reasons why the crossing cannot be made either above or below grade. Upon receiving the petition the commission shall immediately investigate it, giving at least ten days' notice to the railroad company and the county or city affected thereby, of the time and place of the investigation, to the end that all parties interested may be present and heard. If the highway involved is a state road or parkway, the

secretary of transportation or the state parks and recreation commission shall be notified of the time and place of hearing. The evidence introduced shall be reduced to writing and be filed by the commission. If it finds that it is not practicable to cross the railroad or highway either above or below grade, the commission shall enter a written order in the cause, either granting or denying the right to construct a grade crossing at the point in question. The commission may provide in the order authorizing a grade crossing, or at any subsequent time, that the railroad company shall install and maintain proper signals, warnings, flagmen, interlocking devices, or other devices or means to secure the safety of the public and its employees. In respect to existing railroad grade crossings over highways the construction of which grade crossings was accomplished other than under a commission order authorizing it, the commission may in any event require the railroad company to install and maintain, at or near each crossing, on both sides of it, a sign known as the sawbuck crossing sign with the lettering "Railroad Crossing" inscribed thereon with a suitable inscription indicating the number of tracks. The sign shall be of standard design conforming to specifications furnished by the Washington state department of transportation.
Wash. Rev. Code Ann. § 81.53.030 (LexisNexis 2012)

§ 81.53.060. Petition for alteration of crossing -- Closure of grade crossing without hearing
The mayor and city council, or other governing body of any city or town, or the legislative authority of any county within which there exists any under-crossing, over-crossing, or grade crossing, or where any street or highway is proposed to be located or established across any railroad, or any railroad company whose road is crossed by any highway, may file with the commission their or its petition in writing, alleging that the public safety requires the establishment of an under-crossing or over-crossing, or an alteration in the method and manner of an existing crossing and its approaches, or in the style and nature of construction of an existing over-crossing, under-crossing, or grade crossing, or a change in the location of an existing highway or crossing, the closing or discontinuance of an existing highway crossing, and the diversion of travel thereon to another highway or crossing, or if not practicable, to change the crossing from grade or to close and discontinue the crossing, the opening of an additional crossing for the partial diversion of travel, and praying that this relief may be ordered. If the existing or proposed crossing is on a state road, highway, or parkway, the petition may be filed by the secretary of transportation or the state parks and recreation commission. If the existing crossing is adjacent to a project funded in part or in full by the state of Washington and managed by the department of transportation, and closure of the crossing is part of the project, the petition may be filed by the secretary of transportation or the secretary's designee, or if the petition is filed by another entity, the secretary of transportation or the secretary's designee shall intervene as a party in any hearing at which the closure of the crossing is contested. If the department of transportation is not a lead agency under chapter 43.21C RCW, a lead agency shall also intervene as a party in any hearing at which the closure of the crossing is contested. Upon the petition being filed, the commission shall fix a time and place for hearing the petition and shall give not less than twenty days' notice to the petitioner, the railroad company, and the municipality or county in which the crossing is situated. If the highway involved is a state highway or parkway, or if the crossing is adjacent to a project funded in part or in full by the state of Washington and managed by the department of transportation and closure of the crossing is part of the project, like notice shall be given to the secretary of transportation or the state parks and recreation commission. If the change petitioned for requires that private lands, property, or property rights be taken, damaged, or injuriously affected to open up a new route for the

highway, or requires that any portion of any existing highway be vacated and abandoned, twenty days' notice of the hearing shall be given to the owner or owners of the private lands, property, and property rights which it is necessary to take, damage, or injuriously affect, and to the owner or owners of the private lands, property, or property rights that will be affected by the proposed vacation and abandonment of the existing highway. The commission shall also cause notice of the hearing to be published once in a newspaper of general circulation in the community where the crossing is situated, which publication shall appear at least two days before the date of hearing. At the time and place fixed in the notice, all persons and parties interested are entitled to be heard and introduce evidence. In the case of a petition for closure of a grade crossing the commission may order the grade crossing closed without hearing where: (1) Notice of the filing of the petition is posted at, or as near as practical to, the crossing; (2) notice of the filing of the petition is published once in a newspaper of general circulation in the community or area where the crossing is situated, which publication shall appear within the same week that the notice referred to in subsection (1) of this section is posted; and (3) no objections are received by the commission within twenty days from the date of the publication of the notice.
Wash. Rev. Code Ann. § 81.53.060 (LexisNexis 2012)

<u>West Virginia</u>

***§ 17-4-9. Separation, elimination or avoidance of railway-highway grade crossings -- When commissioner may require.**
Whenever in his judgment it is necessary for the safety of the traveling public or to comply with the safety, design or construction standards for a federal-aid highway project, the state Road Commissioner may require any railroad company, owning, controlling or operating a railroad in this State, to eliminate railway-highway crossings at grade on existing highways and to avoid railway-highway crossings at grade on new 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 railway-highway crossings at grade, and may determine whether a new, relocated or extended highway shall pass over or under the railroad right of way or tracks. The railroad company shall not be required to bear any part of the cost of construction or maintenance of such grade separation, except where the separation structure eliminates an existing grade crossing.
W. Va. Code Ann. § 17-4-9 (LexisNexis 2012)

§ 17-4-10. Same -- Commissioner's order to eliminate, etc., crossing; amendment to order.

(a) Whenever, in the judgment of the state Road Commissioner, it is necessary for the safety of the traveling public, or to comply with the safety, design or construction standards for a federal-aid highway project, that a railway-highway crossing at grade be eliminated on an existing highway or avoided on a new highway, relocated highway or extension of an existing highway by separating the grades or relocating an existing highway, the state Road Commissioner shall make an order to that effect and furnish a copy thereof by registered mail to the state Auditor or attorney of record of the railroad affected by the order.
(b) The commissioner's order shall include at least the following:
(1) A statement describing and locating the railway-highway crossing at grade to be eliminated or avoided; and

(2) A statement of the general plan to be followed in effecting the elimination or avoidance of the specified railway-highway crossing at grade, including general details concerning the following matters:

(A) Whether a new, relocated or extended highway shall pass over or under the railroad right-of-way or tracks; and

(B) The location, grade and width of the grade separation structure or crossing to be constructed and the angle at which the structure or crossing shall meet and converge into the highway bed on either side of the railroad tracks or right of way.

(c) Whenever a railroad company affected by the order specified in subsection (a) refuses to enter into a written agreement with the state Road Commissioner respecting a federal-aid railway-highway project for elimination or avoidance of railway-highway crossings at grade, the commissioner may amend the order made under subsection (a) to incorporate therein insofar as practicable all the details required by the regulations, policies and procedures of the Bureau of Public Roads, United States Department of Commerce, to be included in written agreements between a railroad and a state respecting federal-aid railway-highway projects. The amended order shall be furnished by registered mail to the state Auditor or attorney of record of the railroad affected thereby.

W. Va. Code Ann. § 17-4-10 (LexisNexis 2012)

***§ 17-4-43. Same -- New and existing facilities; grade crossing eliminations; consent to connect.**

The state Road Commissioner may designate and establish controlled-access highways as new and additional facilities, or he may designate and establish an existing street or highway as a controlled-access facility or as a part of a controlled-access facility, and in the event such existing street or highway be so designated, the commissioner may acquire, by grant, gift, purchase or if the exercise of the right of eminent domain be necessary for acquisition purposes, shall condemn existing and vested access rights of abutting landowners to such existing street or highway if such access rights are taken or destroyed. The commissioner is authorized to provide for the elimination of intersection at grade of controlled-access facilities with existing state roads, city streets or other public or private roads or ways by grade separation or service road, or by closing off of such roads and streets at the right-of-way boundary line of such controlled-access facility. No city street, state road or other public or private road or way shall be opened into or connected with any such controlled-access facility without the written consent and previous approval of the state Road Commissioner, which consent and approval shall be given only if the public interest shall be served thereby.

W. Va. Code Ann. § 17-4-43 (LexisNexis 2012)

***§ 17-10-7. Elimination of grade crossings.**

County courts [county commissions] and municipalities shall have the same authority and shall follow the same procedure, so far as applicable, in the elimination of grade crossings, on roads, bridges, or public landings within their jurisdiction, as is provided in sections nine to seventeen [§§ 17-4-9 to 17-4-17], inclusive, article four of this chapter.

W. Va. Code Ann. § 17-10-7 (LexisNexis 2012)

<u>Wisconsin</u>

***86.11. Highways; railroad crossings; grade separation.**

Whenever any highway crosses a railroad at grade and the town, village or county board or the city council or city commissioners other than in a city of the first class, as the case may be, shall

deem it for the best interest of the public that said highway and railroad shall cross at separate grades, and when an agreement can be made between such board and the railroad company as to the manner of constructing of such separated grade crossing and doing the necessary work they may contract therefor; and such board shall after entering into such contract levy a tax sufficient to raise the money required to carry out such contract on its part, which tax shall be collected at the time and in the manner as other taxes are, and when collected shall be set aside as a special fund and used for said purpose. The plans for such grade separation shall have the approval of the department before the contract shall be binding or the change shall be made.
Wis. Stat. § 86.11 (2012)

***195.19. Relocation of facilities.**
(4) RELOCATION OF RAILROAD FACILITIES.
Any city, village or town may cooperate with a railroad in grade crossing elimination or relocation, elimination or relocation of switchyards, roundhouses or terminals and may appropriate or borrow money therefor.
Wis. Stat. § 195.19(4) (2012) Excerpt from applicable statute published.

195.29. Railroad highway crossings.
(5) ELIMINATION OF GRADE CROSSINGS, COSTS.
Upon petition of the department, or of the common council or board of any city, village, town, or county, alleging that one or more of them have undertaken or propose to undertake to relocate or improve an existing highway or to construct a new highway in such manner as to eliminate a highway grade crossing with any railroad or so as to permanently divert a material portion of the highway traffic from a highway grade crossing with any railroad, the office shall issue notice of investigation and hearing, as provided in s. 195.04 If upon such hearing the office finds that the public safety will be promoted by the highway relocation, improvement, or new construction, the office shall order the old crossings closed and new crossings opened as are deemed necessary for public safety. The order shall require the railroad company or companies to pay to the interested municipality or municipalities such sum as the office finds to be an equitable portion of the cost of the highway relocation, improvement, or new construction, if the work is performed by the municipalities; or to the secretary of administration if the work is performed by the state; or to the proper county treasurer if the work is performed by the county. The sum shall be added to the joint fund available for the improvement and may be expended in like manner as the other portions of the fund.
Wis. Stat. § 195.29(5) (2012) Excerpt from applicable statute published.

See also Wis. Stat. § 195.29 in chapter 2 for additional information

<u>Wyoming</u>

§ 37-10-102. Power to close or establish crossings; establishing priority for hazardous crossing locations.
(a) The transportation commission shall have the power and authority to close or establish crossings at grade of public highways as specified, or separations over or under the track or tracks of any railroad corporation or street railway corporation in the state of Wyoming.
Wyo. Stat. Ann. § 37-10-102 (2012) Excerpt from applicable statute published.

Chapter 2: Crossing Treatment Procedures

CHAPTER OVERVIEW

Chapter 2 presents a description of the processes and procedures required, along with the roles to be played by the respective parties (units of government, whether state or local, and the railroads), when undertaking elimination, relocation, construction, repair, and/or improvement of grade crossings.

In most states, the designated agency having authority to order improvements is also the one with statutory authority to order outright elimination. However, there may be a distinction in some states where an agency may have the authority to eliminate a highway-rail grade crossing, but only for the purpose of creating a grade separation. For purposes of clarity and ease of reference, the two processes are described in separate chapters. The applicable sections of relevant laws and regulations are provided for each state. In most of the entries, a discussion of the division of costs for elimination, relocation, construction, repair, and/or improvements of grade crossings is included.

Alabama

§ 23-1-9. Railways; authority regarding.
Whenever the funds of the state are being expended for the construction, maintenance or repair of a public highway, the State Department of Transportation shall have the power and authority to compel all railways operating in this state to construct viaducts, tunnels, underpasses or bridges to the full extent of the width of the right-of-way and over the tracks as owned or operated by any railway when, in the judgment of the State Department of Transportation, such viaducts, tunnels, underpasses or bridges are necessary for the safety of the general public and whereby a dangerous grade crossing is eliminated. The State Department of Transportation may appropriate out of the funds credited to the State Department of Transportation for the construction and maintenance of highways an amount not to exceed 50 percent of the cost to construct said viaducts, tunnels, underpasses or bridges to the full extent of the width of the right-of-way and over the tracks as owned or operated by any railway in this state. If after due notice to a railroad that such a viaduct, tunnel, underpass or bridge, in the judgment of the State Department of Transportation, is necessary to be built or constructed across the width of the right-of-way and over the tracks of the railway and such railway fails or refuses to comply with the order of the State Department of Transportation as provided in this section, the State Department of Transportation is empowered and authorized to forthwith build or construct such viaducts, tunnels, underpasses or bridges, and the amounts so expended for such construction as provided in this section, shall constitute a charge against such railway and the State Department of Transportation shall render a bill to such railway stating the amounts expended and for what purpose; and upon the failure or refusal of such railway to make payment of the amount due the state, the State Department of Transportation shall forward all data and information to the Attorney General of this state, who shall immediately institute an action in the name of the State of Alabama, as provided by law, for the recovery of the amount as reported by the State Department of Transportation as due by the railway for the funds to be expended in the

construction of viaducts, tunnels, underpasses or bridges across the width of the right-of-way and over the tracks of such railway. Upon the recovery of such funds, the amount shall be paid into the state treasury and credited to the account of the State Department of Transportation from which such funds were withdrawn; but said railway shall not be required to pay exceeding 50 percent of the cost thereof.
Ala. Code § 23-1-9 (LexisNexis 2012)

Alaska

17 AAC 15.471. Railroad permits
(a) Upon written application, the department will, in its discretion, issue a permit authorizing the applicant to construct or install railroad facilities within a department right-of-way.
(b) No permit is required for the reconstruction of existing crossings, structures, or other facilities or for the construction of additional crossings, structures, or other facilities in areas where a railroad holds a fee title or an easement for a railroad right-of-way.
(c) An application for a railroad permit must specifically describe the proposed facility and its proposed location within the department's right-of-way. The application must include plans and specifications so that the department can evaluate the engineering design and proposed location.
(d) All railroad permits will be issued in accordance with this section and 17 AAC 15.011 - 17 AAC 15.111.
(e) Whether or not a railroad facility permit is required, the railroad shall notify the department in writing not less than 15 days before any construction or major maintenance activity in an area bordering on, adjacent to, or crossing a department right-of-way.
Alaska Admin. Code tit. 17, § 15.471 (2013)

17 AAC 15.481 Railroad accommodation policy
(a) Grade separation is required for all railroad crossings on controlled-access highways. At-grade railroad crossings on rural highways and roads, and urban highways and streets will normally be allowed. However, the department will, in its discretion, require grade separation where warranted by conditions of topography and traffic density.
(b) A railroad crossing on a highway with defined shoulders may not be less than the full width of the highway including its defined shoulders. A railroad crossing on a rural highway with undefined shoulders must extend a minimum of five feet beyond the traveled portion of the highway. The surface of the highway must be in the same plane as the top of the rails for a distance of two feet outside of the rails for either multiple- or single-track crossings.
(c) The intersection of the highway alignment and the railroad track must be as nearly perpendicular as practicable.
(d) A railroad/highway crossing sign (crossbuck) must be installed on the right-hand side of the roadway on each approach to any crossing, except when, in the discretion of the department, it is determined that local conditions require an alternate location. Where railroad/highway crossing signals are used, the crossbuck must be an integral part of the signal assembly. A supplemental sign indicating the number of tracks must be used where there are two or more sets of tracks at the crossing.
(g) The department's chief bridge engineer is responsible for approving clearances proposed for new grade separation structures or for modifications of existing grade separation structures.
Alaska Admin. Code tit. 17, § 15.481 (2013) Excerpt from applicable statute published.

17 AAC 15.491. Maintenance and repairs

(a) Upon completion of a railroad crossing on a highway, the railroad is responsible for the maintenance and repair of all track bed and rail components and any state property located within the width of the railway ties occupying the crossing area. The department is responsible for the maintenance and repair of all state property located outside the area within the railway ties. Allocation of the costs of all maintenance and repairs must be included in the railroad permit issued under 17 AAC 15.471.
(b) The railroad must operate and maintain all railroad crossing signals or other protective devices.
(c) Unless otherwise specified in the railroad permit, upon completion of a grade-separation structure, the department is responsible for the maintenance and repair of the structure and approaches and the railroad is responsible for the maintenance and repair of the track bed and rail components.
Alaska Admin. Code tit. 17, § 15.491 (2013)

Arizona

***§ 28-6711. Railroad construction along improved highway prohibited; exception**

A. A railroad or street railway shall not be constructed along or on any portion of a highway improved under this article, except a crossing authorized by the board of supervisors. The board of supervisors shall not grant a franchise for the construction of a railroad or street railway along or on an improved portion of the highway, except for a crossing.
B. If such a highway or portion of a highway, after having been improved, is included in the boundaries of an incorporated city or town, the municipal authorities may grant the franchise within the boundaries of the city or town on the express condition that the grantee shall pay to the county for the benefit of the county general fund an amount equal to the cost of the improvement of that portion of the improved highway that will be occupied by the track of the railroad or street railway.
Ariz. Rev. Stat. § 28-6711 (LexisNexis 2012)

§ 40-337. Power of commission over railway crossings
A. No public highway or street shall be constructed across the track of any railroad at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad at grade, without the permission of the commission, but this provision shall not apply to the replacement of lawfully existing tracks. The commission may refuse permission or grant it upon such terms and conditions as it prescribes.
C. When the commission finds that public convenience and necessity demands establishment, creation or construction of a crossing of a street or highway over, under or upon the tracks or lines of any public service corporation, the commission may by order require the establishment, construction or creation of the crossing, and the crossing shall thereupon become a public crossing. The commission shall have the exclusive power to prescribe the character of crossings to be constructed and maintained by railroads where their lines cross public roads or streets of a town or city.
Ariz. Rev. Stat. § 40-337 (LexisNexis 2012) Excerpt from applicable statute published.

Arkansas

***14-186-210. Acquisition of rights-of-way and property.**
(a) For the acquiring of rights-of-way and property necessary for the construction of terminal railroads and structures, including railroad crossings,airports, seaplane bases, naval bases,

wharves, piers, ships, docks, quays, elevators, compresses, refrigeration storage plants, warehouses, and other riparian and littoral terminals and structures and approaches to them and transportation facilities needful for the convenient use of them, and belt line roads and highways and causeways and bridges and other bridges and causeways, a municipal port authority shall have the right and power to acquire them by purchase, by negotiation, or by condemnation.
Ark. Code Ann. § 14-186-210(a) (2012)

***23-12-304. Inspection of road crossings by commission -- Hearings and orders.**
(c) By applicable federal law, the Congress has declared that laws, rules, regulations, orders, and standards relative to railroad safety shall be nationally standard to the extent practicable and that each state shall conduct and maintain a survey of all crossings and assign priorities from a safety standpoint for appropriate improvements and protective devices. The commission has made the survey, given the crossings in Arkansas hazardous index ratings, and now administers the crossing safety program in Arkansas. In view of the above, the commission is hereby designated as the sole public body to deal with, and shall have exclusive jurisdiction over, the location and construction of new, and the improving and protecting of new and existing, street, road, and highway railroad crossings in Arkansas
Ark. Code Ann. § 23-12-304(c) (2012) Excerpt from applicable statute published.

23-12-1002 Jurisdiction
The State Highway Commission administers the railroad crossing safety program in Arkansas and has heretofore been designated by the General Assembly as the sole public body to deal with and has been given exclusive jurisdiction concerning the location, construction, improvement, and protection of railroad crossings in Arkansas. It is in the public's interest and safety that uniformity be established in other matters pertaining to the maintenance of railroad crossings and the operation and movement of trains in this state.
Ark. Code Ann. § 23-12-1002 (2012)

23-12-1003. Maintenance of crossings of public roads and railroads -- Failure to comply -- Penalties.
The State Highway Commission is hereby designated as the sole public body to deal with and is hereby given exclusive jurisdiction over all matters pertaining to the maintenance of any location where any railroad crosses any public road, highway, or street in this state or where any public road, highway, or street crosses any railroad.
Ark. Code Ann. § 23-12-1003 (2012)

23-12-1004. Powers and duties.
(a) The State Highway Commission shall make such investigation and studies as it deems necessary to properly exercise the jurisdiction hereby conferred and shall involve Arkansas counties, municipalities, and railroads operating within this state and unions representing railroad employees.
Ark. Code Ann. § 23-12-1004 (2012)

<u>California</u>

***Gov't § 8879.63 Adoption of guidelines to establish criteria and process for allocation of funds to eligible projects; Types of railroad crossing improvements; Report to Legislature**
(a) Prior to allocating funds appropriated from the Highway-Railroad Crossing Safety Account established pursuant to subdivision (j) of Section 8879.23, the commission, in cooperation with the Public Utilities Commission, the department, and the High-Speed Rail Authority, shall adopt

guidelines to establish the criteria and process to allocate funds to an eligible project in the program. The guidelines shall be adopted no later than February 15, 2008, and only after the commission holds a public hearing in northern California and a public hearing in southern California to review and to receive public comment on the proposed guidelines. The commission may incorporate the hearings on the proposed guidelines into its regularly scheduled hearings.
(b) Funds available under this section shall be used to provide the state match for local, federal, or private funds for high-priority grade separation and railroad crossing safety improvements in California. The commission shall adopt strategies to invest these funds in a manner to make railroad crossing safety improvements at any of the following:
(1) Crossings where freight rail and passenger rail share the affected guideway.
(2) Crossings with high incidents of motor vehicle-rail or pedestrian-rail accidents.
(3) Crossings with high vehicle-hours of delay.
(4) Crossings where an improvement will result in quantifiable emission benefits.
(5) Crossings where the improvement will improve the flow of rail freight to or from a port facility.
(c) The guidelines adopted by the commission pursuant to subdivision (a) shall articulate the amount of funds appropriated to the account that will be expended for purposes of paragraph (1) of subdivision (j) of Section 8879.23 and for purposes of paragraph (2) of subdivision (j) of Section 8879.23.
(d) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the improvements the program is achieving.
Cal. Gov't Code § 8879.63 (Deering 2012)

Pub. Util. Code § 1201. Railroad Crossings; Permission to construct
No public road, highway, or street shall be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway, or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without having first secured the permission of the commission. This section shall not apply to the replacement of lawfully existing tracks. The commission may refuse its permission or grant it upon such terms and conditions as it prescribes.
Cal. Pub. Util. Code § 1201 (Deering 2012)

Pub. Util. Code § 1202. Exclusive powers of commission
(a) To determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public or publicly used road or highway by a railroad or street railroad, and of a street by a railroad or of a railroad by a street.
Cal. Pub. Util. Code § 1202 (Deering 2012) Excerpt from applicable statute published.

***Pub. Util. Code § 1202.1. Procedure where parties are not in agreement as to apportionment of costs, but applicant is willing to advance money for completion of work;**

Hearing and decision; Order for immediate possession; Credits against applicant's share of costs

In any proceeding under Section 1202, where the application to the commission states that the parties are not in agreement as to apportionment of costs, but the applicant is willing to advance the amount of money reasonably necessary to enable the respondent to complete the work to be done by it, the commission shall set the application for hearing as soon as its calendar permits on all of the following questions:

(a) The necessity for the project.

(b) The approval of the location and the engineering plans, including provisions for handling traffic during construction and the work to be performed by each party.

(c) The sum to be advanced by the applicant for the work to be done by the respondent. The commission shall render as promptly as possible an interim decision effective within 20 days on the questions, reserving for a later hearing and decision the question of apportionment of costs. The decision shall also order the respondent to proceed upon receipt of the sum to be advanced by the applicant without delay to perform the work to be done by the respondent, integrating the work with that of the applicant or its contractor in such manner that neither will unreasonably obstruct or delay the work of the other, to the end that the people of the state may have the use of the project at the earliest possible date.

In the event of the failure or refusal of the respondent to grant a right of entry to permit the applicant to proceed with the work to be performed by it or its contractor, the applicant may, pursuant to Section 19 of Article I of the Constitution, obtain an order of immediate possession in a court of competent jurisdiction if a condemnation action has previously been filed in that court, or file the action and obtain an order of immediate possession in the event the action has not previously been filed. Upon obtaining the order, the applicant may proceed in the same manner as if a right of entry had been granted, and the respondent shall proceed with its own work and integrate it with that of the applicant or its contractor.

In the final decision apportioning costs, the commission shall credit the sum advanced by the applicant against the applicant's share of the costs. In the final decision, the commission shall also credit against the applicant's share of the costs any increases in those costs found by the commission to be directly attributable to the respondent's willful failure or refusal, after the effective date of the interim decision, to proceed with its own work or to integrate its work with that of the applicant or its contractor.

Cal. Pub. Util. Code § 1202.1(Deering 2012)

***Pub. Util. Code § 1202.5. Standards governing apportionment of construction expenses between railroad corporations and public agencies**

In prescribing the proportions in which the expense of construction, reconstruction, alteration, or relocation of grade separations shall be divided between railroad or street railroad corporations and public agencies, in proceedings under Section 1202, the commission, unless otherwise provided in this section, shall be governed by the following standards:

(a) Where a grade separation project, whether initiated by a public agency or a railroad, will not result in the elimination of an existing grade crossing, located at or within a reasonable distance from the point of crossing of the grade separation, the commission shall require the public agency or railroad applying for authorization to construct such grade separation to pay the entire cost.

(b) Where a grade separation project initiated by a public agency will directly result in the elimination of one or more existing grade crossings, located at or within a reasonable distance from the point of crossing of the grade separation, the commission shall apportion against the railroad 10 percent of the cost of the project. The remainder of such costs shall be apportioned against the public agency or agencies affected by such grade separation.
(c) Where a grade separation project initiated by a railroad will directly result in the elimination of an existing grade crossing, located at or within a reasonable distance from the point of crossing of the grade separation, the commission shall apportion 10 percent of the cost, attributable to the presence of the highway facilities, against the public agency or agencies affected by the project, and the remainder thereof to the railroad or railroads applying for authorization to construct such grade separation.
(d) Where the project consists of an alteration or reconstruction of an existing grade separation for the purpose of increasing the capacity of the structure for highway purposes, the commission shall apportion 10 percent of the cost against the railroad and the balance against the public agency or agencies affected by the grade separation. There shall be no apportionment of cost to the railroad if it did not bear any of the cost of the original project, in which case the public agency or agencies shall pay 100 percent of the cost of the alteration or reconstruction of the grade separation. An allocation of funds set aside pursuant to Section 190 of the Streets and Highways Code may be made for such a project notwithstanding subdivision (d) of Section 2454 of the Streets and Highways Code.

Where the project consists of an alteration or reconstruction of an existing grade separation for the purpose of increasing the capacity of the structure for railway purposes, the commission shall apportion 10 percent of the cost against the public agency or agencies affected and the balance against the railroad applying for authorization to alter or reconstruct the grade separation. There shall be no apportionment of cost to the public agency or agencies if the agency or agencies did not bear any of the cost of the original project, in which case the railroad shall pay 100 percent of the cost of the alteration or reconstruction of the grade separation.
(e) In the event the commission finds that a particular project does not clearly fall within the provisions of any one of the above categories, the commission shall make a specific finding of fact on the relation of the project to each of the categories, and in apportioning the costs, it shall assess against the railroad a reasonable percentage, if any, of the cost not exceeding the percentage specified in subdivision (b), dependent on the findings of the commission with respect to the relation of the project to each category. The remainder of such cost shall be apportioned against the public agency or agencies affected by the project.
(f) In the event the commission finds that the respective shares of any apportionment should be divided between two or more railroads or two or more public agencies, the commission, to the extent that it has jurisdiction to do so in a particular proceeding before it, shall divide the shares between the railroads or the public agencies, or both, on any reasonable basis, to be decided by the commission, but in so doing shall follow the standards hereinabove prescribed for apportionment between railroads and public agencies, respectively.
(g) The standards herein prescribed for apportionment of costs of grade separations shall not be applicable where federal funds are used. On such projects, the apportionments shall be in accordance with federal law and the rules, regulations, and orders of the federal agency administering such law, where applicable.

(h) No provision of this section or of the Public Utilities Code shall be construed as in any way limiting the right of public agencies or railroads to negotiate agreements apportioning costs of grade separations, and the validity of any and all such agreements is hereby recognized for all purposes regardless whether the method of apportionment prescribed therein conforms to the standards hereinabove prescribed.

As used in this section "public agency" includes a separation of grade district, as well as the state, a county, city, or other political subdivision.
Cal. Pub. Util. Code § 1202.5 (Deering 2012)

***Pub. Util. Code § 1202.6. Costs of grade separation project; Payment of railroad's share by public entity providing rail passenger transportation services**
Any municipal corporation, transit district, rapid transit district, or other public entity which provides rail passenger transportation services through a contract with a railroad corporation, may pay all or part of the share of a grade separation project allocated to such railroad corporation, or all or part of such share of a project's cost negotiated and agreed upon as the railroad's share by the railroad and a public agency or agencies pursuant to subdivision (h) of Section 1202.5. In any case where the municipal corporation, transit district, rapid transit district, or other public entity agrees to pay all or part of the railroad's share, it may enter into the negotiations allocating costs and may be a party to the agreement assessing such costs.
Cal. Pub. Util. Code § 1202.6 (Deering 2012)

***Str. & H. Code § 190. Appropriation for grade separation projects**

Each annual proposed budget prepared pursuant to Section 165 shall include the sum of fifteen million dollars ($15,000,000), which sum may include federal funds available for grade separation projects, for allocations to grade separation projects, in accordance with Chapter 10 (commencing with Section 2450) of Division 3.

Cal. Str. & H. Code §190 (Deering 2012)

***Str. & H. Code §2452. Priority list**

Prior to July 1 of each year, the Public Utilities Commission shall establish a list, in order of priority, of projects that the commission determines to be most urgently in need of separation or alteration. The priority list shall be determined on the basis of criteria established by the Public Utilities Commission.

Cal. Str. & H. Code § 2452 (Deering 2012)

***Str. & H. Code §2453. Allocations for projects from priority list**

From the funds set aside pursuant to Section 190, as well as from any other funds that may be set aside for purposes of this chapter, the California Transportation Commission shall make allocations for projects contained in the latest priority list established pursuant to Section 2452. Such allocations shall be made for preconstruction costs and construction costs. Where allocations are made to a local agency, the requirements of Sections 2456 and 2457 shall first be met.

Cal. Str. & H. Code § 2453 (Deering 2012)

***Str. & H. Code §2454. Basis of allocations**

Allocations made pursuant to Section 2453 shall be made on the basis of the following:

(a) An allocation of 80 percent of the estimated cost of the project shall be made; except that whenever contributions from other sources exceed 20 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 20 percent of the estimated cost.

(b) On projects that eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be made unless the railroad agrees to contribute 10 percent of the cost of the project.

(c)(1) Notwithstanding subdivisions (a) and (b), the total of these allocations for a single project shall not exceed five million dollars ($5,000,000) without specific legislative authorization. Cumulative allocations to a single project shall not exceed 80 percent of the cost to construct the project.

Cal. Str. & H. Code § 2454 (Deering 2012)

Colorado

40-4-106. Rules for public safety - crossings - allocation of expenses

(1) The commission shall have power, after hearing on its own motion or upon complaint, to make general or special orders, rules, or regulations or otherwise to require each public utility to maintain and operate its lines, plant, system, equipment, electrical wires, apparatus, tracks, and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, subscribers, and the public and to require the performance of any other act which the health or safety of its employees, passengers, customers, subscribers, or the public may demand.

(2) (a) The commission has the power to determine, order, and prescribe, in accordance with the plans and specifications to be approved by it, the just and reasonable manner including the particular point of crossing at which the tracks or other facilities of any public utility may be constructed across the facilities of any other public utility at grade, or above or below grade, or at the same or different levels, or at which the tracks or other facilities of any railroad corporation may be constructed across any public highway at grade, or above or below grade, or at which any public highway may be constructed across the tracks or other facilities of any railroad corporation at grade, or above or below grade and to determine, order, and prescribe the terms and conditions of installation and operation, maintenance, and warning at all such crossings that may be constructed, including the posting of personnel or the installation and regulation of lights, block, interlocking, or other system of signaling, safety appliance devices, or such other means or instrumentalities as may to the commission appear reasonable and necessary to the end, intent, and purpose that accidents may be prevented and the safety of the public promoted.

(b) Whenever the commission orders in any proceeding before it, regardless of by whom or how such proceeding was commenced, that automatic or other safety appliance signals or devices be installed, reconstructed, or improved and operated at any crossing at grade of any public highway or road over the tracks of any railroad corporation, the commission shall also determine and order, after notice and hearing, how the cost of installing, reconstructing, or improving such signals or devices shall be divided between and paid by the interested railroad corporation whose

tracks are located at the crossing on the one hand and the highway operations and maintenance division and the interested city, city and county, town, county, or other political subdivision of the state on the other hand. In determining how much of the cost shall be paid by the railroad corporation, consideration shall be given to the benefit, if any, that will accrue from the signals or devices to the railroad corporation, but in every case the part to be paid by the railroad corporation shall be not less than twenty percent of the total cost of the signals or devices at any crossing, and the orders shall provide that every signal or device installed shall be maintained by such railroad corporation for the life of the crossing to be so signalized. In order to compensate for the use of the crossings by the public generally, the commission shall also order that such part of the cost of installing, reconstructing, or improving the signals or devices as will not be paid by the railroad corporation be divided between the highway-rail crossing signalization fund and the city, town, city and county, county, or other political subdivision in which the crossing is located, and the commission shall fix in each case the amount to be paid from the highway-rail crossing signalization fund and the amount to be paid by the city, town, city and county, county, or other political subdivision. Any order of the commission under this section for the payment of any part of any such costs from the highway-rail crossing signalization fund shall be authority for the state treasurer to pay out of said fund to the person, firm, or corporation entitled thereto under the commission's order the amount so determined to be paid from said fund. The requirement of notice and hearing in this section is deemed to have been complied with by the commission's giving notice of and holding a hearing upon the question of whether any such signals or devices are required at any crossing; but in such cases the notice shall state that the question of how the costs will be borne and paid will be considered at and determined as a result of the hearing for which the notice is given. This paragraph (b) shall not apply to any grade crossing when all or any part of the cost of the installation, reconstruction, or improvement of the signals or devices at the crossing will be paid from funds available under any federal or federal-aid highway act.
3) (a) (I) The commission also has power upon its own motion or upon complaint and after hearing, of which all the parties in interest including the owners of adjacent property shall have due notice, to order any crossing constructed at grade or at the same or different levels to be relocated, altered, or abolished, according to plans and specifications to be approved and upon just and reasonable terms and conditions to be prescribed by the commission, and to prescribe the terms upon which the separation should be made and the proportion in which the expense of the alteration or abolition of the crossing or the separation of the grade should be divided between the railroad corporations affected or between the corporation and the state, county, municipality, or public authority in interest.
(b) (I) (A) The commission is authorized to approve individual projects wherein the allocation of the total expenses of the separation of grades to be paid by the railroad corporation or railroad corporations may exceed two million five hundred thousand dollars. The commission may approve more than one project, the sum totals of which may exceed the two-million-five-hundred-thousand-dollar cap set forth in this subparagraph (I), but in no event shall an individual class I railroad corporation pay more than two million five hundred thousand dollars of the cost of a single project or the cost of more than one project in any calendar year. Nothing in this subparagraph (I) shall preclude any railroad corporation from voluntarily contributing more than its allotted share for grade separation construction in one year, and, in such event, all amounts contributed by such railroad exceeding its allotted share in any one year shall be credited to and shall serve to reduce any payment for grade separation construction expenses by that railroad in subsequent years.

(II) If the cost of a project is such that it calls for payment by a railroad corporation in more than one calendar year or if the amount due from the railroad corporation exceeds two million five hundred thousand dollars and thus must be made in consecutive calendar years, nothing in this section shall be construed to require that the approved project must be subjected to reapplication or rereview by the commission.
(III) In determining how much of the total expense of the separation of grades shall be paid by the railroad corporation or railroad corporations and by the state, county, municipality, or public authority in interest, consideration shall be given to the benefits, if any, which accrue from the grade separation project and the responsibility for need, if any, for such project. The railroad corporation or railroad corporations and the state, county, municipality, or public authority in interest shall share the costs for that portion of the project which separates the grades and constructs the approaches thereto. The commission shall consider the costs of obtaining rights-of-way, the costs of construction, and the costs of engineering. To the extent that the requirements of the railroad corporation or railroad corporations and the state, county, municipality, or public authority in interest generate additional costs beyond that necessary to provide the grade separation, such costs shall be borne by the responsible entity.
(IV) This paragraph (b) shall not apply to any project for the elimination of hazards at any railway-highway crossing when all or any part of the cost of such project will be paid from moneys made available for expenditure under title 23, U.S.C.; except that any amount paid by a railroad corporation for such an exempt project shall be credited against the two-million-five-hundred-thousand-dollar cap set forth in subparagraph (I) of this paragraph (b).
(c) (I) The state, county, municipality, or public authority, at its discretion, may withdraw its request for allocation determination at any time prior to the issue of the final order of the commission.
(II) The state, county, municipality, or public authority, at its discretion, after the hearing and prior to final order of the commission, may make a motion for a declaratory ruling on the cost allocation. In response to such a request, the commission shall make a declaratory ruling and shall provide the movant reasonable time to withdraw the request for allocation determination.
(III) After the final order is issued, the project shall proceed, unless the commission revises the order after consideration of a request for change by the state, county, municipality, or public authority in interest.
Colo. Rev. Stat. 40-4-106 (2012) Excerpt from applicable statute published.

For additional information, see Colo. Rev. Stat. 40-4-106 in chapter 1

Connecticut

***Sec. 13b-78t. Bond issue for Fix-it-First program for railroad crossings at grade.**
(a) The State Bond Commission shall have power, in accordance with the provisions of this section, from time to time to authorize the issuance of special tax obligation bonds of the state in one or more series and in principal amounts in the aggregate, not exceeding two million five hundred thousand dollars.
(b) The proceeds of the sale of said bonds, to the extent hereinafter stated, shall be used for the purpose of payment of the transportation costs, as defined in subdivision (6) of section 13b-75, with respect to the projects and uses hereinafter described, which projects and uses are hereby found and determined to be in furtherance of one or more of the authorized purposes for the issuance of special tax obligation bonds set forth in section 13b-74. Any proceeds from the sale

of said bonds shall be used by the Department of Transportation for the purpose of establishing a Fix-it-First program to repair, upgrade or eliminate the state's railroad crossings at grade.
(c) None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it (1) a request for such authorization, which is signed by the Secretary of the Office of Policy and Management or by or on behalf of such state officer, department or agency and stating such terms and conditions as said commission, in its discretion, may require, and (2) any capital development impact statement and any human services facility colocation statement required to be filed with the Secretary of the Office of Policy and Management pursuant to section 4b-23, any advisory report regarding the state conservation and development policies plan required pursuant to section 16a-31 and any statement regarding farm land required pursuant to subsection (g) of section 3-20 and section 22-6, provided the State Bond Commission may authorize said bonds without a finding that the reports and statements required by this subdivision have been filed with it if said commission authorizes the secretary of said commission to accept such reports and statements on its behalf. No funds derived from the sale of bonds authorized by said commission, without a finding that the reports and statements required by this subdivision have been filed with it, shall be allotted by the Governor for any project until the reports and statements required by this subdivision, with respect to such project, have been filed with the secretary of said commission.
(d) For the purposes of this section, each request filed as provided in this section for an authorization of bonds shall identify the project for which the proceeds of the sale of such bonds are to be used and expended and, in addition to any terms and conditions required pursuant to this section, include the recommendation of the person signing such request as to the extent to which federal, private or other moneys then available or thereafter to be made available for costs in connection with any such project should be added to the state moneys available or becoming available from the proceeds of bonds and temporary notes issued in anticipation of the receipt of the proceeds of bonds. If the request includes a recommendation that some amount of such federal, private or other moneys should be added to such state moneys, then, if and to the extent directed by the State Bond Commission at the time of authorization of such bonds, said amount of such federal, private or other moneys then available or thereafter to be made available for costs in connection with such project shall be added to such state moneys.
(e) Any balance of proceeds of the sale of said bonds authorized for the projects or purposes of this section, in excess of the aggregate costs of all the projects so authorized, shall be used in the manner set forth in sections 13b-74 to 13b-77, inclusive, and in the proceedings of the State Bond Commission respecting the issuance and sale of said bonds.
(f) Said bonds issued pursuant to this section shall be special obligations of the state and shall not be payable from or charged upon any funds other than revenues of the state pledged therefor in subsection (b) of section 13b-61 and section 13b-69, or such other receipts, funds or moneys as may be pledged therefor. Said bonds shall not be payable from or charged upon any funds other than such pledged revenues or such other receipts, funds or moneys as may be pledged therefor, nor shall the state or any political subdivision thereof be subject to any liability thereon, except to the extent of such pledged revenues or such other receipts, funds or moneys as may be pledged therefor. Said bonds shall be issued under and in accordance with the provisions of sections 13b-74 to 13b-77, inclusive.
Conn. Gen. Stat. § 13b-78t (2012)

***Sec. 13b-204a. Crossings at grade. Attendance by commissioner at public hearing.**

The Commissioner of Transportation, or the commissioner's designee, shall attend a public hearing concerning the safety and condition of a railroad crossing at grade, upon receipt by the commissioner of a petition that requests the commissioner to attend such hearing and is signed by twenty-five or more electors of the municipality in which such crossing is located.
Conn. Gen. Stat. § 13b-204a (2012)

***Sec. 13b-265. (Formerly Sec. 16-95). Crossing highway or watercourse.**
When it is necessary for the construction of a railroad to intersect or cross any watercourse not navigable or any public highway, the company may construct such railroad across or upon the same if the Commissioner of Transportation judges it necessary and authorizes it by his order. Such company shall restore such watercourse or highway to its former state or in a manner not to impair its usefulness. If any highway is so located that such railroad cannot be judiciously constructed across or upon the same without interfering therewith, such company may, with the consent of the commissioner, cause such highway to be changed or altered, so that such railroad may be constructed on the best site. Such company shall put such highway in as good situation and repair as it was previous to such alteration, under the direction of the commissioner, whose determination thereon shall be final.
Conn. Gen. Stat. § 13b-265 (2012)

Sec. 13b-267. (Formerly Sec. 16-97). Construction over highway at grade restricted.
Each company which locates and constructs a railroad across any highway shall construct it so as to cross over or under the same and may, under the direction of the Commissioner of Transportation, raise or lower the same at such crossing or change the location thereof and shall make and maintain such bridges, abutments, tunnels, arches, excavations, embankments and approaches as the commissioner orders and the convenience and safety of the public travel upon such highway may require; but the commissioner may, upon notice to such company and to the selectmen of the town or mayor of the city in which such crossing is situated, direct such company to construct its railroad at such crossing upon a level with the highway; but no such direction shall be given in any case except for special reasons, which shall be recorded in the records of the commissioner.
Conn. Gen. Stat. § 13b-267 (2012)

Sec. 13b-268. (Formerly Sec. 16-98) Construction of new highway across railroad. Construction of railroad crossing at grade.
(a) When a new highway is constructed across a railroad, such highway shall pass over or under the railroad as the Commissioner of Transportation directs. The company operating such railroad shall construct such crossing to the approval of the commissioner and may take land for the purposes of this section. The expense of such crossing construction shall be borne by either the town, city or borough constructing such highway, or by the company constructing the same, or by a sharing of the cost between the town, city or borough and the company, as the commissioner directs.
(b) On or after October 1, 1989, no public railroad crossing at grade shall be constructed unless authorized by special act of the General Assembly. The Commissioner of Transportation, upon the request of the joint standing committee on transportation or upon his own initiative, shall investigate and make recommendations concerning the creation of such a crossing. Such investigation shall include a public hearing on the creation of such a crossing. The commissioner shall provide reasonable notice to the town, city or borough where suchcrossing is to be located, any railroad utilizing the rail line and the party requesting the crossing and to the public through

publication of notice in a newspaper having general circulation in the municipality where such crossing is to be located. Any proposed legislation for the creation of such a crossing shall be accompanied by a detailed report containing, but not limited to the following information: The date of the public hearing, any requirements for the protection of persons using the crossing, including but not limited to the protections established in sections 13b-342 to 13b-346, inclusive, and a recommendation concerning the party to bear the costs of construction, installation and maintenance of such crossing.
Conn. Gen. Stat. § 13b-268 (2012)

Sec. 13b-271. (Formerly Sec. 16-100a). Temporary grade crossings.
The Commissioner of Transportation, on the application in writing of the selectmen of any town, the mayor and common council of any city or the warden and burgesses of any borough or on the commissioner's own motion, may make all necessary orders concerning the establishment of a temporary grade crossing over the tracks of any railway during the period of construction of a permanent grade separation structure which will carry a highway over or under such tracks, provided the state, town, city or borough making such application shall bear the cost of any necessary signs, signals, gates, flagmen or other protective devices.
Conn. Gen. Stat. § 13b-271 (2012)

Sec. 13b-272. (Formerly Sec. 16-100b Relocation of grade crossing.(S)
Notwithstanding any other provision of the general statutes, the Commissioner of Transportation, on the application in writing of the selectmen of any town, the mayor and common council of any city or the warden and burgesses of any borough or on his own motion, may make all necessary orders regarding the relocation of an existing grade crossing where it can be shown that the crossing at the revised location will be in the interests of public safety, necessity and convenience due to improved highway alignment, gradient, sight distance or such other reason as will result in better traffic operations at the crossing, provided the state, town, city or borough making such application shall bear the cost of such relocation and the maintenance thereafter shall be borne in the same manner as prior to such relocation.
Conn. Gen. Stat. § 13b-272 (2012)

***Sec. 13b-274. (Formerly Sec. 16-102) Commissioner of Transportation may order removal of crossings. Land to be taken limited.**
The Commissioner of Transportation may, in the absence of any application therefor, when in the commissioner's opinion public safety requires an alteration in any highway crossed at grade by a railroad or by railroads belonging to or operated by more than one company, after a hearing had upon such notice as the commissioner deems reasonable to the company or companies owning or operating such railroad or railroads and to the selectmen of the town, mayor of the city or warden of the borough within which such highway is situated and to the owners of the land adjoining such crossing, order such alterations in such highway as the commissioner deems best, and shall determine and direct by whom such alterations shall be made, at whose expense and within what time; provided, in all cases arising under this section, one-fourth of the expense, including damages and special damages as aforesaid, shall be paid by the state and the remainder shall be assessed upon the railroad company or companies benefited by such order; and provided such alterations as are thus made at the primary instance of the commissioner shall not be ordered so as to direct the construction of more than one bridge in any one year on any one railroad. Railroad companies may take land for the purpose of this section. No land shall be taken by any railroad company for the purpose mentioned in this section, except such as the

commissioner finds to be necessary for such purpose; but no such taking need be based upon any special finding that public necessity and convenience require such taking.
Conn. Gen. Stat. § 13b-274 (2012)

Sec. 13b-275. (Formerly Sec. 16-103) Petition for elimination of dangerous condition at crossings. Hearing.
Any public service company or companies whose tracks cross over, under or upon a state highway or any other main highway leading from one town to another, the municipality within which such crossing is located may bring a petition in writing to the Commissioner of Transportation for authority to eliminate any dangerous condition which exists at such crossing, and said commissioner shall thereupon appoint a time and place for hearing such petition or the commissioner may, on his own motion set such hearing and shall give such notice thereof to such company or companies and to any public service company having tracks, wires, poles or other fixtures located in or adjacent to such highway at or near such crossing, and to such municipality, to all adjoining land owners whose property would be affected as he judges reasonable. The petitioner shall file with such petition plans and specifications for, and an estimate of the cost of, removing such dangerous condition, including the cost of all labor, materials and engineering services and of the taking of any land or interest in land that may be necessary, together with the names and addresses of all persons or corporations whose land would be affected by the elimination of such dangerous condition.
Conn. Gen. Stat. § 13b-275 (2012)

Sec. 13b-276. (Formerly Sec. 16-104). Elimination of dangerous condition. Report re railroad crossings at grade.
(a) The Commissioner of Transportation, if he finds that a dangerous condition exists at such crossing, except a dangerous condition arising out of improper or inadequate maintenance, shall issue such order to such municipality or to any such public service company directing the removal, change or relocation of such crossing, highway, tracks, pipes, wires, poles or other fixtures or tree or building or other structure, as may be necessary to eliminate such dangerous condition; and shall apportion the cost thereof among such public service company or companies, such municipality and the state, and shall determine the conditions and the time and manner of the payment of such apportionments, provided the portion of the cost to be paid by such public service company in the elimination of any such dangerous conditions on state maintained highways shall not exceed ten per cent. The party or parties ordered by said commissioner to perform the work necessary to remove such dangerous condition shall serve written notice, at least thirty days prior to the approximate date of the commencement of such work, upon all other parties in interest, including any public service company whose plant is involved or affected by such work, and any such public service company shall provide such means as may be necessary for the continued use of such plant in such manner as to best serve the interests and convenience of the public.
(b) The Commissioner of Transportation shall, not later than October 1, 2009, and every three years thereafter, provide a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to transportation and finance, revenue and bonding, regarding any railroad crossing at grade. Such report shall (1) list all the at-grade rail crossings in the state, (2) identify such crossings that create a hazardous situation, (3) provide a budget and identify funding sources, including any available federal funding, for upgrading or eliminating such hazardous crossings, (4) prioritize the upgrades or eliminations that are recommended in such report, and (5) for reports submitted

pursuant to this subsection after the initial report, describe the progress to date in upgrading or eliminating hazardous at-grade crossings.
Conn. Gen. Stat. § 13b-276 (2012)

***Sec. 13b-284. (Formerly Sec. 16-112). Reimbursement of towns and cities.**
The amount assessed by any order of the Commissioner of Transportation, or the Superior Court upon appeal therefrom, against any town or city in this state, for the removal of a grade crossing in a highway which was in existence before the construction of the railroad, shall be reimbursed by the state to such town or city. Such town or city shall present its claim to the Comptroller, with proofs and certificates to his satisfaction from the commissioner; and the Comptroller shall thereupon draw his order on the Treasurer in favor of such town or city for the amount which he finds due on such claim.
Conn. Gen. Stat. § 13b-284 (2012)

***Sec. 13b-294. (Formerly Sec. 16-121). Guards for rails at crossings.**
When any railroad is crossed by a highway at the same level, the company operating such railroad shall, at its own expense, so guard its rails by plank or otherwise as to secure a safe and easy passage across its road. If the selectmen of any town, the mayor of any city or the warden of any borough represents in writing to the Commissioner of Transportation that a company has failed to comply with the requirements of this section in regard to any highway within such town, city or borough, said commissioner shall examine such crossing and make such order as he deems necessary to carry out the provisions of this section.
Conn. Gen. Stat. § 13b-294 (2012)

Sec. 13b-345. (Formerly Sec. 16-161). Duty of Commissioner of Transportation re grade crossings. Traffic control measures. Installation of signs. Logs listing crossing malfunctions. Inspections and repair of malfunctioning gates.
(a) The Commissioner of Transportation shall investigate conditions surrounding all railroad crossings with public highways at grade and determine at which of such crossings 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 at such crossing. The commissioner may require the railroad company at each of such crossings so determined to erect and maintain on the highway and within the limits of its right-of-way a “stop”, “caution” or other sign of a type approved by the commissioner, and may require the company at any grade crossing to erect and maintain stop, caution, warning or other signs of a type approved by the commissioner, but where the tracks cross at grade on state highways, the State Traffic Commission shall prescribe the nature of traffic control devices and traffic control measures to be installed at such grade crossings. When traffic control measures are to be installed on state highways, they shall be furnished and installed by the Commissioner of Transportation.
(b) The commissioner shall require each railroad company operating trains at or above twenty-five miles per hour, at all of its crossings at grade with gates or signals, to erect and maintain, within the limits of its right-of-way, a sign advising the public to call the 911 emergency telecommunications number upon the malfunctioning of any grade crossing gates or signals. Such sign shall be of a type approved by the commissioner or the State Traffic Commission.
(c) The commissioner shall require each railroad company to maintain logs, subject to the inspection of the department, listing all reports of the malfunctioning of its grade crossing gates or signals. Each log shall contain information concerning all investigations and actions taken by the company to repair the malfunctioning gates or signals. Each company shall report to the

municipality all actions taken to repair any malfunctioning gates or signals within the municipality.
(d) Each railroad company, upon receiving a report of the malfunctioning of one of its crossing gates or signals, shall immediately investigate such report and repair any malfunction. Such inspection shall not be completed from a moving train.
Conn. Gen. Stat. § 13b-345 (2012)

Delaware

***§ 703. Crossing by state highways with watercourses or railroads**
(a) The Department may cross any canal, navigable stream or watercourse with a state highway, but in such manner as not unnecessarily to impede the navigation and use thereof, and also may cross any railroad or railway with a state highway and acquire the necessary easement for such crossing either by agreement with the owner, or on failure to agree, by condemnation thereof in accordance with Chapter 61 of Title 10. However, no state highway shall cross any railroad or railway at grade except at a point or place where such railroad or railway is now crossed at grade by a public road, provided, however, state highways may cross spurs, sidings and branchlines of any railroad or railway at grade if approval is first obtained from the Secretary of the Department of Transportation to whom reasons and supporting data for requesting at grade crossing shall be furnished. All at grade crossings so approved shall be furnished with crossing protection, required by applicable federal, state and local regulations.
(b) The Department may enter upon the lands or waters of any person for the purpose of making such examination and surveys for proposed highways as shall be required to be made in the selection of the most advantageous route for such highway, but subject at all times to responsibility for all and any damages which shall be done to the property of any such person or persons.
Del. Code Ann. tit. 17, § 703 (2012)

§ 1804. Railroad crossings; construction and protection
(a) No public carrier engaged in the transportation of passengers or property shall, without prior order of the Department, construct its facilities across the facilities of any other such public utility or across any public highway at grade or above or below grade, or at the same or different levels; and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated or abolished.
(b) The Department is hereby vested with exclusive power to determine and prescribe, by regulation or order, the points at which, and the manner in which, such crossing may be constructed, altered, relocated or abolished, and the manner and conditions, including protective devices, in or under which such crossings shall be maintained, operated and protected to effectuate the prevention of accidents and the promotion of the safety of the public.

(c) Upon its own motion or upon complaint, the Department shall have exclusive power after hearing upon notices to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be abolished upon such reasonable terms and conditions as shall be prescribed by the Department. The Department may order the work of construction, relocation, alteration, protection or abolition of any crossing aforesaid to be performed in whole or in part by any public carrier or municipal corporation or county concerned or by the Department, or, in the case of any crossing on private land, by the owner thereof; provided, however, that when the Department or other

governmental authority maintaining any public highway determines to use federal aid moneys in the construction, relocation, alteration, protection or abolition of any crossing aforesaid, then the Department shall take this into account in allocating costs.
(d) The term "public highway" as used in this section means any road, lane or street maintained by the State or any municipal corporation or county for use by the travelling public, that abuts any railroad track or immediately abuts the right-of-way thereof.
Del. Code Ann. tit. 2, § 1804 (2012)

District of Columbia

§ 9-1201.14. Streets to be under or over railroad tracks [Formerly § 7-1414]
(a) Any and all streets or highways within the District of Columbia now or hereafter planned or projected to cross any line of railroad, other than a street railway, in the District of Columbia, which may be hereafter opened to public use, shall be located, constructed, and maintained either beneath such railroad by a suitable subway, or above the same by a suitable viaduct bridge at such altitude as will not interfere with the free and safe operation thereof; provided, however, that nothing herein contained shall require the location, construction, or maintenance of any such street or highway under or above any spur, industrial, switching or sidetrack, or branch line of any railroad unless the Mayor of the District of Columbia shall find the same is necessary in the public safety.
(b) The cost and expense of any project for opening any such street or highway within the limits of such railroad company's right-of-way, including the cost of constructing the portion of any viaduct bridge, within said limits, shall be borne and paid as follows:
(1) The District of Columbia shall apply to the payment of such cost and expense all federal-aid highway-railway grade separation funds available for use by the District of Columbia at the time any such project is programmed and all such funds which become available for use on such projects by the District of Columbia during the construction of such project;
(2) If such federal-aid highway-railway grade separation funds are insufficient to pay the cost and expense of any such project, the portion not so covered shall be paid one-half by the railroad company, its successors and assigns, whose tracks are crossed and one-half by the District of Columbia; provided, that in no case shall the obligation of the railroad company affected exceed 10 per centum of the total cost and expense of such project;
(3) After construction, the cost of maintenance shall be wholly borne and paid in the case of highway overpasses by the District of Columbia, and in the case of highway underpasses by the railroad company, its successors and assigns, whose tracks are crossed; and
(4) The portions of such streets planned or projected as above which lie within a right-of-way belonging to such railroad company shall be dedicated by such company as a public thoroughfare when the portions of such street adjoining such right-of-way have been similarly dedicated or otherwise acquired.
D.C. Code Ann. § 9-1201.14 (LexisNexis 2012)

§ 9-1201.15. Subways and viaducts to eliminate grade crossings authorized [Formerly § 7-1415]
(a) The Mayor of the District of Columbia be, and he is hereby, authorized and directed to construct viaducts and approaches thereto, to carry Fern and Varnum Streets over the tracks and right-of-way of the Baltimore and Ohio Railroad Company and to construct a viaduct and approaches thereto to carry Eastern Avenue over the tracks and rights-of-way of The Philadelphia, Baltimore, and Washington Railroad Company and the Baltimore and Ohio

Railroad Company, in accordance with plans and profiles of said works to be approved by the said Mayor; provided, that one-half of the total cost of constructing the viaduct and approaches thereto at Varnum Street and one-half of the total cost of constructing the viaduct and approaches thereto at Fern Street shall be borne and paid by the said Baltimore and Ohio Railroad Company, its successors and assigns, and that one-half of the total cost of constructing the viaduct and approaches thereto at Eastern Avenue shall be borne and paid by the said Philadelphia, Baltimore and Washington Railroad Company and the said Baltimore and Ohio Railroad Company, their successors and assigns, in proportion to the widths of their respective land holdings, to the Collector of Taxes of the District of Columbia for deposit to the credit of the District of Columbia, and the said half cost shall be valid and subsisting liens against the franchises and property of the railroad companies concerned and shall constitute a legal indebtedness against the said railroad companies in favor of the District of Columbia, and said liens may be enforced in the name of the District of Columbia by a bill in equity brought by the said Mayor in the Superior Court of the District of Columbia, or by any other legal proceeding against the said railroad companies; provided, that no street railway company shall use the said viaduct or any approaches thereto herein authorized for its tracks until said companies shall have paid to the Collector of Taxes of the District of Columbia, a sum equal to one-fourth of the total cost of constructing said viaducts and approaches, to be applied to the credit of the District of Columbia. No limitation shall run against claims made by the District of Columbia under the provisions of this section.

(b) For the purpose of carrying into effect the provisions of this section, the sum of $ 405,000 is hereby authorized to be appropriated, payable in like manner as other appropriations, for the expenses of the government of the District of Columbia, and the said Mayor is authorized to expend such sum or sums as may be necessary for personal services, engineering, and incidental expenses. The said Mayor is further authorized to acquire, out of the appropriation herein authorized, the necessary land, or any portion of the same, by purchase at such price or prices as in his judgment he may deem reasonable and fair, or, in his discretion, by condemnation in accordance with the provisions of §§ 9-1217.12 to 9-1217.24 [repealed], under a proceeding or proceedings in rem instituted in the Superior Court of the District of Columbia; provided, that of the entire amount found to be due and awarded by the jury as damages for, and in respect of, the land to be condemned to carry the provisions of this section into effect, plus the costs and expenses of the proceeding or proceedings taken pursuant hereto, not less than one-half thereof shall be assessed by the jury as benefits, the amounts collected as benefits to be covered into the Treasury of the United States to the credit of the District of Columbia.

(c) Hereafter, the Mayor of the District of Columbia is authorized, whenever in his judgment it may be necessary for the public safety, and subject to appropriations to be made therefor by Congress, to construct subways or viaducts and approaches thereto, in accordance with plans and profiles of said works to be approved by him, to carry any street or highway crossing at grade any line of railroad track or tracks in the District of Columbia, or any street or highway within the District of Columbia now or hereafter planned or projected to cross any such line of railroad, under or over said track or tracks; provided, that the total cost of constructing any project for such viaduct or subway and approaches thereto shall be borne and paid as follows:

(1) The District of Columbia shall apply to the payment of the cost of such project all federal-aid highway-railway grade separation funds available for use by the District of Columbia at the time any such project is programmed and all such funds which become available for use on such project by the District of Columbia during the construction of such projects; and

(2) If such federal-aid highway-railway grade separation funds are insufficient to pay the cost of any such project, the portion not so covered shall be paid one-half by the railroad company, its successors and assigns, whose tracks are crossed and one-half by the District of Columbia; provided further, that in no case shall the obligation of the railroad company affected exceed 10 per centum of the total cost of such project; provided further, that in the event the rights-of-way of 2 or more railroad companies are so crossed said half cost as herein provided shall be paid by the said railroad companies, their successors and assigns, in proportion to the widths of their respective landholdings, but the obligations of such companies shall not, in the aggregate, exceed 10 per centum of the cost of such project; provided further, that after construction the cost of maintenance shall be wholly borne and paid in the case of highway overpasses by the District of Columbia, and in the case of highway underpasses by the railroad company, its successors and assigns, whose tracks are crossed; provided further, that in the event the rights-of-way of 2 or more railroad companies are so crossed, the cost of maintenance shall be borne and paid in the case of highway underpasses by the said railroad companies, their successors and assigns, in proportion to the widths of their respective landholdings. All provisions in respect to the method of payment and credit of said half cost, creation of a lien in respect thereto and enforcement thereof, conditions of use thereof by street railway companies, and every other kind of condition provided in subsection (a) of this section, and the authorization and every condition in respect thereto for the acquisition of any necessary land provided in subsection (b) of this section, in relation to the viaducts and their approaches therein authorized, are hereby made applicable to the subways, viaducts, and approaches authorized in this section the same as if enacted at length herein.
D.C. Code Ann. § 9-1201.15 (LexisNexis 2012)

§ 9-1205.03. Construction of switch connections -- Grade crossings [Formerly § 7-1427]
Subject only to the approval of the Mayor of the District of Columbia the crossing of any public street or alley other than New York Avenue, within the limits of the total area noted in § 9-1205.01 may be at or on grade. The said railroad shall, when and as directed by the Mayor of the District of Columbia, construct at its entire cost and expense, an additional overhead bridge for the track hereby authorized to be established over such other street located between Montello Avenue and New York Avenue as such street may now or may hereafter be shown on the Plan of the Permanent System of Highways.
D.C. Code Ann. § 9-1205.03 (LexisNexis 2012)

Florida

***§ 125.01. Powers and duties**
(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:
(m) Provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities; eliminate grade crossings; regulate the placement of signs, lights, and other structures within the right-of-way limits of the county road system; provide and regulate parking facilities; and develop and enforce plans for the control of traffic and parking. Revenues derived from the operation of toll roads, bridges, tunnels, and related facilities may, after provision has been made for the payment of operation and maintenance expenses of such toll facilities and any debt service on indebtedness incurred with respect thereto, be utilized for the payment of costs related to any other transportation facilities within the county, including the purchase of rights-of-way;

the construction, reconstruction, operation, maintenance, and repair of such transportation facilities; and the payment of indebtedness incurred with respect to such transportation facilities. Fla. Stat. Ann. § 125.01(1)(m) (LexisNexis 2012) Excerpt from applicable statute published.

***§ 335.141. Regulation of public railroad-highway grade crossings; reduction of hazards**

(1) (a) The department shall have regulatory authority over all public railroad-highway grade crossings in the state, including the authority to issue permits which shall be required prior to the opening and closing of such crossings.

(b) A "public railroad-highway grade crossing" is a location at which a railroad track is crossed at grade by a public road.

(2) (a) The department, in cooperation with the several railroad companies operating in the state, shall develop and adopt a program for the expenditure of funds available for the construction of projects for the reduction of the hazards at public railroad-highway grade crossings. The department and the railroad companies are not liable for any action or omission in the development of such program or for the priority given to any crossing improvement.

(b) Every railroad company maintaining a public railroad-highway grade crossing shall, upon reasonable notice from the department, install, maintain, and operate at such crossing traffic control devices to provide motorists with warning of the approach of trains. The department shall base its notice on its adopted program for the reduction of hazards at such crossings and on construction efficiency considerations relating to the geographical proximity of crossings included in such program. The design of the traffic control devices must be approved by the department, and the cost of their purchase and installation must be paid from the funds described in paragraph (a).

(c) Any public railroad crossing opened prior to July 1, 1972, shall be maintained by the railroad company at its own expense, unless the maintenance has been provided for in another manner by contractual agreement entered into prior to October 1, 1982. If the railroad company fails to maintain the crossing, the unit of government with jurisdiction over the public road that is crossed, after notifying the railroad company of the needed repairs and after giving the company 30 days after the date of receipt of the notice to make the repairs, shall proceed to make the repairs. The cost of repairs shall thereupon become a lien upon the railroad and its rolling stock, which lien shall be enforceable by an ordinary suit at law. Any judgment rendered under this paragraph shall include a reasonable attorney's fee.

(d) Prior to commencing the construction, rehabilitation, or maintenance of the railroad grade or highway approaches at a public railroad-highway grade crossing, the railroad company or governmental entity initiating the work shall notify the other party in order to promote the coordination of activities and to ensure a safe crossing with smooth pavement transitions from the grade of the railroad to the highway approaches.

(3) The department is authorized to regulate the speed limits of railroad traffic on a municipal, county, regional, or statewide basis. Such speed limits shall be established by order of the department, which order is subject to the provisions of chapter 120. The department shall have the authority to adopt reasonable rules to carry out the provisions of this subsection. Such rules shall, at a minimum, provide for public input prior to the issuance of any such order.

(4) Jurisdiction to enforce such orders shall be as provided in s. 316.640, and any penalty for violation thereof shall be imposed upon the railroad company guilty of such violation. Nothing herein shall prevent a local governmental entity from enacting ordinances relating to the blocking of streets by railroad engines and cars.

(5) Any local governmental entity or other public or private agency planning a public event, such as a parade or race, that involves the crossing of a railroad track shall notify the railroad as far in advance of the event as possible and in no case less than 72 hours in advance of the event so that the coordination of the crossing may be arranged by the agency and railroad to assure the safety of the railroad trains and the participants in the event.
Fla. Stat. Ann. § 335.141 (LexisNexis 2012)

§ 341.302. Rail program; duties and responsibilities of the department
The department, in conjunction with other governmental entities, including the rail enterprise and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under federal law, the department shall:
(10) Administer rail operating and construction programs, which programs shall include the regulation of maximum train operating speeds, the opening and closing of public grade crossings, the construction and rehabilitation of public grade crossings, and the installation of traffic control devices at public grade crossings, the administering of the programs by the department including participation in the cost of the programs.
Fla. Stat. Ann. § 341.302 (LexisNexis 2012) Excerpt from applicable statute published.

Georgia

***§ 32-6-190. Duty to maintain grade crossings**
Any railroad whose track or tracks cross a public road at grade shall have a duty to maintain such grade crossings in such condition as to permit the safe and reasonable passage of public traffic. Such duty of maintenance shall include that portion of the public road lying between the track or tracks and for two feet beyond the ends of the crossties on each side and extending four feet beyond the traveled way or flush with the edge of a paved shoulder, whichever is greater, of such crossing.
Ga.Code Ann. § 32-6-190 (2012)

§ 32-6-191. Responsibility for construction of new grade crossings and relocation of existing grade crossings
(a) Where a new grade crossing results from the construction of a new or relocated railroad line, the railroad shall be responsible for and bear all expenses of the construction of such grade crossing. The department, when such a grade crossing is on the state highway system, a county, when such a grade crossing is on its county road system, or a municipality, when such a grade crossing is on its municipal street system, may impose such terms and conditions on the nature and manner of construction of such a grade crossing, including the installation of protective devices, as may be necessary for the safe and reasonable passage of public traffic.
(b) Where a new grade crossing results from the construction of a new or relocated public road, the department, when such road is on the state highway system, a county, when such road is on its county road system, or a municipality, when such road is on its municipal street system, shall be responsible for and bear all expenses of the construction of such grade crossing. The railroad may impose such terms and conditions on the nature and manner of construction of such a grade crossing, including the installation of protective devices, as may be reasonably necessary for the safety and convenience of the traveling public. While on the right of way of any railroad during the construction of any such grade crossing, employees or contractors of the department or any

county or municipality shall be subject to such rules and regulations of the railroad as may be reasonably necessary for the protection of its traffic, passengers, property, and its safe operation.
(c) Notwithstanding subsection (b) of this Code section, the department, in respect to a grade crossing on the state highway system, a county, in respect to a grade crossing on its county road system, or a municipality, in respect to a grade crossing on its municipal street system, may close and relocate an existing grade crossing by relocation of a part of the public road involved, whenever such closing and relocation is reasonably necessary in the interest of public safety; and the procedure for such closing and relocation and the division of the costs of construction shall be the same as provided in Code Sections 32-6-194 and 32-6-195 for elimination of a grade crossing by construction of an underpass or overpass.
(d) Where there is disagreement as to the terms and conditions imposed on the nature and manner of construction by the department, county, or municipality pursuant to subsection (a) of this Code section or by the railroad pursuant to subsection (b) of this Code section, the department shall make such determination after reasonable opportunity for a hearing is given to all parties concerned.
Ga.Code Ann. § 32-6-191 (2012)

***§ 32-6-192. Construction of underpass or overpass in lieu of grade crossing; procedure; costs; maintenance**

When the department, the county, or the municipality having jurisdiction of a public road determines that it is reasonably necessary and in the public interest to use an underpass or overpass instead of a grade crossing at a new or relocated railroad track or tracks or at a new or relocated public road, the procedure to be followed, the division of costs, and the maintenance responsibilities shall be the same as are provided in Code Sections 32-6-194 through 32-6-198.
Ga.Code Ann. § 32-6-192 (2012)

§ 32-6-194. Procedure for grade crossing elimination
(a) Whenever the department, a county, or a municipality shall decide to eliminate any grade crossing on its respective public road system by means of an underpass or overpass, prompt notice of such decision shall be given to the railroad or railroads involved; and within 30 days thereafter the representatives of the department, the county, or the municipality and of the railroads involved shall meet and, within 90 days, agree to a plan and specifications for the construction of a grade separation structure. Any such agreement between a county or municipality and a railroad shall be submitted to the department for its approval; and work leading to the elimination of the grade crossing pursuant to the agreement shall not commence until and unless the department approves the same. The department, county, or municipality, by agreement with the railroad or railroads involved, may apportion the work to be done in the construction of such grade separation structure between the railroad or railroads and the department or the county or the municipality.
(b) If agreement is not reached within 90 days, the department, county, or municipality may proceed with construction of a grade separation structure or may by written order direct the railroad or railroads involved to proceed with the construction of a grade separation structure according to the plan and specifications accompanying such order, provided that no work shall be begun on any grade separation structure on a county or municipal public road system until and unless the department approves the plan and specifications of such structure. It shall be the duty of said railroad to begin work on any such grade separation structure within four months after receipt of an order to that effect and to complete that structure within a reasonable time, provided

that the railroad shall not be required to do the actual physical work of providing approaches by fill to an overpass or the excavating beneath an underpass or the approaches thereto, although the cost of such work shall be considered as part of the costs of the grade crossing elimination, whether actually performed by the railroad, the department, the county, or the municipality; and such costs shall be apportioned as provided in Code Section 32-6-195. If the railroad does not begin work within four months after receipt of an order to that effect, the department, county, or municipality may proceed with the construction of the proposed grade separation structure. If the railroad begins work within four months after receipt of an order to that effect but thereafter fails to complete such work within a reasonable time, the department, county, or municipality may proceed to complete the unfinished work.
(c) In any case where the construction of all or part of a grade separation structure is done by the department, a county, or a municipality, a statement of any railroad's share of the costs of the project, as determined pursuant to Code Section 32-6-195, plus 8 percent per annum interest on each expenditure of the cost of such project shall be submitted to the railroad upon completion of the project. In the event that the railroad does not make payment or arrange to make payment to the department, county, or municipality within 60 days of receipt of the statement, the department shall certify the amount for collection to the Attorney General; or, in the case of a project on a county or municipal public road system, the county or municipality shall take appropriate action for the collection of the amount thereof. In the event said share is not paid within the time specified in this Code section, said share or any unpaid portion thereof shall bear interest at a rate of 8 percent per annum from the date due.
(d) The department, a county, or a municipality shall not construct or require any railroad to construct an underpass of a plan, specification, or design, the strength of which, in the judgment of the railroad, shall not be sufficient to meet the requirements of its traffic thereover. In a plan providing for an overpass or underpass, the department, a county, or a municipality shall not interfere with or change the grade or alignment of the track or tracks of any railroad or relocate the line of the railroad without its consent.
Ga.Code Ann. § 32-6-194 (2012)

***§ 32-6-195. Division of costs of grade crossing elimination projects**
(a) The costs of the grade crossing elimination project in which the railroad or railroads shall be required to share shall include the costs of surveys, preparation of plans and specifications, the securing of estimates or bids, if any, and the total cost of construction of the grade separation structures involved, including the establishment of drainage and any excavation and other expenses involved in constructing public roadways or railroad lines under any grade separation structure. However, the railroad or railroads shall not be required to participate in the cost of any construction outside the limits of grade or alignment change required for the public road to go over or under the track or tracks of the railroad or railroads nor in any costs apportionable to purposes other than the elimination of the grade crossing. Where additional lanes are added to the public road, the railroad's share of the cost, if any, shall be based on the cost of a grade elimination project having the same number of lanes as the public road prior to the construction of said grade elimination project.
(b)(1) The costs of the project shall be shared by the parties involved in such manner as may be agreed upon by the railroad or railroads involved and the department, county, or municipality. Such agreement shall have precedence over any existing agreement on the same subject matter and shall give consideration to the following factors: the benefits accruing to the railroad or railroads and to the public, respectively, from the elimination of the grade crossing; the

circumstances under which the grade crossing was created; any preexisting rights of the railroad or railroads as result of being first in position; comparison of the degree of danger caused by the railroad or railroads and by quantity and character of traffic upon the public road; and what is generally, under comparable circumstances, considered to be reasonable, provided that in no event shall the railroad be required to pay more than 50 percent of the cost of a grade crossing elimination project on a county road system or on a municipal street system. In the event agreement cannot be reached, the determination of what portion of the costs shall be the fair and reasonable share of the railroads involved shall be made by the department after reasonable opportunity for hearing to all parties concerned. In making such determination, the department shall give due regard to the considerations heretofore enumerated. The agreed value or, in the absence of agreement, the independently appraised value of the fee or any lesser interest in the right of way of the railroad used for such project shall be determined and such value credited to the railroad as a part of its participation in the cost of the project, provided that nothing in this Code section shall prevent the department, county, or municipality from exercising its rights of eminent domain as now or hereafter provided by law.
(2) As used in this subsection, the term "costs of the project" means:
(A) In the case of a project for part of a county road or municipal street system, the total costs of such project less the sum of any funds for such project furnished by the federal and state governments; and
(B) In the case of a project for part of the state highway system, the total costs of such project less any funds furnished by the federal government.
Ga.Code Ann. § 32-6-195 (2012)

***§ 32-6-196. Temporary use of railroad rights of way during construction or maintenance of grade separation structures or grade crossing or protective devices**
All railroads shall permit the temporary use, free of cost, of so much of their rights of way as may be necessary during the construction or maintenance of any grade separation structures or any grade crossing or protective devices, provided that, whenever any employees or contractors of the department or of any county or municipality shall enter the right of way of any railroad, they shall be subject to any reasonable rules and regulations such railroad may make for the protection of its traffic, employees, passengers, and operations.
Ga.Code Ann. § 32-6-196 (2012)

***§ 32-6-202. Procedure to obtain maintenance of grade separation structures, protective devices, and grade crossings**
(a) (1) Whenever any maintenance of a grade separation structure, protective devices, or a grade crossing is necessary for the safe and reasonable passage of public traffic and such maintenance is the responsibility of a railroad under this part, the department in respect to the state highway system, the governing authority of the county in respect to its county road system, or the governing authority of the municipality in respect to its municipal street system may give written notice to the railroad of the necessity of such maintenance and order the railroad to comply with the maintenance requirements of this part. Such order shall be in writing and, as applicable, shall include the United States Department of Transportation inventory number and railroad milepost number, as well as the highway, street, or roadway name and number as identified on a general highway map prepared by the department. Such order shall be served upon the railroad by certified mail or statutory overnight delivery, return receipt requested.
(2) (A) If any railroad fails to comply with such an order of a county or municipality within 30 days after receipt of such notice and order, the county or municipal governing authority may file

with the department a written request for review of the matter. Any such request for review shall be accompanied by a filing fee of $500.00 per grade crossing and shall include a copy of the order of the county or municipality. A copy of such request for review shall be served on the railroad by the county or municipality by certified mail or statutory overnight delivery, return receipt requested. The department shall within 30 days after the filing of such request investigate the matter, including undertaking consideration of any statement of position filed by the railroad within ten days after the filing of the request for review, and issue an order either requiring the railroad to take such action as is necessary for purposes of compliance with the maintenance requirements of this part or nullifying the order of the local governing authority. As part of such order, the department shall assess all its costs of investigating and reviewing the matter against the railroad if a compliance order is issued or against the county or municipality if the order of the local governing authority is nullified, and the party so assessed shall be liable therefor to the department; provided, however, that any filing fee paid to the department by a county or municipality shall be applied to any such amount assessed against the county or municipality, and the balance of such filing fee, if any, shall be refunded to the county or municipality. Copies of any such order of the department shall be served upon the railroad and the local governing authority by certified mail or statutory overnight delivery, return receipt requested. The department shall keep detailed records of its costs of investigation and review for purposes of this subparagraph, and such records shall be subject to public inspection as provided by Article 4 of Chapter 18 of Title 50.

(B) If any railroad fails to comply with any order of the department under paragraph (1) of this subsection or subparagraph (A) of this paragraph within 30 days after receipt of such order, then after notice and opportunity for a hearing, the railroad shall be subject to a civil penalty in the amount of $500.00 per day from 30 days after the date of receipt of the order of the department until the railroad has complied with the order of the department; provided, however, that the department may grant an extension of time for compliance without penalty upon a showing that the railroad's failure to timely comply was due to force majeure. The provisions of this subparagraph are in addition to the provisions of Code Sections 32-1-10 and 32-6-1, if applicable. Any fine under this subparagraph shall be tolled for the period from the filing of a petition for a judicial review under Code Section 32-6-203 until the rendering of a final decision.

(3) Each railroad whose track or tracks cross a public road in this state shall identify in writing to the department, by job title and with contact information, the appropriate office responsible for the maintenance of grade separation structures, protective devices, and grade crossings and upon which the notices and orders provided for in this subsection shall be served. Such information shall be kept current by the railroad and shall be made publicly available and accessible by the department.

(4) Nothing in this subsection shall be construed so as to prevent the department, a county, or a municipality from performing any emergency maintenance which is necessary for the safe and reasonable passage of public traffic, provided reasonable notice is given to the railroad involved, and from collecting the expenses of such maintenance.

(b) Whenever any maintenance of a grade separation structure, protective devices, or a grade crossing is reasonably necessary for the safe passage of railroad traffic and such maintenance is the responsibility of the department, a county, or a municipality, the railroad concerned may give written notice to the department, county, or municipality of the necessity of such maintenance. If the department, county, or municipality does not proceed with the performance of such maintenance within 30 days after receipt of such notice, the railroad may proceed to enforce

performance of such maintenance as provided in Code Section 32-6-175. Nothing in this subsection shall be construed so as to prevent a railroad from performing any emergency maintenance which is necessary for the safe passage of railroad traffic, provided reasonable notice is given to the department, county, or municipality involved, and from collecting the expenses of such maintenance.
Ga. Code Ann. § 32-6-202 (2012)

***§ 46-8-126. Relocation of highways necessitated by construction of crossings**
In all cases where a railroad crosses a highway and the cutting makes a change in the route of any such highway or a change is desirable with a view to easier ascent or descent, the railroad company may take such additional lands for the construction of such highway upon a new route as may be deemed necessary by the directors. In taking property under this Code section, the railroad company shall proceed in the manner provided in Title 22 for condemning rights of way and other property.
Ga.Code Ann. § 46-8-126 (2012)

Hawaii

§ 273-2. Granting public lands, etc.
The department of land and natural resources, with the consent of the governor, may grant a right-of-way, not greater than forty feet in width, through all public lands, to any corporation as aforesaid for the purpose of building the railroad or railroads. With like consent and approval, the department may grant the use of such public lands, lying alongside and abutting such right-of-way, as may be reasonably necessary for buildings, stations, depots, or other structures, for railroad purposes only.
Haw. Rev. Stat. Ann. § 273-2 (LexisNexis 2012)

§ 291C-92. All vehicles must stop at certain railroad grade crossings.
The director of transportation and the counties are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only if no train is approaching. If a train is approaching, and is approximately within fifteen hundred feet of thecrossing, the driver must not proceed until after the train has passed.
Haw. Rev. Stat. Ann. § 291C-92 (LexisNexis 2012)

Idaho

***§ 62-206. Crossing other railroads and highways.**
Whenever the track of such railroad crosses a railroad or highway, such railroad or highway may be carried under, over, or on a level with the track as may be most expedient; and in cases where an embankment or cutting necessitates a change in the line of such railroad or highway, the corporation may take such additional lands and materials as are necessary for the construction of such road or highway on such new line. If such other necessary lands cannot be had otherwise, they may be condemned as provided in the Code of Civil Procedure; and when compensation is made therefor, the same becomes the property of the corporation.
Idaho Code Ann. § 62-206 (2012)
§ 62-301. Crossings of state highways and railroads -- Elimination or alteration -- Cost
Whenever a state highway crosses or shall hereafter cross one or more railroads, and whenever the Idaho transportation department shall determine that the elimination of a grade crossing,

whether by separation of grades or by relocation of the highway or railroad or both, or the reconstruction of an existing structure under or over the railroad or railroads, is necessary for public safety and convenience or for the proper construction or reconstruction of said state highway, the said Idaho transportation department shall have full authority to negotiate with and enter into an agreement with the railroad company or companies, and with any other persons and authorities concerned, to provide for the method of elimination or alteration and for the division of the cost thereof between the state and the railroad company or companies and any other parties to such agreement, such cost to include all changes of highway or railroads made necessary by the existence of the crossing and by the elimination or alteration thereof, and the acquisition of any right of way required therefor.
Idaho Code Ann. § 62-301 (2012)

§ 62-303. Crossings not on state highways -- Elimination or alteration
Whenever a highway not a state highway crosses one or more railroads, the local authorities in their respective jurisdictions, or railroad company or companies, shall have the same authority and perform the same duties with respect to the elimination or alteration of such crossing as are granted to and required of the Idaho transportation department and railroad company or companies by this chapter.
Idaho Code Ann. § 62-303 (2012)

§ 62-304. Hearing and order by public utilities commission
Whenever a complaint is made to the public utilities commission by the Idaho transportation department, or by a railroad company or companies, or upon motion by the Idaho public utilities commission, or local authorities in their respective jurisdictions with respect to the elimination or alteration of a crossing of a highway with one or more railroads the said commission shall and is hereby authorized and empowered to hear and determine such complaint in accordance with the provisions of chapters 1 to 7, inclusive, title 61, Idaho Code, taking into consideration the necessity for such elimination or alteration and the cost thereof, the location of any crossing and the manner in which it shall be constructed or reconstructed and maintained, or whether a crossing is to be eliminated and the provisions therefor, and shall make such order in relation thereto as shall be equitable, and shall determine what portion of the cost shall be paid by any party to the controversy: provided, that no cost shall be charged to the Idaho public utilities commission, and that no portion of the cost of eliminating or altering a crossing not on a state highway shall be ordered to be paid out of the state highway fund [account].
Idaho Code Ann. § 62-304 (2012)

***§ 62-304B. Administration of the railroad grade crossing protection account**
Subject to the provisions of section 62-304, Idaho Code, the Idaho transportation department is charged with sole and exclusive administration of the railroad grade crossing protection account.
Idaho Code Ann. § 62-304B (2012)

***§ 62-304C. Apportionment of costs**
The Idaho transportation department shall follow federal guidelines on such grade crossing improvement projects as are to be funded in whole or in part under any federal act, and where the project is not funded entirely by federal funds, the Idaho transportation department may use moneys in the railroad gradecrossing protection fund 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 Idaho transportation department shall apportion the entire cost of the engineering, installation, reconstruction or improvement of any signal or device as described in section 62-304A, Idaho Code, between the railroad company or companies and the Idaho transportation department or the local authority, in proportion to the respective benefits to be derived. The Idaho transportation department may use moneys in the railroad grade crossingprotection fund to pay all or a portion of the cost apportioned to the Idaho transportation department or local authority involved.

The railroad company or companies owning the track or tracks upon which the improvement shall be made shall perform all construction and maintenance of the signals or devices and shall be reimbursed for such part of said costs not to be borne by it, but in allocating said costs and dividing the same among the parties involved, the Idaho transportation department shall limit the amount to be charged against the railroad company or companies to a maximum of ten percent (10%) of the total cost of such construction, unless the crossing is a new one proposed by the railroad company or companies, in which case the entire cost of construction shall be apportioned to said railroad company or companies.

Upon application to the Idaho transportation department, and with the approval of the Idaho transportation board, a maximum of twenty-five thousand dollars ($ 25,000) annually may be provided from the railroad grade crossing protection fund to support public education and safety programs which promote awareness of public safety at railroad grade crossings of public streets, roads or highways over the tracks of any railroad company or companies.
Idaho Code Ann. § 62-304C (2012)

***§ 62-306 Construction and maintenance of railroad grade crossings**

Whenever a state or county highway crosses or shall hereafter cross a railroad at grade, the railroad company shall at its own expense construct and maintain that portion of such highway between the rails and for a distance of not less than two (2) feet outside the outer rails. The crossing shall be planked or surfaced with other suitable material for the full width of the traveled way, including shoulders, and shall be maintained at all times in a smooth and firm condition. Where a public agency having jurisdiction of the highway crossing the railroad wishes to have the crossing surfaced with material of higher quality, the public agency and the railroad company may agree that the railroad company install the material and that the additional cost, over and above the cost of the railroad company's standard installation, may be paid for by the public agency with public funds.
Idaho Code Ann. § 62-306 (2012)

§ 62-307. Permission for new crossing of highways and railroads

No new railroad and no alteration or extension of an existing railroad shall hereafter cross any highway at grade, and no new highway shall hereafter cross any railroad at grade without the written permission of the Idaho transportation board first having been obtained. Neither a side track, team track, passing track nor house track shall be deemed a railroad within the meaning of this section. The term highway as used in this section shall not include streets and alleys in cities
Idaho Code Ann. § 62-307 (2012)

For additional information, see Idaho Code Ann. § 62-305 in chapter 1

<u>Illinois</u>

***§ 35 ILCS 505/8. Distribution of proceeds of tax**

Except as provided in Section 8a, subdivision (h)(1) of Section 12a, Section 13a.6, and items 13, 14, 15, and 16 of Section 15, all money received by the Department under this Act, including payments made to the Department by member jurisdictions participating in the International Fuel Tax Agreement, shall be deposited in a special fund in the State treasury, to be known as the "Motor Fuel Tax Fund", and shall be used as follows:

(c) $3,500,000 shall be transferred each month to the Grade Crossing Protection Fund to be used as follows: not less than $12,000,000 each fiscal year shall be used for the construction or reconstruction of rail highway grade separation structures; $2,250,000 in fiscal years 2004 through 2009 and $3,000,000 in fiscal year 2010 and each fiscal year thereafter shall be transferred to the Transportation Regulatory Fund and shall be accounted for as part of the rail carrier portion of such funds and shall be used to pay the cost of administration of the Illinois Commerce Commission's railroad safety program in connection with its duties under subsection (3) of Section 18c-7401 of the Illinois Vehicle Code, [FN2] with the remainder to be used by the Department of Transportation upon order of the Illinois Commerce Commission, to pay that part of the cost apportioned by such Commission to the State to cover the interest of the public in the use of highways, roads, streets, or pedestrian walkways in the county highway system, township and district road system, or municipal street system as defined in the Illinois Highway Code, [FN3] as the same may from time to time be amended, for separation of grades, for installation, construction or reconstruction of crossing protection or reconstruction, alteration, relocation including construction or improvement of any existing highway necessary for access to property or improvement of any grade crossing and grade crossing surface including the necessary highway approaches thereto of any railroad across the highway or public road, or for the installation, construction, reconstruction, or maintenance of a pedestrian walkway over or under a railroad right-of-way, as provided for in and in accordance with Section 18c-7401 of the Illinois Vehicle Code. The Commission may order up to $2,000,000 per year in Grade Crossing Protection Fund moneys for the improvement of grade crossing surfaces and up to $300,000 per year for the maintenance and renewal of 4-quadrant gate vehicle detection systems located at non-high speed rail grade crossings. The Commission shall not order more than $2,000,000 per year in Grade Crossing Protection Fund moneys for pedestrian walkways. In entering orders for projects for which payments from the Grade Crossing Protection Fund will be made, the Commission shall account for expenditures authorized by the orders on a cash rather than an accrual basis. For purposes of this requirement an "accrual basis" assumes that the total cost of the project is expended in the fiscal year in which the order is entered, while a " cash basis" allocates the cost of the project among fiscal years as expenditures are actually made. To meet the requirements of this subsection, the Illinois Commerce Commission shall develop annual and 5-year project plans of rail crossing capital improvements that will be paid for with moneys from the Grade Crossing Protection Fund. The annual project plan shall identify projects for the succeeding fiscal year and the 5-year project plan shall identify projects for the 5 directly succeeding fiscal years. The Commission shall submit the annual and 5-year project plans for this Fund to the Governor, the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives on the first Wednesday in April of each year.

35 Ill. Comp. Stat. Ann. 505/8 (Lexis Nexis 2012)

***§ 605 ILCS 5/4-101.16. Schedule of priority of needs in separation of railroad-highway grade crossings**

Sec. 4-101.16. To prepare or cause to be prepared and maintain or cause to be maintained a schedule of priority of needs in the selection of railroad-highway grade crossings to be separated without regard to whether the highway is maintained by the State or any county, township or municipality. Such schedule shall be based on current and projected vehicular traffic and train movements over the railroad-highway grade crossing, the frequency and duration of interruptions to vehicular traffic, and the impact of separating the railroad-highway grade crossing on adjacent residential, economic and governmental interests.

605 Ill. Comp. Stat. Ann. 5/4-101.16 (LexisNexis 2012)

***§ 605 ILCS 5/5-701.14. Construction of grade separations**

Sec. 5-701.14. Any county board may also use its allotted motor fuel tax funds for the construction and maintenance of grade separations and approaches thereto which avoid or replace grade crossings at intersections of county highways and railroad tracks.

605 Ill. Comp. Stat. Ann. 5/5-701.14 (LexisNexis 2012)

***§ 625 ILCS 5/18c-1502.10. Railroad-Highway Grade Crossing and Grade Separation Fee**

Sec. 18c-1502.10. Railroad-Highway Grade Crossing and Grade Separation Fee. Beginning with calendar year 2004, every rail carrier shall pay to the Commission for each calendar year a fee of $ 28 for each location at which the rail carrier's track crosses a public road, highway, or street, whether the crossing be at grade, by overhead structure, or by subway. The fee shall be based on the number of the crossings as of January 1 of each calendar year, and the fee shall be due by February 1 of each calendar year.

625 Ill. Comp. Stat. Ann. 5/18c-1502.10 (LexisNexis 2012)

§ 625 ILCS 5/18c-7401 Safety Requirements for Track, Facilities, and Equipment

Sec. 18c-7401. Safety Requirements for Track, Facilities, and Equipment. (1) General Requirements. Each rail carrier shall, consistent with rules, orders, and regulations of the Federal Railroad Administration, construct, maintain, and operate all of its equipment, track, and other property in this State in such a manner as to pose no undue risk to its employees or the person or property of any member of the public.

(2) Adoption of Federal Standards. The track safety standards and accident/incident standards promulgated by the Federal Railroad Administration shall be safety standards of the Commission. The Commission may, in addition, adopt by reference in its regulations other federal railroad safety standards, whether contained in federal statutes or in regulations adopted pursuant to such statutes.

(3) Railroad Crossings. No public road, highway, or street shall hereafter be constructed across the track of any rail carrier at grade, nor shall the track of any rail carrier be constructed across a public road, highway or street at grade, without having first secured the permission of the Commission; provided, that this Section shall not apply to the replacement of lawfully existing roads, highways and tracks. No public pedestrian bridge or subway shall be constructed across the track of any rail carrier without having first secured the permission of the Commission. The Commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe. The Commission shall have power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each such crossing.

The Commission shall also have power by its order to require the reconstruction, minor alteration, minor relocation or improvement of any crossing (including the necessary highway approaches thereto) of any railroad across any highway or public road, pedestrian bridge, or pedestrian subway, whether such crossing be at grade or by overhead structure or by subway, whenever the Commission finds after a hearing or without a hearing as otherwise provided in this paragraph that such reconstruction, alteration, relocation or improvement is necessary to preserve or promote the safety or convenience of the public or of the employees or passengers of such rail carrier or carriers. By its original order or supplemental orders in such case, the Commission may direct such reconstruction, alteration, relocation, or improvement to be made in such manner and upon such terms and conditions as may be reasonable and necessary and may apportion the cost of such reconstruction, alteration, relocation or improvement and the subsequent maintenance thereof, having regard to the benefits, if any, accruing to the railroad or any party in interest, between the rail carrier or carriers and public utilities affected, or between such carrier or carriers and public utilities and the State, county, municipality or other public authority in interest. The cost to be so apportioned shall include the cost of changes or alterations in the equipment of public utilities affected as well as the cost of the relocation, diversion or establishment of any public highway, made necessary by such reconstruction, alteration, relocation or improvement of said crossing. A hearing shall not be required in those instances when the Commission enters an order confirming a written stipulation in which the Commission, the public highway authority or other public authority in interest, the rail carrier or carriers affected, and in instances involving the use of the Grade Crossing Protection Fund, the Illinois Department of Transportation, agree on the reconstruction, alteration, relocation, or improvement and the subsequent maintenance thereof and the division of costs of such changes of any grade crossing (including the necessary highway approaches thereto) of any railroad across any highway, pedestrian bridge, or pedestrian subway.

Every rail carrier operating in the State of Illinois shall construct and maintain every highway crossing over its tracks within the State so that the roadway at the intersection shall be as flush with the rails as superelevated curves will allow, and, unless otherwise ordered by the Commission, shall construct and maintain the approaches thereto at a grade of not more than 5% within the right of way for a distance of not less the 6 feet on each side of the centerline of such tracks; provided, that the grades at the approaches may be maintained in excess of 5% only when authorized by the Commission.
625 Ill. Comp. Stat. Ann. 5/18c-7401 (LexisNexis 2012) Excerpt from applicable statute published.

§ 625 ILCS 5/18c-7402. Safety Requirements for Railroad Operations
Sec. 18c-7402. Safety Requirements for Railroad Operations.
(2) Other Operational Requirements.
(c) Special Speed Limit; Pilot Project. The Commission and the Board of the Commuter Rail Division of the Regional Transportation Authority shall conduct a pilot project in the Village of Fox River Grove, the site of the fatal school bus accident at a railroad crossing on October 25, 1995, in order to improve railroad crossing safety. For this project, the Commission is directed to set the maximum train speed limit for Regional Transportation Authority trains at 50 miles per hour at intersections on that portion of the intrastate rail line located in the Village of Fox River Grove. If the Regional Transportation Authority deliberately fails to comply with this maximum speed limit, then any entity, governmental or otherwise, that provides capital or operational funds

to the Regional Transportation Authority shall appropriately reduce or eliminate that funding. The Commission shall report to the Governor and the General Assembly on the results of this pilot project in January 1999, January 2000, and January 2001. The Commission shall also submit a final report on the pilot project to the Governor and the General Assembly in January 2001. The provisions of this subsection (c), other than this sentence, are inoperative after February 1, 2001.
(3) Report and Investigation of Rail Accidents.
(b) Investigations. The Commission may investigate all railroad accidents reported to it or of which it acquires knowledge independent of reports made by rail carriers, and shall have the power, consistent with standards and procedures established under the Federal Railroad Safety Act [45 U.S.C. § 431 et seq.], as amended, to enter such temporary orders as will minimize the risk of future accidents pending notice, hearing, and final action by the Commission.
625 Ill. Comp. Stat. Ann. 5/18c-7402 (LexisNexis 2012) Excerpt from applicable statute published.

§ 625 ILCS 5/18c-7403. Enforcement and Waiver of Safety Requirements
Sec. 18c-7403. Enforcement and Waiver of Safety Requirements. (1) Enforcement. Except with regard to grade crossing obstructions under Section 18c-7402 of this Chapter [625 ILCS 5/18c-7402] and trespass on railroad rights of way and yards under Section 18c-7503 of this Chapter [625 ILCS 5/18c-7503], jurisdiction to initiate actions to enforce provisions of this Chapter is vested exclusively in the Commission. Where a valid federal statute, regulation, or order sets forth procedures or sanctions for violation of safety standards, and such procedures or sanctions are preemptive of state law, the Commission shall exercise its enforcement jurisdiction under this Article in accordance therewith. Otherwise, the provisions of this Chapter regarding enforcement procedures and sanctions shall apply.
(2) Waiver. The Commission may waive any of the safety requirements under this Article if continued adherence to the requirement or requirements is not required for the safety of railroad employees or the public.
625 Ill. Comp. Stat. Ann. 5/18c-7403 (LexisNexis 2012) Excerpt from applicable statute published.

Indiana

8-6-1-7. Relocation or consolidation of crossings; hearing on establishment or extension of highway at grade over railroad; construction of new railroad
Sec. 7. (a) Whenever the department finds it best to relocate or to consolidate highway crossings over railroads in this state, it has jurisdiction for that purpose, and may serve the board of county commissioners and the railroad companies with notice, and shall proceed to hear and determine said matters, and thereupon make such orders as, in the opinion of the department, are necessary to make the said relocation or consolidation effective. Such orders shall be binding upon the parties so served with the notice, and if not observed by them within the time prescribed in said orders, the department shall proceed as provided in section 4 of this chapter to enforce such orders.
(b) Whenever it shall be desired to establish or extend a highway at grade over any railroad in this state, it shall be necessary, before establishing or extending the highway, that the petitioners shall, by a procedure to be prescribed by the department, petition to obtain the authority of the department under IC 8-6-7.7-3.4. The grant or refusal of authority therefor by the department shall be final and conclusive except as provided in this chapter.

(c) Whenever it shall be desired by any railroad company to construct a new railroad at grade over any public highway or highways in this state, it shall be necessary for a company, by a procedure to be prescribed by the department, to petition to obtain the authority of the department under IC 8-6-7.7-3.4, but it shall not be necessary to obtain such authority when such new railroad has secured its rights of way or is under construction. The grant or refusal of such authority shall be final and conclusive, except as provided in this chapter. Nothing herein shall prevent the department from subsequently altering or rescinding any grant or refusal of authority to construct such highway or railway, if, in its discretion, such alteration should be made.
Ind. Code Ann. § 8-6-1-7 (LexisNexis 2012)

***8-3-1-21.2. Apportionment of grade crossing restoration costs.**
(a) The department may order the apportionment of costs that result from the restoration, under section 21.1(b) [IC 8-3-1-21.1(b)] of this chapter, of grade crossings with abandoned railroads among the railroads and the public agencies. After receiving a petition from a railroad or an affected public agency, the department shall:
(1) Give notice of the pending action;
(2) Provide an opportunity for the affected parties to be heard by the commission;
(3) Apportion the costs among the railroad and the public agency according to section 21.1 [IC 8-3-1-21.1] of this chapter; and
(4) Adopt rules under IC 4-22-2 to establish the respective responsibilities of railroads and public agencies performing restoration work on grade crossings with abandoned railroads.
(b) The department shall determine the reasonableness of the cost of the restoration charged to the railroad under section 21.1(c) [IC 8-3-1-21.1(c)] of this chapter if the railroad petitions for that determination.
Ind. Code Ann. § 8-3-1-21.2 (LexisNexis 2012)

***8-5-1-3. Maintenance and repair of crossings.**
Whenever such railroad crossing is constructed in the manner provided for in the preceding section, it shall be the duty of each company respectively to maintain and keep in repair its own track, so as at all times to provide a ready, safe and convenient crossing for all locomotives, trains or cars passing on either road at such point.
Ind. Code Ann. § 8-5-1-3 (LexisNexis 2012)

8-6-1-4. Separation of grades.
Whenever the department shall come to the conclusion, whether on account of the topography of the ground at the crossings, or on account of the great number of travelers using anycrossing of a highway and railroad, or for any reason deemed by the department to be sufficient, that the grades of such crossing should be separated, and it shall be found practicable to do so, the department shall serve with notice the railroad company or companies, and also serve with notice the board of commissioners of the county or counties in which such highway crossingis located. Said notice shall set out that the department, on the day named, will consider the matter of separation of the grades at such crossing and the department shall have jurisdiction of the parties and the subject matter in said proceedings and shall hear and determine the matter. If satisfied that said crossing is dangerous to life and that safety and the accommodation of the public requires that the grades be separated, and that it is practicable to separate said grades, the department may so order. The department shall, in said order, prescribe the manner in which such separation shall be accomplished. The cost of such separation shall be borne one-fourth (1/4) by the county and counties in which such grade is separated and three-fourths (3/4) by the

railroad company or companies, and whenever the department may order any such grades separated, it may, if it shall deem it best, relocate or consolidate highway crossings over railroads, street railroads, interurban street railroads, or suburban street railroads in this state, and may relocate or consolidate highways leading to any such crossing. If any of the parties to such proceeding fail or refuse to obey the orders of the department, the department may proceed, in any circuit or superior court of any one (1) of the counties in which said highwaycrossing may be located, to enforce its orders. The provisions of this section shall not apply to cities of over twenty thousand (20,000) population.
Ind. Code Ann. § 8-6-1-4 (LexisNexis 2012)

***8-6-1-8. Number of grade crossings.**
In determining the number of grade crossings the separation of which may be required under the provisions of this chapter, the railroad companies, street railroad, interurban street railroad, or suburban street railroad companies operating the lines of railway shall alone be considered, whether such lines are operated under the ownership of such companies or by lease, operating contract or otherwise. The number of miles so operated shall be determined by the length of the occupied main track right of way, regardless of the number of tracks operated thereon.
Ind. Code Ann. § 8-6-1-8 (LexisNexis 2012)

8-6-2.1-1. Authority to require separation or alteration of grade levels.
The board of public works or board of public works and safety, referred to in this chapter as the board, of a city may, by resolution, require the separation or alteration of the grade levels of any public highway in the city and of any railroad crossing the public highway, either by carrying the public highway under or over the railroad, or by carrying the railroad under or over the public highway, or by any combination of these means.
Ind. Code Ann. § 8-6-2.1-1 (LexisNexis 2012)

8-6-2.1-2. Agreements between board and railroad companies.
The board may enter into an agreement or agreements with any railroad company for the removal of any track, roadbed, yard, station or other railroad facilities, and provide for the relocation and reconstruction of those facilities or any part of them if the board determines it necessary in connection with an improvement to provide for the abandonment for railroad purposes of any right-of-way, land or other property owned and used or occupied for railroad purposes by any railroad company.
Ind. Code Ann. § 8-6-2.1-2 (LexisNexis 2012)

8-6-2.1-3. Participation by department of transportation and by county.
(a) The Indiana state highway commission [department of transportation] shall participate in the proceedings and in the cost of any improvements made pursuant to the proceedings provided for by this chapter if any improvements involve a highway which is part of the state highway system or a street or highway selected by the Indiana state highway commission [department of transportation] as a route of a highway in the state highway system.
(b) If the Indiana state highway commission [department of transportation] participates in any proceedings as set out in this chapter and in the cost of improvements made pursuant to the proceedings, the county in which the city is located shall also participate in the proceedings and in the cost of any improvements that are made pursuant to the proceedings.
Ind. Code Ann. § 8-6-2.1-3 (LexisNexis 2012)

***8-6-3-1. Formula for division -- Procedure.**

(a) Whenever the separation of grades at the intersection of a railroad or railroads (as defined in IC 8-3-1-2) and a public street or highway is constructed, the railroad or railroads shall pay five (5) percent of the cost of the grade separation as provided in this chapter.
(b) This chapter shall apply to an existing crossing, a new crossing, or the reconstruction of an existing grade separation.
(c) If more than one (1) railroad (as defined in IC 8-3-1-2) is involved in a separation, the railroads involved shall divide the amount to be paid by the railroads by agreement between the railroads. If the railroads fail to agree, the circuit court of the county in which the crossing is located shall have jurisdiction, upon the application of a party, to determine the division of the amount to be paid by the railroads. The decision of the court is final, unless one (1) or more parties deeming themselves aggrieved by the decision of the court shall appeal therefrom to the court of appeals of Indiana within thirty (30) days, or within additional time not exceeding ninety (90) days, as may be granted by the circuit court. The appeal shall be taken in substantially the same manner as an appeal in a civil case from the circuit court.
(d) If a grade separation shall involve a state highway that is a part of the state highway system of Indiana, or a street or highway selected by the Indiana department of transportation as a route of a highway in the state highway system, the state, out of the funds of the Indiana department of transportation or funds appropriated for the use of the Indiana department of transportation, shall pay ninety-five percent (95%) of the cost of the grade separation.
(e) Before the Indiana department of transportation shall proceed with a grade separation within a city or town, the Indiana department of transportation shall first obtain the consent of the city, by a resolution adopted by the board or officials of the city having jurisdiction over improvement of the streets of the city, and any material modification of the plans upon which the consent was granted shall first be approved by the city by a similar resolution.
(f) If such grade separation is on a highway or street not a part of the highways under the jurisdiction of the Indiana department of transportation, or a part of a route selected by it, but is within any city or town of the state, the city or town shall pay one-half (1/2) of ninety-five percent (95%) of the total of such cost and the county in which the crossing is located shall be liable for and pay one-half (1/2) of the ninety-five percent (95%).
(g) If a grade separation that involves a state highway that is a part of the state highway system of Indiana, or a street or highway selected by the Indiana department of transportation as a route of a highway in the state highway system, necessitates the grade separation on other highways or streets, not a part of the highways under the jurisdiction of the Indiana department of transportation but within any city of the state of Indiana, then of the total cost of the grade separation on a highway or street not under the jurisdiction of the Indiana department of transportation but necessitated by the grade separation involving a highway or street which is a part of the state highway system, the city shall pay one-fourth (1/4) of ninety-five percent (95%) and the county in which the crossing is located shall be liable for and pay one-fourth (1/4) of the ninety-five percent (95%) of the total of the costs and the state out of the funds of the Indiana department of transportation or funds appropriated for the use of the Indiana department of transportation, shall be liable for and pay one-half (1/2) of the remaining portion.
(h) If a crossing is not within any city or town and does not involve a highway under the jurisdiction of the Indiana department of transportation, then the county in which the crossing is located shall pay the ninety-five percent (95%) of the total cost which is not paid by the railroad or railroads.

(i) The division of the cost of grade separation applies when the grade separation replaces and eliminates an existing grade crossing at which active warning devices are in place or ordered to be installed by a state regulatory agency, but when the grade separation does not replace nor eliminate an existing grade crossing the state, county or municipality, as the case may be, shall bear and pay one hundred percent (100%) of the cost of the grade separation.
(j) In estimating and computing the cost of the grade separation, there shall be considered as a part of costs all expenses reasonably necessary for preliminary engineering, rights-of-way and all work required to comply with the plans and specifications for the work, including all changes in the highway and the grade thereof and the approaches to the grade separation, as well as all changes in the roadbed, grade, rails, ties, bridges, buildings, and other structural changes in a railroad as may be necessary to effect the grade separation and to restore the railroad facilities aforesaid to substantially the same condition as before the separation.
(k) The required railroad share of the cost shall be based on the costs for preliminary engineering, right-of-way, and construction within the limits described below:
(1) Where a grade crossing is eliminated by grade separation, the structure and approaches for the number of lanes on the existing highway and in accordance with the current design standards of the governmental entity having jurisdiction over the highway involved.
(2) Where another facility, such as a highway or waterway, requiring a bridge structure is located within the limits of a grade separation project, the estimated cost of a theoretical structure and approaches as described under subdivision (1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or other highway.
(3) Where a grade crossing is eliminated by railroad or highway relocation, the actual cost of the relocation project, or the estimated cost of a structure and approaches as described under subdivision (1), whichever is less.
(l) If the Indiana department of transportation or any city, town, or county is unable to reach an agreement with a railroad company after determining that construction or reconstruction of a grade separation, which replaces or eliminates the need for a grade crossing, is necessary to protect travelers on the roads and streets of the state, the appropriate unit or combination of units of government shall give a written notice of its intention to proceed with the construction or reconstruction of a grade separation to the superintendent or regional engineer of the railroad company. The notice of intention shall be made by the adoption of a resolution stating the need for the grade separation. If, after thirty (30) days, the railroad has not agreed to a division of inspections, plans and specifications, the number and type of jobs to be completed by each agency, a division of costs, and other necessary conditions, the Indiana department of transportation, city, town, or county may proceed with the grade separation exercising any and all of its powers to construct or reconstruct a bridge and, notwithstanding other provisions of this chapter, may pay for up to one hundred percent (100%) of the cost of the project. If the railroad is unable, for good cause, to pay the share of the cost required by this section, the city, town, or county may certify the amount owed by the railroad to the county auditor who shall prepare a special tax duplicate to be collected and settled for by the county treasurer in the same manner and at the same time as property taxes are collected. However, before the Indiana department of transportation, city, town, or county undertakes to do the work themselves they shall notify an agent of the railroad as to the time and place of the work.
Ind. Code Ann. § 8-6-3-1 (LexisNexis 2012)

***8-6-3-2. Changes in tracks -- Maintenance.**

(a) This chapter shall not authorize the separation of grade crossings of railroads and highways where not authorized by other laws, but shall be considered as supplemental to other laws, and all division of costs as provided for in this chapter, and all provisions for the payment and collection of such costs and expenses and other provisions of other laws relating to the subject matter shall continue in effect, except as inconsistent with this chapter.
(b) Provided, however, That any such railroad or railroads shall be authorized to make all changes in the roadbed, grade, rails, ties, bridges, buildings, and other structural changes as may be necessary to effect such grade separation, and to restore such railroad facilities aforesaid to substantially the same condition as before said separation and the costs and expenses incurred by said railroad or railroads, and in excess of the amount, if any, to be borne by the railroad or railroads, as in this chapter provided, shall be paid by the state, county, or municipality, as the case may be, to such railroad or railroads making such changes.
(c) After the construction of any such grade separation, the public authority or municipality having jurisdiction over such street or highway shall maintain the street or highway, and structures supporting it, and the drainage thereof, where the street or highway is carried over the railroad or railroads, and the railroad or railroad companies shall maintain its or their railway tracks, and where the street or highway is carried under any such railroad or railroads, then the public authority or municipality having jurisdiction over such street or highway, shall maintain the street or highway, and the drainage thereof, and the railroad or railroads shall maintain its or their roadbed and tracks and structures supporting the same.
Ind. Code Ann. § 8-6-3-2 (LexisNexis 2012)

***8-6-7.7-3.1. Public railroad grade crossings -- Rules -- Criteria.**
(a) The Indiana department of transportation shall adopt rules under IC 4-22-2 specifying criteria for:
(1) The department to use in determining whether to open a new public railroad grade crossing; and
(2) The department or a unit (as defined in IC 36-1-2-23) to use in determining whether to abolish a public railroad grade crossing.
(b) In applying criteria required by subsection (a) to determine whether to open a new public railroad grade crossing, deny a public grade crossing closure, or abolish a public railroad gradecrossing, the department or unit shall consider the following:
(1) Timetable speed of passenger trains operated through the crossing.
(2) Distance to an alternate crossing.
(3) Accident history of the crossing for the five (5) years preceding the department's or the unit's consideration.
(4) Amount of vehicular traffic and posted speed limits for the crossing.
(5) Amount of freight trains and their timetable speeds operated through the crossing.
(6) Type of warning device present at the crossing, if any.
(7) Alignment of the roadway and the railroad, and the angle of the intersection of an alignment at the crossing.
(8) Use of the crossing by:
(A) Trucks carrying hazardous materials;
(B) Vehicles carrying passengers for hire;
(C) School buses; and
(D) Emergency vehicles.
(9) Other appropriate criteria as determined by the department.

Ind. Code Ann. § 8-6-7.7-3.1 (LexisNexis 2012)

8-6-7.7-4. Grade crossing warning signals -- Installation -- Costs -- Time for completion -- Penalty.

(a) The Indiana department of transportation, whenever it orders the construction, installation, replacement, relocation, modernization, or improvement of automatic train-activated warning signals, may prescribe the division of the costs of the equipment, the installation of the equipment, the construction, and the operation and maintenance of the equipment between the railroad and the public. The share of the costs allocated to the public shall be paid with funds appropriated to the department for such purpose. In allotting the costs, IC 8-23-5-2 applies except as provided in subsections (b) through (c).

(b) Whenever a grade crossing not protected by automatic warning signals is ordered so protected, the department shall prescribe the division of the cost of the equipment, its installation, its operation and maintenance, and its construction between the railroad involved and the public, giving due regard to the net benefits received by the parties, and the causes creating the need for signals at the crossing.

(c) The physical work of constructing, installing, replacing, relocating, modernizing, or improving, and thereafter operating and maintaining automatic warning signals under order of the department shall be performed by the railroad involved. All orders of the department relating to the signals shall provide for allocation among the parties involved for the extraordinary costs of signal repair or replacement if they are damaged or destroyed by accident or external causes.

(d) When the department orders the railroad to proceed with the construction, installation, relocation, modernization, or replacement of automatic signals at a grade crossing, the department shall order the railroad involved to complete the construction, installation, relocation, modernization, or replacement of signals not later than twelve (12) months after the date of the order.

(e) A railroad may request the department for additional time to complete the construction, installation, relocation, modernization, or replacement of signals specified in the department's order under subsection (d). The railroad shall submit the request for additional time in writing to the department. The request shall specifically set forth the basis for the railroad's need for additional time to complete the work. The department's decision to grant or deny a request for additional time is not subject to review under IC 4-21.5.

(f) If the railroad fails to complete the construction, installation, relocation, modernization, or replacement of signals by the date specified:

(1) in the department's order under subsection (d); or

(2) by the department if a request for additional time is granted by the department under subsection (e);

the department may assess a civil penalty against the railroad of not more than one thousand dollars ($1000) for each day the construction, installation, relocation, modernization, or replacement of signals is late.

(g) All civil penalties collected under this section shall be deposited with the treasurer of state to be deposited by the treasurer of state in the railroad grade crossing fund created under IC 8-6-7.7-6.1.

Ind. Code Ann. § 8-6-7.7-4 (LexisNexis 2012)

***8-6-12-1. Tracks in streets or alleys -- Grading and paving -- Cost.**

(a) Each railroad company whose road or tracks lie in any public street, road, or alley in any city, town, or county shall properly grade, plank, gravel, or asphalt the road and tracks in accordance

with the grade and surfacing material of the public street, road, or alley in such a manner as to afford security for life and property of persons and vehicles using the public streets, roads, or alleys.
(b) If a railroad company fails to comply with the provisions of this section, the city, town, or county in which the public street, road, or alley is located may, after thirty (30) days written notice to the superintendent or regional engineer of [the] railroad company, do the work and either:
(1) Recover the amount of the cost thereof from the railroad company by suit filed in any court of competent jurisdiction, in which case the city, town or county may collect reasonable attorney fees; or
(2) Certify the amount owed to the county auditor who shall prepare a special tax duplicate to be collected and settled for by the county treasurer in the same manner and at the same time as property taxes are collected;
Provided, That before the municipal corporation, city, town, or county shall undertake to do the work themselves they shall notify an agent of the railroad as to the time and place.
Ind. Code Ann. § 8-6-12-1 (LexisNexis 2012)

***8-23-5-2. Railroad grade crossings.**
(a) If a highway or road is being constructed or reconstructed so that it crosses or intersects the existing tracks of a railroad at grade level at a point where no crossing previously existed, the department, county, city, or town under whose jurisdiction the crossing lies shall pay the cost of the construction of the new crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.
(b) If the owner or lessee of a railroad is constructing or reconstructing railroad tracks so that the tracks cross or intersect a highway or road at grade level at a point where no railroad crossing previously existed, the owner or lessee of the railroad shall pay the cost of the construction of the new crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.
(c) If a highway or road crosses or intersects the tracks of a railroad at grade level and the highway or road is reconstructed to alter the existing crossing or intersection by a change of grade, widening or changing the type of pavement, or by changing the angle of the intersection, the department, county, city, or town under whose jurisdiction the crossing lies shall pay the cost of the reconstruction of the crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After reconstruction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.
(d) If the owner or lessee of a railroad reconstructs or alters the tracks of a railroad that crosses or intersects a highway or road at grade level so that it is necessary to reconstruct or alter the crossing or intersection, the owner or lessee of the railroad shall pay the cost of the reconstruction or altering of the crossing, the approaches to the crossing, and the cost of the necessary protective or crossing warning signals. After construction, the owner or lessee of the railroad shall maintain the crossing and protective or crossing warning signals and keep them in repair at the owner's or lessee's cost.

(e) Notwithstanding subsections (a) through (d), the department, a county, a city, or a town under whose jurisdiction a railroad crossing lies may provide highway or road surface maintenance at a railroad crossing if the department, county, city, or town requests and receives written approval from the railroad owner or lessee before commencing the highway or road surface maintenance. The cost of the maintenance may be wholly or partially borne by the department, county, city, or town upon agreement with the railroad.
(f) Any construction, reconstruction, or maintenance of highway or road surfaces provided for in this section may be paid for from funds obtained under 23 U.S.C. 130.
(g) A railroad whose tracks lie in any public highway or road shall properly grade, surface, and maintain the highway, road, and railroad tracks within the boundaries described in subsection (h):
(1) in accordance with the grade and surfacing material of the highway or road; and
(2) in a manner as to afford security for life and property of persons and vehicles using the highway or road.
(h) The railroad is responsible for the repair and maintenance of the grade and surface occupied by the railroad tracks, including the space:
(1) between the rails of a railroad track;
(2) between the railroad tracks if there are at least two (2) railroad tracks; and
(3) that extends eighteen (18) inches in width on the outside of each rail of a railroad track.
Ind. Code Ann. § 8-23-5-2 (LexisNexis 2012)

***8-23-9-40. Separation of railroad grade crossings authorized -- Petition.**
Whenever a state highway is being constructed or reconstructed and the highway crosses or intersects a railroad, the department may, if in its opinion it is practicable, separate grades at the crossings. If the department is unable to agree with the railroad as to the separation and the method of accomplishing the separation, the department shall apply to the utility regulatory commission by verified petition asking that the grades be separated at the crossing.
Ind. Code Ann. § 8-23-9-40 (LexisNexis 2012)

<u>Iowa</u>

***306.11. Hearing -- place -- date.**
In proceeding to the vacation and closing of a road, part thereof, or railroad crossing, the agency in control of the road, or road system, shall fix a date for a hearing on the vacation and closing in the county where the road, or part thereof, or crossing, is located, and if located in more than one county, then in a county in which any part of the road or crossing is located. If the road to be vacated or changed is a secondary road located in more than one county, the boards of supervisors of the counties, acting jointly, shall fix a date for a hearing on the vacation or change in either or any of the counties where the road, or part thereof, is located. If the proposed vacation is of part of a road right-of-way held by easement and will not change the existing traveled portion of the road or deny access to the road by adjoining landowners, a hearing is not required.
Iowa Code § 306.11 (2012)

***307A.2. Duties.**
[The state transportation commission of the state department of transportation] shall:
4. Make surveys, plans, and estimates of cost, for the elimination of danger at railroad crossings on highways, and confer with local and railroad officials with reference to elimination of the danger.

9. Order the removal or alteration of any lights or light-reflecting devices, whether on public or private property, other than railroad signals or crossing lights, located adjacent to a primary road and within three hundred feet of a railroad crossing at grade, which in any way interfere with the vision of or may be confusing to a person operating a motor vehicle on such highway in observing the approach of trains or in observing signs erected for the purpose of giving warning of such railroad crossing.
10. Order the removal or alteration of any lights or light-reflecting devices, whether on public or private property, located adjacent to a primary road and within three hundred feet of an intersection with another primary road, which in any way interfere with the vision of or may be confusing to a person operating a motor vehicle on such highway in observing the approach of other vehicles or signs erected for the purpose of giving warning of such intersection.
Iowa Code § 307A.2(4), (9)-(10) (2012) Excerpt from applicable statute published.

***310.4. Use of fund.**
[The] farm-to-market road fund is hereby appropriated for and shall be used in the establishment, construction, reconstruction or improvement of the farm-to-market road system, including the drainage, grading, surfacing, resurfacing, construction of bridges and culverts, the elimination, protection, or improvement of railroad crossings, the acquiring of additional right-of-way and all other expenses incurred in the construction, reconstruction or improvement of said farm-to-market road system under this chapter.
Iowa Code § 310.4 (2012)

***312.2. Allocations from fund.**
1. The treasurer of state shall, on the first day of each month, credit all road use tax funds which have been received by the treasurer, to the primary road fund, the secondary road fund of the counties, the farm-to-market road fund, and the street construction fund of cities in the following manner and amounts:
a. To the primary road fund, forty-seven and one-half percent.
b. To the secondary road fund of the counties, twenty-four and one-half percent.
c. To the farm-to-market road fund, eight percent.
d. To the street construction fund of the cities, twenty percent.
2. The treasurer of state shall before making the allotments in subsection 1 credit annually to the highway grade crossing safety fund the sum of seven hundred thousand dollars, credit annually from the road use tax fund the sum of nine hundred thousand dollars to the highway railroad grade crossing surface repair fund, credit monthly to the primary road fund the dollars yielded from an allotment of sixty-five hundredths of one percent of all road use tax funds for the express purpose of carrying out subsection 11 of section 307A.2, section 313.4, subsection 2, and section 307.45, and credit annually to the primary road fund the sum of five hundred thousand dollars to be used for paying expenses incurred by the state department of transportation other than expenses incurred for extensions of primary roads in cities. All unobligated funds provided by this subsection, except those funds credited to the highway grade crossing safety fund, shall at the end of each year revert to the road use tax fund. Funds in the highway grade crossing safety fund shall not revert to the road use tax fund except to the extent they exceed five hundred thousand dollars at the end of any biennium. The cost of each highway railroad grade crossing repair project shall be allocated in the following manner:
a. Twenty percent of the project cost shall be paid by the railroad company.
b. Twenty percent of the project cost shall be paid by the highway authority having jurisdiction of the road crossing the railroad.

c. Sixty percent of the project cost shall be paid from the highway railroad grade crossing surface repair fund.
Iowa Code § 312.2(1)-(2) (2012) Excerpt from applicable statute published.

327G.15. Railway and highway crossing at grade.
1. Wherever a railway track crosses or shall hereafter cross a highway, street or alley, the railway corporation owning such track and the department, in the case of primary highways, the board of supervisors of the county in which such 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 and flasher lights or gate arm signals at the crossing and allocation of costs thereof. The department shall become a party to the 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 at the crossing and an unlimited portion of the cost of installing flasher lights or gate arm signals at the crossing may be paid from the grade crossing safety fund.
2. Notwithstanding other provisions of this section, maintenance of flasher lights or gate signals installed or ordered to be installed before July 1, 1973, shall be assumed wholly by the railroad corporation.
3. a. Payments from the grade crossing safety fund shall be made by the treasurer of state upon certification by the department that the terms of the agreement have been followed.
b. The department shall promulgate rules according to chapter 17A for processing claims to the grade crossing safety funds.
4. The provisions of this section shall not apply to the repair of the grade crossing surface.
Iowa Code § 327G.15 (2012)

***327G.16. Disagreement -- application -- notice.**
If the persons specified in section 327G.15 cannot reach an agreement, either party may make written application to the department requesting resolution of the disagreement. The department shall request the department of inspections and appeals to set a date for hearing. The department of inspections and appeals shall give ten days' written notice of the hearing date.
Iowa Code § 327G.16 (2012)

***327G.17. Hearing -- order.**
The department of inspections and appeals shall hear the evidence of each party to the controversy and shall make an order, which may include, pursuant to chapters 6A and 6B, authority to condemn, resolving the controversy. The order shall include the portion of the expense to be paid by each party to the controversy. In determining what portion of the expense shall be paid by each party the department of inspections and appeals may consider the ratio of the benefits accruing to the railroad or the governmental unit or both, to the general public use and benefit.
Iowa Code § 327G.17 (2012)

***327G.18 Railway company to hold in trust.**
Any portion of the expense of making such crossing changes and alterations borne by any municipal corporation or township, the state or any person, shall forever be held in trust by such railroad corporation or its successors, and no part of such funds shall constitute any part of the value of its property on which it is entitled to receive a return.
Iowa Code § 327G.18 (2012)

***327G.19. Grade crossing fund.**
There is hereby created a fund which shall be known as the highway grade crossing safety fund and shall be made up of the amount allocated by the state treasurer from the road use tax fund.
Iowa Code § 327G.19 (2012)

***327G.21 . Condition after change -- temporary ways.**
When a railroad company changes, alters, or repairs a highway crossing, it shall upon completion of the work leave it free from obstructions to travel and in good condition. If travel will be obstructed while any alterations or repairs are being made, the railroad company shall provide safe and convenient temporary ways for the public to avoid or pass such obstructions.
Iowa Code § 327G.21 (2012)

***327G.22. Railway crossings near Mississippi river.**
When in the construction of a railway it becomes necessary to cross another railway near the shore of the Mississippi river, each shall be so constructed and maintained at the point of crossing that the respective roadbeds thereof shall be above high-water mark in such river; but where the crossing occurs within the limits of any city, the council may establish the crossing grade.
Iowa Code § 327G.22 (2012)

***327G.23. Grade crossings.**
The department shall have jurisdiction over all crossings at grade of railways within the state. Upon the application of any railway or upon its own motion, the said department may require the trains of any railway to stop at anycrossing of such railway tracks at grade or said department may make such rules in relation to speed or other methods of operation at such grade crossings as in its judgment are necessary to protect the public safety.
Iowa Code § 327G.23 (2012)

***327G.29. Grade crossing surface repair fund.**
1. There is established a highway railroad grade crossing surface repair fund in the office of the treasurer of state. The department may credit to this fund:
a. Moneys appropriated to the department from the general fund of the state.
b. Moneys appropriated to the department from the road use tax fund or the primary road fund.
c. Available federal funds.
d. Moneys acquired by the department from any gift, grant, or contributions from any source.
2. Notwithstanding the provisions of section 8.33, unencumbered funds remaining in the highway railroad grade crossing surface repair fund at the close of each fiscal year ending on June 30 shall revert to the road use tax fund.
Iowa Code § 327G.29 (2012)

***327G.30. Adjustment of expense.**
1. If a grade crossing surface of a railroad track and a highway, street, or alley shall require repairs or maintenance, the costs for the maintenance may be paid as provided in section 312.2, subsection 2.
2. If the railroad corporation and the jurisdiction having authority agree on the method of crossing maintenance and establish an agreement to each contribute costs as provided in section 312.2, subsection 2, a copy of the agreement shall be filed with the department which shall allocate an amount of the cost for the work if funds are available in the highway railroad grade crossing surface repair fund. The department shall make appropriate notification if the fund is

exhausted in which case agreements shall not be made under this section until additional funds are available. The fund shall be administered by the department.
3. Upon completion of the agreed repair work, a statement of costs shall be filed with the department by the railroad corporation in a form and manner prescribed by the department. The department, upon approval of the statement, shall pay to the railroad corporation an amount of the cost of the work from the highway railroad grade crossing surface repair fund as provided in section 312.2, subsection 2. The owner of the track and the jurisdiction entering into the agreement shall each pay the cost as provided in section 312.2, subsection 2.
Iowa Code § 327G.30 (2012)

***327G.31. Disagreement resolved.**
If a railroad corporation and the jurisdiction having authority cannot reach agreement on grade crossing surface repair and maintenance, either party may appeal to the department of inspections and appeals if prior to disagreement both parties have filed a statement with the state department of transportation to the effect that they have entered into negotiations on grade crossing surface repair and maintenance of a particular crossing. The department of inspections and appeals shall resolve the dispute in the manner provided in section 327G.16 and section 327G.17, except for the allocation of costs.
Iowa Code § 327G.31 (2012)

***434.13. Operating expenses.**
There shall not be included in said operating expenses any payments for interest or discount, or construction of new tracks, except needed sidings, for raising or lowering tracks above or below crossings at grade in cities, for new equipment except replacements, for reducing any bonded or permanent debt, nor for any other item of operating expenses not fairly and reasonably chargeable as such in railway accounts.
Iowa Code § 434.13 (2012)

<u>Kansas</u>

12-1633. Railways and street railways; crossings; construction of viaducts or tunnels; regulation of speed; appraisement and payment of damages; liens; actions; penalties.
The governing body of cities of the first and second class shall have the power to regulate the crossings of railway and street-railway tracks and provide precautions and adopt ordinances regulating the same; to regulate the running of street railways or cars and to adopt ordinances relating thereto and to govern the speed thereof; to regulate the running of railway engines and cars, except speed, and to adopt ordinances relating thereto; and to make other and further provisions, rules and regulations to prevent accidents at crossings and on tracks of railways, and to prevent fires from engines, and to require all railway companies to erect viaducts over or tunnels under their tracks at the crossings of streets.
Kan. Stat. Ann. § 12-1633 (2011) Excerpt from applicable statute published.

***14-434. Levees; depot grounds; railway crossings; running of trains; regulation of speed.**
The council shall have power to regulate levees, depots, depot grounds, and places of storing freight and goods, and to provide for the passage of railways through the streets and public grounds of the city; also to regulate the crossings of railway tracks and to provide precautions and adopt ordinances regulating the same; to regulate the running of railway engines and cars, except speed, and to adopt ordinances relating thereto; and to make any other and further

provisions, rules and restrictions to prevent accidents at crossings, and on the tracks of railways, and to prevent fires from engines.
Kan. Stat. Ann. § 14-434 (2011) Excerpt from applicable statute published

***66-227. Crossings.**
It is hereby made the duty of every person or corporation owning or operating any railroad crossed by a public highway, county highway or township road to make, and keep in good repair, good and sufficient crossings for such highway, road or street over their tracks, including all the grading, bridges, ditches and culverts within their right-of-way that may be necessary to make a safe crossing. The vertical profile or alignment of the centerline of the highway, road or street through the crossing shall comply with the American association of state highway and transportation officials (AASHTO) design manual titled, "a policy on geometric design of highways and streets" as published and in effect on January 1, 2001.

When the highway crossing the track is improved by the construction of a hard-surfaced road, the railroad company shall pave the space between the rails and for a distance of two feet on each side thereof with a pavement of the same or a better type for the full width of the pavement on the highway. On other crossings where the highway has not been improved, the planking or other material used between and for a distance of one foot outside of the rails shall be of a length to equal the roadway width measured perpendicular to the axis of the highway. Nothing in this act shall be construed to repeal any provision of law relating to railroad crossings on streets in cities of the first and second class.
Kan. Stat. Ann. § 66-227 (2011

***66-228. Same; penalty; time within which to restore crossing.**
Every person or corporation failing to comply with the provisions of this act shall be deemed guilty of a misdemeanor and shall be fined not less than five dollars, nor more than fifty dollars, for each and every violation hereof and each day same shall be allowed to remain out of repair shall be a separate offense: Provided, however, When any such crossings have been properly constructed as provided in this act, and shall become defective because of accident or unusual severe or stormy weather, the person or corporation whose duty it is to maintain the same, shall have ten days in which to restore said crossing to its proper condition before the penalty herein provided for shall attach.
Kan. Stat. Ann. § 66-228 (2011)

68-414. Improvement of railroad crossings on state highway system; division of cost; safety devices or signals.
The secretary of transportation, in the construction, improvement, reconstruction or maintenance of the state highway system, shall have the power and authority to compel all railroad companies operating steam or electric railroads in this state to construct, improve, reconstruct or maintain in a manner to be approved by the secretary of transportation, viaducts, tunnels, underpasses, bridges or grade crossings where the lines of said railroad companies intersect state highways, when in the judgment of the secretary such viaducts, tunnels, underpasses, bridges or grade crossings are necessary for the proper construction of the state highway system, for the safety of the general public, or for the elimination of a dangerous grade crossing.
The expense of such construction, improvement, reconstruction or maintenance may be divided between the railroad company and the secretary of transportation in a fair and equitable proportion to be determined by the secretary of transportation, said secretary, however, to pay

not to exceed fifty percent (50%) of the cost of any construction, improvement, reconstruction or maintenance of viaducts, tunnels, underpasses or bridges, but such fifty percent (50%) limitation shall not apply to express highways or freeways established pursuant to K.S.A. 68-2301. Otherwise, grade crossings shall be constructed and maintained at the expense of the railroad company.

If after due notice to said railroad company that in the judgment of the secretary of transportation the construction, improvement, reconstruction or maintenance of such viaduct, tunnel, underpass, bridge or grade crossing is necessary, said railroad company fails to comply with the secretary's order as provided by this section, said secretary is empowered and authorized to forthwith construct, improve, reconstruct or maintain such viaduct, tunnel, underpass, bridge or grade crossing and the amount so expended for such construction, improvement, reconstruction or maintenance shall comprise a charge against such railroad company and the secretary shall render a bill to such railroad company stating the amount expended and for what purpose, and upon the failure or refusal of such railroad company to make payment of the amount due the state the secretary shall forward all data and information to the attorney general of this state, who shall immediately institute a suit in the name of the secretary of transportation for the recovery of the amount reported by the secretary of transportation as due from the railroad company for its proportion of the cost of the construction, improvement, reconstruction or maintenance of such viaduct, tunnel, underpass, bridge or grade crossing.

Upon the recovery of such fund said secretary shall deposit same with the state treasurer and said sum shall be apportioned to the different funds in the amounts expenditures from such funds were made.

Kan. Stat. Ann. § 68-414 (2011) Excerpt from applicable statute published.

***68-509. Elimination of grade crossings; division of costs between railroad and county; eminent domain; publication notice; appeal from award; warning signals.**

The county engineer and board of county commissioners, in designating the county road system, shall eliminate all steam or electric road grade crossings and all other dangerous places on the highways so far as practicable, by paralleling such steam or electric roads, constructing undergrade or overhead crossings, relocating the highways or using such other means as may be necessary to properly safeguard the traveling public. The expense of eliminating railroad crossings shall be divided between the railroad company and the county, in a fair and equitable proportion determined by the secretary of transportation, who shall determine the necessity for eliminating suchcrossing.

When the elimination, protection or improvement of a railroad grade crossing, as finally determined to be necessary by the secretary, requires the relocation, laying out, altering, widening or vacating of a highway, the board of county commissioners may purchase or acquire by donation any land required and, by order of the board, cause the highway to be relocated, laid out, altered, widened or vacated. Such order of the board of county commissioners shall cause any land so procured to become a public highway without further action. If the owner of any land required for the relocation, laying out, altering or widening of a highway for the purposes mentioned in this section refuses to sell or donate such land, the board of county commissioners shall exercise the right of eminent domain in the following manner:

The board of county commissioners by order shall determine the nature of the changes required in such road, the approximate amount and location of land required to be taken therefor and the time and place at which the road will be viewed. The board shall publish a notice once in the

official county paper, not less than 15 days and not more than 25 days before the viewing of the road. A similar notice shall be sent by certified mail to the owners of lands affected by such change, at the address where the owner's tax statement is sent. Such notice shall set out the substance of the order and its date, the time and place the commissioners will begin to view the road and give all parties a hearing.
The board shall direct the county engineer to meet with it at such time and place, unless the new locations of roads made necessary by the changes have already been definitely surveyed and located. Upon the day stated in the notice, or on the following day, the county commissioners shall meet at the place stated in the notice and proceed to view the road and changes required; shall view all lands required to be taken for the relocation, laying out, altering or widening of the highway for the purposes described in this section; and shall appraise the value thereof and assess the damages thereto. The county commissioners shall forthwith file in the office of the county clerk of the county a written report of their findings, along with the plat of the road as changed. All applications for damages must be filed in writing with the county clerk on or before the first day of the next regular session of the board following the filing of the report. The board at such session shall finally determine the amount to be paid as damages to any owner of the land. The amounts so allowed shall be paid from the general fund or the road fund of the county. The right of appeal from the award of damages made by the board of county commissioners shall be the same as is now provided by law in other road cases, but such appeal shall not delay any work upon or in relation to the road. If lands are appropriated for the relocation of any county or township road, which relocation is deemed necessary to avoid one or more railroad crossings or other dangerous places, the railroad company shall pay such part of the cost, not less than 1/2 or more than 3/4, as determined by the secretary of transportation. Such part of the cost shall be paid by the railroad company to the county and shall be used to reimburse the funds from which the cost of land and damages were paid. The secretary of transportation, upon the request of any county or township board, may require suitable safety devices or warning signals at dangerous or obscure railroad crossings to indicate the approach of trains, which shall be installed and maintained by the railroad company. The secretary may require the removal of spoil banks and other obstructions to view and the grading of approaches to the tracks, the cost of which shall be borne by the railroad company and county or township jointly or severally in the proportions determined by the secretary. The secretary may require the construction of suitable warning signs at a distance of 200 to 300 feet on both sides of all railroad grade crossings if, in the judgment of the secretary, signs are necessary for the safety of travel. All such warning signs on township roads shall be erected by the townships and those on the county roads by the county.
Kan. Stat. Ann. § 68-509 (2011)

<u>Kentucky</u>

***177.110. Railroad crossings -- Construction of KRS 177.120 to 177.210.**
(1) The provisions of KRS 177.120 to 177.210 shall not apply to any railroad lines or tracks constructed across primary roads after March 23, 1926.
(2) Where railroad lines or tracks constructed after March 23, 1926 cross any primary road, the department shall determine the character of the crossing to be constructed by the railroad company, and the cost of suchcrossings shall be paid for by the railroad company.
Ky. Rev. Stat. Ann. § 177.110 (2012)

177.120. Department may order elimination of grade crossings or substitution -- Standards to be set by administrative regulations -- Closure of grade crossings.

(1) Whenever the department considers it necessary for the public safety, it may order any railroad company owning or operating a railroad in this state, to eliminate any grade crossing or change any existing overhead or underpass structure where any public road crosses the railroad tracks of the company. The department may determine whether a substitute crossing should be established and if so, the location of the crossing to be substituted, and whether it shall pass over or under the railroad tracks or intersect them at grade.
(2) In accordance with this section, the department shall promulgate administrative regulations by December 1, 1992, that contain standards governing the closure of public grade crossings. In adopting standards, the department shall request and consider written comments from affected local governments and shall consider that the number of redundant and inherently dangerous grade crossings in this state should be reduced and that public safety will be enhanced by reducing the number of redundant and inherently dangerous grade crossings.
(3) On or before July 1, 1993, and on or before July 1 of each of the next four (4) years, and as necessary thereafter, the department shall compose a list of grade crossings proposed to be closed. The list shall be developed by applying the standards set forth in the administrative regulations adopted under subsection (2) of this section. Grade crossings that are part of an abandonment, closing, or removal shall not be included in the list. The department shall notify the public officials having the necessary authority and the railway companies operating the railroads of the proposed closures. Either affected party may request a public hearing, and if requested, the department shall hold a public hearing and apply in its determination the information gained at the public hearing and administrative regulations developed under subsection (2) of this section. If after the hearing the department determines that closure is warranted, it may order the crossing closed.
(4) If a request for a hearing on a particular crossing is not received within thirty (30) days of notice of the opportunity for a public hearing advertised pursuant to the requirements of KRS Chapter 424, the department shall order the crossing closed.
Ky. Rev. Stat. Ann. § 177.120 (2012)

***177.130. Hearing -- Order -- Plans, specifications, and estimates of cost.**
If the department finds that a crossing proposed for vacation should be replaced with another grade crossing or a grade separation, it shall give at least ten (10) days' notice by certified mail, return receipt requested, to the railroad company and to the chief executive officer of the affected unit of local government of a public hearing to be held at a time and place stated in the notice. At the public hearing, the department shall consider whether or not the proposed grade separation or substitute crossing is reasonably necessary and the most advantageous method of enhancing the public convenience and necessity. If the department finds that the grade separation or substitutecrossing is reasonably necessary, it shall make an order to that effect and furnish a copy thereof by certified mail, return receipt requested, to the railroad company and to the chief executive officer of the affected unit of local government. The order shall specify the location of the crossing to be substituted and whether it shall pass over or under the railroad tracks or intersect them at grade, the width of the crossing, and the angle at which thecrossing shall meet and converge into the roadbed on either side of the railroad tracks. The order may direct the railroad company to prepare plans, specifications, and estimates of cost for the grade separation or substitutecrossing in accordance with the general plan prescribed by the order. The order may provide that the plans, specifications, and estimates of cost shall be prepared by the department.
Ky. Rev. Stat. Ann. § 177.130 (2012)

***177.140. Railroad company to present plans and estimates of cost.**

Within ninety (90) days after the entry of an order directing a grade separation or change, and the preparation of plans, specifications, and estimates of cost by the railroad company, the railroad company shall present to the department plans, specifications, and estimates of cost for the grade separation or change, including the necessary approaches thereto.
Ky. Rev. Stat. Ann. § 177.140 (2012)

177.190. Appeal by railroad company to Circuit Court.
(1) Any railroad company dissatisfied with a final order of the department directing the elimination of any grade crossing or change of existing overhead or underpass structure, or any order modifying or amending the final order may appeal by filing a petition in the clerk's office of the Franklin Circuit Court in accordance with KRS Chapter 13B.
(2) On the hearing of the appeal, the Circuit Court shall determine whether the elimination of the grade crossing, or the change in existing overhead or underpass structure, is reasonably necessary for the safety of the traveling public, and whether the plans and specifications prescribed by the order of the department are reasonably adequate to provide safety of operation for the trains of the railroad company, its employees and the public, and make reasonably adequate provisions for the future development of the railroad company's facilities.
(3) If the court finds from the evidence that the elimination of the grade crossing or change in existing overhead or underpass structure is not reasonably necessary for the safety of the traveling public, it shall, by final judgment, enjoin the department from enforcing its final order.
(4) If the court finds from the evidence that the elimination of the grade crossing or change in existing overhead or underpass structure is reasonably necessary for the safety of the traveling public, it shall, by final judgment, either order the railroad company to proceed with the work in accordance with the final order of the department, or in accordance with other plans and specifications prescribed by the court.
Ky. Rev. Stat. Ann. § 177.190 (2012)

189.561. Investigation of certain public grade crossings not equipped with gates -- Results -- Costs.
(1) The cabinet shall investigate any public grade crossing not equipped with gates, with an average daily traffic of four thousand (4,000) or more, at which two (2) or more accidents involving a train and a vehicle traversing the crossing of a railroad and a highway have occurred in a consecutive five (5) year period, beginning January 1, 1986. The cabinet shall not consider nonfatal accidents caused by mechanical failure of the motor vehicle; accidents in which the operator of the highway motor vehicle was in violation of the provisions of KRS Chapter 189A; or other nonwarning signal related cause as set forth by the cabinet in an administrative regulation. If the cabinet installed active warning devices under its normal crossing safety improvement program since January 1, 1986, the five (5) year period for the determination of accidents shall begin at the time of this installation. The cabinet shall request written comments from the affected local government prior to reaching a decision on a particular crossing. After receiving a report from the affected local government supporting the installation of gates, the cabinet, utilizing matching funds available from the Federal Highway Administration's rail/highway grade crossing safety program, shall program the installation of gates at the crossing. Locations which do not receive a favorable report from the affected local government shall be reconsidered at the time of the next update of the five (5) year accident period.
(2) The cost of installing gates shall be the responsibility of the cabinet and railroad in accordance with KRS 277.065 and shall not be charged to any unit of local government.
Ky.Rev. Stat. Ann. § 189.561 (2012)

***277.065. Allocation of costs of eliminating grade crossings between railroad and governmental unit.**
The entire construction costs of projects for the elimination of hazards of railroad-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossingstructures, and the relocation of highways to eliminate railroad grade crossings which may be paid for in whole or part from state funds, including, but not limited to, the cost of preparing the plans and specifications and supervising the improvement, the acquisition of necessary property, the construction of approaches, drainage structures, roadways and pavements, accommodations for public utilities, and damages paid to abutting property owners, shall be allocated between the railroad involved, and the governmental unit or units involved in the same ratio as the net benefit received by such railroad from the project bears to the net benefit accruing to the public using the highway, and in no case shall the net benefit to any railroad or railroads be deemed to be more than ten percent (10%) of the total benefit resulting from the project. The Department of Highways shall be responsible for determining the proportion of the benefits derived by the railroad from the project, and shall fix standards for the determining of said benefits which shall be consistent with the standards adopted for similar purposes by the United States Bureau of Public Roads under the Federal-Aid-Highway Act of 1944. The cost of maintenance of all structures for the elimination of railroad grade crossings, and of installations for the protection of existing grade crossings, constructed or installed under this section, shall be borne by the governmental unit or units constructing them. Before any state funds shall be expended for any project constructed under this section, a contract shall be entered into between the railroad and the governmental unit or units involved setting forth the duties of each as to construction and maintenance of the project.
Ky. Rev. Stat. Ann. § 277.065 (2012)

<u>Louisiana</u>

***§ 33:3701. Railroad crossings; permits; sharing cost**
A. Where the tracks of a railroad cross or limit access to a state highway or a street or alley of a municipality or parish, the governing authority may require that a railroad company notify the governing authority in writing prior to any work being done on the railroad crossing.
B. The governing authority shall have the authority to acquire and construct such public crossings as it deems necessary under its general expropriation authority and may require the railroad to pay one-half of the cost of constructing and maintaining a public crossing or viaduct over their tracks, or of constructing and maintaining a subway under their tracks, the other one-half of the cost of the construction and maintenance to be borne by the municipality or parish. The cost of the construction shall include all expenses incident thereto.
La. Rev. Stat. Ann. § 33:3701 (2012)

***§ 33:3703. Apportionment between railroads crossing street**
If there are more than one railroad crossing the street or alley or limiting access to a state highway, the one-half of the cost not paid by the municipality or parish shall be apportioned between or among the railroads according to the number of tracks of each railroad crossing the street or alley.
La. Rev. Stat. Ann. § 33:3703 (2012)

***§ 33:3705. Railroads required to maintain lights at crossings**

A. Municipalities or parishes which have their streets lighted may require railroad companies to maintain lights at the intersections of their tracks within the limits of the municipality or parish, similar to and of equal power as those in use for the lighting of the streets.
B. Any railroad company affected by the exercise of the power conferred by this Section may appeal to the courts to test the necessity for and the reasonableness of any ordinance passed under the authority of this Section.
La. Rev. Stat. Ann. § 33:3705 (2012)

§ 48:386. Repairs to railway grade crossings and crossing warning devices; responsibility on railroads
A. Whenever a highway crosses a railroad track at grade, and the grade crossing needs repair and should, in the judgment of the chief engineer or his duly authorized representative, be repaired, and if, after fifteen days' notice in writing, the railroad company whose tracks are crossed thereby fails to repair it, the department may make the repairs and maintain the crossing and charge the expenses thereof to the railroad company.
B. Whenever a warning device located at a railroad crossing needs repair or is not being maintained in compliance with federal guidelines and should, in the judgment of the chief engineer or his duly authorized representative, be repaired or receive maintenance, written notice of the necessity of such repair or maintenance shall be given to the railroad company owning the track at which the device is located. If the railroad does not proceed with the repair or maintenance within thirty days after receipt of the notice, the department may initiate the performance of the repair or maintenance of the warning device and charge the expenses thereof to the railroad company.
La. Rev. Stat. Ann. § 48:386 (2012)

Maine

§ 7202. Location of railroad crossings; expense; appeals
Town ways and highways may be laid out across, over or under any railroad track or through or across any land or right-of-way of any railroad corporation, if the Department of Transportation, after notice and hearing, so determines. The Department of Transportation may refuse its permission or grant permission on terms and conditions as it may prescribe, and the need, if any, for installation, maintenance and operation of signals, gates or other protective measures and may determine whether the expense of building and maintaining so much of the way as is within the limits of the railroad corporation shall be borne by the corporation or by the municipality in which the way is located or by the State, or the Department of Transportation may apportion the expense between the railroad corporation and the municipality or State. The expense of operating and maintaining any protective device shall be borne by the corporation operating the railroad. The expense of installing protective devices at crossings on state and state aid highways shall be apportioned between the railroad corporation and the State as the Department of Transportation shall determine. The expense of installing protective devices at crossings on town ways shall be apportioned between the railroad corporation and the municipality as the department shall determine. The Department of Transportation shall report its determinations and decisions, file the same in its principal office at Augusta and send copies by mail or otherwise to each of the parties subject to the determination, order or decision. Determinations, orders or decisions shall be final and binding on all parties unless an appeal from any determination, order or decision shall be taken to the Superior Court in the county where the crossing is located. The Department of Transportation shall be made a party in the appeal. The appellant shall, within 14 days from

the date of the filing of the determination, order or decision, file in the office of the department its reasons for appeal and shall cause to be served on any other interested parties a copy of the reasons for appeal certified by the department. The presiding Justice shall make an order or decree on the appeal as law and justice may require. An appeal may be taken to the law court as in other actions. The final adjudication shall be recorded as provided in section 7204 and a copy of the final decision sent to the Department of Transportation. Costs may be taxed and allowed to either party at the discretion of the court.
Me. Rev. Stat. Ann. tit. 23, § 7202 (2012)

§ 7203. Maintenance of railroad crossings already laid out
Notwithstanding any section of Part 7, in case of ways already laid out which cross over or under any railroad track or tracks and not at grade, the allocation of the expense of maintaining so much of the way as is within the limits of the railroad shall be determined, de novo, as provided by section 7202, by the Department of Transportation on application to it by any corporation whose track is or tracks are so crossed, or on application by the municipal officers of any town in which the crossing is located, or on application by the Department of Transportation.
23 M.R.S. § 7203 (2012)

§ 7210. Temporary crossings
A railroad company may, for the purpose of accommodating lumbering operations and for the transportation in ordinary vehicles of wood, coal, ice, hay or other commodities, establish and maintain temporary crossings of any railroad operated by it, by agreement with any person who may request the crossing for its purposes. On petition, the Department of Transportation, after notice and hearing, may direct any railroad company to establish and maintain the temporary crossings at places on its line of road as the department deems expedient, and after that the railroad company shall establish the crossings and maintain them in accordance with this section and sections 7211 to 7213.
Whenever, in the opinion of the department, any temporary railroad crossing established under this section is no longer necessary, the department may, on its own motion or on petition of any interested party, after notice and hearing, order the crossing discontinued.
Me. Rev. Stat. Ann. tit. 29, § 7210 (2012)

***§ 7213. Crossings kept open part of year; expense apportioned**

Each temporary crossing shall be kept open only during the time each year as the parties interested in the crossing may agree on, or as the Department of Transportation may specify in cases where the department directs the crossings to be established. When the department directs any temporary crossing to be established, it shall determine who shall bear the expense of establishing and maintaining the crossing and it may, if it sees fit, apportion the expense between the railroad company and the person or persons who have petitioned for the crossing. The expense of the crossing signs and the planking between the rails shall in any event be borne by the railroad company
Me. Rev. Stat. Ann. tit. 23, § 7213 (2012)

***§ 7230. Partial reimbursement of cost**
The State, by or through the Department of Transportation, may reimburse railroad corporations for up to 50% of their annual cost of maintaining public at-grade railroad crossings and crossing protection devices. These crossing protection devices shall include signals, gates, crossbucks and grade separation bridges carrying highways over railroad lines. The actual reimbursement shall

be calculated for each railroad based on the following formula. “Cost” shall include all reimbursable costs incurred by the railroad, as determined by the commissioner, less any payments made to the railroad by any other entities.

For the purpose of this section, public at-grade crossings shall be those crossings determined by the Commissioner of Transportation to be public crossings. Public crossings shall not include crossings on rail lines abandoned, embargoed or listed by the railroad corporation in Category I, Category II or Category III, as defined by the United States Interstate Commerce Commission, on the railroad corporation's most recent system diagram map filed with the United States Interstate Commerce Commission.

The State may provide annually each railroad corporation with a reimbursement payment. For at-grade crossings, the payment must be determined based on each railroad corporation's verified average cost for crossing maintenance multiplied by the number of eligible crossings, with a maximum payment of $ 2,500 per crossing.

Payment to any railroad corporation may be made contingent on the railroad corporation performing specified maintenance on specific crossings or grade separation bridges when, in the judgment of the commissioner, the public welfare or safety requires that the maintenance be performed. If the railroad corporation fails to perform the required maintenance, the department may contract with others for the work or perform the work itself. In either case, reimbursement of the actual costs shall be made to the entity performing the maintenance or causing the maintenance to be performed. The reimbursement payment to each railroad corporation shall be adjusted to reflect the costs of any maintenance performed by others on lines for which the railroad corporation is responsible under this provision. The adjustment shall also reflect an amount to cover the department's administrative costs for arranging the maintenance to be performed.

Each railroad corporation which seeks reimbursement under this section must report annually its actual maintenance costs for the previous calendar year which shall be used to calculate the reimbursement. The department shall establish guidelines to determine allowable maintenance costs.

This annual report shall describe its maintenance program for public grade crossings and highway over railroad grade separation bridges. The report shall include the total actual costs incurred, total quantities of materials used and work hours expended for the previous year. The department may audit records and supporting documentation relating to costs incurred by railroad corporations.

The commissioner shall develop guidelines to require that any railroad corporation, prior to receiving a reimbursement for the maintenance of the line on which an eligible crossing is located shall file an annual plan by December 1st of each calendar year. The plan shall describe the condition of the line, the maintenance to be performed in the year for which reimbursement is sought, the speed at which trains will be allowed to operate over that line, the posted vehicle load limit on grade separation bridges and any other information required by the commissioner. The commissioner may also require as a condition of reimbursement that certain noncrossing maintenance or repairs be performed on the line or that the line be maintained to allow trains to operate at a certain speed, that vehicle load limits on grade separation bridges be maintained or that other measures affecting the safety and maintenance of the track be taken by the railroad corporation.

Me. Rev. Stat. Ann. tit. 23, § 7230 (2012)

§ 7231. Petition; damages; expenses; temporary ways

The municipal officers in instances of town ways crossing or crossed by a railroad, whether the crossing be at grade or otherwise, or any railroad corporation may petition the Department of Transportation alleging that public safety or public convenience either to the traveling public or in the operation of the railroad services requires abolishment of or reconstruction of or alteration of crossings or its approaches; or change in the method of crossing a public way; or the closing of a crossing and the substitution of another; or the removal of obstructions to the sight at the crossing and requesting the situation be remedied. The Department of Transportation shall appoint a time and place for a hearing after notice of not less than 10 days to the petitioners, the railroad corporation, the municipality in which the crossing is situated, the owners or occupants of the land adjoining the crossing or adjoining that part of the way to be changed in grade. After notice and hearing, the Department of Transportation shall make its determination to insure safety or public convenience and by whom the abolishment, reconstruction, alteration, change or removal shall be made. The jurisdiction of the Department of Transportation shall exist whether the change or alterations in the crossing is within or without the limits of a public way. To facilitate the abolishment, reconstruction, alterations, changes or removals, highways and other ways may be raised or lowered or the courses of the same way may be altered to permit a railroad to pass at the side thereof. For the purposes aforesaid land may be taken and damages awarded as provided for laying out highways. The Department of Transportation shall determine how much land may be taken and shall fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of the way.

Appeal from any decision, order or award of the commission may be had as provided in section 7233. The Department of Transportation shall apportion the expenses pertaining thereto and damages as follows: If the way involved is a state highway, 50% to the department and 50% to the railroad corporation; if the way involved is a state aid highway, 50% to the department and the municipality or municipalities in which the way is located, the pro rata share being determined by the percentage of state aid granted on the way involved and 50% to the railroad corporation; if the way involved is a town way, 35% to the State, to be paid out of the General Fund, 15% to the town, or in cases under the last paragraph of this section 15% to the county commissioners of the county in which the way is located and over which the county commissioners have jurisdiction, and 50% to the railroad corporation, provided that the department may vary the aforesaid percentages of expense and damages as it may deem proper after due consideration of the relative benefits to be derived from the abolishment, alteration or reconstruction, and provided that the amount ordered to be paid by the railroad corporation shall not in any event exceed 50% of the expenses and damages. The Department of Transportation may approve agreements made by the railroad corporation and other parties in interest in respect to the work or varying the percentages, provided the amount to be paid by the town shall not exceed the 15% specified unless the town shall vote otherwise, as to any elimination or alteration made under this section, the department may determine what work fairly and properly should be regarded as highway construction.

Notwithstanding the preceding paragraph, the cost of reconstruction of railroad grade separation structures carrying the highway over the railroad, including the alterations to the approaches to said structure, on nonfederal aid state aid highways shall be apportioned as follows: 70% to the Department of Transportation, 10% to the railroad corporation and 20% to the municipality or the county having jurisdiction of the roads in any unorganized township in which said structure

is located, provided that the department may vary the aforesaid percentages of cost as it may deem proper after due consideration of the relative benefits to be derived from the reconstruction.
The Department of Transportation may make an order relative to the maintenance of crossings at grade or otherwise as it may deem necessary, and may determine whether expense shall be borne by the railroad corporation, by the municipality in which any crossing is located or by the State by or through the department; or the department may apportion the expense equitably between the railroad corporation, the municipality and the State by or through the Department of Transportation.
While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the department may order. The Department of Transportation shall not make any order on any petition filed under this section until they are satisfied, by investigation or otherwise, that the financial condition of the corporation operating the railroad in question will enable the corporation to comply with the order, and that the probable benefit to the public will warrant the order and the probable expense resulting from the order, and that the order can be complied with without exceeding the state appropriation available.
The county commissioners shall have the same right of petition under this section, with respect to roads in unorganized places laid out by them under section 4001, as have municipal officers of a municipality under the provisions of this section. In case a petition is filed by them, all parties interested in the subject matter of the petition shall be notified by the Department of Transportation of the filing of the petition and given opportunity to appear and be heard.
Me. Rev. Stat. Ann. tit. 23, § 7231 (2012)

Maryland

§ 8-640. Construction and maintenance of railroad crossings by railroad and Administration.

(a) Duty of railroad. -- At each grade crossing of a highway and a railroad, the railroad shall:
(1) Keep its roadbed and the highway in proper repair so as to provide absolutely safe and easy approach to and crossing of the tracks; or
(2) Subject to approval by the Administration, construct a railroad grade separation.
(b) General powers of Administration. --
(1) The Administration may abandon, relocate, construct, or reconstruct any railroad grade crossing or railroad grade separation that is dangerous or inconvenient for public travel.
(2) If a railroad grade crossing is dangerous or inconvenient for public travel, the Administration may construct a railroad grade separation.
(c) Work to be done by railroad. --
(1) The Administration may require the railroad to do any of the work needed under this section, on the terms and conditions that the Administration specifies.
(2) If the railroad fails to do any work required of it under this section, the Administration may perform the work itself and collect the railroad's share of the cost from the railroad.
Md. Code Ann., Transp. § 8-640 (2012)

§ 8-641. Costs of relocation; damage to adjacent property
(a) Costs of relocation. -- The Administration shall pay the costs of relocation to any public or private utility whose facilities are altered or relocated because of a railroad grade crossing or

railroad grade separation project. The plans for the alteration or relocation shall be approved by the utility.
(b) Damage to adjacent property. -- If the owner of land adjacent to any State highway suffers damages as the result of the elimination of a railroad grade crossing or railroad grade separation from that highway, the owner may sue the Administration and the railroad for these damages.
Md. Code Ann., Transp. § 8-641 (2012)

§ 8-642. Allocation of costs

(a) Between railroads and Administration. -- As to the costs of any railroad grade crossing or railroad grade separation project or maintenance:
(1) 25 percent of these costs shall be paid by the railroads that benefit from the crossing or separation; and
(2) 75 percent of these costs shall be paid by the Administration.
(b) Among railroads. -- If two or more railroads benefit from the crossing or separation, the railroads' 25 percent share shall be apportioned among them as determined by the Administration.
Md. Code Ann., Transp. § 8-642 (2012)

***§ 8-643 Penalties**
(a) In general. -- If any railroad does not comply with an order of the Administration under this part to do work on a railroad grade crossing or railroad grade separation or to pay its share of the costs of any railroad gradecrossing or railroad grade separation project or maintenance, the railroad is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $ 100 for each day that the order is not complied with.
(b) Penalty not exclusive. -- The penalty provided for in this section is in addition to any other remedies available to the Administration.
Md. Code Ann., Transp § 8-643 (2012)

***§ 9-306. Crossings -- Highways**
(c) Closing grade crossings; prohibition against new grade crossings; limitations. --
(1) Except as provided in paragraph (2) of this subsection, whenever a Maryland railroad company constructs an overgrade or undergrade crossing, all grade crossings within 600 yards of the new crossing may be closed by the Maryland railroad company and another crossing may not be opened within 600 yards of the new crossing.
(2) The prohibition against the maintenance and opening of a grade crossing within 600 yards of a newly constructed overgrade or undergrade crossing does not apply:
(i) in a municipal corporation, without the consent of the mayor and council; and
(ii) in an unincorporated area of a county with a population of 2,000 or more people, without the consent of the local governing body.
Md. Code Ann., Pub. Util. Cos. § 9-306(c) (2012 Excerpt from applicable statute published

<u>Massachusetts</u>

§ 1. Repair of Highways, Town Ways and Grade Railroad Crossings; Reimbursement of Towns by State and Federal Governments.
Highways and town ways, including railroad crossings at grade with such highways and town ways, shall be kept in repair at the expense of the town in which they are situated, so that they may be reasonably safe and convenient for travelers, with their horses, teams, vehicles and carriages at all seasons. A city or town shall submit a letter of request for such repair and for

approval by the state department of highways. Upon receipt of such approval, the city or town shall be reimbursed by the commonwealth from monies which may be appropriated therefor by the commonwealth and the federal government to defray expenses of such repairs for safety programming. Such reimbursement will not create liability, of any kind, either civil or criminal on the part of the commonwealth or the federal government.
Mass. Gen. Laws ch. 84, § 1 (2012)

***§ 52. Payment of Cost of Construction and Maintenance of Railroad Crossings.**
All expenses of, and incident to, constructing and maintaining any roadway or parkway crossing a railroad, as provided in the three preceding sections, shall be borne by the commonwealth, and shall be paid out of the funds available for use by the commission for boulevard or reservation purposes, unless otherwise determined by an agreement between the commission and any such railroad corporation.
Mass. Gen. Laws ch. 92, § 52 (2012)

§ 57. Grade Crossings Regulated.
A railway shall not be constructed across the tracks of a railroad nor shall a railroad be constructed across the tracks of a railway at the same level therewith without the consent of the department.
Mass. Gen. Laws ch. 159, § 57 (2012)

***§ 58. Supervision by Department of Crossings.**
In any case in which the consent or approval of the department required by law for any crossing at grade is given, it may, after notice to the parties interested and a hearing, impose conditions, limitations, restrictions and regulations relative to such crossing, its construction and use, and may change and modify them.
Mass. Gen. Laws ch. 159, § 58 (2012)

***§ 59. Alteration of Crossings.**
If a public way and a railroad cross each other, and the board of aldermen of the city or the selectmen of the town where the crossing is situated, or the department of highways, if the crossing and its approaches are in direct continuation of a state highway, or the directors of the railroad corporation, or the directors of a railway company having tracks on said way, deem it necessary for the security or convenience of the public that an alteration not involving the abolition of a crossing at grade should be made in the crossing, the approaches thereto, the location of the railroad or way, or in a bridge at the crossing, they shall apply to the board of county commissioners, or, if the crossing is situated, in whole or in part, in Boston, to the department of telecommunications and energy, which shall, after public notice, hear all parties interested, and, if it decides that such alteration is necessary, shall prescribe the manner and limits within which it shall be made, and shall forthwith certify its decision to the parties and to said department of telecommunications and energy. If a state highway and a railroad cross each other and the department of highways, after public notice and a hearing of all parties interested, decides that it is necessary for the security or convenience of the public that an alteration as aforesaid should be made in the crossing, the approaches thereto, the location of the railroad or way, or in a bridge at the crossing, and if no application under the foregoing provisions of this section relative to said crossing is then pending, said department of highways may order such alteration, prescribing in such order the manner and limits within which such alteration shall be made, and shall forthwith certify its decision to the parties and to said department of telecommunications and energy; provided, that a party aggrieved by a decision or order of said

department of highways hereunder may appeal to the department of telecommunications and energy in the same manner as in the case of an appeal under section one hundred and eleven of chapter one hundred and sixty by a person aggrieved by a decision or order of the county commissioners, and the provisions of sections one hundred and eleven to one hundred and thirteen, inclusive, of said chapter shall apply to appeals hereunder except that for the purposes of this section, reference in said sections one hundred and eleven to one hundred and thirteen, inclusive, to the county commissioners shall refer to the department of highways.

Hearings by the department of highways shall be held in the county where such crossing is situated and a copy of its decision and of the plan of said alteration shall be filed by it in the office of the county commissioners of the said county. This proceeding may include any case where there is need of the rebuilding of a highway bridge or any structural change or renewal in order to strengthen or improve it. If any railway company is authorized to lay and use tracks upon the said way, the said company shall bear such part of the expense of building, rebuilding, changing, renewing, repairing or improving a bridge forming a part of said way, or of altering or improving the approaches thereto, as the commission provided for in sections sixty-one and sixty-two deem just.
Mass. Gen. Laws ch. 159, § 59 (2012)

§ 75. Location and Construction of Railroad -- Establishing Method for Crossing Highways.
No railroad corporation shall purchase or take by eminent domain or enter upon or use, except for making surveys, any land or other property for the construction of its railroad or of any branch or extension thereof until the county commissioners of the county where such land or other property is situated, after hearing the parties, have determined the manner in which the railroad shall cross the highways and other ways within such county, nor until it has obtained from the department the consent required by sections ninety-seven and one hundred and two in all cases in which the county commissioners adjudge that public necessity requires the crossing at the same level; and notice of such hearing shall be given by publication for three successive weeks in one or more newspapers published in such county, the last publication to be at least seven days before the hearing.
Mass. Gen. Laws ch. 160, § 75 (2012)

***§ 75. Damages.**
All damages sustained by any person in his property by the taking of land for or by the alterations of the grade of a public way, or by an abutter thereon by the discontinuance of such public way, to the same extent as damages are recoverable by abutters on ways discontinued by towns, or by the taking of an easement in land adjoining a public way, shall primarily be paid by the city or town, or, in case such public way is a state highway, by the commonwealth; and all damages caused by the taking of land for the railroad or by the change or discontinuance of a private way, or by the taking of an easement in land adjoining a private way or a railroad location shall primarily be paid by the railroad corporation. Any amount paid by way of damages by the commonwealth or the city or town or the railroad corporation primarily liable therefor shall be subject to investigation by the department of highways, unless such settlements are assented to in writing by all parties in the proceeding. If the parties interested cannot agree upon said damages, any party may have the damages determined under chapter seventy-nine. All expense resulting from the necessary relocating or changing of streams and watercourses forming the natural drainage channels of the territory where alterations of grades are authorized,

and of sewers, drains and pipes therein owned and operated by a city or town, shall be primarily paid by said city or town, and shall be a part of the actual cost of the alterations specified in section seventy.
Mass. Gen. Laws ch. 159, § 75 (2012)

***§ 76. Temporary Locations -- Cost of Temporary Tracks Reckoned as Part of Expenses of Alteration of Grade Crossing.**
If such bridge is altered, rebuilt, improved or repaired under sections fifty-nine to sixty-four, inclusive, of chapter one hundred and fifty-nine, the cost of construction of the tracks upon and over such temporary location shall be reckoned as a part of the charges and expenses of the alteration, improvement or repair of the crossing, to be apportioned by the special commission as provided thereunder.
Mass. Gen. Laws ch. 161, § 76 (2012)

§ 77. Maintenance of Crossing and Approaches.
After the completion of the work, the expense of maintenance and repair shall be paid as follows: if the public way crosses the railroad by an overhead bridge, the superstructure and subflooring of the bridge and its abutments or other supports shall be maintained and kept in repair by the railroad corporation, but the approaches of the bridge and the pavement or wearing surface over the subflooring shall be maintained and kept in repair by the city or town where situated, or, in case such public way is a state highway, by the commonwealth; if the public way passes under the railroad, the bridge and its abutments or supports shall be maintained and kept in repair by the railroad corporation, and the public way and its approaches shall be maintained and kept in repair by the city or town where situated, or, in case such public way is a state highway, by the commonwealth; if several railroads cross a public way at or near a given point, the department of highways shall apportion and award in what manner and proportion each of said railroad corporations shall maintain and keep in repair the superstructure and subflooring of the bridge and its abutments or supports if the public way crosses the railroad by an overhead bridge, and the bridge and its abutments or supports if the public way passes under said railroads.
Mass. Gen. Laws ch. 159, § 77 (2012)

***§ 80. Proceedings upon Agreement as to Alterations.**
If the board of aldermen of a city or the selectmen of a town where a public way and a railroad cross each other and the directors of the railroad corporation deem it necessary for the security and convenience of the public that alteration should be made in such crossing, in the approaches thereto, in the location of the railroad or public way or in the grades thereof, or in a bridge at such crossing, or that such crossing should be discontinued with or without building a new way in substitution therefor, and they agree as to the alterations to be made, a written instrument signed, in behalf of a city, by the mayor, authorized by the board of aldermen, or in behalf of a town, by the chairman of the selectmen, authorized by vote of the town, and by the president of the railroad corporation, authorized by its directors, specifying the manner and limits within which the alterations shall be made, and by which party the work shall be done, or how it shall be apportioned between the city or town and the railroad corporation, the general method of construction, the grades for the railroad and the public way, and also what land or other property it is necessary to take, and what portion, if any, of an existing public way is to be discontinued, and how the cost thereof shall be apportioned between the city or town and the railroad corporation, shall be valid and binding on the city or town and the railroad corporation, respectively, and have the same force and effect as an order of the department of highways under section seventy, if the department of telecommunications and energy, after notice to all parties

interested by advertisement and a public hearing, approves of the alterations set forth in the agreement as necessary for the convenience and security of the public; provided, that the department of highways, acting on behalf of the commonwealth, may, if in its judgment it seems advisable, join in such an agreement to abolish any grade crossing, thereby engaging the commonwealth to pay to the parties entitled thereto under the agreement, such amount as said department deems just, and such an agreement in which the commonwealth so joins shall be valid and binding on the commonwealth as well as the other parties thereto, and shall have the same force and effect as an order of said department under said section seventy, after approval as aforesaid by the department of telecommunications and energy. Said agreement, when approved by the department of telecommunications and energy and filed in its office, shall establish the locations as thus altered, and if it is necessary to take land or an easement therein to provide such new locations, the department of highways, in case of the abolition of a grade crossing to the cost of which the commonwealth is to contribute, otherwise the department of telecommunications and energy, shall take the same by eminent domain on behalf of the commonwealth, of the city or town, and of the railroad corporation, respectively, under chapter seventy-nine. Except as otherwise provided in this section, so much of section seventy-four as relates to the taking of land, and so much of section seventy-five as relates to the right of any person to recover damages sustained in consequence of such taking or of the alterations made in pursuance of said order shall apply to the taking of land and to damages sustained under an agreement made pursuant to this section. The crossing and approaches shall be maintained and kept in repair as provided in section seventy-seven, unless the parties agree otherwise. If the agreement provides for the abolition of a grade crossing to the cost of which the commonwealth is to contribute, the department of highways shall keep itself informed of the progress and character of the work and of the amounts reasonably expended for work done or for damages, so far as rendered necessary for the abolition of the grade crossing; and for that purpose it may employ any necessary agents, and, from time to time, as it may consider proper, shall issue certified statements of the amount legally and properly expended for such abolition of a grade crossing. A street railway company or county or other party which would be affected by the alteration of a crossing as aforesaid may join in any agreement under this section.
Mass. Gen. Laws ch. 159, § 80 (2012)

§ 97. Crossings -- Railroad Crossing a Highway Not to Obstruct the Same.
A railroad laid out across a public way shall be so constructed as not to obstruct the same; and, unless the county commissioners and the department authorize a crossing at the same level as provided in section one hundred and two, it shall be constructed so as to pass either over or under the way, as prescribed in the following section, and conformably to any decree which may be made by the county commissioners under section one hundred.
Mass. Gen. Laws ch. 160, § 97 (2012)

§ 100. Crossings -- Highway May Be Raised or Lowered under Direction of County Commissioners.
A railroad corporation may raise or lower a public way to permit its railroad to pass over or under the same; but before proceeding to cross or to alter or excavate for the purpose of crossing the way, it shall obtain from the county commissioners a decree prescribing what alterations may be made in the way, and what structures erected at the crossing, and the manner and time of making or erecting the same; and before entering upon, excavating or altering the way, it shall give to the city or town where the crossing is situated security, satisfactory to the commissioners,

that it will faithfully comply with the requirements of the decree to their acceptance, and will indemnify the city or town against all damages and charges by reason of a failure so to do.

If, upon the petition of the board of aldermen or selectmen, it appears that such corporation has excavated or altered a public way without obtaining the decree and giving the security required by this section, or has neglected for fifteen days to give security as required by section one hundred and six, the supreme judicial court may enjoin it from entering upon, altering, excavating or crossing the way until such decree has been obtained or such security given.
Mass. Gen. Laws ch. 160, § 100 (2012)

§ 101. Crossings -- Course of Highway May Be Altered.
A railroad corporation may alter the course of a public way to facilitate the crossing thereof by its railroad or to permit its railroad to pass at the side thereof without crossing, if, after notice to the city or town where the way is situated, and a hearing, the county commissioners decide that such alteration will not essentially injure the way, and make a decree prescribing the time and manner of such alteration. If it is necessary to take land for such alteration, the county commissioners shall take the same by eminent domain under chapter seventy-nine on behalf of the county, city or town having jurisdiction over the alteration of such way, and before entering upon, excavating or altering such way the corporation shall give to such county, city or town security satisfactory to the commissioners that it will indemnify such county, city or town for all damages and charges which it is obliged to pay by reason of such taking.
Mass. Gen. Laws ch. 160, § 101 (2012)

***§ 102. Crossings -- Crossing Public Way at Level.**
If a railroad is laid out across a public way, the county commissioners, or the department of highways in the case of a state highway, upon the application of the railroad corporation, or of the board of aldermen of the city or selectmen of the town where the crossing is situated, after notice to all persons interested and a hearing, may adjudge that public necessity requires the crossing at the same level, and may, if the department also consents in writing to such crossing at the same level, make a decree specially to authorize and require the corporation so to construct its railroad, in such manner as shall be prescribed in the decree, and the commissioners, or the department of public works in the case of a state highway, may modify such decree or may revoke it at any time before the construction of the railroad at such crossing.
Mass. Gen. Laws ch. 160, § 102 (2012)

***§ 103. Crossings -- Rails to Be Protected at Highway Crossing.**
A railroad corporation whose railroad is crossed by a public way at the same level shall, at its own expense, so guard or protect its rails by plank, timber or otherwise as to secure a safe and easy passage across its railroad; and if, in the opinion of the county commissioners, any subsequent alteration of the highway or other way or additional safeguards are required at the crossing, they may make a decree ordering the corporation to establish the same as provided in section one hundred.
Mass. Gen. Laws ch. 160, § 103 (2012)

§ 104. Crossings -- When Highway May Be Laid Out Across a Railroad.
A public way may be laid out across a railroad previously constructed, if the county commissioners, or the department of highways in the case of a state highway, adjudge that public necessity and convenience so require; and in such case, after notice to the railroad corporation and a hearing of all parties interested, said commissioners or division, or a city or town by

authority of the county commissioners granted upon petition of its board of aldermen or selectmen, may thus lay out a way across a railroad, in such manner as not to injure or obstruct the railroad, and otherwise in conformity with sections ninety-seven and ninety-eight. A public way shall not be permitted to cross at a level with the railroad unless it is determined by the department of highways, in the case of a state highway, or the county commissioners, in the case of any other public way, after notice to all persons interested and a hearing, that public necessity so requires, and the department of telecommunications and energy consents thereto in writing. If it is necessary in the laying out, construction or alteration of a state highway across a railroad to alter or relocate the railroad, the department of highways may take by eminent domain under chapter seventy-nine, on behalf of the railroad corporation, land or rights in land necessary for such alteration or relocation with the written approval of the department of telecommunications and energy. Charges and expenses for such alteration or relocation shall be paid by the department of highways. A copy of the proceedings of the department of highways in laying out a state highway under this section, including a copy of the plan of so much of said way as lies within the location of the railroad, shall be filed in the office of the county commissioners of the county where such way is located.
Mass. Gen. Laws ch. 160, § 104 (2012)

***§ 106. Crossings -- Obstructions and Repairs at Crossings; Commission.**
If, upon application to the county commissioners by the board of aldermen or selectmen, and after notice to the corporation which owns or operates a railroad, and a hearing, it appears that the railroad so crosses a public way other than a state highway as to obstruct it, contrary to section ninety-seven, or to a decree made under section one hundred, or that the corporation refuses or neglects to keep a bridge or other structure required or necessary at such crossing in proper repair, the county commissioners may make a decree prescribing what repairs shall be made by the corporation at the crossing, and the time within which they shall be made. A commission of three disinterested persons, appointed as provided in section sixty-two of chapter one hundred and fifty-nine, shall determine which party shall carry such decision into effect and which party shall pay the charges and expenses of making such repairs and the future charges for keeping such bridge or crossing and the approaches thereto in repair, as well as the costs of the application to the county commissioners, or the department, and of the hearing before said commission; and it may apportion all such charges, expenses and costs between the railroad corporation, the railway company having tracks on said way, and the counties, cities or towns where said crossing is situated and other cities and towns which may be specially benefited; provided, that the parties in interest may waive the appointment of the commission and determine the foregoing by written agreement to be filed in the proceeding. If a railway company is authorized to lay and use tracks upon any bridge in a highway built, repaired or altered as above provided for, or the approaches to which are altered or improved as above provided for, the said commission shall determine what part of the charges and expenses of making such changes or improvements, or of keeping such bridge or crossing and approaches in good condition, shall be paid by said railway company. They may further order the corporation to give security, as provided in section one hundred, for the faithful performance of the requirements of the decree and for the indemnity of the city or town upon a failure in such performance.
Mass. Gen. Laws. 160, § 106 (2012)

<u>Michigan</u>

***§ 247.661. State trunk line fund; separate fund; appropriation; purposes; order of priority; expenditures; deductions; borrowing by county road commissions, cities, and villages; etc…**

Sec. 11. (1) A fund to be known as the state trunk line fund is established and shall be set up and maintained in the state treasury as a separate fund. The money deposited in the state trunk line fund is appropriated to the state transportation department for the following purposes in the following order of priority:

(c) For the transfer of funds appropriated pursuant to section 10(1)(a) to the railroad grade crossing account in the state trunk line fund for expenditure for rail grade crossing improvement purposes at rail grade crossings on public roads and streets under the jurisdiction of the state, counties, cities, or villages. Projects shall be selected for funding in accordance with the following:

(i) Not more than 50% or less than 30% of these funds and matched federal funds shall be expended for state trunk line projects.

(ii) In prioritizing projects for these funds, in whole or in part, the department shall consider train and vehicular traffic volumes, accident history, traffic control device improvement needs, and the availability of funding.

(iii) Consistent with the other requirements for these funds, the first priority for funds deposited pursuant to this subdivision for rail grade crossing improvements and retirement shall be to match federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs if a match is required under federal law.

(iv) If the department and the road authority with jurisdiction over the crossing formally agree that the grade crossing should be eliminated by permanent closing of the public road or street, the physical removal of the crossing, roadway within railroad rights of way and street termination treatment will be negotiated between the road authority and railroad company. The funds provided to the road authority as a result of the crossing closure will be credited to its account representing the same road or street system on which the crossing is located and shall be used for any transportation purpose within that road authority's jurisdiction.

(g) The state transportation department may enter into agreements with county road commissions and with cities and villages to perform work on a highway, road, or street. The agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work, by purchase or condemnation by any of the contracting parties in its own name, and for joint participation in the costs, but only to the extent that the contracting parties are otherwise authorized by law to expend money on the highways, roads, or streets. The state transportation department also may contract with a county road commission, city, and village to advance money to a county road commission, city, and village to pay their costs of improving railroad grade crossings on the terms and conditions agreed to in the contract. A contract may be executed before or after the state transportation commission borrows money for the purpose of advancing money to a county road commission, city, or village, but the contract shall be executed before the advancement of any money to a county road commission, city, or village by the state transportation commission, and shall provide for the full reimbursement of any advancement by a county road commission, city, or village to the state transportation department, with interest, within 15 years after advancement, from any available revenue sources of the county road commission, city, or village or, if provided in the contract, by deduction from the

periodic disbursements of any money returned by the state to the county road commission, city, or village.
(14) As used in this section, “rail grade crossing improvement purposes” means 1 or more of the following:
(a) The installation and modernization of active and passive warning devices at railroad grade crossings.
(b) The installation or improvement of grade crossing surfaces.
(c) Modification, relocation, or modernization of railroad grade crossing active and passive warning devices necessitated by roadway improvement projects.
(d) Test installations of innovative warning devices or other innovative applications.
(e) Construction of new grade separations.
(f) A cash incentive payment made pursuant to subsection (1)(c)(iv) for any public road or street crossing, in an amount no greater than the cost of installing flashing light signals and half roadway gates at the crossing.
(g) Any other work that would be eligible for funding under the federal railroad-highway grade crossing improvement program or other comparable programs.
Mich. Comp. Laws Serv. § 247.661(1-c,g)(14) (2012) Excerpt from applicable statute published.

§ 462.301. Grade crossings; diagnostic study team review; notice; decision; order; consensus during review not reached; cost of necessary changes; funding sources; administration and expenditure of funds; notice of corrective action.
Sec. 301. (1) The department, upon request of any interested party or by its own interest, may when it considers necessary assess the physical condition and safety needs of grade crossings of railroad tracks with public streets and highways or with a nonmotorized trail by scheduling a diagnostic study team review at the grade crossing or group of grade crossings. Written notice shall be given to all parties 15 days before the review. Each affected organization shall be represented by a knowledgeable individual prepared to contribute information requested in the notice and empowered to make decisions on behalf of that party. A decision by a diagnostic study team 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. The department shall issue an order confirming the agreements reached, in writing, to all parties.
(2) If consensus cannot be reached during the diagnostic study team review, the department, by order to the affected parties, shall require such adjustments or improvements, relocations, closures, or other changes as may be reasonably required in the interest of public welfare and safety. The railroad or railroads having responsibility for the track or tracks in the grade crossing, and the road authority having jurisdiction of the streets or highways shall be given due notice and have the right to a hearing.
(3) The cost of an adjustment or improvement, relocation, closure, grade separation, or other change determined necessary by a department order shall be funded as provided in this act. Items of work which would usually be at the expense of the railroad or road authority may be funded from the following sources if the work is eligible for such funding and if the funds are available:
(a) First, from federal funds obtained through the federal aid railroad-highway grade crossing improvement program.

(b) Second, from state funds obtained through the railroad grade crossing account of the state trunk line fund.

(4) The department shall administer these funds in an efficient and equitable manner by establishing an annual prioritization of grade crossing safety improvements. Items of work determined to be routine maintenance items shall not be eligible for funding from these funding sources. The department may, at its own discretion, approve or disapprove the use of these funds for items of grade crossing surface and roadway approach work. Federal funds obtained for high speed rail corridor grade crossing improvements, needed to accommodate trains at speeds exceeding 79 miles per hour, shall be expended prior to the use of those federal and state funds of the type referenced in subsection (3)(a) and (b) on a high speed rail corridor. No federal or state funds of the type referenced in subsection (3)(a) and (b) shall be expended for construction of grade separations on federally designated high speed rail corridors.

(5) The department may, through routine inspections, periodically serve notice to affected parties, that existing devices and conditions exist at public grade crossings need corrective action. The railroads or road authorities, or both, shall, at their cost and according to their respective responsibility, expeditiously correct the deficiency and advise the department in writing when the work is completed.

Mich. Comp. Laws Serv. § 462.301 (2012)

§ 462.305. Order of department.

Sec. 305. An order of the department need not specify the details of the construction, repair, or reconstruction of a physical grade crossing unless the circumstances surrounding a particular grade crossing so require. An order of the department shall take into consideration time required for design, acquisition of materials, and construction time, including seasonal difficulties, and the volume of similar projects pending.

Mich. Comp. Laws Serv.§ 462.305 (2012)

§ 462.307. Construction; approval required; investigation of proposed crossing location; changing location or abolishing existing public grade crossing;etc…

Sec. 307. (1) A new public street, highway, or a new nonmotorized trail shall not be constructed across the tracks of any railroad, or the new tracks of any railroad shall not be constructed across a public street, highway, or nonmotorized trail until approval is granted by the department. Upon application, the department shall investigate the location of the proposed crossing.

(2) The department, when it determines necessary for the safety of the public, may change the location of or abolish any existing public grade crossing after not less than 30 days' notice in the area affected by the crossing. A public hearing shall be held by the department if requested by any affected party. Within 30 days after the date of the hearing, the department may issue an order to close the existing grade crossing. Any person, local unit of government, or road authority having an interest in the abolishment of an existing grade crossing, within 30 days after the closure order of the department, may commence an action in the circuit court for the county of Ingham against the department as defendant to vacate or set aside the order.

(3) Commencing with the date of the federal designation of a high-speed rail corridor, a public or private at-grade street or highway or a farm, bicycle, or pedestrian crossing shall not be constructed across the railroad tracks of that corridor except for a crossing consolidation or relocation approved by the department.

(4) If the location of a proposed crossing is found to be necessary, feasible, and may be made reasonably safe for a crossing at grade, the department shall grant permission for the crossing. The department shall require installation of such traffic control devices as in its judgment may be

appropriate. When a crossing necessitated by a new roadway across an existing track is permitted, the department shall simultaneously, after investigation and hearing, order the abolishment of 1 or more existing grade crossings having less than 100 vehicles a day within the same road authority jurisdiction, if the involved road authority and railroad may waive hearing thereon.

(5) If the department determines that the proposed location may not be made reasonably safe for a grade crossing, it shall deny permission for the crossing and require the crossing to be redesigned, if constructed at that location, or to be made other than at grade in accordance with section 319. If the department determines that it is impractical to secure a safe crossing at the point in question, either at grade or otherwise, it shall deny the grade crossing.

(6) The full cost of constructing a new street or highway across an existing railroad, or of a new railroad track or tracks across an existing street or highway, shall be borne by the party requesting the crossing. The following shall apply to a new or relocated grade crossing:

(a) The plans for the grade crossing shall be approved by both railroad and road authority. If there is a failure to agree, the department shall settle the points of disagreement by the terms of its order.

(b) The relocation of an existing grade crossing or the establishment of a new grade crossing at which the existing public highway grade crossing is completely abandoned, shall be constructed and the cost borne in the same manner as in the case of a new grade crossing. The maintenance responsibility of the relocated crossing shall be the same as the removed crossing unless otherwise agreed to by the parties.

(c) Temporary grade crossings shall be constructed, maintained, and removed at the sole expense of the parties requesting the same.

(d) The cost of construction shall include the direct construction cost of the roadbed, track structure, grade crossing surface, pavement, traffic control devices and drainage, including all material, labor, and services and other costs of construction.

(e) After construction, the grade crossing and traffic control devices shall be maintained as provided in this act.

(7) Upon approval of any new grade crossing project requested by a road authority, the road authority shall notify the railroad, in writing, to furnish a competent inspector and other necessary persons to inspect the construction of the grade crossing which shall be constructed according to the order of the department. The road authority shall pay to the railroad the actual costs incurred by the railroad for the time actually and necessarily spent in inspecting construction. Upon approval of any new grade crossing project requested by a railroad, the railroad shall notify the road authority, in writing, to furnish a competent inspector and other necessary persons to inspect the construction of the grade crossing which shall be constructed according to the order of the department. The railroad shall pay to the road authority the actual costs incurred by the road authority for the time actually and necessarily spent in inspecting construction.

(8) A road authority may request a railroad or a railroad may request a road authority, in writing, to reconstruct, change, widen, or alter that portion of an existing grade crossing with a public street or highway for which they are responsible to accommodate the requesting party's plans for reconstruction, change, widening, or alteration of their crossing related facility. The requesting party shall notify the other party to conform to the change simultaneously with the requesting party's work. However, if the party requested to make changes refuses, the requesting party may make application to the department for a determination. The department, after due

hearing on the issue, shall determine the matters in dispute by order. The full cost of the reconstructing, change, widening, or alteration shall be borne by the party requesting it, unless otherwise agreed to.

(9) If a track through any grade crossing is abandoned through legal proceedings, the railroad, at its cost as part of routine maintenance, shall remove the tracks and any active traffic control devices and then shall restore the street or highway surface in a manner satisfactory to the road authority. The road authority, at its cost as part of routine maintenance, shall remove all passive traffic control devices. The track and all traffic control devices shall be removed within 1 year of the abandonment. Until such removal is complete, the railroad and road authority shall maintain it in accordance with this act.

(10) If a track through any grade crossing becomes unnecessary for the conduct of railroad services, the railroad, at its cost as part of routine maintenance, shall remove the track and any active traffic control devices and then shall restore the street or highway surface in a manner satisfactory to the road authority. The road authority, at its cost as part of routine maintenance, shall remove all passive traffic control devices. The department may order the railroad to remove the track and any traffic control devices if there is not a likelihood of continued use. Until the track and all traffic control devices are removed, the railroad and road authority shall maintain it in accordance with this act.

Mich. Comp. Laws Serv. § 462.307 (2012)

§ 462.319. New construction, partial reconstruction, alteration, or removal of grade separation.

Sec. 319. (1) The construction of a new highway/railroad grade separation structure or the total reconstruction of an existing grade separation structure shall require a written agreement between all affected railroads, the road authority, and any other parties required by law to participate in the construction or funding of the grade separation. As a minimum, the written agreement shall include the following:

(a) A detailed statement of the work to be performed by each party.

(b) Methods of payment.

(c) A description of any work to be performed by the affected parties at no cost to the project.

(d) Each party's share of the project cost.

(e) An itemized estimate of the cost of work to be performed by the railroad.

(f) Methods to be used for performing the work, including contract and force account work.

(g) Maintenance responsibilities.

(h) Form, duration, and amounts of any needed insurance.

(i) Appropriate reference to or identification of plans and specifications.

(j) Statements defining the conditions under which the railroad will provide or require protective services during performance of the work, the type of protective services, and the method of reimbursement to the railroad.

(k) Required minimum horizontal and vertical clearances for each track and roadway passing over or under the separation.

(l) A clause providing transfer of responsibilities to successive parties in the event of the change of ownership or jurisdiction of the railroad or highway.

(m) The parties responsible to expeditiously remove the grade separation structure and cost responsibility if the grade separation is no longer needed.

Each party signing the agreement shall receive an executed copy of the agreement and shall retain the agreement or a facsimile of the agreement for the life of the structure. If the roadway

or railroad changes jurisdiction or ownership, the copy of the agreement shall be provided to the new affected party.
(2) The partial reconstruction of an existing highway/railroad grade separation, the alteration of an existing grade separation for increased railroad or highway facilities, or the removal of an existing grade separation shall be accomplished under the terms and conditions of the existing agreement or agreements covering the existing grade separation. If no agreement exists for the separation or if the existing agreement does not adequately address the proposed work, a new written agreement meeting the requirements of subsection (1) shall be executed before commencement of the work.
(3) For new construction, partial reconstruction, alteration, or removal of a grade separation, as provided for in subsections (1) and (2), where the affected parties cannot come to agreement, either the railroad or road authority may request, in writing, the department to order the construction, reconstruction, alteration, or removal of a grade separation. A request by a railroad or road authority shall include proposed profiles, plans, maps, and specifications showing the portions of the street or highway and the railroad or railroads, for which the grade is to be changed or modified and the details of construction necessary for the improvements.
(4) The department shall set a day for a hearing on the request and give written notice, together with a copy of the request, to all known interested parties in the proceeding at least 10 days before the day set for the hearing, and on the day set for hearing, or at any adjournment or continuance of the hearing, the parties in interest shall be entitled to be heard. The department may issue summonses or subpoenas to enforce the attendance of witnesses at the hearing and may make such examination of the location of the grade separation as it considers necessary.
(5) If after the hearing the department finds that the separation of grades, the reconstruction of existing grade separations, or the alteration of existing grade separations for increased highway or railroad facilities is necessary for the public convenience, welfare, and safety, it may by proper order approve the separation of grades, the reconstruction of existing grade separations, or the alteration of existing grade separations for increased highway or railroad facilities, together with the profiles, plans, maps, and specifications to govern the work. If it finds that there is no such necessity, it may by proper order deny the request. The department, if in its judgment finds it is necessary for the public convenience, welfare, and safety, may change or alter the location of a grade separation. When existing grade crossings of any streets or highways with the railroad are near an involved grade separation, plans for which are approved pursuant to this act, and are situated within a reasonable distance of the site approved for grade separation, and when it is considered practical and reasonable to abolish any of such crossings by connecting the streets or highways to the highway directly served by the approved grade separation project, the department may order such crossings closed, may specify or approve the nature of connections to the highways interrupted by closing these crossings, and may require that the work be included as a part of the grade separation project. Profiles, plans, maps, and specifications for structures and railroad and highway approaches shall be prepared, unless otherwise agreed upon, by the party whose traffic is to be carried thereon, and likewise, unless otherwise agreed upon, the work of construction shall be performed by the party whose traffic is to be carried by such construction. However, if the profiles, plans, maps, and specifications of any party or parties have not been agreed to in writing by the other parties interested in the improvement before the day set for hearing on the application before the department, the department shall in its order prescribe the manner in which the separation of grades, the reconstruction of existing grade separations, or the alternation of existing grade separations shall be affected, fix and approve the

profiles, plans, maps, and specifications, and in this behalf may approve in whole or in part, modify, or alter the plans submitted by the applicant.
(6) Unless otherwise agreed upon, the cost of constructing and making separation of grades, the reconstruction of existing grade separations, or the alteration of existing grade separations for increased highway or railroad facilities, computed as provided in this act, shall be borne according to the benefits received, except that projects requested by the road authority shall not exceed 15% by the affected railroad with the balance paid by the road authority, and projects requested by the railroad shall not exceed 15% by the affected road authority with the balance paid by the railroad. If there is more than 1 affected railroad, and the railroads do not agree on the division of the amount to be borne by each, then the division shall be made by the order of the department. If the amount to be borne by more than 1 road authority is not agreed upon, the division of the amount to be borne by them shall be made by the order of the department.
(7) Unless otherwise agreed upon, the department shall determine the parts or sections of a grade separation undertaking that shall be maintained by the railroad and the part or sections that shall be maintained by the road authority. Unless there are special conditions which complicate a direct allotment of the division of maintenance responsibilities, the maintenance of the structure and approaches and corresponding items of work shall be performed and the cost shall be borne entirely by the party whose traffic is carried thereon. The railroad shall repair or replace, at its own expense, any portions that may be damaged or destroyed by accident or otherwise arising from railroad traffic, and the road authority will repair or replace, at its own expense, any portions that may be damaged or destroyed by highway traffic.
(8) In computing the costs of an improvement, abuttal damages, property acquisition costs, engineering costs, all the other costs of construction, both temporary and permanent, including railroad and highway approaches to the structure incident to the separation of grades, reconstruction of existing grade separations, and the alteration of existing grade separations for increased highway or railroad facilities as set forth in the profiles, plans, maps, and specifications approved by the department may be considered. Additional property acquired or to be acquired for economizing the cost of the improvement and necessary to the grade separation structure and immediate approaches for preserving the existing railroad or highway may be considered a construction cost and included in the cost of the improvement.
Mich. Comp Laws Serv. § 462.319 (2012)

§ 462.321. Acquisition of property rights by condemnation.
Sec. 321. If a railroad and road authority enter into an agreement or if the department orders or otherwise authorizes the construction, relocation, or improvement of a railroad crossing at grade, the construction of a grade separation structure, the reconstruction of an existing grade separation, the alteration of existing grade separations for increased highway or railroad facilities, or the establishment of a clear vision area, the right-of-way and other property rights necessary for the project, unless otherwise agreed upon, shall be acquired by condemnation in the same manner as property is acquired for other highway purposes.
Mich. Comp Laws Serv. § 462.321 (2012)

<u>Minnesota</u>

161.20 GENERAL POWERS OF COMMISSIONER
Subdivision 1. Provisions of Constitution. --The commissioner shall carry out the provisions of article 14, section 2, of the Constitution of the state of Minnesota.
Subd. 2. Property acquisition; agreements and contracts.

(a) The commissioner is authorized:
(4) to contract on an equitable basis with railroad companies for the installation and reinstallation of safety devices at trunk highway-railroad grade crossings, and for the construction, reconstruction, and maintenance of bridges and approaches existing or necessary for the separation of grades at railroad and trunk highway intersections; and
(5) in carrying out duties, to let all necessary contracts in the manner prescribed by law.
(b) The commissioner may make agreements with and cooperate with any governmental authority for the purpose of effectuating the provisions of this chapter.
Minn. Stat. § 161.20 (2012) Excerpt from applicable statute published.

***219.071 MAINTENANCE OF GRADE-CROSSING SURFACES**

Subdivision 1. Standards. --It is the primary responsibility of the owner or lessee of railroad track to keep grade-crossing surfaces over public highways safe and passable for vehicular traffic in a manner consistent with appropriate federal track safety standards. The surfaces must extend the full width of the public highway within the railroad track structure.
Subd. 2. Payment of costs. --If a grade-crossing surface, as defined in section 219.16, needs improvement, repair, or maintenance, the cost for the improvement, repair, or maintenance may be paid jointly by the owner or lessee of the track, the road authority having jurisdiction over the public highway involved and funds available to the department for grade-crossing surfaces from the following sources:
(1) money appropriated to the department in the future for the purposes of this section;
(2) available federal funds allocated for the grade-crossing program established by this section; and
(3) money acquired by the department by gift, grant, or contribution from any source for purposes of this section.
Subd. 3. Cost allocation agreement. --If the owner or lessee of the railroad track and the road authority having jurisdiction over the public highway involved agree upon the allocation of the cost of repair or maintenance of the grade-crossing surface, a copy of the agreement must be filed with the commissioner. If the parties to the negotiations contemplate using funds described in subdivision 2, either party shall notify the commissioner before the conclusion of negotiations and the department may participate in the negotiations and may be a party to the agreement and participate in the costs incurred subsequent to agreement.
Subd. 4. Commissioner determination.
(a) If the owner or lessee of the railroad track and the road authority having jurisdiction over the public highway at the grade crossing cannot reach an agreement under subdivision 3 regarding repair or maintenance of a grade-crossing surface, either party may invoke the jurisdiction of the department by (1) filing with the commissioner a statement setting forth the status of negotiations and (2) requesting the commissioner to make a final determination of the dispute.
(b) The commissioner, after notifying in writing the parties involved in the negotiations and providing an opportunity for the parties to participate in a conference, may order the repair or maintenance of the grade-crossing surface within a reasonable time as needed to comply with the standards set forth in subdivision 1.
(c) The order of the commissioner, in addition to enforcing the responsibility of the owner or lessee of the railroad track in question, may provide for participation in the costs of the project (1) by the road authority, (2) from the funds available to the department in subdivision 2, or (3) through other formulas as may be practical and reasonable under the circumstances.

(d) A party failing to comply with an order of the commissioner is subject to a penalty of $ 50 for each day of noncompliance, to be recovered for the state in a civil action instituted by the department. Each day of noncompliance constitutes a separate offense.
Subd. 5. Appeal. --A party subject to an order issued under subdivision 4 may appeal the order of the commissioner to the district court of the county in which the grade crossing is located. In case of appeal, the same proceedings must be conducted as are now provided by law for an appeal from orders of the commissioner. Orders of the commissioner must be enforced by the attorney general.
Minn. Stat. § 219.071 (2012)

***219.08 CROSSINGS; CHANGING GRADE OF APPROACHES**
When a railroad company changes or raises the grade of its tracks at a crossing, it shall also grade the approaches on each side so as to make the approach and crossing of the tracks safe for vehicles.
Minn. Stat. § 219.08 (2012)

219.09 MULTIPLE TRACKS ACROSS ROAD; RAILROAD DUTY
When a railroad company has more than one track crossing a highway, it is unlawful to raise or maintain one track at a higher grade than the other tracks; and the company shall raise or lower such tracks to about the same level so as not to endanger the safe passage of teams and other vehicles over the tracks at those crossings.
Minn. Stat. § 219.09 (2012)

219.10 PENALTY FOR VIOLATION
Subdivision 1. Noncompliance, penalty. --A railroad company who refuses or neglects to comply with sections 219.08 and 219.09 within 30 days after being notified in writing to comply by a road authority is guilty of a violation of sections 219.08 and 219.09 and subject to a fine of $ 50 for each day that the crossing is left unsafe. Each day of violation constitutes a separate offense.
Subd. 2. Duty of county attorney. --A county attorney may institute court proceedings to collect fines, costs and disbursements on the part of the road authority making the complaint, and $ 100 attorney's fees for each prosecution.
Minn. Stat. § 219.10 (2012)

219.14 RAILROAD CROSSING PROTECTED
Subdivision 1. Investigation. --The commissioner of transportation on the commissioner's own motion may investigate and determine 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 commissioner may order the crossing protected in any manner the commissioner finds reasonable and proper, including requiring the company to separate the grades.
Subd. 2. Hearing. --The commissioner shall give the interested railroad company and road authority notice of the investigation as the commissioner deems reasonable, and an opportunity to be heard before an order is made.
Minn. Stat. § 219.14 (2012)

219.39 DANGEROUS CROSSING; COMPLAINT, HEARING
Upon written complaint authorized by the governing body of a city or county, by the board of supervisors of a town, or by authorized officers of a subject railroad, alleging that a railroad crossing a street, road, or highway in the city, town, or county is dangerous to life and property,

and giving the reasons for the allegations, the commissioner shall investigate the matters contained in the complaint and, when necessary, initiate a hearing.
Minn. Stat. § 219.39 (2012)

***219.40 DANGEROUS CROSSING DETERMINATION PROCEDURES AND REMEDIES**

Subdivision 1. Commissioner determination.
(a) If a complaint is made under section 219.39, the commissioner of transportation shall determine, after investigation by the commissioner or after hearing, whether the crossing is hazardous and may require the railroad company to (1) provide flaggers at the crossing, (2) adopt safety devices as the commissioner deems necessary to protect the crossing properly, (3) remove any structure, embankment, or other obstruction to the view, (4) close the crossing complained of or other crossing in the vicinity, or (5) construct an overhead or maintain an underground crossing and divide the cost between the railroad company, the town, county, municipal corporation, or state Transportation Department interested, on terms and conditions as may seem just and equitable.
(b) The commissioner may require the complaining city, town, or county to remove an embankment, structure, or other obstruction to the view as may be reasonable and necessary to properly protect the crossing.
Subd. 2. Hearing. --If the complainant road authority or the railroad files exceptions to an order of the commissioner made under this section without a hearing, the commissioner shall convene a hearing on the original complaint.
Subd. 3. Order; costs allocated. --If the commissioner or its designee after notice and hearing orders (1) the installation of a safety device, (2) the construction, reconstruction, modernization, or replacement of major parts, as defined by rule of the commissioner, of the safety devices, gates, or other types of special protection, (3) the removal of a structure, embankment, or other obstruction to the view, or (4) the construction, reconstruction, or maintenance of an underground or overhead crossing on a public road, street, or highway, it may in the same order direct that the costs be divided between the railroad company and the public authority involved as the parties may agree, or, if they fail to agree, then as determined by the commissioner on the basis of benefit to the users of each. However, the commissioner may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken.
Subd. 4. Funds to pay costs.
(a) If a state trunk highway is involved, the state's share of the costs must be paid from funds available to the Department of Transportation.
(b) In all other cases the public's share of the costs must be paid from available funds or from the trunk highway fund, if ordered by the commissioner, or from any combination of these funds or other available funds; provided that a highway, street, or road fund must only be expended for the costs on a highway, street, or road within the political subdivision charged with its maintenance and care and only upon the highways, streets, or roads for which the fund was allocated or created.
Minn. Stat. § 219.40 (2012)

***219.403 APPLICABILITY TO LOCAL LAWS**

Nothing in this section or section 161.20, 219.40, or 219.071 changes existing law relating to the rights and liabilities of a city, town, or county in connection with the construction or maintenance of a railroad crossing, grade separation, or signal system, or impairs the terms or conditions of an existing arrangement or agreement, or renewals of it, between a railroad

company and a municipality for the maintenance of a railroad crossing, grade separation, or signal system.
Minn. Stat. § 219.403 (2012)

219.445 SOUTHERN RAIL CORRIDOR IMPROVEMENT PLAN

Subdivision 1. Corridor development. --The commissioner of transportation shall develop a corridor improvement plan for grade crossings intersecting or crossing the railway right-of-way in the railway corridor that runs east to west across southern Minnesota within all of the counties of Winona, Olmsted, Dodge, Steele, Waseca, Blue Earth, Brown, Redwood, Lyon, and Lincoln.

Subd. 2. Grade crossing recommendations.

(a) The corridor improvement plan must include crossing-by-crossing assessments based on ten-year and 20-year projections of train and vehicle volumes that will identify minimum improvements necessary at crossings with moderate levels of exposure, consistent with rules adopted by the commissioner. The plan must include identification of all crossings that are candidates for grade separations where levels of exposure exceed 300,000, or crossings that meet the criteria identified in the rules adopted by the commissioner. For purposes of this section, “levels of exposure” means average daily vehicle traffic multiplied by the number of trains per day at a crossing.

(b) In cities where the department has identified multiple grade separation candidates, the plan must include a strategy that identifies the appropriate mix of safety improvements at all crossings in the city and that considers optimal locations for grade separations, crossing consolidations, and other grade crossing safety improvements and traffic routing options.

(c) The department shall consider crossings that are candidates for closure, consistent with rules adopted by the commissioner governing the vacating of a grade crossing.

(d) When community plans have been developed by the affected railroad company and local governing bodies, the department shall review the community plans for compliance with the department's minimum criteria for necessary crossing improvements at all public crossings as identified in the commissioner's rules. The agreed-to community plans take precedence over the elements of the corridor improvement plan.

Subd. 3. Local government and railroad participation; federal review.

(a) The commissioner shall provide an opportunity for an affected railroad company or local governing body to participate in developing the corridor improvement plan. The commissioner shall allow an affected local governing body the opportunity to review the corridor improvement plan before executing an agreement for grade crossing improvements in the corridor improvement plan between the department and the railroad company and before forwarding the plan to the federal Surface Transportation Board (STB).

(b) Paragraph (a) does not preclude the department from providing comments or information related to the railway corridor improvement project to the STB or any other governing body related to construction activities or environmental impact statement preparation.

Subd. 4. Final plan; hold harmless.

(a) The final plan must be submitted to any affected area transportation partnership, local unit of government, and railroad company within the corridor area in order to provide future grade crossing safety improvement planning guidance.

(b) Unless otherwise specifically agreed to as part of the plan, the development of a corridor improvement plan does not bind the state or any local government unit to a specific implementation timetable or to funding the cost of proposed recommended safety upgrades.
Minn. Stat. § 219.445 (2012)

***219.1651 GRADE CROSSING SAFETY ACCOUNT**
A Minnesota grade crossing safety account is created in the special revenue fund, consisting of money credited to the account by law. Money in the account is appropriated to the commissioner of transportation for rail-highway grade crossing safety projects on public streets and highways, including engineering costs. Money in the account at the end of each fiscal year cancels to the trunk highway fund.
Minn. Stat. § 219.1651 (2012)

Mississippi

§ 21-37-9. Railroad crossings
The governing authorities of municipalities shall have the power and authority to regulate the crossings of railways, and to provide precautions and prescribe rules regulating the same. Said authorities shall have the power and authority to make any other and further provisions, rules and regulations to prevent accidents at crossings and on the tracks of railroads, and to prevent fires from engines. Said authorities shall have the power and authority to require railroad companies to erect viaducts over or gates across their tracks at the crossing of streets.
Miss. Code Ann. § 21-37-9 (2012)

***§ 65-1-175. Jurisdiction and powers of Department of Transportation with respect to roadway/railway crossings**
(1) The jurisdiction of the Mississippi Department of Transportation shall be exclusive with respect to public roadway/railroad crossings either at grade or otherwise except to the extent that its jurisdiction is preempted by valid federal statute, regulation or order.
(3) The Mississippi Department of Transportation shall have power, upon its own motion, or upon complaint, and after having made proper investigation and after notice and hearing, if requested, to require the installation of adequate and appropriate luminous reflective warning signs, luminous flashing signals,crossing gates illuminated at night, or other warning devices in order to promote the health and safety of the public. Luminous flashing signals or crossing gate devices heretofore installed at grade crossings and those installations hereafter approved by the department shall be deemed adequate and appropriate. The department shall have authority to determine the number, type and location of such signs, signals, gates or other protective devices which shall conform as near as may be with generally recognized national standards, and the department shall have authority to prescribe the division of the cost of the installation and subsequent maintenance of such signs, signals, gates or other warning devices between the rail carrier or carriers, the public highway authority in interest and the Mississippi Department of Transportation. In no event shall any costs assessed against either the public highway authority in interest or the rail carrier exceed ten percent (10%) of the costs of the materials and installation.
(4) Nothing in this section shall be construed as amending, repealing or modifying any duty or responsibility that railroads had, if any, immediately before July 1, 1992, with regard to any applicable state or federal laws, statutes, regulations or orders pertaining to the maintenance of signals, signs and warning devices at roadway/railroad crossings.
Miss. Code Ann. § 65-1-175(1)(3)(4) (2012) Excerpt from applicable statute published

***§ 65-7-121. Abandonment by board of supervisors of any section of county road system; hearing; notice; posting of signs; liability after abandonment; notice to railroad; easements**
(1) The board of supervisors of any county may, upon its own motion or upon the petition of any interested resident of the county, by resolution spread upon its minutes, declare any section of

the county road system abandoned upon its finding that one or more of the following circumstances are applicable to the section in question:
(a) The section does not provide primary access to occupied properties;
(b) Traffic on the section has for a period of at least ten (10) consecutive years been intermittent and of such low volume that no substantial public purpose is being served thereby;
(c) The board of supervisors has, for a period of at least the previous five (5) consecutive years, not maintained such section as part of the county road system; or
(d) For any reason, the public interest or convenience does not require the section to remain open to the public or that it is in the public interest or convenience to close, vacate and abandon the section.
(2) Except as provided in subsection (3) of this section, before any section of the county road system may be abandoned as provided in this section, the board of supervisors shall hold a public hearing on the question of such abandonment and shall publish notice of such hearing at least two (2) times, not less than two (2) weeks prior to the date of the hearing, in a newspaper having general circulation in the county.
(3) [Repealed].
(4) The resolution of the board of supervisors abandoning any section of the county road system will abrogate the easement theretofore owned, held, claimed or used by or on behalf of the general public but will not affect any private easements.
(5) Upon the abandonment of any section of the county road system, the board of supervisors shall post clearly visible signs at any intersection of the abandoned roadway with the county road system indicating that the abandoned section is no longer part of the county road system and is not maintained by the county. Once the required signs are posted, the county shall not be liable for the death of or injury to a vehicle owner, operator or passenger, or for damage to a vehicle or its contents, resulting from a dangerous condition on the abandoned section. If there exists a public railroad grade crossing or railroad bridge on the section of county road so abandoned, the county shall furnish the railroad or individual owning such railroad trackage with a copy of the resolution authorizing the abandonment and thereupon, the railroad company or individual owning such trackage may barricade the crossing or remove the bridge.
(6) From and after July 1, 2000, any proceedings under this section shall be documented in the official record of the county road system in accordance with the requirements of Section 65-7-4.
Miss. Code Ann. § 65-7-121 (2012)

§ 77-9-252. Railroad grade crossings; private entity to pay cost of installation under certain circumstances

(1) Any developer, corporation, individual or other private entity requesting or applying for a new public railroad grade crossing shall be responsible for all costs for installing appropriate warning devices, for installing appropriate crossing surfaces and approaches, for establishing appropriate crossing profiles and for obtaining easements to maintain sight distance as deemed necessary for such crossing by a diagnostic survey team comprised of the Mississippi Department of Transportation Rails Engineer, a representative from the Federal Highway Administration, a representative of the affected railroad company and a representative of the affected local governmental jurisdiction.
(2) When an existing private railroad grade crossing maintained for or by a private party is requested to become a publicly maintained railroad grade crossing, or when an existing private railroad grade crossing maintained for or by a private party is permitted by that party to be used as a public railroad grade crossing, the private party shall be responsible for all costs for

installing warning devices, for replacing or modifying crossing surfaces and approaches as appropriate, for establishing appropriate crossing profiles and for obtaining easements to maintain sight distances as deemed necessary by the diagnostic survey team described in subsection (1) of this section for safety of the traveling public at such crossing before opening such crossing to the public. As used in this section, the term "private railroad grade crossing" means any privately maintained road or street not under the jurisdiction of a public entity that crosses a railroad, and which is permitted by a private railroad company or by other agreement, deed or law to cross its railroad tracks and right-of-way.
(3) Any developer, corporation, individual or other private entity requesting or applying for a new public railroad grade crossing or for conversion of an existing private railroad grade crossing to a public railroad grade crossing, at the time of the request or application, shall notify the local roadway authority and the Mississippi Department of Transportation of such request or application.
Miss. Code Ann. § 77-9-252 (2012)

Missouri

***§ 229.380. Overseer's complaint as to grade crossings**
When any public road in this state shall run across two or more tracks of railroad within two hundred feet of each other, and any road overseer of the road district shall make complaint to the county commission that the difference in grade of such railroad tracks is such as to interfere with the passage of any vehicle on such road, then such county commission shall make an order to the county surveyor to examine such crossings and report his opinion as to any change necessary to be made in any grade, and if he shall be of the opinion that such crossings are such as to interfere with the travel on such road, he shall report the facts to the county commission at any regular or adjourned term thereof, first giving the railroad companies interested notice of the day when he will present such matter to the county commission.
Mo. Rev. Stat. § 229.380 (2012)

§ 389.610. Railroad crossings construction and maintenance, highways and transportation commission to have exclusive power to regulate and provide standards -- apportionment of cost
1. No public road, highway or street shall be constructed across the track of any railroad corporation, nor shall the track of any railroad corporation be constructed across a public road, highway or street, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade nor shall the track of a street railroad corporation be constructed across the tracks of a railroad corporation at grade, without having first secured the permission of the state highways and transportation commission, except that this subsection shall not apply to the replacement of lawfully existing tracks. The commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.
2. Every railroad corporation shall construct and maintain good and sufficient crossings and crosswalks where its railroad crosses public roads, highways, streets or sidewalks now or hereafter to be opened.
3. The state highways and transportation commission shall make and enforce reasonable rules and regulations pertaining to the construction and maintenance of all public grade crossings. These rules and regulations shall establish minimum standards for:
(1) The materials to be used in the crossing surface;

(2) The length and width of the crossing;
(3) The approach grades;
(4) The party or parties responsible for maintenance of the approaches and the crossing surfaces.
4. The state highways and transportation commission shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, apportionment of expenses, use and warning devices of each crossing of a public road, street or highway by a railroad or street railroad, and of one railroad or street railroad by another railroad or street railroad. In order to facilitate such determinations, the state highways and transportation commission may adopt pertinent provisions of The Manual on Uniform Traffic Control Devices for Streets and Highways or other national standards.
5. The state highways and transportation commission shall have the exclusive power to alter or abolish any crossing, at grade or otherwise, of a railroad or street railroad by a public road, highway or street whenever the state highways and transportation commission finds that public necessity will not be adversely affected and public safety will be promoted by so altering or abolishing such crossing, and to require, where, in its judgment it would be practicable, a separation of grades at any crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made. When a road authority lawfully closes or vacates a roadway which provided access to a railroad crossing, the state highways and transportation commission shall issue an order authorizing removal of the crossing by the railroad within thirty days of being notified of such action by the roadway authority or railroad.
6. The state highways and transportation commission shall have the exclusive power to prescribe the proportion in which the expense of the construction, installation, alteration or abolition of such crossings, the separation of grades, and the continued maintenance thereof, shall be divided between the railroad, street railroad, and the state, county, municipality or other public authority in interest.
7. Any agreement entered into after October 13, 1963, between a railroad or street railroad and the state, county, municipality or other public authority in interest, as to the apportionment of any cost mentioned in this section shall be final and binding upon the filing with the state highways and transportation commission of an executed copy of such agreement. If such parties are unable to agree upon the apportionment of the cost, the state highways and transportation commission shall apportion the cost among the parties according to the benefits accruing to each. In determining such benefits, the state highways and transportation commission shall consider all relevant factors including volume, speed and type of vehicular traffic, volume, speed and type of train traffic, and advantages to the public and to such railroad or street railroad resulting from the elimination of delays and the reduction of hazard at the crossing.
9. The exclusive power of the state highways and transportation commission pursuant to this section shall be subject to review, determination, and prescription by the administrative hearing commission, upon application to the administrative hearing commission by any interested party in accordance with section 621.040. Upon filing of an application pursuant to this subsection, the administrative hearing commission is vested with the exclusive power of the state highways and transportation commission otherwise provided in this section, with reference to matters reviewed, determined or prescribed by the administrative hearing commission.
Mo. Rev. Stat. § 389.610 (2012) Excerpt from applicable statute published.

***§ 389.612 Grade crossing safety account created -- fee charged, amount -- who must pay -- purpose and use of fund -- transfer to state road fund, when**

1. The owner of a motor vehicle shall pay a railroad crossing safety fee of twenty-five cents when such person registers or renews the registration of a motor vehicle. All revenue collected by the director of revenue pursuant to this section shall be deposited in the state treasury to the credit of the state highways and transportation department fund in an account to be known as the "Grade Crossing Safety Account", which is hereby created.
2. Funds from the grade crossing safety account shall be used for installation, construction or reconstruction of automatic signals or other safety devices or other safety improvements at crossings of railroads and public roads, streets or highways. That portion of the costs proportioned to the state, county, municipality or other public authority in interest, for installation, construction or reconstruction of automatic signals or other safety devices or other safety improvements at crossings of railroads and public roads, streets or highways which the division of motor carrier and railroad safety orders pursuant to section 389.610 shall be paid out of the grade crossing safety account, except that when any part of such costs can be paid from funds available under any federal program or the Federal-Aid Highway Act such part shall not be paid from the grade crossing safety account. No more than ninety percent of the cost of improving any grade crossing shall be paid out of the grade crossing safety account. The division shall, in cooperation with other governmental agencies of the state, determine if any portion of the cost can be paid from funds available pursuant to any federal program or the Federal-Aid Highway Act. The division may order the payment of the amount determined pursuant to section 389.610 to the person, firm, or corporation entitled thereto from the grade crossing safety account. Notwithstanding any other provision of this section to the contrary, the division of motor carrier and railroad safety within the department of economic development may expend annually out of the grade crossing safety account an amount not greater than one hundred thousand dollars of the total annual receipts deposited in the state treasury to the credit of such account to pay for administrative expenses of the division incurred in carrying out the division's railroad grade crossing closure program. The provisions of this section shall not limit or enlarge the division's expenditures out of the grade crossing safety account for any other purposes or the division's expenditures out of any other account or fund.
3. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the grade crossing safety account shall not be transferred and placed to the credit of the state road fund until the amount in the account at the end of the biennium exceeds two times the amount encumbered from the account to carry out the purposes of this section in the preceding fiscal year. The amount, if any, in the account which shall be transferred to the credit of the state road fund shall be that amount in the account which exceeds two times the amount encumbered from the account to carry out the purposes of this section in the preceding fiscal year.
Mo. Rev. Stat. § 389.612 (2012)

***§ 389.645. Crossing in city, town or village, division may regulate, when**
The division, upon application or complaint by a city, town or village, or upon its own motion, may regulate the crossing within a municipality of a highway, street or roadway with railroad tracks, require precautions, regulate the running, handling and operation of railway engines and cars, govern the speed of railway engines, cars and trains, and make and enforce orders and restrictions to promote public safety and convenience at such crossings and on such railroad tracks.
Mo. Rev. Stat. § 389.645 (2012)

Montana

15-70-102 Allocation of funds -- participation in railroad grade crossing protection
(1) The amount determined necessary may be allocated from the state special revenue fund, highway revenue account, for each fiscal year for expenditures and commitments made for participation by the department of transportation with railroads in construction of railroad grade crossing protection on any public highway or road, except those designated on the interstate, primary, or urban systems within the state. The department of transportation shall select those grade crossings in the state that, in the opinion of the department, are most in need of additional crossing protection and shall finance the cost of the improvements solely from this fund.
(2) Signal protection provided under this section is limited to electric or automatic flashing lights or gates, depending on the amount and nature of the hazards present at the crossing, and participation in construction of the signals must be on the same basis and under the same standards as are applicable and used in connection with protection of grade crossings on federal-aid roads within the state. The account may not be used for protection of grade crossings on the secondary system where the protection is considered necessary and when the cost is financed in part with federal-aid highway funds.
(3) In addition to the funds allocated, counties and cities may authorize the use of funds available to counties and cities under the provisions of 15-70-101 for participation in the installation in grade crossing protection within the county or city.
Mont. Code Ann., § 15-70-102 (2012)

***60-2-121 Authority of commission to prioritize expenditures on railroad crossings -- public hearing.**
(1) The commission shall adopt rules to prioritize the expenditure of funds on railroad crossings.
(2) If requested by the board of county commissioners of any county, the commission shall conduct a public hearing in the affected county on the priority assigned any railroad crossing, and based on the evidence presented at the public hearing, the commission may revise the priority of the railroad crossing.
Mont. Code Ann., § 60-2-121 (2012)

69-14-534 Change of location or grade.
Whenever any corporation organized under this part shall find it necessary, for the purpose of avoiding annoyance to public travel, dangerous or difficult curves or grades, or unsafe or unsubstantial grounds or foundations or for other reasonable causes, to change the location or grade of any portion of its road, such railroad corporation is hereby authorized to make such changes, not departing from the general route prescribed in the articles of incorporation.
Mont. Code Ann., § 69-14-534 (2012)

69-14-602. Construction and maintenance of railroad crossings outside of incorporated cities and towns.
At all places in the state, outside of incorporated cities and towns where a lawfully established public highway crosses any railroad, it shall be the duty of the railroad company owning or operating such railroad to construct and thereafter maintain in proper condition a good and safe crossing.
Mont. Code Ann., § 69-14-602 (2012)

69-14-604. Procedure to order construction of crossing.

If a board of county commissioners orders the construction of a railroad crossing, the board shall enter an order upon its minutes, specifying the place of the crossing. A copy of the order must be served upon the railroad company, and a copy must be immediately mailed to the public service commission.
Mont. Code Ann., § 69-14-604 (2012)

69-14-605. Time for completion of crossing.
It shall be the duty of a railroad company to construct a crossing ordered by the board of county commissioners of any county within 60 days after service of such order; provided, however, that in case any crossing shall be ordered requiring any extended period of construction, such additional time as is reasonably necessary to complete the same shall be allowed by the commission upon the proper application for such extension.
Mont. Code Ann., § 69-14-605 (2012)

69-14-607. Overhead or underground crossings.
(1) No railroad crossing, other than a grade crossing, shall be ordered by any board of county commissioners.
(3) In the event an overhead or underground crossing is ordered, the commission may in its discretion require the same to be constructed and maintained by and at the expense of the railroad company or may apportion the expense between the railroad company and the county in which said crossing is located. The part of the expense apportioned to said county, if any, shall be paid to the railroad company from the funds of said county properly applicable to the payment of such expense.
Mont. Code Ann., § 69-14-607(1)(3) (2012) Excerpt from applicable statute published.

***69-14-611 Penalty for failure to comply with crossing order.**
Any railroad company failing to construct any crossing after the order or decision requiring the construction of same has become final, within the time herein provided or within any extension of time granted by the commission, shall for each day's failure pay to the state a fine of not less than $ 10 or more than $ 100, to be recovered in a civil action in the name of the state, and it shall be the duty of the county attorney of the county within which is located the site of the proposed crossing to prosecute such action.
Mont. Code Ann., § 69-14-611 (2012)

<u>Nebraska</u>

***§ 15-261. Railroads; railroad crossings; buses; safety regulations; installation of safety devices**
A primary city may regulate railroad crossings, provide precautions, and prescribe rules for running engines or cars, and their speed, for prevention of accidents at crossings or on tracks or by fires from engines. It may regulate the running of buses and require heating and cleaning thereof. It may require reasonable lighting of railway crossings in such manner as the council may prescribe. If the owner or operator fails to comply, it may cause the same to be done and assess expense thereof against such railway company to be collected as other taxes and to be a lien on its property, or it may enforce compliance by action of mandamus. The city may enforce such regulations as are otherwise provided by law. It may require railways to keep flagmen at all railway street crossings where necessary to protect the public against injury to person or property, and require the installation, maintenance, and proper operation of gates, flashing signals, or other warning devices to insure such safety. It may compel railways to conform tracks

to grades at any time established, to keep them level with the street surface, and it may compel railways to keep streets open, construct and keep in repair ditches, drains, sewers, and culverts along or under their right-of-way or tracks, and lay and maintain paving upon their whole right-of-way on paved streets.
Neb. Rev. Stat. Ann. § 15-261 (2012)

§ 17-143. Railroads; location, grade, and crossing; regulation
A second-class city shall have power to provide for and change the location, grade, and crossing of any railroad.
Neb. Rev. Stat. Ann. § 17-143 (2012)

***§ 74-1312. Department; establish priority list for railroad crossing safety improvement**
The department shall establish and update, as needed, a priority list for improving the safety of railroad crossings in Nebraska. The list shall identify all crossings in need of safety improvements and the relative order of need.
Neb. Rev. Stat. Ann. § 74-1312 (2012)

***§ 74-1314. Political subdivision; determine need for railroad crossing safety measure; notice to railroad; priority**
When any political subdivision of this state determines that public safety will be improved by eliminating a crossing, by the installation, substantial modification, or improvement of automatic railroad grade crossing protection, or by construction of an overpass or underpass where a street, road, or highway intersects with a line of the railroad company within its jurisdiction, and demand is made upon the railroad company concerned, the political subdivision shall inform the Department of Roads of such fact.
Upon receiving such notice, or upon its own determination, the Department of Roads shall forthwith examine the crossing concerned, in conjunction with representatives of the political subdivision, to determine whether the position of such crossing on the priority list established under section 74-1312 should be adjusted.
Neb. Rev. Stat. Ann. § 74-1314 (2012)

***§ 74-1315. Department; utilize federal funds; matching funds; how paid**
The department shall utilize any federal funds available in the construction of railroad grade crossing protection devices or other safety improvements. If funds are needed to match any federal funds the political subdivision in which the crossing is located shall contribute half of the matching funds needed but shall not be required to provide more than five percent of the total cost. If it is determined by the department that a railroad crossing safety project involving federal funds will result in ascertainable benefits to the railroad such railroad may be required to provide up to five percent of the total cost of the project. The balance of any matching funds needed shall be paid by the department from the Grade Crossing Protection Fund.
Neb. Rev. Stat. Ann. § 74-1315 (2012)

***§ 74-1317. Grade Crossing Protection Fund; created; purpose; investment**
In order to promote public safety at the intersection of railroad lines and all classes of highways, there is hereby created a special fund known as the Grade Crossing Protection Fund which shall be established in the state treasury to be used in furnishing financial assistance in the improvement of the safety of railroad grade crossings in this state, including the elimination of such crossings, the construction, substantial modification, or improvement of and the maintenance of automatic crossing protection at such grade crossings, and the construction and

maintenance of overpasses and underpasses at railroad crossings. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.
Neb. Rev. Stat. Ann. § 74-1317 (2012)

***§ 74-1318. Grade Crossing Protection Fund; Department of Roads; administer; procedure; division of cost; responsibility for protection devices; powers and duties**
The Department of Roads is hereby empowered to administer the funds deposited in the Grade Crossing Protection Fund as follows:
2) Except as otherwise provided in section 74-1315, in order to facilitate and protect the interest of the public as a whole and to compensate for the statewide use of such crossings by the public, the department shall pay ninety-five percent of the cost of overpasses, underpasses, and automatic railroad grade crossing protection measures or devices from the fund for all such projects in which an agreement among the department, the railroad, and the political subdivision is executed on or after May 24, 1979, and the balance of the cost shall be borne by the political subdivision, except that in any county in which a railroad transportation safety district has been formed, such balance shall be borne entirely by the political subdivision. For all such projects in which an agreement among the department, the railroad, and the political subdivision was executed prior to May 24, 1979, the costs shall continue to be borne in the same manner as they were prior to such date;
(3) It shall be the sole responsibility of the railroad company involved to maintain all automatic railroad grade crossing protection devices existing in this state;
(4) The department shall allocate the amount to be borne by the fund for the cost of construction, installation, or substantial modification or improvement of the automatic devices for the protection of the railroad gradecrossing concerned under this section and section 74-1317; and
(5) The department shall enter into and enforce agreements involving the fund and the supervision of the construction, installation, substantial modification or improvement, and maintenance of such overpasses, underpasses, and automatic safety devices for which any part of the cost is borne from the fund and the auditing and collection of the bills covering the cost thereof. The department is further authorized to enter into such contracts with any railroad companies and political subdivisions affected which are necessary to carry out this section and section 74-1317.
Neb. Rev. Stat. Ann. § 74-1318 (2012) Excerpt from applicable statute published.

§ 74-1329. Act, how cited
Sections 74-1329 to 74-1343 shall be known and may be cited as the Nebraska Highway-Rail Grade Crossing Safety and Consolidation Act.
Neb. Rev. Stat. Ann. § 74-1329 (2012)

§ 74-1332. Crossings; jurisdiction of department
The Department of Roads shall have jurisdiction over all crossings outside of incorporated villages, towns, and cities, both public and private, across, over, or under all railroads in the state, except as provided insections 74-1338 to 74-1340, and shall adopt and promulgate such rules and regulations for the construction, repair, and maintenance of the crossings as the department deems adequate and sufficient for the protection and necessity of the public.
Neb. Rev. Stat. Ann. § 74-1332 (2012)

§ 74-1333. Crossings; public; maintenance

The owner of any railroad tracks which are crossed by a public road shall make and keep in good repair good and sufficient crossings for such road over its tracks, including all the grading, bridges, ditches, and culverts that may be necessary within its right-of-way. Such crossings shall be not less than twenty feet wide and shall be solidly constructed with no openings or filled spaces except such as are necessary for the track. The railroad crossingsshall be made of durable material equal to the height of the railroad track. The Department of Roads may, upon proper investigation and hearing, impose additional reasonable requirements as the circumstances may warrant.
Neb. Rev. Stat. Ann. § 74-1333 (2012)

§ 74-1336. Crossings; complaints; hearing; order; rules and regulations
(1) Whenever a complaint is filed in writing with the Department of Roads by the duly authorized officers of any incorporated village or city or by the owner or operator of any railroad track, relative to any crossing within the affected village or city, praying for relief from the matters complained of, the department shall hold a hearing and shall make such order as the facts warrant. The findings of the department, subject to the right of appeal, shall be binding on the parties to the suit.
(2) The department shall adopt and promulgate rules and regulations for the construction, repair, and maintenance of all crossings, both public and private, across, over, and under all railroads within the corporate limits of any incorporated village or city. The rules and regulations shall be substantially the same as the rules and regulations under section 74-1332.
Neb. Rev. Stat. Ann. § 74-1336 (2012)

§ 74-1337. Crossings; public; county board; agreement
Whenever railroad tracks cross a public highway at grade, outside of incorporated cities and villages, the owner of the railroad tracks and the county board of the county in which such crossing is located may agree upon any change, alteration, or construction of any crossing as will promote the public convenience or safety, and they may also agree upon the relocation of any highway so as to eliminate such crossings entirely or so as to carry them over or under such railroad and upon the apportionment of the expenses incident to any such change, alteration, relocation, or construction between the owner of the railroad tracks and the county or other public authority in interest.
Neb. Rev. Stat. Ann. § 74-1337 (LexisNexis 2012)

§ 74-1338. Crossings; public; failure of county board and railroad to agree; power of department
If the owner of the railroad track and the county board or other public authority in interest fail to agree upon any of the matters or things mentioned in section 74-1337, either the owner or the county board or other public authority in interest, in the name of the county or other public authority in interest, may file an application with the Department of Roads, setting forth such fact together with a statement of the change, alteration, relocation, or construction it wants, the estimated cost thereof, and such other facts as may be relevant and asking the department to enter an order directing that the change, alteration, relocation, or construction be made. The department shall proceed to hear the application in the manner provided by law, and if it finds that the application should be granted, it shall enter an order accordingly, designating in the order what portion of the expense of complying with the order shall be paid by the railroad carrier and what portion shall be paid by the county or other public authority in interest, if any.

Neb. Rev. Stat. Ann. § 74-1338 (2012)

§ 74-1341. Grade crossing safety; responsibility
The Department of Roads, which possesses the requisite engineering expertise, highway and rail planning function, and highway safety mission and is the repository for state and federal funding for both rail and highway projects, shall be the agency responsible for grade crossing safety.
Neb. Rev. Stat. Ann. § 74-1341 (2012)

§ 74-1342. Comprehensive public safety program; department; duties
(1) The Department of Roads shall adopt and promulgate rules and regulations establishing a comprehensive public safety program to deal with problems associated with public and private highway-rail grade crossings. In designing such a program, the department shall establish a process for assessing the risk to the public from particular grade crossings and for reducing or eliminating such risk in a cost-effective and timely manner. The department shall actively solicit input from the public and from representatives of county and municipal governments, the Federal Highway Administration, the Federal Railroad Administration, and any other individuals or entities with an interest in grade crossing safety.
(2) The grade crossing safety assessment process may include the following factors:
(a) Volume of trains;
(b) Volume of motor vehicles, including character, function, and type of vehicular traffic through the crossing;
(c) Number of tracks at the crossing;
(d) Geometry of the crossing, including acute angles;
(e) Sight-distance restrictions, if any;
(f) Train and motor vehicle speed;
(g) Accident history;
(h) Character of proximate road network, including distance and travel time to adjacent crossings;
(i) Frequency and duration of roadway blockage by trains, including citation history;
(j) Emergency response routes, including alternatives;
(k) Economic impact of crossing;
(l) Current and foreseeable development in the vicinity of the crossing; and
(m) Location of schools and hospitals.
Neb. Rev. Stat. Ann. § 74-1342 (2012)

§ 74-1343 Assessment process; recommendations; department; duties
The Department of Roads shall establish the grade crossing safety assessment process no later than twelve months after September 13, 1997, and shall recommend to the Legislature no later than eighteen months after September 13, 1997, an equitable formula for funding grade crossing risk abatement.
Neb. Rev. Stat. Ann. § 74-1343 (2012)

Nevada

704.300. Railroad crossings: Powers of commission; payment of expenses.
1. After an investigation initiated either upon the Commission's own motion or as the result of the filing of a formal application or complaint by the Department of Transportation, the board of county commissioners of any county, the town board or council of any town or municipality, or any railroad company, the Commission may order for the safety of the traveling public:

(a) The elimination, alteration, addition or change of a highway crossing or crossings over any railroad at grade, or above or below grade, including its approaches and surface.
(b) Changes in the method of crossing at grade, or above or below grade.
(c) The closing of a crossing and the substitution of another therefor.
(d) The removal of obstructions to the public view in approaching any crossing.
(e) Such other details of use, construction and operation as may be necessary to make grade-crossing elimination, changes and betterments for the protection of the public and the prevention of accidents effective.
3. If the Commission chooses to conduct a hearing before issuing an order pursuant to subsection 1, all costs incurred by reason of the hearing, including, but not limited to, publication of notices, reporting, transcripts and rental of hearing room, must be apportioned 50 percent to the governmental unit or units affected and 50 percent to the railroad or railroads.
Nev. Rev. Stat. Ann. § 704.300(1)(3) (2012) Excerpt from applicable statute published.

704.305. Railroad crossings: Apportionment of costs of construction, reconstruction and protective devices; maintenance of surface.
1. The entire cost of a new grade crossing or a new grade separation, including any automatic protection devices that may be required, where no existing grade crossing located at or in the immediate vicinity of the new grade crossing or grade separation structure is eliminated, shall be apportioned to and borne by the governmental unit or units affected if a governmental unit initiates the proceeding, or by the railroad or railroads if the proceeding is initiated by a railroad.
3. Where automatic protection devices are added or materially altered, changed or improved at an existing grade crossing, 87 percent of the cost of such added, altered, changed or improved automatic protection devices shall be apportioned to and borne by the governmental unit or units affected and 13 percent of the cost shall be apportioned to and borne by the railroad or railroads.
4. The cost of maintaining any new, added or materially altered, changed or improved grade crossingautomatic protection devices and appurtenances shall be apportioned 50 percent to the governmental unit or units affected and 50 percent to the railroad or railroads.
5. The maintenance of a new or reconstructed grade separation structure shall be performed by the governmental unit or units affected, and the cost thereof shall be apportioned to and be borne by the governmental unit or units affected, except that the maintenance of waterproofing, ballast, ties, tracks and other railroad equipment shall be performed by the railroad or railroads, and the cost of such maintenance shall be apportioned to and borne by the railroad or railroads.
6. The railroad shall maintain at its expense the surface of grade crossings to a distance of 2 feet on the outer side of each outermost rail, and such maintenance shall include, but is not limited to, the railroad roadbed, rails and all appurtenant facilities.
7. On projects where federal funds are used, apportionment and division of costs shall be in accordance with federal law and the rules, regulations and orders of the federal agency administering such law to the extent that such law, rule or regulations and orders require a different apportionment of costs than is set forth in this section. The provisions of this section may not otherwise be invoked on projects to the extent that such federal law, rules, regulations and orders are applicable.
8. The provisions of this section impose no limitation upon the right of governmental units or railroads to negotiate agreements apportioning costs. To the extent that costs are apportioned by such agreement, the commission shall order that costs be apportioned and borne in the manner provided by such agreement.
Nev. Rev. Stat. Ann. § 704.305(1)(3-8) (2012) Excerpt from applicable statute published.

New Hampshire

373:1 Facilities.
It shall be the duty of every railroad to provide suitable crossings, stations and other facilities for the accommodation of the public, 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.
N.H. Rev. Stat. Ann. § 373:1 (2012)

373:1-a State-Owned Rail Lines.
I. In instances where the state has acquired rail properties, the state shall have the same duty as underRSA 373:1 to provide suitable crossings and other facilities for the accommodation of the public and to provide suitable gates, crossings and other facilities for the accommodation of persons whose lands are divided, or are separated from a highway, by the state-owned railway.
II. Any party or landowner seeking crossing or other facilities pursuant to paragraph I shall make application for such crossing or other facility to the department of transportation.
III. The commissioner shall adopt rules, under RSA 541-A, establishing procedures and criteria for review of such applications and issuance of agreements for crossings or other facilities on state-owned rail property, including establishment of reasonable application and annual renewal fees.
IV. Such agreements shall include provision for apportionment of costs for construction and protection including insurance requirements and installation of appropriate safety devices.
V. The state shall provide such warning signs as are required for governmental authorities maintaining public crossings over state-owned railroad lines pursuant to RSA 373:11.
N.H. Rev. Stat. Ann. § 373:1-a (2012)

***373:2 Reconstruction.**
Upon petition of a railroad, the selectmen of a town, or the mayor and council of a city, the department of transportation, after notice and hearing, may require a railroad (a) to separate the grades where a highway and railroad cross at grade or where a railroad crosses another railroad at grade, (b) to change the location of a highway or a railroad in order to avoid or improve a grade crossing or (c) to reconstruct or otherwise alter or improve any existing bridge or underpass and the approaches thereto in instances where separation of grades has been effected, or (d) to improve the approaches to any grade crossing so as to make them as nearly level as practicable where any such action is found necessary in the interest of safety to the railroad or the public. At any such hearing, the director of the division of motor vehicles shall sit and confer with the department of transportation in an advisory capacity in the determination of the necessity for such reconstruction and the apportionment of the cost of the same.
N.H. Rev. Stat. Ann. § 373:2 (LexisNexis 2012)

373:3 Apportionment of Costs.
Any order issued under RSA 373:2 shall provide for the apportionment of the cost (1) between the railroads in interest if the crossing eliminated or improved is a railroad crossing or (2) between the railroad and the state if such crossing is located at the intersection of a railroad and a state highway, trunk line or state-aided highway, or (3) between the railroad and the municipality if such crossing is located at the intersection of a railroad and a highway other than those above specified. In making such apportionment, the department of transportation shall give due consideration to whether the railroad or the highway was first constructed, to the nature and volume of highway traffic, to the number of trains operated by the railroad at the crossing, and

all other relevant facts and circumstances. After such reconstruction, the abutments and superstructure of the bridge or underpass shall be maintained by the railroad; but the department of transportation may direct that the wearing surface of a highway at the crossing be maintained by the state or by the town or city whenever it finds that justice so requires.
N.H. Rev. Stat. Ann. § 373:3 (2012)

373:5 Neglect to Obtain.
If a railroad shall neglect to comply with the requirements of RSA 373:4, the department of transportation may subsequently approve the crossing made by the railroad, or may order it to make such changes therein as the public good requires. If the railroad shall fail to comply with such order, it shall be guilty of a felony.
N.H. Rev. Stat. Ann. § 373:5 (2012)

373:6 New Highways.

No highway shall be laid out or constructed across a railroad at grade without the like consent of the department of transportation.
N.H. Rev. Stat. Ann. § 373:6 (2012)

New Jersey

***§ 27:8-6. Commissioner authorized to accept federal funds; expenditure**
The commissioner may accept any funds allocated or granted to this state for expenditure by the department under the provisions of the national industrial recovery act or the emergency relief appropriation act of 1935 for the cost of highway or bridge construction, including the elimination of hazards to highway traffic, such as the separation of grades at railroad crossings, the reconstruction of existing railroad grade crossing structures, the relocation of highways to eliminate railroad crossings, the widening of narrow bridges and roadways, the building of foot paths, the replacement of unsafe bridges, the construction of routes to avoid congested areas, the construction of facilities to improve accessibility and the free flow of traffic, and the cost of any other construction that will provide safer traffic facilities or definitely eliminate existing hazards to pedestrian or vehicular traffic whether such highways, bridges or hazards are part of the state highway system or otherwise, and expend the same in the manner required by the provisions of the national industrial recovery act or the federal emergency relief appropriation act of 1935, and do all work and make all contracts and agreements required for such purposes.
N.J. Rev. Stat. Ann. § 27:8-6 (2012)

***§ 48:2-28. New grade crossings; approval of board**

No highway shall be constructed across the tracks of any railroad company at grade, nor shall any track over which locomotives, railroad or street railway cars are to pass be laid across any highway, so as to make a new crossing at grade, nor shall the tracks of any railroad, street railway or traction company be laid across the tracks of any other such company without first obtaining permission from the board.
This section shall not apply to the replacement of lawfully existing tracks.
N.J. Rev. Stat. Ann. § 48:2-28 (2012)

***§ 48:12-49.1. Construction of bridges or passages; installation of protective devices; division of expenses**
The railroad company or companies involved shall pay 15% and the Department of Transportation, out of funds to be provided for that purpose, shall pay 85% of the entire expense

of constructing any bridge or passage over or under the railroad or right-of-way pursuant to order of the department under R.S. 48:12-49. Such expense shall include, without limitation thereto, damages to adjacent property and the cost of removing, relaying or relocating any municipal pipes, conduits or subways.

In lieu of the apportionment of expenses as set forth above, if the department finds that such construction of any bridge or passage is necessary due to increased vehicular or pedestrian traffic within the limits of the municipality or county having jurisdiction over the road, street or avenue involved, the department may order the entire expense to be paid as follows: 15% by the railroad company or companies involved, 15% by the municipality (or municipalities) or county (or counties) having jurisdiction over the roads, streets or avenues involved and 70% by the department.

The railroad company or companies involved shall pay 5% and the department, out of funds to be provided for that purpose, shall pay 95% of the entire expense: (a) of enlarging, changing, reconstructing, relocating or modifying any bridge or passage over or under the railroad or right-of-way, or of reconstructing any passage across the railroad or right-of-way; pursuant to order of the department under R.S. 48:12-49 and as to which actual work is commenced on or after April 1, 1965; or (b) the installation, change, reconstruction, relocation or modification of protective devices or other provision for the protection of the traveling public at grade crossings pursuant to order of the department under R.S. 48:2-29, 48:12-54 or48:12-55 and as to which actual work is commenced on or after April 1, 1967. Such expense shall include, without limitation thereto, damages to adjacent property and the cost of removing, relaying or relocating any municipal pipes, conduits or subways. With respect to crossings at grade, such expense shall not include the cost of rails, ties or ballast. The protective devices or other provision for the protection of the traveling public at grade crossings shall be maintained by the railroad at its own cost and expense.

In lieu of the apportionment of expenses as set forth in the preceding paragraph, if the department finds that such installation, enlargement, change, reconstruction, relocation or modification is necessary due to increased vehicular or pedestrian traffic within the limits of the municipality or county having jurisdiction over the road, street or avenue involved, the department may order the entire expense to be paid as follows: 5% by the railroad company or companies involved, 15% by the municipality (or municipalities) or county (or counties) having jurisdiction over the roads, streets or avenues involved and 80% by the department.

The municipalities and counties involved are hereby authorized and empowered to make such payments.

Notwithstanding the provisions of R.S. 48:12-49 or any other law, rule or regulation to the contrary, a municipality or a county, as the case may be, upon the approval of the Commissioner of Transportation, is authorized to enter into a contract with a railroad company for the construction, reconstruction, maintenance or repair of any passage at grade across a railroad or right-of-way located within the boundaries of its geographic jurisdiction and the protective devices thereon designed to protect the public health and safety, including, but not limited to, safety gates, electric bells, and electric signs or signals. The contract shall set forth the rights and responsibilities of the parties thereto, including the apportionment of payments and costs.

N.J. Rev. Stat. Ann. § 48:12-49.1 (2012)

§ 48:12-53. Construction of tracks along city streets; elevated roads; contracts

The municipal authorities of any city except a city of the first class may permit any railroad company to lay and construct its tracks along and upon any street or highway or above the street or highway by means of an elevated structure and may contract with such company, fixing the terms and conditions as to maintenance of crossings, speed of trains and payment of consideration for such use and may do all things necessary to carry out such contract and any such contract made prior to March thirtieth, one thousand nine hundred and five, is hereby ratified and confirmed.
No such railroad shall be constructed along or above any such street or highway until the company shall have acquired the right of the owners abutting thereon by agreement or condemnation proceedings.
N.J. Rev. Stat. Ann. § 48:12-53 (2012)

§ 48:12-68. Annual program by state highway department; maximum yearly expenditure
The State Highway Department, before January 1 of each year, shall formulate a program, covering the work to be started or completed during the ensuing year, for the elimination of railroad crossings at grade on State highways, the improvement, relocation, alteration and reconstruction of crossings of railroads and State highways not at grade, and the location and construction of new crossings of railroads and State highways not at grade, where the construction of the new crossings of railroads and State highways not at grade result or will result in the closing, abandonment or combination of an existing grade crossing at or in the vicinity of the new State highway crossing.
The aggregate estimated cost of the work in such annual program, in which railroad companies will share, shall not exceed $ 2,000,000.00.
N.J. Rev. Stat. Ann. § 48:12-68 (2012)

§ 48:12-70. Division of cost between railroads and Highway Department
The cost of the work to be shared by railroad companies and the State Highway Department provided for in any annual program, exclusive of the cost of the surface paving on roadways and the curbing, sidewalk paving and guardrails on approaches, which shall be constructed at the sole expense of the State, shall be borne and paid 5% by the railroad company or companies involved and 95% by the State.
N.J. Rev. Stat. Ann. § 48:12-70 (2012)

§ 48:12-71. Agreement for division of cost
The State Highway Department and any railroad company or companies may enter into an agreement on the basis of the division of the cost, as provided by section 48:12-70 of this Title, covering the work in the annual program, or the elimination of any crossing at grade or the improvement, relocation, alteration or reconstruction of any crossing not at grade on any State highway, in addition to the work provided for in such program.
N.J. Rev. Stat. Ann. § 48:12-71 (2012)

***§ 48:12-72. Expense of certain crossings not at grade**
The State Highway Department shall bear the entire expense of locating and constructing all crossings of railroads and State highways not at grade to carry new highways over or under the railroads where the construction of such crossings does not result or will not result in the closing, abandonment or combination of an existing grade crossing at or in the vicinity of the new highway crossing.
N.J. Rev. Stat. Ann. § 48:12-72 (2012)

***§ 54:29A-10. Grade crossing improvements exempt**
(a) Any part of the cost of improvements, relocation, reconstruction, elimination or avoidance of highway grade crossings, including State highways, made pursuant to Title 48 of the Revised Statutes, or pursuant to the provision of an agreement for any of such purposes with a municipality made after April 27, 1931, but such exemptions shall apply only to main lines and branches existing on April 27, 1931;
(b) The cost essential to the improvement, relocation or reconstruction of existing grade separation structures made after January 1, 1960, pursuant to said Title 48 or pursuant to a said agreement;
(c) Any part of the cost of installing or replacing protective devices for the protection of the traveling public at grade crossings, such devices to be exempt from and after the assessing date of January 1, 1960.
The exemptions specified in subparagraphs (a) and (b) above shall not apply to any additions and betterments voluntarily made by a railroad in connection with grade crossing projects.
N.J. Rev. Stat. Ann. § 54:29A-10 (2012)

New Mexico

***§ 63-3-36. Construction and maintenance of highway crossings**
A. Subject to the provisions of Subsection B hereof, every railroad company in this state shall construct and maintain in good condition, at its own expense, good and sufficient crossings at all places in this state where its railroad crosses public highways, city, town or village streets at grade, now or hereafter to be opened for public use. Such crossings shall be constructed of planks, macadam, concrete or other suitable material in such manner as to be level with the top of the rails for a reasonable distance on each side of each rail.
B. Any highway-railroad crossing at grade that may hereafter be constructed or reconstructed by the state highway department will be a full plank crossing of a material approved by the state highway department and railroad, to be installed by the railroad company at the state highway department's expense. If a joint investigation of railroad and highway engineers shows that a highway-railroad crossing at grade should be reconstructed, then the highway department shall pay the railroad for the initial full plank crossing. Said constructed or reconstructed crossing will be maintained in good condition at the railroad company's own expense.
N.M. Stat. Ann. § 63-3-36 (2012)

§ 63-3-38. Maintenance of grade crossing
After construction of every grade separation, the state transportation commission shall maintain the highway roadbed and the structures supporting it and the railroad shall maintain its roadway and track and the structures supporting them.
N.M. Stat. Ann. § 63-3-38 (2012)

New York

***§ 51. Repair of highways at railroad crossings**
Whenever a highway crosses a railroad track at grade and such grade crossing is out of repair, if it is the judgment of the commissioner of transportation, the board of supervisors of a county, the board of aldermen of a city, the board of trustees of a village or the town superintendent of highways of a town that the same should be repaired, the commissioner of transportation, the board of supervisors of a county, the board of aldermen of a city, the board of trustees of a village or the town superintendent of a town may repair and maintain the same and charge the

expense thereof to the railroad company over whose railroad such crossing is repaired and maintained, if after fifteen days' notice in writing such railroad company neglects or refuses to repair the same.
N.Y. HIGH. Law § 51 (Consol. 2012)

***§ 91. Alteration or rehabilitation of existing crossing**
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, the board of supervisors or county executive and the county legislature of any county having jurisdiction over street, avenue, highway or road which crosses or is crossed by a surface railroad at grade, below grade or above grade by structures heretofore constructed, or any surface railroad corporation whose railroad crosses or is crossed by a street, avenue, highway or road at grade, below or above grade, may bring their petition in writing to the commissioner of transportation, therein alleging that public interest requires rehabilitation, an alteration in the manner of such crossing, its approaches, the method of crossing, the location of the crossing, a change in the existing structure by which such crossing is made, the closing and discontinuance of a crossing and the diversion of the travel thereon to another street, avenue, highway road or crossing, or if not practicable to change such crossing from grade, below grade or above grade or to close or discontinue the same, the opening of an additional crossing for the partial diversion of travel from the grade, below grade or above grade crossing and praying that the same may be ordered. Upon any such petition being brought the commissioner of transportation shall appoint a time and place for hearing the petition, and shall give such notice thereof as he shall judge reasonable, of not less than ten days, however, to such petitioner, the railroad corporation, the municipality in which such crossing is situated, and if such crossing is in whole or in part in an incorporated village having not to exceed twelve hundred inhabitants, also to the supervisor or supervisors of the town or towns in which such crossing is situated, and in all cases to the owners of the lands adjoining such crossing and adjoining that part of the street, avenue, highway or road to be changed in grade or location or to be discontinued, or the land to be opened for a new crossing and to such other parties deemed by him to be interested in the proceeding. The commissioner of transportation shall give public notice of said hearing; and upon such notice and after a hearing or hearings the commissioner of transportation shall determine what alterations or changes, if any, shall be made. The decision of the commissioner of transportation rendered in any proceeding under this section shall be communicated, after final hearing, to the petitioner, the railroad corporation, the municipal corporation and all other parties who appeared at said hearing by counsel or in person. Any person aggrieved by such decision, or by a decision made pursuant to sections eighty-nine and ninety, and who was a party to said proceeding, may within sixty days appeal therefrom to the appellate division of the supreme court in the department in which such crossing is situated, and to the court of appeals, in the same manner and with like effect as is provided in the case of appeals from an order of the supreme court. This section shall not apply to a state highway or any other highway upon which the commissioner of transportation proposes to alter an existing crossing of a railroad pursuant to any section of the highway law.
N.Y. R.R. Law § 91 (Consol. 2012)

§ 359. Construction, reconstruction and improvement
4. In the case of a separation of a grade crossing pursuant to the preceding subdivision, the structure shall be maintained and repaired by the authority. Whenever the authority determines that a separation structure carrying a highway under the jurisdiction of a municipality requires major repair or reconstruction, the authority, with the approval of the commissioner of

transportation and after consultation with such municipality, may close the bridge and provide adequate alternative detour routing and signing. In the case of municipal highways, the responsibility for rehabilitation and reconstruction of the wearing surface, sidewalks, curbs and railings shall be the responsibility of the authority. Highways combined, relocated or carried over or under a thruway section or connection, or a highway connection, under the provisions of the preceding subdivision, shall, upon completion of the work, revert to and become the responsibility, with regard to maintenance and repair, of the state or municipality, as the case may be, formerly having jurisdiction there over.
N.Y. Pub. Auth. Law § 359(1)(2)(4) (Consol. 2012) Excerpt from applicable statute published.

§ 1299-hh. Special powers of the authority
In order to effectuate the purposes of this title:
7. The authority may do all things it deems necessary, convenient or desirable to manage, control and direct the maintenance and operation of transportation facilities, equipment or real property operated by or under contract, lease or other arrangement with the authority. Except as hereinafter specially provided, no municipality or political subdivision, including but not limited to a county, city, village, town or school or other district shall have jurisdiction over any facilities of the authority or any of its activities or operations. In the operation, maintenance and control of any facilities devoted to purposes other than direct transportation purposes, the authority shall be subject to all local laws, resolutions, ordinances, rules and regulations of a municipality or political subdivision. Each municipality or political subdivision, including but not limited to a county, city, village, town or district in which any facilities of the authority are located shall provide for such facilities police, fire and health protection services of the same character and to the same extent as those provided for residents of such municipality or political subdivision.
The authority may agree with the state department of transportation for the execution by such department of any grade crossing elimination project or any grade crossing separation reconstruction project along any railroad facility operated by the authority or by one of its subsidiary corporations or under contract, lease or other arrangement with the authority. Any such project shall be executed as provided in the grade crossing elimination act and the railroad law, respectively, and the costs of any such project shall be borne as provided in such laws, except that the authority's shares of such costs shall be borne by the state.
N.Y. Pub. Auth. Law § 1299-hh(7) (Consol. 2012) Excerpt from applicable statute published.

North Carolina

§ 136-20. Elimination or safeguarding of grade crossings and inadequate underpasses or overpasses
(a) Whenever any road or street forming a link in or a part of the State highway system, whether under construction or heretofore or hereafter constructed, shall cross or intersect any railroad at the same level or grade, or by an underpass or overpass, and in the opinion of the Secretary of Transportation such crossing is dangerous to the traveling public, or unreasonably interferes with or impedes traffic on said State highway, the Department of Transportation shall issue notice requiring the person or company operating such railroad to appear before the Secretary of Transportation, at his office in Raleigh, upon a day named, which shall not be less than 10 days or more than 20 days from the date of said notice, and show cause, if any it has, why such railroad company shall not be required to alter such crossing in such way as to remove such dangerous condition and to make such changes and improvements thereat as will safeguard and

secure the safety and convenience of the traveling public thereafter. Such notice shall be served on such railroad company as is now provided by law for the service of summons on domestic corporations, and officers serving such notice shall receive the same fees as now provided by law for the service of such summons.

(b) Upon the day named, the Secretary of Transportation shall hear said matter and shall determine whether such crossing is dangerous to public safety, or unreasonably interferes with traffic thereon. If he shall determine that said crossing is, or upon the completion of such highway will be, dangerous to public safety and its elimination or safeguarding is necessary for the proper protection of the traffic on said State highway, the Secretary of Transportation shall thereupon order the construction of an adequate underpass or overpass at said crossing or he may in his discretion order said railroad company to install and maintain gates, alarm signals or other approved safety devices if and when in the opinion of said Secretary of Transportation upon the hearing as aforesaid the public safety and convenience will be secured thereby. And said order shall specify that the cost of construction of such underpass or overpass or the installation of such safety device shall be allocated between the railroad company and the Department of Transportation in the same ratio as the net benefits received by such railroad company from the project bear to the net benefits accruing to the public using the highway, and in no case shall the net benefit to any railroad company or companies be deemed to be more than ten percent (10%) of the total benefits resulting from the project. The Secretary of Transportation shall be responsible for determining the proportion of the benefits derived by the railroad company from the project, and shall fix standards for the determining of said benefits which shall be consistent with the standards adopted for similar purposes by the United States Bureau of Public Roads under the Federal-Aid Highway Act of 1944.

(c) Upon the filing and issuance of the order as hereinbefore provided for requiring the construction of any underpass or overpass or the installation and maintenance of gates, alarm signals or other safety devices at any crossing upon the State highway system, it shall be the duty of the railroad company operating the railroad with which said public road or street intersects or crosses to construct such underpass or overpass or to install and maintain such safety device as may be required in said order. The work may be done and material furnished either by the railroad company or the Department of Transportation, as may be agreed upon, and the cost thereof shall be allocated and borne as set out in subsection (b) hereof. If the work is done and material furnished by the railroad company, an itemized statement of the total amount expended therefor shall, at the completion of the work, be furnished the Department of Transportation, and the Department of Transportation shall pay such amount to the railroad company as may be shown on such statement after deducting the amount for which the railroad company is responsible; and if the work is done by the Department of Transportation, an itemized statement of the total amount expended shall be furnished to the railroad company, and the railroad company shall pay to the Department of Transportation such part thereof as the railroad company may be responsible for as herein provided; such payment by the railroad company shall be under such rules and regulations and by such methods as the Department of Transportation may provide.

(d) Within 60 days after the issuance of the order for construction of an underpass or overpass or the installation of other safety devices as herein provided for, the railroad company against which such order is issued shall submit to the Department of Transportation plans for such construction or installation, and within 10 days thereafter said Department of Transportation, through its chairman of the Department of Transportation, shall notify such railroad company of

its approval of said plan or of such changes and amendments thereto as to it shall seem advisable. If such plans are not submitted to the Department of Transportation by said railroad company within 60 days as aforesaid, the chairman of the Department of Transportation shall have plans prepared and submit them to the railroad company. The railroad company shall within 10 days notify the chairman of the Department of Transportation of its approval of the said plans or shall have the right within such 10 days to suggest such changes and amendments in the plans so submitted by the chairman of the Department of Transportation as to it shall seem advisable. The plans so prepared and finally approved by the chairman of the Department of Transportation shall have the same force and effect, and said railroad company shall be charged with like liability, and said underpass or overpass shall be constructed or such safety device installed in accordance therewith, as if said plans had been originally prepared and submitted by said railroad company. If said railroad company shall fail or neglect to begin or complete the construction of said underpass or overpass, or the installation of such safety device, as required by the order of the Secretary of Transportation, said Secretary of Transportation is authorized and directed to prepare the necessary plans therefor, which plans shall have the same force and effect, and shall fix said railroad company with like liability, as if said plans had been originally prepared and submitted by said railroad company, and the Department of Transportation shall proceed to construct said underpass or overpass or install such safety device in accordance therewith. An accurate account of the cost of said construction or installation shall be kept by the Department of Transportation and upon the completion of such work a statement of that portion thereof chargeable to such railroad company as set out in the order of the Department of Transportation shall be rendered said railroad company. Upon the failure or refusal of said company to pay the bill so rendered, the Department of Transportation shall recover the amount thereof by suit therefor against said company in the Superior Court of Wake County: Provided, that the payment by such railroad company of said proportionate part may be made under such rules and regulations and by such methods as the Department of Transportation may provide. If the Department of Transportation shall undertake to do the work, it shall not obstruct or impair the operation of the railroad and shall keep the roadbed and track safe for the operation of trains at every stage of work. If said railroad company shall construct such underpass or overpass or shall install such safety devices in accordance with the order of the Secretary of Transportation, the proportionate share of the cost thereof as set out in subsection (b) hereof shall upon the completion of said work be paid to the railroad company by the Department of Transportation. The Department of Transportation may inspect and check the expenditures for such construction or installation so made by the railroad company and an accurate account of the cost thereof shall upon the completion of said work be submitted to the Department of Transportation by the railroad company. If the Department of Transportation shall neglect or refuse to pay that portion of the cost of said construction or installation chargeable to it, the railroad company shall recover the amount thereof by suit therefor against the Department of Transportation in the Superior Court of Wake County.

(e) If any railroad company so ordered by the Secretary of Transportation to construct an underpass or overpass or to install safety devices at grade crossings as hereinbefore provided for shall fail or refuse to comply with the order of the Secretary of Transportation requiring such construction or installation, said railroad company shall be guilty of a Class 3 misdemeanor and shall only be fined not less than fifty dollars ($ 50.00) nor more than one hundred dollars ($ 100.00) in the discretion of the court for each day such failure or refusal shall continue, each said day to constitute a separate offense.

(f) The jurisdiction over and control of said grade crossings and safety devices upon the State highway system herein given the Department of Transportation shall be exclusive.
(g) From any order or decision so made by the Secretary of Transportation the railroad company may appeal to the superior court of the county wherein is located the crossing affected by said order. Such appeal shall not defer or delay the construction of such underpass or overpass or the installation of such safety device as required by the order of the Secretary of Transportation, but the railroad company shall proceed to comply with such order in accordance with his terms. The action of the railroad company in complying with and carrying out such order pending said appeal shall not prejudice or affect the right or remedies of such railroad company on such appeal. Upon such appeal the court shall determine only whether the order of the Secretary of Transportation for such construction or installation is unreasonable and unnecessary for the protection of the traveling public and the apportionment of the cost to the extent hereinafter provided in this subsection, and if upon the hearing of said appeal it shall be determined that said order was unnecessary for the protection of the traveling public, the Department of Transportation shall bear the total cost of the construction of such underpass or overpass or the installation of such safety device. In the event the decision on appeal should be that the construction or installation was necessary but the cost or apportionment thereof unreasonable, then the railroad company shall bear its proportion as provided in this section of such cost as may be determined on appeal to have been reasonable to meet the necessity of the case. Upon said appeal from an order of the Secretary of Transportation, the burden of proof shall be upon the railroad company, and if it shall not be found and determined upon said appeal that said order was unreasonable or unnecessary for the protection of the traveling public at said crossing, then such railroad company shall bear its proportion of the cost of such construction or installation in accordance with this section.
(h) The Department of Transportation shall pay the cost of maintenance of all overpasses and the railroad company shall pay the cost of maintenance of all underpasses constructed in accordance with this section. The cost of maintenance of safety devices at all intersections of any railroad company and any street or road forming a link in or a part of the State highway system which have been constructed prior to July 1, 1959, or which shall be constructed thereafter shall be borne fifty percent (50%) by the railroad company and fifty percent (50%) by the Department of Transportation. The maintenance of said overpasses and underpasses shall be performed by the railroad company or the Department of Transportation as may be agreed upon and reimbursement for the cost thereof, in accordance with this section, shall be made annually. The maintenance of such safety devices shall be performed by the railroad company and reimbursement for the cost thereof, in accordance with this section, shall be made annually by the Department of Transportation.
N.C. Gen. Stat. § 136-20 (2012)

§ 160A-298. Railroad crossings
(a) A city shall have 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 drainage patterns or with the ordinary travel and use of the public streets and alleys.
(b) The costs of constructing, reconstructing, and improving public streets and alleys, including the widening thereof, within areas covered by railroad cross ties, including cross timbers, shall be borne equally by the city and the railroad company. The costs of maintaining and repairing such areas after construction shall be borne by the railroad company.

(c) A city shall have authority to require the installation, construction, erection, reconstruction, and improvement of warning signs, gates, lights, and other safety devices at grade crossings, and the city shall bear ninety percent (90%) of the costs thereof and the railroad company shall bear ten percent (10%) of the costs. The costs of maintaining warning signs, gates, lights, and other safety devices installed after January 1, 1972, shall be borne equally by the city and the railroad company. The maintenance shall be performed by the railroad company and the city shall pay annually to the railroad company fifty percent (50%) of these costs. In maintaining maintenance cost records and determining such costs, the city and the railroad company shall use the same methods and procedures as are now or may hereafter be used by the Board of Transportation.
(e) Whenever the widening, improving, or other changes in a street require that a railroad bridge be relocated, enlarged, heightened, or otherwise reconstructed, the city shall bear ninety percent (90%) of the costs and the railroad company shall bear ten percent (10%) of the costs.
(f) It is the intent of this section to make uniform the law concerning the construction and maintenance of railroad crossings, bridges, underpasses, and warning devices within cities. To this end, all general laws and local acts in conflict with this section are repealed, and no local act taking effect on or after January 1, 1972, shall be construed to modify, amend, or repeal any portion of this section unless it specifically so provides by express reference to this section.
N.C. Gen. Stat. § 160A-298(a,b,c,e,f) (2012) Excerpt from applicable statute published.

North Dakota

24-09-08. Additional safeguards at crossings may be required.
The 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 railroad grade crossing over any state, county, township, or municipal highway in the state is dangerous to life and property and needs protection further than that set out in this chapter, and may order the same protected in any manner it may find reasonable and proper, including a requirement that the railroad company separate the grades. In such cases, the commission shall give the railroad company interested such notice of the investigation as it deems reasonable and an opportunity to be heard before any order is made. The railroad company interested, within thirty days after the service of a copy of such order upon it, may appeal to the district court of the county within which such crossing is situated.
N.D. Cent. Code, § 24-09-08 (2012)

24-09-10. Changing or closing railroad crossing -- Power of public service commission -- Hearing.
It is in the interest of public safety to eliminate unnecessary railroad grade crossings whenever reasonable access can be safely provided at another crossing. Whenever it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to establish, vacate, or relocate any crossing of a public highway and a railroad, or to separate grades, and an agreement cannot be reached between the public official and the railway company, either as to the necessity for establishing, vacating, or relocating a crossing or for separating grades, as to place, manner of construction, or a reasonable division of the expense, either party may file a petition with the commission, setting forth the facts and submitting the matter to it for determination. The commission, after giving notice as it shall deem reasonable, shall conduct a hearing and shall issue its order determining whether there should be an establishment, vacation, or relocation of the crossing in question, or a separation of grades, and

dividing the expense of the establishment, relocation, or separation of grades. Irrespective of the establishment, relocation, or the consideration of further reasonable protection of a crossing, if the commission finds any railroad crossing to be unnecessary or unsafe, it shall order the crossing closed after reasonable notice and hearing. Whenever a final order is entered vacating or closing a crossing, it must be vacated or closed at the railroad company's expense.
N.D. Cent. Code, § 24-09-10 (2012)

Ohio

***§ 4907.471. Survey to determine crossings with highest probability of accident; additional protective devices**

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

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

(1) The crossing is at a section of railroad track that is being reactivated on or after May 1, 1990, and that has not been used for at least three years prior to the reactivation as determined by the commission;

(2) The territory abutting the railroad's right-of-way for a distance of three hundred feet or more has been improved with residences during the period of time the track was not being used;

(3) The commission has designated the crossing as dangerous and hazardous under division (A) of this section.

The priority list shall be for the use of the commission in carrying out this section and sections 4907.47,4907.474, and 4907.475 of the Revised Code and shall not be admissible in evidence in any action to recover damages for negligence arising out of the use of such grade crossings. The list shall be made available to the department of transportation for use in carrying out sections 4511.61 and 4955.33 of the Revised Code.

The survey shall be continuous, and after the original list is prepared, the commission may change the respective priority ratings as it may from time to time determine. When new crossings at grade are opened, the commission shall survey them and place them on the priority list at such places as in its opinion the probability of accident at those crossings warrants.
Ohio Rev. Code Ann. § 4907.471 (2013) Excerpt from applicable statute published.

***§ 4907.472. Establishment of the grade crossing protection fund**

(A) There is hereby created in the state treasury the grade crossing protection fund for the purpose of paying:

(1) The public share of the cost of reducing hazards at public highway-railway crossings at any location where a railway and a public highway intersect each other at a common grade, when

such protection is ordered by the public utilities commission pursuant to section 4907.47, 4907.471, or 4907.49 of the Revised Code;
(2) The costs incurred by the commission in administering sections 4907.47 to 4907.476 of the Revised Code.
(B) Moneys for the fund shall be provided from the motor fuel tax levied under section 5735.05 of the Revised Code and any federal funds apportioned and allocated to the state for the reduction of hazards at railroad grade crossings. One hundred thousand dollars shall be transferred to the fund each month as provided for in section 5735.23 of the Revised Code, and may be expended by the commission to pay the public share of the costs for reducing hazards at railway crossings with highways, roads, or streets on the state, county, township, or municipal highway and street systems and the costs incurred by the commission in administering sections 4907.47 to 4907.476 of the Revised Code, provided that not more than ten per cent of the amounts thus transferred each fiscal year may be used for paying such administrative costs that fiscal year.
Ohio Rev. Code Ann. §4907.472 (2013)

***§ 4907.474. Closing of municipal crossings; court action**
(A) In making the survey provided for by section 4907.471 of the Revised Code, the public utilities commission shall determine as to each crossing whether there is a demonstrable need for such crossing to exist and whether the crossing could be closed to vehicular traffic, or to pedestrian traffic, or to both, and the travel over the crossing diverted to other crossings. In making this determination, the commission shall consider all of the following:
(1) The daily vehicular and train traffic at the crossing to be closed;
(2) The daily vehicular and train traffic at any alternate crossings;
(3) The daily increase in vehicular traffic at alternate crossings resulting from proposed crossing closures;
(4) The nature of the roadway at any alternate crossings;
(5) The total number of crossings within one linear mile of the crossing to be closed;
(6) The type of advance warning devices at any alternate crossings;
(7) The sight distances at any alternate crossings, including any permanent obstruction affecting distance of view;
(8) The impact of closure on vehicular traffic, emergency vehicles, commercial enterprises, and any other factors pertinent to municipal corporations and other populated areas;
(9) Any other factor the commission determines appropriate.
(B) If the commission finds that there is not a demonstrable need for a crossing to exist according to the factors listed in divisions (A)(1) to (9) of this section and that the crossing could be closed, and if the crossing is on a street or way within a municipal corporation, the commission shall hold a public hearing on the issue of the possible closing of the crossing to vehicular traffic, or to pedestrian traffic, or both, and invite comments on the closing and the effects the closing would have on the vehicular and pedestrian traffic patterns within the municipal corporation. The commission also shall hold such a hearing upon application of the municipal corporation within which a crossing is located, or upon application of the railroad having jurisdiction over a crossing, if the municipal corporation or railroad believes that there is not a demonstrable need for the crossing to exist and that the crossing should be closed to the public. Any such application filed by a municipal corporation or railroad shall be on a form provided by the commission. Notice of the hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation in the municipal corporation in which

the crossing at issue is located. The hearing shall be held at a location within the boundaries of the municipal corporation. If, after the hearing, it is the opinion of the commission that there is not a demonstrable need for the crossing to exist according to the factors listed in divisions (A)(1) to (9) of this section and that the crossing should be closed, the commission shall issue an order to the legislative authority of the municipal corporation in which the crossing is located directing it to discontinue the crossing and close it to vehicular traffic, or to pedestrian traffic, or both, by ordinance. The commission shall enter the order upon its journal. The legislative authority of the municipal corporation, within thirty days after receipt of the order from the commission, shall discontinue the crossing and close it to vehicular traffic, or to pedestrian traffic, or both, as specified in the order of the commission.
(C) The municipal corporation or railroad may file with the commission an application for a rehearing of the commission's order issued under division (B) of this section. Any application for a rehearing of an order issued by the commission under this section shall be filed in accordance with and meet the requirements contained in section 4903.10 of the Revised Code, and any rehearing held by the commission shall be conducted in accordance with that section.
The municipal corporation or railroad may appeal the order of the commission, as affirmed or modified by the commission after the rehearing, to the supreme court.
(D) The commission shall assess the costs, as determined by the commission, of the closure of a crossing under this section against the railroad having jurisdiction over the crossing. If a municipal corporation or railroad applies for closure of a crossing under division (B) of this section, the commission may assess the costs of any investigation conducted under this section to make the determination required by division (A) of this section against the municipal corporation or railroad that applies for the closure.
Ohio Rev. Code Ann. §4907.474 (2013)

***§ 4907.49. Dangerous crossings**
When two or more railroads cross a public highway or street at a dangerous crossing, the expenses incurred in the erection and maintenance of gates, bells, or other devices, and of necessary gatekeepers or flaggers, and apportioned by the public utilities commission as railroad expense, shall be shared equally by the railroads.
Chapters 4901., 4903., 4905., 4907., and 4909. of the Revised Code do not prevent the use of automatic bells or other mechanical devices by a railroad at a public crossing not declared dangerous by the public utilities commission, nor do they prevent state, county, township, or municipal officials from entering into an agreement with a railroad to pay all or part of the expense of erecting a warning device. Any funds levied and made available for highways or street purposes may be used to pay the public share of the cost under such an agreement. If a gate is erected or a flagger is stationed and maintained by a railroad, either alone or pursuant to such an agreement, the gate or flagger shall not be abandoned nor an automatic bell or other mechanical device substituted for the gate or flagger, unless the commission consents to the abandonment or substitution.
Ohio Rev. Code Ann. §4907.49 (2013)

§ 4955.20. Highway crossings and sidewalks; maintenance and repair
Companies operating a railroad in this state shall build and keep in repair good and sufficient crossings over or approaches to such railroad, its tracks, sidetracks, and switches, at all points where any public highway, street, lane, avenue, alley, road, or pike is intersected by such railroad, its tracks, sidetracks, or switches. Such companies shall build and keep in repair good and sufficient sidewalks on both sides of streets intersected by their railroads, the full width of

the right of way owned, claimed, or occupied by them. The board of township trustees shall have power to fix and determine the kind and extent, and the time and manner of constructing, crossings and approaches outside of municipal corporations.
The legislative authority of a municipal corporation may exercise the same powers as to crossings, approaches, and sidewalks within municipal corporations as such board exercises concerning crossings and approaches outside of municipal corporations. Such crossings, approaches, and sidewalks shall be constructed, repaired, and maintained by the railroad companies as so ordered.
Ohio Rev. Code Ann. §4955.20 (2013)

***§ 4955.45. Reports to commission; inspections; commission may require safety measures**
(A) Each municipal corporation or township that has established a railroad quiet zone pursuant to sections 4955.41 to 4955.47 of the Revised Code shall submit a report to the commission every three years after the date of first operation of the zone. The report shall be in such form and contain such information as the commission shall prescribe by rule, including, but not limited to, information on the number of traffic citations issued at the crossing, roadway traffic counts at the crossing, and changes to the crossing and roadway due to construction or improvements.
(B) Once every three years after the date of first operation of a railroad quiet zone established pursuant to section 4955.42 of the Revised Code, the public utilities commission shall inspect each public grade crossing in the zone and issue a report documenting the compliance of the zone with the commission order issued under that section. The commission also may inspect such a crossing at any other time.
(C) The commission at any time and by order, after notice and opportunity for the filing of comments, may require at a public grade crossing in a railroad quiet zone established pursuant to section 4955.42 of the Revised Code the implementation and use of such safety measures as it considers necessary and appropriate to ensure that safety measures are appropriate and adequate for the crossing or to ensure compliance with an order issued under division (C) of that section or with the guidelines for the use and operation of those measures as set forth in Appendix (A) of 65 F.R. 2230 to 2270, including to the extent such guidelines are applicable upon any adoption of regulations pursuant to the "Swift Rail Development Act," Pub. L. No. 103-440, 108 Stat. 4615, 49 U.S.C. 20153.
Ohio Rev. Code Ann. §4955.45 (2013)

§ 4957.02. Resolution to alter or abolish
When it is deemed necessary by a municipal corporation or a county to join with any railroad company in the alteration or abolition of a grade or other crossing, the legislative authority of the municipal corporation, by a two-thirds vote of all the members elected to it, or the board of county commissioners of the county, by a unanimous vote, by resolution, shall declare such necessity and intent, and state in it the manner in which the alterations in the crossing are to be made, giving the method of constructing the new crossing with the grades for the railroad and public way, what land or other property it is necessary to appropriate and how the cost is to be apportioned between the municipal corporation or county and the railroad company, and by whom the work of construction is to be done and how its cost is to be apportioned between the municipal corporation or county and the railroad company.
Such resolution shall be published and notice of its passage given to owners of property abutting on the proposed improvement, in the manner provided as to resolutions of a city legislative authority declaring the necessity of a contemplated public improvement. Claims for damages caused must be filed in the manner and within the time prescribed in such cases.

Ohio Rev. Code Ann. §4957.02 (2013)

§ 4957.04. Acquiring necessary property; sale to railroad company

The land or property required to make the alteration in the street or highway necessitated by a proposed crossing improvement, shall be purchased or appropriated by the municipal corporation or county in the manner provided for in sections 163.01 to 163.22, inclusive, of the Revised Code. The land or property required to make the alteration in the railroad necessitated by the proposed improvement shall be purchased or appropriated by the railroad company in the manner provided for in sections 163.01 to 163.22, inclusive, of the Revised Code. The municipal corporation or county may also acquire the land or property, or a part thereof, required to make the alteration in the railroad and subsequently sell the same or a part thereof at private sale to the railroad for such purposes, and execute and deliver a deed for it.

Ohio Rev. Code Ann. §4957.04 (2013)

***§ 4957.05. Apportionment of cost**

The cost of the construction of the improvement in a crossing, including the cost of land or property purchased or appropriated, and the payment of damages to abutting property shall be apportioned as follows:

(A) The railroad company, or companies if several railroads cross a public way at or near the same point, shall pay, unless otherwise agreed upon, fifteen per cent;

(B) The municipal corporation or county shall pay eighty-five per cent.

Ohio Rev. Code Ann. §4957.05 (2013)

§ 4957.06. Cost of maintenance of bridge borne by county or state

After the completion of the crossing alteration, the crossings and approaches shall be kept in repair as follows:

(A) When the public way crosses a railroad, or railroad and interurban railroad, by an overhead bridge, the cost of maintenance must be borne by the county or the state as may be provided by law.

(B) When the public way passes under a railroad, or railroad and interurban railroad, the bridge and its abutments shall be kept and maintained by the railroad company, or the railroad company and interurban railroad company, as the case may be, in such proportions as are fixed by agreement between the parties or, in the absence of such agreement, in such proportions as may be fixed by the court of common pleas of the county in which the improvement is located, and the public way and its approaches shall be maintained and kept in repair by the county in which they are situated or by the state as may be provided by law.

Ohio Rev. Code Ann. §4957.06 (2013)

§ 4957.09 Grade crossing on county line road

When a grade crossing is on a county line road, the boards of county commissioners of the counties in which such crossing is situated may join in all the proceedings necessary for the abolition of such grade crossing. That part of the cost of making such change in the crossing and of keeping it in repair which is not agreed to be paid by the railroad company shall be paid by the counties in equal proportions. The money for such purpose shall be raised as in cases of county road crossings.

Ohio Rev. Code Ann. §4957.09 (2013)

§ 4957.10 Powers as to grades above or below railroad tracks

Any municipal corporation may raise or lower, or cause to be raised or lowered, the grade of any street or way owned by it, either within or without its municipal limits, above or below railroad tracks, and may require any railroad company operating a railroad across such streets or ways to raise or lower the grade of its tracks and may construct ways or crossings above the tracks of any railroad, or require the railroad company to construct ways or crossings that are to be passed under its tracks. “Railroad” includes interurban railroads and “railroad company” includes interurban railroad companies engaged in the operation of cars by electricity or other motive power. Any municipal corporation may require such railroad company to erect permanent piers, abutments, or any other appropriate supports in the ways, crossings, streets, roads, or alleys, whenever in the opinion of the legislative authority of the municipal corporation, the raising or lowering of the grade of any such railroad tracks, or the raising or lowering of the construction of such ways, crossings, or other supports may be necessary, upon the conditions set forth in sections 4957.10 to 4957.26, inclusive, of the Revised Code.
Ohio Rev. Code Ann. §4957.10 (2013)

***§ 4957.11. Changes in location of public ways**
When the legislative authority of a municipal corporation deems it necessary in the abolishment of grade crossings to change the location of any street, alley, road, or way such legislative authority may relocate such street, alley, road, or way, or any part thereof, may vacate the whole or any portion of such street, alley, road, or way abandoned by such relocation, and cause the improvements contemplated to be placed in such relocated street, alley, road, or way.
Ohio Rev. Code Ann. §4957.11 (2013)

***§ 4957.14. Petition to court**
Either the municipal corporation or the railroad company, after the expiration of three months from the passage of the ordinance referred to by section 4957.12 of the Revised Code, may apply to the court of common pleas by petition accompanied by the necessary plans prepared by the municipal corporation or company, asking that any grade crossing be abolished. Such plans must show the grades to be established for such streets, the changes to be made in the location of streets, alleys, roads, or ways, the height, character, and estimated cost of any viaduct or way above or below railroad tracks, the number, character, and location of piers, abutments, and supports to be permanently located in the streets, alleys, roads, or ways in the municipal corporation, and the change of grade to be made in any railroad tracks, including sidetracks and switches.
Ohio Rev. Code Ann. §4957.14 (2013)

***§ 4957.15. Procedure**
Upon the filing of a petition under section 4957.14 of the Revised Code, accompanied by plans, the railroad company or municipal corporation opposed to the prayer of such petition, or directly interested in it, shall have the right, within sixty days thereafter, to file an answer to such petition and to present other plans for the abolition of such crossing. After the expiration of such period of sixty days, the court shall proceed to a hearing upon the petition and any answers that have been filed, which hearing must be advanced upon the docket upon motion of either party. After examination of all plans presented to it and after hearing the evidence, the court shall make a finding as to whether the security and convenience of the public require that alterations be made in the crossing or the approaches to it, or in the location of the railroad or public way, or any grades thereof, so as to avoid a crossing at common grade, or that such crossings, or any of them,

be discontinued with or without building a new way in substitution therefor, and whether such plans or any of them are reasonable and practicable.
Ohio Rev. Code Ann. §4957.15 (2013)

§ 4957.18. Apportionment of cost between municipal corporation and railroad
The cost of constructing a crossing improvement authorized, including the making of ways, crossings, or viaducts, above or below the railroad tracks, and the raising or lowering of the grades of the railroad tracks and sidetracks for such distance as is required by such municipal corporation and made necessary by such improvement, together with the cost of land or property purchased or appropriated, and damages to owners of abutting or other property, shall be borne, unless otherwise agreed upon, eighty-five per cent by the municipal corporation and fifteen per cent by such railroad company. The municipal corporation shall have a right of action against any such company for the recovery of fifteen per cent or other agreed proportion of such costs payable by it, with interest from the time they become due. Such municipal corporation and company may agree as to what part of the work shall be done by the company, and may fix the amount, or agree upon a method or basis for calculating and ascertaining the amount, to be allowed or credited to the company for doing the work. Such company shall be entitled to deduct from its fifteen per cent or other agreed proportion of the cost of the improvement, the expense incurred by it in the change of its grade required by the municipal corporation or made necessary by it under such specifications, but only if the amount of expense, or a method or basis for calculating it, has been agreed upon in writing between the municipal corporation and the company. If the amount of work done by the company, or made necessary by reason of such change of grade on lowering or raising its tracks, exceeds fifteen per cent or other agreed proportion of the cost of the improvement, then it shall have the right to recover the amount with interest in excess of fifteen per cent or other agreed proportion of the expenses, in an action at law against the municipal corporation.
Ohio Rev. Code Ann. §4957.18 (2013)

§ 4957.19. Payment of railroad company's proportion of cost
The legislative authority of a municipal corporation may, by ordinance, prescribe the manner and time of payment by a railroad company of the proportion of the cost of a crossing improvement which the company is required to pay.
Ohio Rev. Code Ann. §4957.19 (2013)

§ 4957.24. Cost of maintenance
After the completion of the work, crossings and approaches shall be kept in repair as follows:
(A) When the public way crosses a railroad by an overhead bridge, the cost of maintenance must be borne by the municipal corporation;
(B) When the public way passes under the railroad, the bridge and its abutments shall be kept and maintained by the railroad company, and the public way and its approaches shall be maintained and kept in repair by the municipal corporation in which they are situated.
Ohio Rev. Code Ann. §4957.24 (2013)

***§ 4957.28. Railroad crossings**
Every railroad company building a new line of road under its charter powers across a highway shall construct it above or below the grade of the highway, unless it is allowed to build it at grade as provided in sections 4957.30 to 4957.32, inclusive, of the Revised Code. Such company may exercise the power contained in its charter and the general laws for altering the grade and location of highways in order to avoid grade crossings.

Ohio Rev. Code Ann. §4957.28 (2013)

§ 4957.29. Highway crossings

Every municipal corporation or other authority building a highway across an existing railroad shall construct it above or below the grade of such railroad, unless allowed to build at grade as provided by sections 4957.30 to 4957.32, inclusive, of the Revised Code. The cost of such work shall be paid, unless otherwise agreed upon, eighty-five per cent by such municipal corporation or other authority, and fifteen per cent by the company owning the railroad. "Railroad" includes interurban railroads, and "railroad company" includes interurban railroad companies engaged in the operation of cars by electricity or other motive power which said companies may adopt or use. The method or procedure for the construction of such highway and the manner of construction of it shall be governed by the laws regulating the abolition of grade crossings.

Ohio Rev. Code Ann. §4957.29 (2013)

***§ 4957.30. Petition for grade crossings**

When it is desired by a railroad company constructing a new railroad or in changing or altering the location of one previously constructed, or by any municipal corporation or authority constructing a new highway, that the railroad or highway should be so constructed that they will cross each other at the same grade, or if it is desired to divert, change, or alter an existing public highway, a petition shall be presented by the party desiring such construction or diversion, to the court of common pleas of the county within which the crossing or diversion is situated. If it is the authority constructing a highway asking for the right to cross a railroad, the railroad company shall be the defendant. If it is a railroad company asking for the right to cross a highway, or divert, change, or alter any existing public highway in a municipal corporation, such municipal corporation shall be the defendant. If outside the municipal corporation, and a road or highway other than on the state highway system, the board of township trustees of the township and the board of county commissioners of the county shall be the defendants. If it is a road or highway on the state highway system, the director of transportation shall be the defendant. Summons shall be served and the rule days and the rights of the defendants to plead shall be the same as in civil actions in such court.

Ohio Rev. Code Ann. §4957.30 (2013)

***§ 4957.31. Contents of petition**

The petition referred to in section 4957.30 of the Revised Code shall set forth the reasons that are supposed to make such change or alteration necessary or desirable. The court of common pleas thereupon shall have the jurisdiction of the parties and the subject matter of the petition, and may proceed to examine the matter, either by evidence, by reference to a master commissioner, or otherwise. If satisfied that such construction is reasonably required to accommodate the public, or to avoid excessive expense, in view of the small amount of traffic on the highway or railroad, and considering the future uses to which the highway may be adapted, or in view of the difficulties of other methods of construction, or for other good and sufficient reasons, the court shall make an order permitting such crossing at a grade or diversion to be established. In such order, the court may prescribe that gates, signals, watchmen, or other safeguards shall be maintained by the railroad company, in addition to the signals and safeguards prescribed by law, and all such orders shall be binding upon the parties and be observed by them.

All costs and expenses of the proceedings shall be ascertained and allowed by the court of common pleas and be paid by such party as it decides, or apportioned by the court between the parties, and may be collected by execution out of such court.

Ohio Rev. Code Ann. §4957.31 (2013)

***§ 5561.01. Road grade above or below railroad tracks**

Any county may raise or lower the grade of any state or intercounty highway above or below the tracks of railroads and parallel and adjacent interurban railways within the county, and require any railroad company operating a railroad in such county, and any interurban railway company operating an interurban railway parallel and adjacent to the railroad, to raise or lower the grade of its tracks, above or below any state or intercounty highway, and may construct ways or crossing for such highway above the tracks of any railroad and parallel and adjacent interurban railway, or require the railroad company and any interurban railway company operating an interurban railway, parallel and adjacent to such railroad, to construct ways or crossings therefor that are to be passed under its tracks. Such companies may be required to erect permanent piers, abutments, or any other appropriate supports for any of such works on state and intercounty highways within the county, whenever, in the opinion of the board of county commissioners, the raising or lowering of the grade of any such tracks, or the raising, lowering, or construction of such highways or supports is necessary; upon the terms of sections 4957.06 and 5561.01 to 5561.15, inclusive, of the Revised Code.
Ohio Rev. Code Ann. §5561.01 (2013)

***§ 5561.06. Apportionment of cost between county and railroad; right of action**
The cost of constructing a grade crossing improvement, including the making of ways, crossings, or viaducts, above or below the railroad tracks, and the raising or lowering of the grades of the railroad tracks and sidetracks for such distance as required by the county and made necessary by such improvement, including the cost of moving or changing existing structures and other incidental expenses, together with the cost of land or property purchased or appropriated, and damages to owners of abutting or other property, and damages to owners of abutting agreed upon, eighty-five per cent by the county and fifteen per cent by such railroad company, including any interurban railroad company, the crossing of whose tracks with such highway is involved.
Ohio Rev. Code Ann. §5561.06 (2013)

<u>Oklahoma</u>

***§ 81. Jurisdiction of Corporation Commission over crossings**
The Corporation Commission is given full jurisdiction over all public highway crossings, where same cross steam or electric railroads or railways within the State of Oklahoma.
Okla. Stat. tit. 17, § 81 (2012)

§ 82. Expense of crossings
The expense of construction and the maintenance of public highway grade crossings shall be borne by the railroad or railway company involved. For overgrade or undergrade public highway crossings over or under steam or electric railroad or railway, the assignment of cost and maintenance shall be left to the discretion of the Corporation Commission; but in no event shall the city, town or municipality be assessed with more than fifty percent (50%) of the actual cost of such overgrade or undergrade crossings.
Okla. Stat. tit. 17, § 82 (2012)

§ 86. Extra hazardous crossings--Protective devices--Costs
The Oklahoma Corporation Commission shall have the authority, after having made proper investigations, to designate those grade crossings which are extra hazardous. At all such

crossings so designated, the Commission shall have the authority to order the installation of appropriate protective devices. All such installations to be performed by the railroad. The Commission shall have the authority to determine the number, type, and location of such signs, signals, gates or other protective devices, which, however, shall conform as near as may be with generally-recognized national standards, and said Commission shall have authority to prescribe the division of the cost of the installation of such signs, signals, gates or other protective devices between the public utility and the state or its political subdivisions; provided, however, that the cost to the utility shall be not less than ten percent (10%) or more than twenty-five percent (25%) of the total costs. The railroads shall be responsible for all subsequent maintenance and cost thereof. Provided, however, that the results of investigation or investigations, findings, determinations, or orders of the Corporation Commission shall not be admissible in any civil action.
Okla. Stat. tit. 17, § 86 (2012)

§ 87. Payment of state costs

All such division of costs that become an obligation of the state shall be paid from funds accruing to the credit of the State Highway Construction and Maintenance Fund under 68 O.S.1963, Supp., § 5-504(b), and all such division of costs that become an obligation of a municipal corporation or other political subdivision of the state shall be paid from the funds accruing to the various counties of the state under 68 O.S.1963 Supp., § 5-504(d).
Okla. Stat. tit. 17, § 87 (2012)

§ 122. Temporary ways
Every railroad corporation, while employed in raising or lowering any turnpike or other way, or in making any other alterations, by means of which the said way may be obstructed, shall provide and keep in good order, suitable temporary ways to enable travelers to avoid or pass such obstructions.
Okla. Stat. tit. 66, § 122 (2012)

***§ 128. Construction and maintenance of crossings**
It shall be the duty of every railroad company or corporation doing business, or operating a line of railroad, within this state, to construct a crossing across that portion of its track, roadbed or right-of-way over which any public highway may run, and maintain the same unobstructed, in a good condition for the use of the public, and to build and maintain in good condition all bridges and culverts that may be necessary on its right-of-way at such crossing and in case any railroad company or corporation fails so to construct and maintain said crossing for thirty (30) days after written notice by the road overseer of any road district or the council or board of trustees of any city or town in this state, or fifty petitioners of any city or town who are interested (where such work or repairs are needed), to be given to the section boss, or any station agent of any railroad company or corporation in the county (where such work or repairs are needed) it shall forfeit and pay to said county, road district, city or town complaining, the sum of Twenty-five Dollars ($ 25.00) per day for every day said company or corporation may neglect to comply with the requirements of this section.
Okla. Stat. tit. 66, § 128 (2012)

<u>Oregon</u>

***374.305 Necessity of permission to build on rights of way.**

(1) A person may not place, build or construct on the right of way of any state highway or county road, any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance, or substantially alter any such facility, thing or appurtenance or change the manner of using any such approach road without first obtaining written permission from the Department of Transportation with respect to state highways or the county court or board of county commissioners with respect to county roads.
(2) After written notice of not less than 10 days to the permittee and an opportunity for a hearing, the department with respect to crossings over a state highway and the county court or board of county commissioners with respect to crossings over a county road may abolish any crossing at grade by a private road or may alter or change any private road crossing when the public safety, public convenience and the general welfare require the alteration or change.
Or. Rev. Stat. § 374.305 (2011)

824.018 Grade Crossing Protection Account; use; limits.
(1) There is established in the State Highway Fund an account to be known as the Grade Crossing Protection Account. There shall be credited to the account each fiscal year, from funds received by the State Highway Fund from the registration of vehicles and licensing of drivers under the Oregon Vehicle Code, the sum of $ 300,000 plus an amount equal to 50 percent of the cost of carrying out the duties, functions and powers imposed upon the Department of Transportation by ORS 824.200 to 824.256. State-shared highway fund revenues for cities and counties, as well as Department of Transportation expenditures for the elimination of hazardous railroad-highway crossings, shall be computed and allocated prior to any appropriation or transfer to the account. The amount of $ 300,000 credited to the account is continuously appropriated and shall be expended for railroad-highway crossing safety as authorized by ORS 824.242 to824.248 and subsection (2) of this section. The amount credited to the account for paying the cost of carrying out the duties, functions and powers of the department by ORS 824.200 to 824.256 is transferred and appropriated to the Department of Transportation and shall be used as provided in ORS 824.010 (3). No more than $ 100,000 in the aggregate shall be allocated from the account in any one fiscal year for costs of construction, reconstruction, alteration or relocation of separated crossings; provided however the unapportioned amount in the Grade Crossing Protection Account at the end of each fiscal year may be allocated for costs of reconstruction, alteration or relocation of separated crossings.
(2) Moneys credited to the account may also be allocated for such highway purposes as the Department of Transportation deems appropriate in order to enhance safety at railroad-highway crossings. The Department of Transportation may allocate no more than $ 100,000 annually to railroads to defray the costs of maintenance of protective devices at railroad-highway crossings.
(3) As used in this section, “highway,” “maintenance costs,” “protective device” and “railroad” have the meaning given those terms in ORS 824.200.
Or. Rev. Stat. § 824.018 (2011)

***824.019 Grade Crossing Safety Improvement Fund.**
(1) The Grade Crossing Safety Improvement Fund is established separate and distinct from the General Fund. Interest earned by the Grade Crossing Safety Improvement Fund shall be credited to the fund.
(2) Notwithstanding ORS 823.991, all civil penalties collected under ORS 824.222 and 824.223 shall be paid by the Department of Transportation into the State Treasury within 30 days after the collection thereof and shall be placed by the State Treasurer to the credit of the Grade Crossing

Safety Improvement Fund. Moneys in the fund are continuously appropriated to the Department of Transportation for the purpose of grade crossing safety improvement projects.
Note: 824.019 was enacted into law by the Legislative Assembly but was not added to or made a part of the Oregon Vehicle Code or any chapter or series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.
Or. Rev. Stat. § 824.019 (2011)

824.204 Authority to construct grade crossings; protective devices.
(1) Except for the repair of lawfully existing roads and highways or the replacement of tracks, no highway shall be constructed across the track of any railroad company at grade, nor shall the track of any railroad company be constructed across a highway at grade, without having first secured the permission of the Department of Transportation.
(2) Whenever any railroad company desires to cross any established and existing highway at grade or any public authority desires to lay out and extend any highway over and across any established and existing railroad at grade, it shall file with the department its application setting forth the objections and difficulties of making such crossing either above or below the grade of the existing highway or railroad.
(3) Upon receipt of the above application the department, after hearing, unless a hearing is not required under ORS 824.214, shall:
(a) Determine whether the public safety, public convenience and general welfare require a grade separation; and
(b) In the event a grade separation is not required, determine whether the application should be refused or granted, and upon what terms and conditions.
(4) If the grade crossing is approved, the department shall determine and prescribe the manner of its construction, maintenance and use, the kind and location of protective devices to be installed, the allocation of costs and the place of the crossing.
Or. Rev. Stat. § 824.204 (2011)

824.210 Construction and alteration of crossings above or below grade.
No highway shall be constructed across the track of any railroad company above or below grade, nor shall the track of any railroad company be constructed across a highway above or below grade, without having first secured the permission of the Department of Transportation. If permission is granted, the department shall, after a hearing, unless hearing is not required under ORS 824.214, prescribe the terms and conditions upon which such crossing shall be made and shall allocate the cost of construction and maintenance.
Or. Rev. Stat. § 824.210 (2011)

***824.212 Specifications for construction and maintenance of crossings; application of specifications; priorities; compliance.**
(1) The Department of Transportation shall adopt regulations prescribing specifications for the construction and maintenance of railroad-highway crossings, both at grade level and at separated grades. The specifications shall be developed in consultation with representatives of cities and counties and shall conform to nationally recognized and commonly used standards to ensure that the crossings are constructed and maintained in a manner that conforms to the public safety, necessity, convenience and general welfare, including but not limited to the projected transportation needs.
(2) Specifications for separate crossings adopted under subsection (1) of this section do not apply tocrossings in existence on the effective date of the regulation prescribing the specifications.

However, within a reasonable period after the effective date, crossings shall be altered or reconstructed to comply with the regulations in effect at the time of the alteration or reconstruction.
(3) Priorities for such alterations or reconstruction shall be established by the Department of Transportation, based upon the expressed need of the public authority in interest, and upon such other factors as danger or inconvenience to motorists, age of the structure, frequency of reported accidents and degree of noncompliance with regulations.
(4) If the public authority in interest or the railroad company fails to so alter or reconstruct a crossing, the department, after following the procedures specified in ORS chapter 183 for contested cases, may order the alteration or reconstruction and proceed in accordance with ORS 824.216.
Or. Rev. Stat. § 824.212 (2011)

***824.226 Dangerous grade crossings; notice; hearing; order to install protective devices; apportioning of cost.**
(1) The Department of Transportation on its own motion may, or upon application by the common council or mayor of any city, or any county judge or county commissioner or county roadmaster, or by five or more residents and taxpayers in any city, county or road district to the effect that a public highway and a railroad cross one another in such city, county or road district at the same level, and that such grade crossing is unsafe and dangerous to travelers over such highway or railroad, shall, give notice to the railroad company, of the filing of such application, and furnish a copy of the same to the railroad company, and order a hearing thereon in the manner provided for contested case hearings under ORS chapter 183.
(2) If upon such hearing it appears to the satisfaction of the department that the crossing complained of is unsafe and dangerous to human life, the department may order the crossing closed or order and direct the railroad or public authority to install and maintain proper protective devices, and establish a date by which such devices are to be installed and placed into operation. The department shall apportion the installation and maintenance costs thereof in accordance with ORS 824.242 to 824.246, and, notwithstanding the provisions of ORS chapter 183, shall suspend the effective date of the order until the public authority in interest has consented to the apportionment and has agreed to comply therewith.
Or. Rev. Stat. § 824.226 (2011)

***824.238 Division of costs between railroad and public authority.**
The following costs shall be divided between the railroad and the public authority in interest in such proportion as the Department of Transportation finds just and equitable under the circumstances in each case:
(1) That portion of the cost of any alteration or change resulting in the elimination of a grade crossingunder ORS 824.206 (1) by reason of relocation of the highway which is directly chargeable to the grade elimination.
(2) The costs of construction, change, alteration, abolition and relocation of any grade crossing involved in a proceeding arising under ORS 824.204, 824.206 or 824.226.
(3) The costs of maintenance of crossings above or below grade under ORS 824.206 and 824.210.
(4) Any cost otherwise apportionable under the terms of ORS 824.242 to 824.246 or 824.248 (1) to the extent that funds are not available from the Grade Crossing Protection Account.
Or. Rev. Stat. § 824.238 (2011)

***824.240 Payment when public highway involved.**
(1) As to all crossings above or below grade constructed on state highways, the proportion of expense to be borne by public authority in interest shall be paid from the state highway funds.
(2) Any public authority in interest acting through its governing body may, at its option, by agreement with the Department of Transportation, bear a share of the expense of constructing any railroad crossing above or below grade on a state highway.
(3) If federal funds allocated specifically for removal of hazards at hazardous railroad-highway crossings are available for any part of the work to be performed, the Department of Transportation shall cause such funds to be used for such purposes.
Or. Rev. Stat. § 824.240 (2011)

824.242 Apportionment of costs for installation of protective devices.
In any grade crossing proceeding arising under ORS 824.204, 824.206 or 824.226, unless the parties agree otherwise, installation costs of protective devices shall be apportioned as follows:
(1) At an existing crossing, a crossing relocated pursuant to ORS 824.206 or 824.226, or a crossing previously closed by order of the Department of Transportation and reopened in a proceeding under ORS 824.204:
(a) 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 over the crossing:
(A) Seventy-five percent to the Grade Crossing Protection Account;
(B) Five percent to the public authority in interest; and
(C) Twenty percent to the railroad company.
(b) For devices which are primarily designed for the purpose of illuminating the crossing or its approaches during hours of darkness:
(A) Not less than 90 percent to the Grade Crossing Protection Account;
(B) Not more than five percent to the public authority in interest; and
(C) Not more than five percent to the railroad company for such devices to be installed at the crossing.
(c) For all other protective devices:
(A) Seventy-five percent to the Grade Crossing Protection Account; and
(B) Twenty-five percent to the public authority in interest for such devices to be installed by it at or in advance of the crossing; or
(C) Twenty-five percent to the railroad company for such devices to be installed by it at the crossing.
(2) Except as provided in subsection (4) of this section, at a new crossing requested by a public authority, 100 percent of the installation costs shall be paid by the public authority in interest.
(3) Except as provided in subsection (4) of this section, at a new crossing requested by a railroad company, 100 percent of the installation costs shall be paid by the railroad company.
(4) If the Department of Transportation converts an unauthorized railroad-highway crossing to a crossing authorized under ORS 824.204, the department shall apportion installation costs of protective devices as provided in subsection (1) of this section, or, if federal funds are available, installation costs may be apportioned as provided in ORS 824.250.
Or. Rev. Stat. § 824.242 (2011)

824.244 Apportionment of costs for maintenance of protective devices.
Unless the parties agree otherwise, maintenance cost of protective devices at grade crossings installed pursuant to ORS 824.204, 824.206 or 824.226 shall be apportioned as follows:

(1) One hundred percent to the railroad company for devices at the crossing actually installed and maintained by the railroad.
(2) One hundred percent to the public authority in interest for devices at or in advance of the crossing actually installed and maintained by the authority, except as provided under subsection (3) of this section.
(3) Fifty percent to the railroad company, and 50 percent to the public authority in interest, for devices at the crossing installed and maintained by the public authority which are primarily designed for the purpose of illuminating the crossing during hours of darkness and which are not activated immediately in advance of, or during, each train movement.
Or. Rev. Stat. § 824.244 (2011)

***824.246 Apportionment of costs of crossing closure.**
If in any grade crossing proceeding arising under ORS 824.204, 824.206 or 824.226, the Department of Transportation requires the closure of any existing crossing within the jurisdiction of the public authority in interest, the department may apportion to the railroad company, for such crossing closed, an amount not to exceed five percent of the cost of installation of protective devices at any new or other existing crossing within the jurisdiction of the public authority in interest. Any additional costs paid by the railroad company shall reduce the share otherwise apportionable to the public authority in interest.
Or. Rev. Stat. § 824.246 (2011)

***824.248 Apportionments for crossings above or below grade.**
In any proceeding involving a crossing above or below grade arising under ORS 824.206 or 824.210, unless the parties agree otherwise, the cost of construction, reconstruction, or alteration of such crossings shall be apportioned as follows:
(1) At existing crossings above or below grade: 10 percent of the cost of reconstruction or alteration to the public authority in interest and all remaining costs of reconstruction or alteration to the Grade Crossing Protection Account and the railroad in interest as is just and equitable under the circumstances in each case.
(2) At a new crossing requested by a public authority: All construction costs to the public authority in interest.
(3) At a new crossing requested by a railroad company: All construction costs to the railroad company.
Or. Rev. Stat. § 824.248 (2011)

824.250 Apportionment when federal funds available.
In the event any protective device is to be installed or altered at an existing or relocated crossing or any reconstruction or alteration is made 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 Oregon Department of Transportation shall, unless the parties agree otherwise:
(1) Apportion the amount of such federal funds to payment of installation, reconstruction, or alteration costs; and
(2) Apportion the remaining costs of installation, reconstruction, alteration, and maintenance as provided by ORS 824.238 and 824.242 to 824.248; however, in a case where the federal fund assistance equals or exceeds 75 percent of the cost of installing, altering and reconstructing protective devices at an existing or relocated crossing, the remaining costs, except for maintenance costs, may be allocated entirely to the Grade Crossing Protection Account.

Or. Rev. Stat. § 824.250 (2011)

***824.254 Reimbursement procedure for railroad and public authority.**
(1) Upon issuance of an order apportioning costs to the Grade Crossing Protection Account, the railroad company or the public authority in interest may submit to the Department of Transportation progress claims, not to exceed 80 percent of the apportionment, for reimbursement for the cost of labor, and other services provided to date of billing, and for the costs of materials stockpiled at the project site or specifically purchased and delivered for use on the project. Upon completion of the construction, reconstruction or alteration of a crossing, or of the installation or alteration of grade crossing warning or safety devices at a crossing, the railroad company or the public authority in interest shall present to the department for approval its claim for reimbursement for the costs thereof in the amount apportioned to the Grade Crossing Protection Account less progress payments previously made. When a claim is approved, the department shall, as funds become available, order the claim paid from the account.
(2) The department may make such audit as the department considers necessary before or after each such disbursement for the purpose of determining that the money is expended for the purposes and under the conditions authorized by ORS 824.242 to 824.248. By presentation of its claim, the railroad company and the public authority consent to make pertinent records showing costs of labor and materials available to the department.
(3) Notwithstanding subsection (1) of this section, upon issuance of an order apportioning costs to the Grade Crossing Protection Account, and upon agreement with the Department of Transportation, the railroad company or public authority in interest shall submit an estimate of the costs of the project. The railroad company or public authority in interest may submit statements for lump-sum reimbursement from the account during and at the completion of the construction, reconstruction or alteration of a crossing, or of the installation or alteration of a grade crossing warning or safety device at a crossing.
Or. Rev. Stat. § 824.254 (2011)

<u>Pennsylvania</u>

§ 2111. Proceedings to vacate grade crossings
Wherever any railroad is or shall be crossed at grade by a public road, street, or highway, and the railroad company shall have constructed or shall construct, or there 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 said 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 said railroad company or other persons, may, if satisfied that said undergrade subway or overgrade bridge or crossing reasonably accommodates the traveling public, after notice to any corporation using or occupying or authorized to use or occupy the street, proposed to be vacated, with tracks, wires, pipes or conduits, and, by rule to show cause, to the supervisors if the said crossing is in a township, or to the burgess or mayor if said crossingis in a borough or city, and after testimony, taken either in open court or by deposition, as the court may direct, order that said road, street, or highway where it crosses said railroad at grade, and its approaches on both sides, shall be vacated, and that the said undergrade crossing or subway or the overgrade bridge or crossing and its approaches on both sides, substituted therefor, shall be a public highway, and be maintained by the proper authorities; and any company which had rights in or upon the street so vacated shall have, and be permitted to exercise, the same rights upon said

streets, highways, bridges, and subways so opened, and to connect the same with its system without obtaining further authority or consent.
36 Pa. Cons. Stat. § 2111 (2012)

§ 2702. Construction, relocation, suspension and abolition of crossings.
(a) General rule. --No public utility, engaged in the transportation of passengers or property, shall, without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated, suspended or abolished.
(b) Acquisition of property and regulation of crossing. --The commission is hereby vested with exclusive power to appropriate property for any such crossing, except as to such property as has been or may hereafter be condemned by the Department of Transportation for projects financed entirely by the Commonwealth and for Federal Aid Projects under section 1004 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," in which case the provisions of that statute shall be in effect, and to determine and prescribe, by regulation or order, the points at which, and the manner in which, such crossing may be constructed, altered, relocated, suspended or abolished, and the manner and conditions in or under which such crossings shall be maintained, operated, and protected to effectuate the prevention of accidents and the promotion of the safety of the public. The commission shall require every railroad the right-of-way of which crosses a public highway at grade to cut or otherwise control the growth of brush and weeds upon property owned by the railroad within 200 feet of such crossing on both sides and in both directions so as to insure proper visibility by motorists.
(c) Mandatory relocation, alteration, suspension or abolition. --Upon its own motion or upon complaint, the commission shall have exclusive power after hearing, upon notice to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be suspended or abolished upon such reasonable terms and conditions as shall be prescribed by the commission. 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; and 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 of such crossings. The commission may order the work of construction, relocation, alteration, protection, suspension or abolition of any crossing aforesaid to be performed in whole or in part by any public utility or municipal corporation concerned or by the Commonwealth or an established nonprofit organization with a recreational or conservation purpose.
(d) Procedure for appropriation of property. --When any real property is appropriated by the commission under this section, each parcel of such property so appropriated, shall be accurately described by metes and bounds, and the record owner of each such parcel shall be named in the order of appropriation. Unless otherwise recorded, the commission shall file with the recorder of deeds of the proper county, a copy of that portion of the order of the commission which appropriates such property, and such plans and other detailed information as the commission may deem necessary. Such portion of the commission's order dealing with the specific property appropriated shall be recorded and indexed under the name or names of the record owners of such specific property at the expense of the utility or utilities, political subdivision, municipality

or municipalities, governmental agency, including the Department of Transportation and Public Utility Commission, corporation or persons upon whose instigation, petition or complaint the said crossing was constructed, reconstructed, relocated, altered, suspended or abolished, as may be ordered, to bear such expense or recording by the commission. When such appropriation of real property has been recorded under the provisions of any other statute, such recording shall not be duplicated under the terms of this subsection.
(e) Reactivation. --The commission may, within its discretion upon petition by any railroad, the Commonwealth, a political subdivision or any other affected party by order reactivate any crossing suspended under this section.
(f) Danger to safety. --Upon the commission's finding of an immediate danger to the safety and welfare of the public at any such crossing, the commission shall order the crossing to be immediately altered, improved, or suspended. Thereafter hearing shall be held and costs shall be allocated in the manner prescribed in this part.
(g) Suspensions. --Any order of suspension under this section shall require the following for the protection of the motoring public:
(1) Removal or covering of crossing warning devices.
(i) Paving over the tracks; or
(ii) removal of the tracks and paving over of the area formerly occupied by said tracks; or
(iii) barricading the crossing.
(h) Assignment of crossing responsibilities to certain nonprofit organizations.
(1) The commission may order the work of abolition of any crossing in whole or in part, including any future obligations, to be performed by a municipal authority created to advance recreation or conservation purposes or a nonprofit organization with a recreation or conservation purpose if:
(i) the municipal authority or nonprofit organization provides adequate security for the work or demonstrates financial responsibility to the satisfaction of the commission; and
(ii) the commission does not order any Commonwealth agency to bear ancillary responsibility for the work of abolition of any crossing, or the cost associated with the work, without the prior written consent of the head of the Commonwealth agency.
(2) In accordance with the provisions of section 2704 (relating to compensation for damages occasioned by construction, relocation or abolition of crossings), the commission may order the municipal authority or nonprofit organization assuming responsibility for the abolition of the crossing to bear all or a portion of the costs associated with the work. This section shall not apply to any proceeding wherein the commission has issued a final order prior to the effective date of its enactment.
66 Pa. Cons. Stat. § 2702 (2012)

***§ 2704. Compensation for damages occasioned by construction, relocation or abolition of crossings.**
(a) General rule. --The compensation for damages which the owners of adjacent property taken, injured, or destroyed may sustain in the construction, relocation, alteration, protection, or abolition of any crossing under the provisions of this part, shall, after due notice and hearing, be ascertained and determined by the commission. Such compensation, as well as the cost of construction, relocation, alteration, protection, or abolition of such crossing, and of facilities at or adjacent to such crossing which are used in any kind of public utility service, shall be borne and paid, as provided in this section, by the public utilities, municipal corporations, municipal authority or nonprofit organization authorized under section 2702(h) (relating to construction,

relocation, suspension and abolition of crossings) concerned, or by the Commonwealth, in such proper proportions as the commission may, after due notice and hearing, determine, unless such proportions are mutually agreed upon and paid by the interested parties.
(b) Judicial review. --Any party to the proceeding dissatisfied with the determination of the commission may appeal therefrom, as provided by law, and for this purpose is hereby authorized to sue the Commonwealth. The commission may, of its own motion, or upon application of any party in interest, submit to the court of common pleas of the county wherein the property affected is located, the determination of the amount of damages to any property owner due to such condemnation, for which purpose such court shall appoint viewers, from whose award of damages an appeal to said court shall lie on the part of any person or party aggrieved thereby, under the general law applicable to the appointment of viewers, for the ascertainment of damages due to the condemnation of private property for public use.
(c) Payment of compensation. --The amount of damages or compensation determined and awarded to be paid the owners of adjacent property by the Commonwealth shall, in each instance, be paid by the State Treasurer, on a warrant drawn by the State Treasurer, upon the presentation to that officer of a statement setting forth the amount determined to be paid as aforesaid, duly certified by the commission; such payment to be paid out of any funds specifically appropriated for the improvement of the roads or highways of this Commonwealth; and in case of a verdict and judgment thereon for the damages or compensation, recorded by any such adjacent property owners upon appeal, the same shall be paid out of any funds appropriated as aforesaid; and any court of common pleas hearing and determining such appeal is hereby authorized and empowered to issue a writ of mandamus to such commission and the State Treasurer, or either of them, as the case may require, for the payment of such judgment.
(d) Recovery of compensation. --The commission shall have the right to recover, for and on behalf of the Commonwealth, by due process of law, as debts of like amount are now by law recoverable, from the public utility or municipal corporation concerned, in such amounts or proportions against each as may be determined by the commission, as hereinbefore provided in this section, the amount of the damages or compensation awarded to the owners of adjacent property by the commission, or by the court, and the amounts so received shall be paid into the State Treasury, through the Department of Revenue, to the credit of the Motor License Fund.
66 Pa.C.S. § 2704 (2012)

***§ 2725.2. Crossings; determination by public utility commission**
Where on any such highway so authorized to be adopted and taken over the facilities of any public utility were constructed across such highway, at grade or above or below grade, or at the same or different levels or the highway was constructed across the facilities of any public utility, in either event without prior order of the Pennsylvania Public Utility Commission, the adoption procedure shall not be deemed to have been completed until an order has been first obtained from said commission, under and in accordance with the Public Utility Law approving such crossing, or which shall determine and prescribe the points at which and the manner in which such crossing shall be constructed, altered, relocated or abolished, or the manner and conditions in or under which the crossing shall be maintained, operated and protected, to effectuate the prevention of accidents and the promotion of the safety of the public.
36 Pa.Cons. Stat. § 2725.2 (2012)

***§ 23118. To regulate railway bridges, crossings, safety-gates and flagmen**
[Every city of the second class shall have the power to] provide for and require the construction and maintenance of bridges or other crossings over or under railroad tracks, and to enter into

contracts with railroad companies for the construction and maintenance of the same; to require the erection of safety-gates, and the placing of flagmen at the intersection of railroads with public streets; to forbid the obstruction of the said crossings by locomotives or railroad cars, and also to make reasonable regulations concerning the rate of speed at which locomotives, cars or trains shall pass upon or across the streets within the built-up portions of the city.
53 Pa. Cons. Stat. § 23118 (2012)

***§ 57083. Railroad crossings**
Every township constructing a street across a railroad shall construct the same above or below the grade thereof, unless permitted by the Public Utility Commission to construct the same at grade.
Any such crossing of a railroad by a street, or any vacation of any street crossing a railroad, shall be constructed only in the manner prescribed by and under the jurisdiction of the Public Utility Commission. In such cases compensation for damages to the owners of adjacent property, taken, injured or destroyed, shall be ascertained, fixed, and paid in the manner prescribed in the Public Utility Law.
53 Pa. Cons. Stat. § 57083 (2012)

***§ 67321. Railroad crossings**
(a) Every township constructing a road across a railroad shall construct the road above or below the grade thereof unless permitted by the Pennsylvania Public Utility Commission to construct the road at grade.
(b) Any crossing of a railroad by a road or any vacation of any road crossing a railroad shall be made only under the jurisdiction of the Pennsylvania Public Utility Commission. Compensation for damages to the owners of adjacent property taken, injured or destroyed shall be determined under 66 Pa.C.S. (relating to public utilities).
53 Pa. Cons. Stat. § 67321 (2012)

Rhode Island

§ 24-8-10. Improvement or reconstruction of railroad crossings
The director of transportation shall have the power and authority to improve with automatic protection devices or by relocating or rebuilding existing highway-railroad crossings at grade, or by reconstructing existing railroad and highway separation structures, if the improvements, rebuilding, or reconstruction will increase the safety of the crossings and highway, or may eliminate the crossings at grade by the adjustment of track and highway levels and by the construction of separation structures and connecting roadways suitably located to serve all affected properties, and by closing the highways at existing crossings so served, subject to approval of the railroad authorities and the public utilities and carriers administration as provided in chapters 1 -- 9 of title 39. For railroad-highway crossings not on the state highway system, the improvements, construction, reconstruction, or closing shall also be subject to the approval of the town or city in which the work is to be performed.
R.I. Gen. Laws § 24-8-10 (2012)

***§ 39-8-1. Surfacing of highways crossed at grade**
Every railroad corporation whose roadbed crosses the public highway at grade shall cause the crossing to be covered with suitable material for highway travel so that the surface of the highway at the crossing shall not at any time be lower than three-fourths (3/4) of one inch (1”)

below the tops of the rails at the crossing; and every railroad which shall neglect or refuse to comply with the provisions of this section, after being notified by the city or town council of the city or town wherein the crossing is located, shall be fined not exceeding one hundred dollars ($ 100).
R.I. Gen. Laws § 39-8-1 (2012)

§ 39-8-6. Operation of grade crossings of railroads
All railroads in this state crossing any other railroad at grade shall be operated at the crossing subject to, and in accordance with, such reasonable rules and regulations as the division of public utilities and carriers shall from time to time prescribe.
R.I. Gen. Laws § 39-8-6 (2012)

***§ 39-8-8. Maintenance of highways occupied by rails**
Every corporation which maintains or uses railroad tracks in any street or highway in any town or city in this state, shall be liable to keep and maintain in good order and repair, including paving and repaving whenever and wherever necessary, that portion of any street or highway occupied by its railroad and eighteen inches (18") outside of any of its rails, in order that the streets and highways may be safe and convenient for travelers with their vehicles at all times, and the extent of the liability shall not be varied; provided, however, that the character of the paving, repaving, and repairing, shall be such as is from time to time fixed by the town or city councils of the respective towns and cities; and provided, further, that nothing in this section shall relieve any railroad corporation from the payment of any sum of money which it is now required by law to pay to any town or city for the use and occupancy of the streets and highways in the town or city.
R.I. Gen. Laws § 39-8-8 (2012)

<u>South Carolina</u>

***§ 57-5-1640. Contracts with railroad companies and property owners or lessees for constructing crossings and moving structures.**
The Department may, without formalities of advertising, enter into lawful and appropriate agreements and contracts with railroad companies for the construction, reconstruction, or modifications of railroad-highway grade separation crossings or track or other property rearrangement and with other persons, similarly jointly interested in particular items as property owners or lessees, for moving, clearing, rearranging or relocating public utilities, buildings and other structures.
S.C. Code Ann. § 57-5-1640 (2011)

§ 58-15-2110. Railroads shall construct and maintain grade crossings of highways.
(A) Whenever the public safety, convenience, or necessity so requires, all operators of railroads which are now or hereafter shall be crossed at grade by a public highway shall construct and maintain grade crossings meeting the requirements of the authorities responsible for such highways. This shall apply to crossings necessary for new highways, as well as to crossings needed to replace existing crossings rendered obsolete or unnecessary by the relocation or improvement of existing highways or roads.
(B) The involved railroad shall be responsible for all costs associated with construction, modification, or relocation of rail-highway grade crossings when such construction, modification, or relocation results from projects initiated by the railroad. Such railroad-initiated

projects shall include, but are not limited to, constructing a new line, adding an additional track to an existing line, and relocating an existing rail line.
(C) The public authority responsible for a highway crossing a railroad track or tracks shall reimburse the involved railroad for all costs that railroad incurs by virtue of construction, modification, or relocation of rail-highway grade crossings when such construction, modification, or relocation results from projects initiated by the public authority. A public authority is limited to the State Department of Transportation, which is required to reimburse the railroad for Department of Transportation authorized projects from within the funds appropriated to the Department of Transportation by the General Assembly. Such public authority-initiated projects are limited to constructing a new highway, widening an existing highway, and relocating an existing highway.
S.C. Code Ann. § 58-15-2110 (2011)

§ 58-15-2120. Department of Transportation may make specifications and enter into agreements concerning grade crossings of State highways; penalties may be waived by Department.
In case of grade crossings of state highways over such railroads, the Department of Transportation, after due notice to the railroad, corporation, or operator, and hearing the railroad or operator involved, if application is made for such a hearing within ten days after receipt of the notice and after finding that the public safety, convenience, or necessity require it, shall have the power to specify the character of the grade crossings, and the operator of the railroad shall construct and maintain the crossings to meet the specifications of the Department of Transportation; provided, however, that the power to specify the character of grade crossings granted in this section shall not extend beyond five feet on either side of the center line of the track; provided, further, that the Department of Transportation shall have the power, in matters relating to such grade crossings, now pending or hereafter arising, to enter into such agreements with operators of railroads pertaining to the construction thereof as in its judgment may be to the best interest of the State, and to agree to pave the area across the tracks after the area is otherwise prepared for paving by the operator of the railroad. The Department of Transportation, with the advice and consent of the Attorney General, may waive any and all claims for penalties now existing, upon entry into such agreements.
S.C. Code Ann. § 58-15-2120 (2011)

§ 58-17-1310. Commission shall regulate crossings and culverts.
The Public Service Commission shall regulate and control by special order in each case the manner in which any street, street railway or other railroad track may cross any railroad track and the manner of constructing culverts under any railroad so as to effect proper drainage of adjacent territory.
S.C. Code Ann. § 58-17-1310 (2011)

§ 58-17-1330. Railroad shall not obstruct highways at crossings
When a railroad is laid out across a highway or other way it shall be constructed so as not to obstruct such way.
S.C. Code Ann. § 58-17-1330 (2011)

***§ 58-17-1340. Altering course of highway.**
A railroad corporation may alter the course of a highway or other way, other than a street in any incorporated city or town, for the purpose of facilitating the crossing of it by its road, or permitting its road to pass at the side thereof without crossing, upon obtaining a decree of the

governing body of the county prescribing the manner and time of such alteration. The corporation shall pay all damages occasioned to private property by the alteration, as in the case of land taken for its road.
S.C. Code Ann. § 58-17-1340 (2011)

§ 58-17-1360. County may authorize highway or town way to cross railroad.
A highway or town way may be laid out across a railroad previously constructed when the governing body of the county adjudge that the public convenience and necessity require it and, in such case, after due notice to the railroad corporation and hearing all parties interested, such body may thus lay out a highway across a railroad or may authorize a city or town, on the petition of the mayor and aldermen thereof, to lay out a way across a railroad in such manner as not to injure or obstruct the railroad.
S.C. Code Ann. § 58-17-1360 (2011)

<u>South Dakota</u>

§ 9-35-8. Power to require repair and maintain crossings, ditches, drains sewers and culverts

Every municipality shall have power to require railroad companies to make, keep open, and repair their crossings of streets and public roads, and to require them to make, keep open, and repair ditches, drains, sewers, and culverts along and under their tracks, so that drainage of adjacent property shall not be impeded and the right-of-way shall be properly drained.
S.D. Codified Laws § 9-35-8 (2012)

§ 9-35-9. Railroad to maintain safety devices at crossings -- Grade to conform -- Fencing, cattle guards and overhead crossings
Every first or second class municipality shall have power to require railroad companies to keep flagmen and maintain lights at railroad crossings of streets and provide for the safety of persons and property; to compel them to construct, maintain, and operate gates at railroad crossings of streets when the keeping of a flagman is not sufficient protection; to compel them to raise or lower their tracks to conform to any grade which may be established by the municipality and to keep such tracks on the level with the street or highway surface, so that such tracks may be crossed at any place on such street or highway; to require them to fence their railroads and construct and repair cattle guards, viaducts, or overhead crossings, and to provide for and change the location, grade, and crossing of any railroad; all subject to the powers vested in the public utilities commission.
S.D. Codified Laws § 9-35-9 (2012)

§ 31-27-2. Authority of department regarding railroad crossings
The department of transportation may determine, order, and prescribe in accordance with the plans and specifications to be approved by it, the reasonable manner, including the particular point of crossing, at which the tracks or other facilities of any line of railroad may be constructed across the tracks or any other facilities of any other line of railroad, or of any street, or highway, at grade, or above or below grade, or at the same or different levels, or at which the tracks or other facilities of any railroad company or companies may be constructed across the track or facilities of any other railroad company, or across any public highway, street at grade, or above or below grade, or at which any public highway may be constructed across the tracks or other facilities of any railroad company at grade or above or below grade; and may determine, order,

and prescribe the terms and conditions of installation and operation, maintenance, and protection of all such crossings, which may be constructed, including any watchman thereat, or the installation and regulation of lights, blocks, interlocking, or other systems, or devices of signaling, safety appliance devices, or such other means or instrumentalities as the department determines reasonable and necessary to the end, intent, and purpose that accidents may be prevented and the safety of the public promoted.
S.D. Codified Laws § 31-27-2 (2012)

***§ 31-27-2.1. Railroad responsibility continuing after abandonment of railroad -- Transfer with right-of-way or to successors of railroad**
The responsibility of a railroad corporation to maintain and keep in repair grade crossings as provided by law does not terminate upon the abandonment of the railroad right-of-way or a portion thereof. The responsibility continues until the highway is restored to a usable condition. The maintenance responsibility does not terminate with the disposal of the abandoned railroad right-of-way or the dissolution of the railroad corporation but passes to the transferee of the abandoned railroad right-of-way or the successors to the railroad corporation.
S.D. Codified Laws § 31-27-2.1 (2012)

§ 31-27-3. Plans and specifications required -- Filing -- Approval of department
No crossings at, above, or below grade, may be established except under plans and specifications filed with the department of transportation. Plans and specifications for crossings do not require the approval of the department unless a controversy exists between the applicant and the railroad.
S.D. Codified Laws § 31-27-3 (2012)

***§ 31-27-6. Expense for lands appropriated for the relocation of highway**
If lands are appropriated for the relocation of any state or county highway, which relocation is deemed necessary to avoid one or more railroad crossings or other dangerous places, the expenses shall be apportioned on the basis of benefits received by the railroad, if any, and the benefits received by the state or county, if any.
S.D. Codified Laws § 31-27-6 (2012)

§ 31-27-19.1. Determination of expense of repairing, replacing and maintainin crossings and protection devices
The expense of repairing, replacing and maintaining all "railroad and highway crossings," as defined by § 31-27-21, and all protection and safety devices shall be determined by the department of transportation on the basis of the proportion of benefit, if any, derived by railroad companies, and the benefit, if any, to the public authority at interest.
S.D. Codified Laws § 31-27-19.1 (2012)

***§ 49-16A-83 Railroad-highway grade crossings.**
The Department of Transportation may require and regulate construction of railroad and highwaycrossings as provided by chapter 31-27.
S.D. Codified Laws § 49-16A-83 (2012)

§ 49-16A-84. Authority to change grade of highway--Particular highways--Maintenance of highway--Maximum grade.
A railroad may raise or lower any public highway, not within the limits a municipality, for a railroad crossing, by petitioning the board of county commissioners, if the place is not a part of the state highway system, or by petition to the department of transportation if it is a part of the state system, but must guarantee to place and keep it in as good repair and condition as before

the alteration was made, at its own expense. The grade approaching the crossing shall not exceed ten percent at any point thereof.
S.D. Codified Laws § 49-16A-84 (2012)

§ 49-16A-85. Temporary routes during change of grade construction.
A railroad, while raising or lowering a public highway, or while making any other alterations which obstruct a public highway, shall provide and keep suitable temporary ways in good order to enable traffic to avoid or pass the obstruction.
S.D. Codified Laws § 49-16A-85 (2012)

Tennessee

***65-11-101. Construction and repair.**
(a) All persons, or corporations, owning or operating a railroad in this state, are required to make and furnish good and sufficient crossings on the public highways crossed by them, and keep such crossings in lawful repair at their own expense.
(b) (1) The provisions of subsection (a) shall not preclude construction, reconstruction, improvement or repair of crossings, through financial participation of the state or local government with a railroad authority established by law, when accomplished by contract with an independent contractor, or when such work will be performed by employees of a local government acting under direct supervision and total control of a railroad authority or its agent.
(2) For liability purposes, when employees of a local government are working under the control of a railroad authority, such employees shall not be treated as employees of the local government, but instead shall be treated as employees of the railroad authority exercising control of the employees.
(c) (1) Notwithstanding any provisions of subsections (a) or (b) to the contrary, after July 1, 2001, no public railroad grade crossing shall be constructed and no private crossing shall be converted to a public crossing without the entity desiring the crossing or the conversion having first:
(A) Submitted the plans for the construction or conversion of the proposed crossing to the department of transportation; and
(B) Obtained the department of transportation's approval of those plans. Prior to rendering its final decision, the department of transportation shall submit the plans it proposes to approve to the federal highway administration, the affected local government, and the involved railroad for review and comment. Any entity desiring the construction or conversion of a crossing shall be responsible for all costs associated with constructing or converting such crossing in compliance with the plans approved by the department of transportation. No public railroad grade crossing constructed after July 1, 2001, and no private crossing converted to a public crossing after July 1, 2001, shall be opened to vehicular traffic until such crossing is inspected by the department of transportation to assure that the crossing was constructed or converted in accordance with the approved plans.
(2) The department of transportation shall promulgate standards pertaining to the construction or conversion of grade crossings pursuant to this subsection (c) including, but not limited to, appropriate warning devices. The department of transportation shall not approve any plans for construction or conversion of a railroad grade crossing that do not comply with the promulgated standards.
(3) The department of transportation shall charge a fee for the review and approval of plans for construction or conversion of railroad crossings and the inspection of the completed crossings.

Such fee shall be sufficient to offset the cost to the department of transportation of performing these services. Such fee shall be paid by the party seeking approval of the plans for the crossing.
(4) The department of transportation shall promulgate rules and regulations pertaining to the approval of plans for construction or conversion of railroad grade crossings and the inspection of those crossings pursuant to the provisions of this subsection (c).
(5) Upon receipt of an application for approval of plans pursuant to this subsection (c), the department of transportation shall notify the affected railroad and the governmental body having jurisdiction over the proposed location.
(6) If a crossing is constructed or converted in violation of any provision of this subsection (c), the affected railroad may remove the crossing and recover the cost of such removal from the party that constructed or converted the crossing.
(7) (A) It is the intent of the general assembly that the standards, rules and regulations promulgated pursuant to this subsection (c) shall not be applied for any reason whatsoever to any railroad crossings established prior to July 1, 2001, except for the sole purpose of evaluating such railroad grade crossings for possible closure.
(B) It is the intent of the general assembly that the standards, rules and regulations promulgated by the department of transportation pursuant to this subsection (c) shall take effect on or before March 1, 2002.
Tenn. Code Ann. § 65-11-101 (2012)

65-11-102 Noncompliance with § 65-11-101 -- Penalty.
A failure to observe and fully comply with the provisions of § 65-11-101 shall subject the offender to a fine of not less than ten dollars ($10.00) nor more than one hundred dollars ($100).
Tenn. Code Ann. § 65-11-102 (2012)

65-11-110. Apportionment of work in constructing underpass or overpass.
The commissioner of transportation or the commissioner's designee may, by agreement or contract with any railroad company, apportion the work to be done in the construction of any such underpass or overpass between the railroad company and contractors acting under the control and supervision of the commissioner or the commissioner's designee, and contracts for the construction of the portion of such underpass or overpass assumed under such contract or agreement by the commissioner or the commissioner's designee shall be made in the manner and under the same conditions as contracts are made by the commissioner or the commissioner's designee for the construction of other portions of the state highway system as provided by law; provided, that when the commissioner or any of the department of transportation's employees or contractors, or any person acting under the orders of the commissioner or the commissioner's contractors, shall go or be upon the right-of-way of any railroad company, they shall be subject to any reasonable rules and regulations of such railroad company made for the protection of its traffic employees and passengers.
Tenn. Code Ann. § 65-11-110 (2012)

65-11-112. Maintenance of underpass or overpass.
When any underpass or overpass crossing is constructed on any state highway, under the provisions of this chapter, it shall be maintained as follows:
(1) The railroad company owning or operating the track at any such crossing shall maintain in good and safe repair at its sole expense all that part of any underpass or overpass and the approaches thereto on its rights-of-way, and also that part of any overpass structure or the approach thereto not supported by a fill, whether on its right-of-way or not, except the surface of

the highway; provided, that the flooring of any overpass which supports the surface of the highway or which may constitute the surface of the highway shall be considered as a part of the structure to be maintained by and at the expense of the railroad company; an
(2) The commissioner of transportation or the commissioner's designee shall maintain in good and safe repair out of the public funds, any fill, approach to any such crossing not on the right-of-way of the railroad company, and also the entire surface of the highway at all points.
Tenn. Code Ann. § 65-11-112 (2012)

Texas

§ 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.
Tex. Transp. Code Ann. § 471.001 (2012)

For additional information, see excerpt from Tex. Transp. Code Ann. § 91.035 (2012) in Chapter 1

Utah

***§ 10-7-29 Railway companies to repave streets**
All railway companies shall be required to pave or repave at their own cost all the space between their different rails and tracks and also a space two feet wide outside of the outer rails of the outside tracks in any city or town, including all sidetracks, crossings and turnouts used by such companies. Where two or more companies occupy the same street or alley with separate tracks each company shall be responsible for its proportion of the surface of the street or alley occupied by all the parallel tracks as herein required. Such paving or repaving by such railway companies shall be done at the same time and shall be of the same material and character as the paving or repaving of the streets or alleys upon which the track or tracks are located, unless other material is specially ordered by the municipality. Such railway companies shall be required to keep that portion of the street which they are herein required to pave or repave in good and proper repair, using for that purpose the same material as the street upon which the track or tracks are laid at the point of repair or such other material as the governing body of the city may require and order; and as streets are hereafter paved or repaved street railway companies shall be required to lay in the best approved manner a rail to be approved by the governing body of the city. The tracks of all railway companies when located upon the streets or avenues of a city or town shall be kept in repair and safe in all respects for the use of the traveling public, and such companies shall be liable for all damages resulting by reason of neglect to keep such tracks in repair, or for obstructing the streets. For injuries to persons or property arising from the failure of any such company to keep its tracks in proper repair and free from obstructions such company shall be liable and the city or town shall be exempt from liability. The word “railway companies” as used in this section shall be taken to mean and include any persons, companies, corporations or associations owning or operating any street or other railway in any city or town.
Utah Code Ann. § 10-7-29 (2012)

***§ 10-8-34. Change of grade and crossings -- Nonuser as grounds for removal**

They may provide for or change the location, grade or crossing of any railroad; and declare a nuisance and take up and remove, or cause to be taken up and removed, the tracks of any railroad or street railway company which shall have been laid upon the streets of the city and which such railway company has failed to operate with cars for public use for a period of nine months after the laying thereof.Utah Code Ann. § 10-8-34 (2012)

***§ 54-4-14. Safety regulation**

The commission shall have power, by general or special orders, rules or regulations, or otherwise, to require every public utility to construct, maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances including interlocking and other protective devices at grade crossings or junctions, and block or other system of signaling, and to establish uniform or other standards of construction and equipment, and to require the performance of any other acts which the health or safety of its employees, passengers, customers or the public may demand, provided, however, that the department of transportation shall have jurisdiction over those safety functions transferred to it by the Department of Transportation Act.
Utah Code Ann. § 54-4-14 (2012)

§ 54-4-15. Establishment and regulation of grade crossings

(1) No track of any railroad shall be constructed across a public road, highway or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without the permission of the Department of Transportation having first been secured; provided, that this subsection shall not apply to the replacement of lawfully existing tracks. The department shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.
(2) The department shall have the power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad and of each crossing of a public road or highway by a railroad or street railroad, and of a street by a railroad or vice versa, and to alter or abolish any such crossing, to restrict the use of such crossings to certain types of traffic in the interest of public safety and is vested with power and it shall be its duty to designate the railroad crossings to be traversed by school buses and motor vehicles carrying passengers for hire, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected, or between such corporations and the state, county, municipality or other public authority in interest.
(3) Whenever the department shall find that public convenience and necessity demand the establishment, creation or construction of a crossing of a street or highway over, under or upon the tracks or lines of any public utility, the department may by order, decision, rule or decree require the establishment, construction or creation of such crossing, and such crossing shall thereupon become a public highway and crossing.

(4) (a) The commission retains exclusive jurisdiction for the resolution of any dispute upon petition by any person aggrieved by any action of the department pursuant to this section, except as provided under Subsection (4)(b).
(b) If a petition is filed by a person or entity engaged in a subject activity, as defined in Section 19-3-318, the commission's decision under Subsection (4)(a) regarding resolution of a dispute requires the concurrence of the governor and the Legislature in order to take effect.
Utah Code Ann. § 54-4-15 (2012)

§ 54-4-15.1. Signals or devices at grade crossings -- Duty to provide
The Department of Transportation so as to promote the public safety shall as prescribed in this act provide for the installing, maintaining, reconstructing, and improving of automatic and other safety appliances, signals or devices at grade crossings on public highways or roads over the tracks of any railroad or street railroad corporation in the state.
Utah Code Ann. § 54-4-15.1 (2012)

***§ 54-4-15.3. Signals or devices at grade crossings -- Apportionment of costs**
The Department of Transportation, in accordance with the provisions of Section 54-4-15, shall apportion the cost of the installation, maintenance, reconstruction or improvement of any signals or devices described in Section 54-4-15.1 between the railroad or street railroad and the public agency involved. Unless otherwise ordered by the department, the liability of cities, towns and counties to pay the share of maintenance cost assigned to the local agencies by the department shall be limited to the funds provided under this act. Payment of any moneys from the funds provided shall be made on the basis of verified claims filed with the Department of Transportation by the railroad or street railroad corporation responsible for the physical installation, maintenance, reconstruction or improvement of the signal or device.
Utah Code Ann. § 54-4-15.3 (2012)

§ 54-4-15.4. Signals or devices at grade crossings -- Provision of costs
The Department of Transportation shall provide in its annual budget for the costs to be incurred under this act.
Utah Code Ann. § 54-4-15.4 (2012)

***§ 56-1-11 Maintenance of crossings**
Every railroad company shall be liable for damages caused by its neglect to make and maintain good and sufficient crossings at points where any line of travel crosses its road.
Utah Code Ann. § 56-1-11 (2012)

Vermont

***§ 3456. Jurisdiction**
Without affecting special provisions of law relating to matters contained herein, the board shall have jurisdiction on due notice to hear, determine, render judgment, and make orders and decrees in all matters provided for in the charter of any railroad, or in the statutes of this state relating to railroads, and shall have like jurisdiction in all matters respecting:
(1) The crossing of one railroad by another;
(2) Highway grade crossings and signs, signals, gates, or flaggers at the same;
(3) The construction and maintenance of proper fences, cattle guards, and farm crossings;
(4) To the extent not preempted by federal law, the maintenance of the tracks, frogs, switches, gates, signals, culverts, bridges, and other structures over openings, and rolling stock and

equipment so as to accommodate the public and be operated with safety and in compliance with law;

(5) The connections, time and times of connection between connecting roads for the accommodation of the traveling public and the transportation of merchandise;

(6) The manner of operating railroads and conducting the business thereof so as to be reasonable and expedient and to promote the security, convenience, and accommodation of the public and to prevent violations of law and unjust discriminations, usurpations, or extortions; and

(7) Any impediment alongside or adjacent to the rights-of-way of railroads, including damaged structures, which imperils the safe passage of trains.

Vt. Stat. Ann. tit. 5, § 3456 (2013)

***§ 3544. Alteration of course of highway at crossing**

A railroad corporation may alter the course of a highway where it is crossed by its railroad, for the purpose of facilitating the crossing of the same, if it can agree with the selectboard of the town (in the case of a town highway) or the agency of transportation (in the case of a state highway) as to such alteration or the manner of crossing. When they cannot agree, the transportation board shall determine the same.

Vt. Stat. Ann. tit. 5, § 3544 (2013)

***§ 3566. Highway crossing railroad**

When a highway is laid out after the laying out and constructing of a railroad, so as to cross such railroad, the highway may pass over, under or cross the railroad, and shall be so built as not to obstruct or injure it. In case the highway is laid out to cross the railroad at grade, on application of the parties owning or operating the railroad, the board, upon notice and hearing, shall determine whether such crossing ought to be at grade. If the board determines that the crossing ought not to be at grade, it shall be constructed over or under the railroad.

Vt. Stat. Ann. tit. 5, § 3566 (2013)

§ 3568. Railroad crossing highway

A railroad may be so laid out as to cross a highway if the board judges it necessary. The railroad may raise or lower the highway, for the purpose of having its railroad pass over or under it. However, the railroad shall restore the highway as far as practicable and so as not to impair its usefulness.

Vt. Stat. Ann. tit. 5, § 3568 (2013)

***§ 3570. Crossing; repairs at town highways**

When a railroad corporation has constructed a railroad across a town highway by passing upon, over, or under the traveled path thereof, the corporation shall keep in good and sufficient repair, and rebuild when necessary, bridges, culverts, crossings, and other constructions made for the accommodation, safety, and convenience of the public travel on the highway, over or upon the railroad.

Vt. Stat. Ann. tit. 5, § 3570 (2013)

§ 3571. State highways

(a) When a railroad corporation has constructed a railroad across a state highway by passing upon the traveled path thereof, the corporation shall keep in good and sufficient repair, and rebuild when necessary, culverts, crossings, and other constructions except bridges made for the accommodation, safety, and convenience of the public travel on the highway upon the railroad.

(b) Installation of new crossings at grade, extensions of existing crossings, or the rebuilding of existing crossings required as a result of the building of said extensions, when required for the accommodation, safety and convenience of the public travel, or for any reason except the accommodation of the railroad, shall be done by the railroad corporation at state expense.
Vt. Stat. Ann. tit. 5, § 3571 (2013)

§ 3573. Railroad bridges; repairs and construction
When a railroad corporation has constructed a railroad across a public highway by passing over the traveled path thereof, the corporation shall keep in good and sufficient repair and rebuild when necessary, its bridges and abutments; however, construction of new bridges and abutments, and rebuilding and reconstruction of existing bridges and abutments, made necessary by reason of highway improvement incident to increased load, usage or speed of motor vehicular traffic, shall be made by the railroad at state expense.
Vt. Stat. Ann. tit. 5, § 3573 (2013)

***§ 3574. Expense; apportionment; state, municipality, and railroad**
When made necessary by reason of highway improvement incident to increased load or speed of motor vehicular traffic, upon petition of the railroad corporation owning or operating the crossing mentioned in section 3570 of this title or of the municipality in which the crossing is located or of the agency of transportation, to the transportation board, after hearing and due notice to the parties in interest, the cost of the repairing and rebuilding may be apportioned between the state, the municipality with its consent, and the railroad in such proportion as the board finds just and equitable.
Vt. Stat. Ann. tit. 5, § 3574 (2013)

***§ 3577. Liability; railroad**
A railroad corporation constructing a railroad across a highway shall be liable to the town, within whose limits the crossings are, for damages occasioned to that town by reason of the corporation not complying with the provisions of sections 3570 and 3574 of this title. The liability shall extend to expenses incurred by the town in connection with actions against the corporation by reason of the noncompliance.
Vt. Stat. Ann. tit. 5, § 3577 (2013)

***§ 3578. Release of corporation from liability**
The liability of the corporation shall continue although the railroad has been abandoned, unless the selectmen of the town consent in writing that the corporation be released therefrom, or unless the corporation or its assigns restore such crossing to its original state of usefulness and permanency. Such written consent shall be recorded in the record of deeds in the town clerk's office by such selectmen.
Vt. Stat. Ann. tit 5, § 3578 (2013)

***§ 3593. Partial reimbursement of crossing maintenance costs; crossing surfaces**
(a) Definitions. -- For purposes of this section:
(1) “Public rail-highway crossings” means at-grade crossings determined by the agency to be active public crossings. Public crossings shall not include crossings on railroad lines that have been abandoned or embargoed.
(2) “Active warning devices” means flashing lights, signals, automatic gates, or manually-operated gates.

(b) Reimbursement. -- To the extent funds are appropriated for this purpose by the general assembly, the agency shall reimburse railroads up to $ 2,000.00 annually for the maintenance of each public rail-highway crossing equipped with flashing light signals and $ 2,500.00 annually for the maintenance of each crossing equipped with automatic or manually-operated gates. Any reimbursement under this subsection shall be reduced by any amount that a municipality or some other third party is separately required to contribute to the railroad's cost of maintaining active warning devices at a public rail-highway crossing, whether because of some contractual obligation or because of a regulatory order entered by the transportation board or one of its predecessor agencies.
(c)Failure of railroad to perform maintenance. -- Payment to any railroad may be made contingent on the railroad's performing inspection and maintenance of active warning devices in accordance with regulations promulgated by the Federal Railroad Administration.
(d) Maintenance of crossing surface. -- The agency shall be responsible for maintenance, repair, replacement, and installation of highway surfaces at public rail-highway crossings.
(e) Quiet zones; special agreements. -- Notwithstanding this section, the agency may enter into special agreements to reimburse a railroad for inspecting and maintaining signals and related equipment at crossings that have been specially designated as “quiet zones” pursuant to section 3582 of this title.
(f) Rulemaking. -- The secretary may adopt rules to implement this program.
Vt. Stat. Ann. tit. 5, § 3593 (2013)

§ 3783. Alteration, petition for; hearings
The selectboard of a town within which a public highway crosses or is crossed by a railroad, or the general manager or attorney of a railroad corporation whose road crosses or is crossed by a public highway, may bring their petition in writing to the transportation board, alleging that public safety requires an alteration in such crossing, its approaches, the method of crossing, the location of the public highway, the elimination of such crossing, the closing of such public highway crossing and the substitution of another therefor, not at grade, or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered, or such proceedings may be instituted by the agency of transportation or the board of its own motion and without petition. The board shall thereupon appoint a time and place for hearing the petition on notice of not less than ten days to the petitioners, the railroad, the municipality in which such crossing is situated, the owners of the land adjoining such crossing, and adjoining that part of the highway to be changed in grade, and to the attorney general, who shall, by himself or herself or through the state's attorney of the county wherein the crossing is located, represent the interests of the state at such hearing. After such notice and hearing, the board shall determine what alterations, changes, or removals, if any, shall be made and by whom.
Vt. Stat. Ann. tit. 5, § 3783 (2013)

***§ 3784. Grade crossings, alteration, expense apportionment**
The board shall direct that the expense of any alterations, changes, or removals, referred to in sections 3783 and 3785 of this title, including the damages to any person whose land is taken, and the special damages which the owner of land adjoining the public highway shall sustain by reason of any change in the grade of the highway, be paid in whole or in part by the state and the corporation owning or operating the railroad which crosses the public highway, on the basis of benefits received by the public and the corporation respectively.
Vt. Stat. Ann. tit. 5, § 3784 (2013)

§ 3785. Alterations, crossings; order by transportation board
When the transportation board, in the absence of any application therefor, is of the opinion that the public safety requires an alteration in any highway crossed at grade by a railroad, or by railroads belonging to or operated by more than one corporation, or an alteration in lands or buildings thereon adjoining or near such highway at or near such crossing in order to afford proper view from the approaches to such crossing, in each direction, of the track or tracks of such railroad or railroads, after hearing had on notice of not less than ten days to the corporation or corporations owning or operating such railroad or railroads, to the selectboard of the town within which such highway is situated, to the owners of the land adjoining such crossing and the owners of such land or buildings thereon adjoining, or near such highway as may be required for or materially affected by a proposed alteration, and to the attorney general, who, by himself or herself or through the state's attorney of the county in which such crossing is located shall represent the interests of the state, it may order such alterations in such highway, and the removal of such obstructions to the view in each direction of the tracks of such railroads, as it deems best, and shall determine and direct by whom, at whose expense and within what time such alterations and removals shall be made.
Vt. Stat. Ann. tit. 5,§ 3785 (2013)

§ 3788. Orders of board; appeals
The order of the board relating to any matter upon which it may act under the authority of this chapter shall be communicated in writing to the petitioners and to all persons to whom notice of the hearing on such petition was given. Any person aggrieved by such order, who was a party to such proceedings, may appeal from such order to the superior court in accordance with Rule 74 of the Vermont Rules of Civil Procedure.
Vt. Stat. Ann. tit. 5, § 3788 (2013)

<u>Virginia</u>

§ 56-363. Crossing of a railroad or public highway by another railroad; crossing of a railroad by a public highway
It is hereby declared to be the policy of the Commonwealth that all crossings of one railroad by another, or a public highway by a railroad, or a railroad by a public highway, shall, wherever reasonably practicable, pass above or below the existing facility. And every railroad hereafter constructed across another railroad or across a public highway, and every public highway hereafter constructed across a railroad, shall, wherever it is reasonably practicable, and does not involve an unreasonable expense, all the circumstances of the case considered, pass above or beneath the existing structure at a sufficient elevation or depression, as the case may be, with easy grades, so as to admit of safe speedy travel over each.
If constructing a crossing either above or below the existing structure is not practical and involves an unreasonable expense, the responsible governing body constructing a new public crossing at grade, in accordance with the laws of the Commonwealth of Virginia, shall take precautions to provide for the safe movement of traffic. It is the policy of the Commonwealth to limit the number of new public at gradecrossings and to eliminate unnecessary crossings.
Va. Code Ann. § 56-363 (2012)

***§ 56-366.3. Proceedings to alter, rebuild or replace existing grade separation structure destroyed or rendered unusable**
In the event an existing overpass or crossing over a railroad is destroyed or rendered unusable or otherwise becomes necessary to alter, rebuild, or replace, which overpass or crossing is

maintained by a railroad company, such company shall immediately notify the Commissioner of Highways, or the public road authority of its intent to formulate plans for such alteration, rebuilding, or replacement. The Commissioner or the public road authority shall, as soon as practicable after receipt of such notice, determine if, in consideration of the needs of the state systems of highways, the work to be done on such existing separation structure should encompass any upgrading of such overpass. Upon reaching such decision, the Commissioner or the public road authority shall forthwith notify the company thereof.

If the Commissioner or representative of the public road authority determines that upgrading is not necessary, the company, within six months of notice thereof, shall, in consultation with the Commissioner or representative of the public road authority, formulate and submit plans to the Commissioner or representative of the public road authority for the necessary work. As soon as the plans are submitted the Commissioner or representative of the public road authority shall review the same and after determining the plans are satisfactory, shall notify the railroad to begin construction by a specified date and to complete such construction within a specified time limit after considering public safety, convenience and necessity and the amount, nature and extent of the planned construction. All costs of necessary work, including formulation of plans, where upgrading is not necessary, shall be borne by the company. In the event there is a disagreement as to the design, method of construction and date of completion, such dispute shall be resolved under the procedural provisions of § 56-366.1.

If the Commissioner or public road authority determines that upgrading is necessary or desirable, the same procedure for coordination with the company shall apply except that the parties may agree that the Commissioner or representative of the public road authority formulate, and execute plans for such work, in consultation with such company. Disputes as to matters in this regard, including allocation of cost, shall also be resolved by petition to the State Corporation Commission and any new overpass shall be maintained in accordance with § 56-368.1.

When it is necessary only to repair any overpass, maintained by such railroad, the railroad shall perform all work and bear all costs in connection therewith.

All duties under this section shall be performed as expeditiously as possible. Nothing herein shall be construed in any way to limit the authority of the Commissioner or representative of the public road authority over public highways and overpasses.

Va. Code Ann. § 56-366.3 (2012)

§ 56-405. Railroad companies to maintain grade crossings of public highways and approaches; repair by Commissioner of Highways or public road authority; recovery of cost from railroad company

At every crossing, now existing or hereafter established, of a public road by a railroad or of a railroad by a public highway at grade, it shall be the duty of the railroad company to keep such crossing in good repair to the full width of the public highway, and to maintain such crossing in a smooth condition so as to admit of reasonable and safe travel over the same, and it shall also be the duty of the railroad company to maintain and keep in good repair that portion of the highway located between points two feet on either side of the extreme rails. A railroad may request that a public highway be closed for grade crossing maintenance activities, and the representative of the Commissioner of Highways or the representative of the appropriate public road authority may approve such closing where a reasonable detour is available. Any railroad company violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than $ 10 nor more than $ 500.

The Commissioner of Highways or the representative of the public road authority, whenever he or it shall ascertain that any such crossing is not being properly maintained, shall notify the railroad company involved in writing to repair the crossing forthwith; the railroad company upon receipt of notice may request a conference on the condition of the crossing and the need, if any, for the repair of such crossing and such conference shall be held within thirty days after receipt of the Commissioner's or the public road authority's notice. After the conference if the Commissioner or the public road authority is of the opinion that such repairs are required and the railroad is not willing to proceed promptly with such repairs, he or the public road authority may repair the same or cause it to be repaired and recover from the railroad company the actual cost of such work including any administration and engineering cost.
If no conference is requested by the railroad company within the thirty-day period, the Commissioner or the public road authority with advance notice may repair the crossing or cause it to be repaired and recover from the railroad company the actual cost of such work including any administration and engineering cost.
In any action under this section to recover the cost of the repair of any such crossing, the need for, and reasonableness of, the repairs may be put in issue.
Nothing herein shall be construed as placing a duty on the railroad company to construct or reconstruct any such crossing in the event any such crossing is relocated or the highway approaches thereto are widened or reconstructed.
Va. Code Ann. § 56-405 (2012)

§ 56-405.1. Agreements with Commissioner of Highways or public road authority representative for maintenance and repair of public grade crossings
Whenever the Commissioner of Highways or representative of the appropriate public road authority determines that it is in the best interest of the public to assist a railroad in its grade crossing maintenance and repair activities, he is authorized to enter into an agreement with the railroad company for the repair or maintenance of any crossing of a railroad and a public highway or for the sale of materials to the railroad company for the repair and maintenance of any such crossing. Any such agreement shall provide for the railroad company to bear the cost of the repair or maintenance or material furnished and such other conditions as the Commissioner of Highways or representative of the appropriate public road authority deems necessary or advisable to protect the interest of the public.
Va. Code Ann. § 56-405.1 (2012)

***§ 56-548. Highway and roadway crossings**
No crossing of a railway, highway, street, road or alley shall be at grade, but shall pass above or below the railway, highway, street, road, or alley, and such crossings are hereby permitted, subject to the provisions of this chapter.
Va. Code Ann. § 56-548 (2012)

<u>Washington</u>

***§ 47.79.030. Project priority -- Funding sources**
The legislature finds it important to develop public support and awareness of the benefits of high-speed ground transportation by developing high-quality intercity passenger rail service as a first step. This high-quality intercity passenger rail service shall be developed through incremental upgrading of the existing service. The department of transportation shall, subject to legislative appropriation, develop a prioritized list of projects to improve existing passenger rail service and begin new passenger rail service, to include but not be limited to:

2) Improved grade crossing protection or grade crossing elimination;
Service enhancements and station improvements must be based on the extent to which local comprehensive plans contribute to the viability of intercity passenger rail service, including providing efficient connections with other transportation modes such as transit, intercity bus, and roadway networks. Before spending state moneys on these projects, the department of transportation shall seek federal, local, and private funding participation to the greatest extent possible. Funding priorities for station improvements must also be based on the level of local and private in-kind and cash contributions.
Wash. Rev. Code Ann. § 47.79.030 (2012) Excerpt from applicable statute published.

§ 81.53.020. Grade separation required where practicable
All railroads and extensions of railroads hereafter constructed shall cross existing railroads and highways by passing either over or under the same, when practicable, and shall in no instance cross any railroad or highway at grade without authority first being obtained from the commission to do so. All highways and extensions of highways hereafter laid out and constructed shall cross existing railroads by passing either over or under the same, when practicable, and shall in no instance cross any railroad at grade without authority first being obtained from the commission to do so: PROVIDED, That this section shall not be construed to prohibit a railroad company from constructing tracks at grade across other tracks owned or operated by it within established yard limits. In determining whether a separation of grades is practicable, the commission shall take into consideration the amount and character of travel on the railroad and on the highway; the grade and alignment of the railroad and the highway; the cost of separating grades; the topography of the country, and all other circumstances and conditions naturally involved in such an inquiry.
Wash. Rev. Code Ann. § 81.53.020 (2012)

§ 81.53.030. Petition for crossing -- Hearing -- Order
Whenever a railroad company desires to cross a highway or railroad at grade, it shall file a written petition with the commission setting forth the reasons why the crossing cannot be made either above or below grade. Whenever the legislative authority of a county, or the municipal authorities of a city, or the state officers authorized to lay out and construct state roads, or the state parks and recreation commission, desire to extend a highway across a railroad at grade, they shall file a written petition with the commission, setting forth the reasons why the crossing cannot be made either above or below grade. Upon receiving the petition the commission shall immediately investigate it, giving at least ten days' notice to the railroad company and the county or city affected thereby, of the time and place of the investigation, to the end that all parties interested may be present and heard. If the highway involved is a state road or parkway, the secretary of transportation or the state parks and recreation commission shall be notified of the time and place of hearing. The evidence introduced shall be reduced to writing and be filed by the commission. If it finds that it is not practicable to cross the railroad or highway either above or below grade, the commission shall enter a written order in the cause, either granting or denying the right to construct a grade crossing at the point in question. The commission may provide in the order authorizing a grade crossing, or at any subsequent time, that the railroad company shall install and maintain proper signals, warnings, flagmen, interlocking devices, or other devices or means to secure the safety of the public and its employees. In respect to existing railroad grade crossings over highways the construction of which grade crossings was accomplished other than under a commission order authorizing it, the commission may in any event require the railroad company to install and maintain, at or near each crossing, on both sides

of it, a sign known as the sawbuck crossing sign with the lettering “Railroad Crossing” inscribed thereon with a suitable inscription indicating the number of tracks. The sign shall be of standard design conforming to specifications furnished by the Washington state department of transportation.
Wash. Rev. Code Ann. § 81.53.030 (2012)

***§ 81.53.070. Hearing**
At the conclusion of the hearing the commission shall make and file its written findings of fact concerning the matters inquired into in like manner as provided for findings of fact upon petition for new crossings. The commission shall also enter its order based upon said findings of fact, which shall specify whether the highway shall continue at grade or whether it shall be changed to cross over or under the railroad in its existing location or at some other point, and whether an over-crossing or under-crossing shall be established at the proposed location of any street or highway or at some other point, or whether the style and nature of construction of an existing crossing shall be changed, or whether said highway shall be closed and travel thereon diverted to another channel, or any other change that the commission may find advisable or necessary: PROVIDED, That in an emergency where a highway is relocated to avoid a grade crossing, or a new crossing is constructed in the vicinity of an existing crossing in the interest of public safety, the commission may order such existing crossing closed without notice or hearing as specified herein. In case the order made requires that private lands, property, or property rights be taken, damaged or injuriously affected, the right to take, damage or injuriously affect the same shall be acquired as hereinafter provided.
Any petition herein authorized may be filed by the commission on its own motion, and proceedings thereon shall be the same as herein provided for the hearing and determination of a petition filed by a railroad company.
Wash. Rev. Code Ann. § 81.53.070 (2012)

***§ 81.53.110. Cost when highway crosses railroad**
Whenever, under the provisions of this chapter, a new highway is constructed across a railroad, or an existing grade crossing is eliminated or changed (or the style or nature of construction of an existing crossing is changed), the entire expense of constructing a new grade crossing, an overcrossing, under-crossing, or safer grade crossing, or changing the nature and style of construction of an existing crossing, including the expense of constructing approaches to such crossing and the expense of securing rights-of-way for such approaches, as the case may be, shall be apportioned by the commission between the railroad, municipality or county affected, or if the highway is a state road or parkway, between the railroad and the state, in such manner as justice may require, regard being had for all facts relating to the establishment, reason for, and construction of said improvement. If the highway involved is a state road or parkway, the amount not apportioned to the railroad company shall be paid as provided by law for constructing such state road or parkway.
Wash. Rev. Code Ann. § 81.53.110 (2012)

***§ 81.53.120. Cost when railroad crosses railroad**
Whenever two or more lines of railroad owned or operated by different companies cross a highway, or each other, by an over-crossing, under-crossing, or grade crossing required or permitted by this chapter or by an order of the commission, the portion of the expense of making such crossing not chargeable to any municipality, county or to the state, and the expense of constructing and maintaining such signals, warnings, flagmen, interlocking devices, or other

devices or means to secure the safety of the public and the employees of the railroad company, as the commission may require to be constructed and maintained, shall be apportioned between said railroad companies by the commission in such manner as justice may require, regard being had for all facts relating to the establishment, reason for, and construction of said improvement, unless said companies shall mutually agree upon an apportionment. If it becomes necessary for the commission to make an apportionment between the railroad companies, a hearing for that purpose shall be held, at least ten days' notice of which shall be given.
Wash. Rev. Code Ann. § 81.53.120 (2012)

***§ 81.53.275. Crossing signals, warning devices -- Apportionment when funds not available from grade crossing protective fund**
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 fund: PROVIDED, That in such instances the city, town, county or state shall not be assessed more than sixty percent of the total cost of installation on other than federal aid designated highway projects: AND PROVIDED FURTHER, That in such instances the entire cost of maintenance shall be apportioned to the railroad.
Wash. Rev. Code Ann. § 81.53.275 (2012)

§ 81.53.295. Crossing signals, warning devices, etc. -- Federal funds used to pay installation costs -- Grade crossing protective fund -- State and local authorities to pay remaining installation costs -- Railroad to pay maintenance costs
Whenever federal-aid highway funds are available and are used to pay a portion of the cost of installing a grade crossing protective device, and related work, at a railroad crossing of any state highway, city or town street, or county road at the then prevailing federal-aid matching rate, the grade crossing protective fund shall pay ten percent of the remaining cost of such installation and related work. The state or local authority having jurisdiction of such highway, street, or road shall pay the balance of the remaining cost of such installation and related work. The railroad whose road is crossed by the highway, street, or road shall thereafter pay the entire cost of maintaining the device.
Wash. Rev. Code Ann. § 81.53.295 (2012)

West Virginia

§ 17-4-8. Use of roadbed by railroad, telephone company, etc.
No railroad or electric or other railway shall be constructed upon the roadbed of any state road, except to cross the same, nor shall any person, firm or corporation enter upon or construct any works in or upon such road, or lay or maintain thereon or thereunder any drainage, sewer or water pipes, gas pipes, electric conduits or other pipes, nor shall any telephone, telegraph or electric line or power pole, or any other structure whatsoever, be erected upon, in or over any portion of a state road, except under such restrictions, conditions and regulations as may be prescribed by the state Road Commissioner. Whenever any railroad or electric or other railway, heretofore or hereafter constructed, shall cross any state road, it shall be 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; and the tracks of such railroad or railway at grade crossings shall be so constructed as to give a safe and easy approach to and across the same, and when the

construction of such approaches is made necessary by a change in the railroad grade at the grade crossing, the cost shall be upon the railway company.
W. Va. Code § 17-4-8 (2012)

§ 17-4-17. Same -- Maintenance of work.
After the construction of a grade separation under this article, where the highway is carried over the railroad the State shall maintain the state highway and the structures supporting it and the drainage thereof, and the railroad company shall maintain its tracks; and where the state highway is passed under the railroad then the State shall maintain the highway and the drainage thereof, and the railroad company shall maintain its roadbed and the tracks and the structures supporting the same: Provided, however, That the State, at its sole expense, shall bear the cost of repairing or replacing any part of such supporting structure which may be damaged or destroyed by highway traffic; and the railroad company, at its own sole expense, shall bear the cost of repairing or replacing any part of such supporting structure which may be damaged or destroyed by railroad traffic: Provided further, That the provisions of this section shall not be applicable to grade separations constructed prior to the effective date of this act [February 28, 1947].
W. Va. Code Ann. § 17-4-17 (2012)

§ 17-4-17a. Same -- Relocation or reconstruction of existing grade separation structures.
The state Road Commissioner shall have the same authority and follow the same procedure and the cost and maintenance provision shall be the same, in the relocation and reconstruction of existing grade separation structures, where the tracks of any railroad and any state road cross, as is provided in sections nine to seventeen [§§ 17-4-9 to 17-4-17], inclusive, of this article.
W. Va. Code Ann. § 17-4-17a (2012)

§ 17-16-8. Duty of railroad company to keep state or county-district road in good condition.
Every railroad company heretofore or hereafter incorporated which has, by the building of its road, or otherwise, obstructed, or shall hereafter obstruct, any state or county-district road, shall, as far as possible, put the road so obstructed in as good condition as it was in before the obstruction. Every railroad company which has changed, or shall hereafter change, the grade or location of any state or county-district road, shall put the same in as good condition and repair, and on as practical a grade, as such road was before its change; and if such road, after construction, becomes damaged or injured or is caused to be damaged or injured by reason of the construction of any railroad, such railroad company shall be liable for all damages occasioned thereby and for all costs incurred in repairing and keeping in repair the road so damaged or injured as aforesaid.
W. Va. Code Ann. § 17-16-8 (2012)

<u>Wisconsin</u>

84.05. Railroad crossing improvements.
On a highway which the department has authority to construct and which crosses a railroad, if the department determines that the construction or reconstruction of a grade separation or the rearrangement or elimination of a grade crossing or other rearrangement of the highway or tracks is necessary in the interest of public safety or for convenience of public travel, the department shall make a plan of the construction proposed and an estimate of the cost thereof, including the cost of needed right-of-way; and shall endeavor to make an arrangement with all persons concerned as to all matters involved in the plan, including the portion of the cost of the contemplated work which the persons shall defray. If the department is unable to contract with

the persons concerned as to the distribution and payment of the cost of the work or the maintenance thereof, the department shall lay the matter before the office of the commissioner of railroads, and the office of the commissioner of railroads shall review the proceedings and hold a hearing thereon in accordance with ss. 195.28 and 195.29, and shall fix the portion of the cost of the construction and of the 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, which portion shall be paid from the transportation fund. The office of the commissioner of railroads shall determine the benefits, if any, which will inure 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.
Wis. Stat. § 84.05 (2012)

***86.13. Railroads to maintain highway crossings.**
(1) When any street or highway crosses any railroad track at grade, the company owning or operating the railroad shall grade, construct and maintain in good and safe condition for public travel the portion of such street or highway extending across said track. When such street or highway shall be or is about to be paved, surfaced or otherwise improved, the railway company shall improve, pave or surface such crossing between the tracks and rails and extending 4 feet beyond the outside rails on its right-of-way in substantially the same manner as the adjacent highway and with substantially the same materials, but this provision applies in cities only when the work is under ch. 83 or 84 This section shall not restrict the application of s. 66.0727 relating to special assessments against railroads for street improvements.
(2) The public board, committee or officer in charge of an improvement of a portion of a street or highway adjacent to a railroad crossing shall notify the railway company of the companys responsibility to make the improvement in sub. (1) The notice to the company shall be in writing and shall specify with reasonable certainty the work to be done by the company and may be served on any station agent of the company in this state. But failure to give such notice shall not prevent a recovery from the company of such sum as may be equitably due for the performance of a duty imposed by this section upon the company.
(3) If any railroad company fails to grade, construct, pave, surface or otherwise improve or maintain in good and safe condition for public travel as required by this section any street or highway crossing after having been notified so to do by the officer in charge thereof or of the highway improvement for 30 days after such notification, the highway authorities may file a complaint with the office. The office shall investigate and determine the matter in controversy as provided in ch. 195 An order issued by the office under this subsection has the same effect as an order in a proceeding brought under ch. 195
(5) Any railroad company that receives notice from the department under this section with respect to a state trunk highway may file a claim for reimbursement with the department. The department shall reimburse claimants for 85% of the eligible costs incurred in the repair of a highway grade crossing. No claim for reimbursement may be paid by the department under this subsection unless the department approved the plans and estimated cost of the project prior to the start of the project. The department may inspect each completed project to verify the amount of the claim for reimbursement. The department shall create a procedure for establishing the priority for projects with respect to state trunk highways under this section for the purpose of programming reimbursements.
Wis. Stat. § 86.13 (2012)

195.28. Protecting grade crossings.
(1) PETITION; HEARING; ORDER.

Upon petition of the department, city council, village board, town board, superintendent of highways or by 5 or more electors in any town, village or city, or of any railroad corporation or railroad historical society, to determine whether a public highway and railroad grade crossing protects and promotes public safety, the office may investigate and issue an appropriate order without a public hearing. If the petitioner, railroad, railroad historical society or any interested party objects to the order and requests a hearing within 20 days after the date that the order is issued, the office shall proceed under s. 195.04 Notice of an investigation or hearing shall be served upon the department, which shall be an interested party, and any recommendation it may file with the office at or prior to a hearing, if there is one, regarding crossing protection shall be considered as evidence in the proceeding. The office shall determine whether the existing warning devices at such crossing are adequate to protect and promote public safety. If the office determines, either without or after a hearing, that protection is 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 device at specific locations at such crossing. The office may order the relocation of existing signals and devices to improve protection at a crossing. Any crossing protection installed or maintained as approved by the office, whether by order or otherwise, shall be deemed adequate and appropriate protection for the crossing.
Wis. Stat. § 195.28 (2012) Excerpt from applicable statute published.

***195.29. Railroad highway crossings.**
1) PETITION, HEARING, ORDER.
Upon petition by the common council or board of any city, village, town or county within or bordering upon which a highway or street crosses a railroad, or a highway or street is proposed to be laid out across a railroad, or a public highway bridge across a railroad is required to connect existing streets or highways, or upon petition by any railroad whose track crosses or is about to cross, or is crossed or about to be crossed by a street or highway, or upon petition by the department, in cases where provision has been made for the improvement of the highway adjacent to such crossing under any state aid or federal aid law, that public safety requires an alteration in such crossing, its approaches, the method of crossing, the location of the highway or crossing, or the closing of the crossing, and the substitution of another therefor at grade or not at grade, or the removal of obstructions to the view at such crossing, the relocation of the highway, or requires the determination of the manner of making such new crossing, or of making the proposed improvement or promoting the public safety or public convenience through any other reasonable method, and praying that the same may be ordered, the office shall give notice to the parties in interest and proceed to investigate the same and to order a hearing thereon in the manner provided by s. 195.04 The office shall determine what, if anything, shall be done to promote the public safety and the means by which it shall be accomplished, whether by the relocation of the highway, the alteration in such crossing, approaches, mode of crossing, location of highway crossing, closing of highway crossing, with or without the substitution of another therefor, the construction of a public highway bridge, the removal of obstructions to sight at crossing, or by the use of other reasonable methods, and by whom the same shall be made, and in case of new crossings the advisability of allowing such crossings to be established and manner of making them.
(2) APPORTIONMENT OF EXPENSE.
The office shall fix the proportion of the cost and expense of alterations, removals and new crossings, or any other work ordered, including the damages to any person whose land is taken, and the special damages which the owner of any land adjoining the public street or highway shall

sustain by reason of a change in the grade of such street or highway, or by reason of the removal of obstructions to view at such crossings, to be paid or borne by the railroad companies and the municipalities in interest. In fixing such proportion, the office may order such cost and expense so apportioned to be paid by the parties against which the apportionment shall be made.
(3) RESTORATION OF SPUR TRACKS.
Whenever the office shall have ordered a separation of the grade of a railway from the grade of a street or highway, it may, if safe and practicable and if a necessity exists therefor, order the alteration, restoration and connection of any track serving an industry. Demand for such restoration shall be in writing and filed with the office within 90 days after the date of the order for the separation of grades, and any such track for which no such demand shall have been made shall be deemed abandoned. If the office shall order the alteration, restoration and connection of any such track, it shall by its order apportion the cost thereof between the owner of the industry served and the railway company, in such proportion as to the office may seem just and equitable; and the office shall in its order prescribe the terms and conditions for securing the payment of such cost.
(4) GRADE SEPARATION IN MILWAUKEE COUNTY.
The office may upon petition of any town, city or village, or upon its own motion, when the interests of the public demand it and it is found practicable so to do, establish the grade of the tracks of any railroad, or of all the railroads throughout any county having a population of 500,000 or more, or any part thereof, and the grades of the streets or highways, or any of them, where they cross such railroad track or tracks, in anticipation of the future separation of grades of the railroad tracks from the grades of such streets or highways. The office, before making any such order, shall mail notice to the railroad company or companies affected, the owners or occupants of any building abutting on that part of the railroad the grade of which is to be established, all 1st class cities in the county, and if the grades to be established are outside the 1st class city, the towns, cities or villages in which such grades are to be established, of the filing of such petition or that the office contemplates establishing such grades, and fixing a time at which the 1st class cities and such other towns, cities or villages and the railroad company or companies affected thereby and any other person or corporation interested therein may be heard. The grades so established under this subsection shall be described by reference to a base or datum line to be established by the office, from which all elevations and the height of all grades shall be measured, and the grades so established shall be such that when brought to the established grade the railroad tracks will cross the streets and highways above or below the same. Such order shall not necessarily require a present change in grade but the office may at any time order the railroad track or tracks and the street and highways brought to the grade established or any street or highways closed by the order, in accordance with sub. (1), and may, at the time of making the order, apportion the cost of separating the grades as provided in sub. (2)
(7) STRUCTURE REQUIREMENTS.
Whenever the office shall order the construction or reconstruction of a crossing not at grade, it may direct that the structure required shall be of such character and constructed of such materials as it shall deem appropriate to the situation and necessary for the public interest.
(8) ACQUISITION OF LANDS.
Any lands needed to carry out the provisions of this section may be acquired.
Wis. Stat. § 195.29(1-4)(7-8) (2012) Excerpt from applicable statute published.

***195.30. Railroad crossings; grade separation, safety devices.**

(1) Upon a petition by the common council of any city, or the board of any village, town or county within which a railroad crosses another railroad at grade, or by any such railroad, that public safety requires an alteration in the crossing or the installation of protective appliances, the office shall give notice to the parties in interest, and proceed to investigate the same and may order a hearing on the matter. The office shall determine what alteration in such crossing, if any, shall be made, and by whom made and maintained, or what protective appliances shall be installed, operated and maintained at the crossing and by whom installed, operated and maintained. The office shall fix the proportion of the cost and expense of such change in grade and maintenance of the crossing or of the installation, operation and maintenance of the safety appliance which shall be paid by the railroad companies, respectively.
(2) The provisions of this section shall apply to drawbridges, junctions and other fouling points on railroads.
Wis. Stat. § 195.30 (2012)

***346.495. Railroad crossing improvement surcharge.**
(1) (a) If a court imposes a forfeiture under s. 346.49 (1g) or (2m) (a), (am), or (b) for a violation of s. 346.44, 346.45, or 346.46 (3), the court shall also impose a railroad crossing improvement surcharge under ch. 814 equal to 50% of the amount of the forfeiture.
(b) If a court imposes a forfeiture under s. 346.49 (2r) with respect to a violation of s. 346.44 or 346.45, the court shall also impose a railroad crossing improvement surcharge equal to 50% of the amount of the forfeiture.
(2) If a forfeiture is suspended in whole or in part, the railroad crossing improvement surcharge shall be reduced in proportion to the suspension.
(3) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the railroad crossing improvement surcharge under this section. If the deposit is forfeited, the amount of the railroad crossing improvement surcharge shall be transmitted to the secretary of administration under sub. (4) If the deposit is returned, the amount of the railroad crossing improvement surcharge shall also be returned.
(4) The clerk of the circuit court shall collect and transmit to the county treasurer the railroad crossing improvement surcharge as required under s. 59.40 (2) (m) The county treasurer shall then pay the secretary of administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall deposit all amounts received under this subsection in the transportation fund to be appropriated under s. 20.395 (2) (gj)
Wis. Stat. § 346.495 (2012)

<u>Wyoming</u>

§ 1-26-811. Crossing public highways; privileges and duties.
(a) A railroad company may raise or lower any county road or other public highway for the purpose of having its railroad pass over or under the road or highway. Repair or reconstruction of roads or highways shall be expeditiously completed.
(b) While engaged in raising or lowering any county road or other public highway or in making any other alteration which may obstruct the public way, a railroad company shall provide and maintain suitable temporary ways to enable travelers to avoid or pass obstructions.
Wyo. Stat. § 1-26-811 (2012)

***§ 1-26-812. Constructing, maintaining, abandoning or closing crossings.**

(a) When any person owns land on both sides of any railroad, the company owning the railroad shall construct and maintain reasonably adequate means of crossing the railroad.
(b) No railroad shall abandon, close or fail to maintain any public highway crossing unless in accordance with the provisions of W.S. 37-10-102.
(c) No railroad shall abandon, close or fail to maintain any other existing crossing which has been maintained or recognized by the railroad for more than five (5) years prior to the effective date of this act without:
(i) Providing written notice of its intended action to every person owning lands adjacent to the crossing;
(ii) Advertising its intended action in a newspaper of general circulation in the county of the crossing; and
(iii) No sooner than three (3) weeks after providing the notice required, holding a meeting open to all persons at which it shall explain and at which persons shall be permitted to express their views on the intended action.
(d) Any railroad violating subsection (c) of this section shall not be entitled to assert any of the powers provided by W.S. 1-26-810 over any lands which are part of or are adjacent to the crossing, until the railroad has reconstructed the crossing abandoned, closed or not maintained in violation of subsection (c) of this section.
(e) In any action involving the abandonment, closing or maintenance of a railroad crossing which has been maintained or recognized by the railroad for more than five (5) years prior to the effective date of this act, the railroad shall not be entitled to assert any of the powers provided by W.S. 1-26-810 over any lands which are part of or are adjacent to the crossing unless the railroad establishes by a preponderance of the evidence:
(i) The closing or abandonment of the crossing is justified by either financial or safety considerations;
(ii) There exists reasonable alternative means of access to all property served by the crossing; and
(iii) That it has complied with the provisions of this section and the Wyoming Eminent Domain Act.
(f) Nothing in this section shall be construed as limiting or prohibiting any person from maintaining any other action at law for a railroad's failure to maintain a crossing, or abandonment or closing of a crossing.
Wyo. Stat. § 1-26-812 (2012)

***§ 37-10-101. Highway crossing protection account established; purposes of account; use in connection with federal funds.**
(a) In order to promote the public safety and to provide for the payment of part of the costs of installing, reconstructing and improving automatic and other safety appliance signals or devices at crossings at grade of public highways, as defined in this act, roads or streets over the track or tracks of any railroad corporation or street railway corporation in the state, there is created an account known as the highway crossing protection account within the highway fund. Before any funds of the highway crossing protection account shall be used to pay any part of the cost of the installation, reconstruction, or improvement of any signals or devices at any crossing, the commission shall first determine that all federal sources of funding have been exhausted. When federal funds are being utilized, federal guidelines as indicated in 23 C.F.R. [part] 646 shall be

followed. For purposes of this section, “commission” means the Wyoming transportation commission.
(b) As used in this act:
(i) “Public highways” means as specified in W.S. 24-1-101, but shall not include private roads;
(ii) “This act" means W.S. 37-10-101 through 37-10-105.
Wyo. Stat. § 37-10-101 (2012)

§ 37-10-103. Apportionment of cost of grade crossing devices and grade separation structures; between railroad and state, county and city government.
(a) With respect to the installation of safety devices or safety equipment at railroad-highway crossings, under the direction of the affected railroad, it shall be the duty of the transportation commission to apportion the costs and expenses of installing or reconstructing the crossings and safety devices between the railroads and the department of transportation or the county, city or other governmental entity involved in proportion to the respective benefits to be derived, and to make the apportionment of the costs in accordance with state and federal rules and regulations.
(b) With respect to the initial installation of grade separation structures at railroad public highway crossings, a grade separation structure shall be installed by the railroad at all new railroad crossings of public roads or state highways, after notifying the department of transportation of its intent to cross the public road or highway, and if deemed appropriate after evaluation by the transportation commission. All installations shall be in accordance with state and federal rules and regulations.
(c) With respect to separation structures for roads over or under railroads, the commission shall first determine that all federal sources of funding have been exhausted, and then apportion the remaining costs and expenses of the initial installation of the grade separation structures between the railroad and the department of transportation or the county, city or other governmental entity involved, the apportionment to be based upon the causes resulting in the need for grade separation structures in accordance with state and federal rules and regulations. None of the money in the highway crossing protection account shall be used for payment of grade separation structures.
Wyo. Stat. § 37-10-103 (2012)

§ 37-10-104. Apportionment of cost of grade crossing devices and grade separation structures; administration of highway crossing protection account.
(a) The transportation commission is charged with the administration of the highway crossing protection program. In order to compensate for the use of crossings by the public generally, the commission shall also order that one-half (1/2) of the cost of installing, reconstructing or improving signals or devices will be paid by the railroad corporation, and the balance of the costs will be divided between the state highway crossing protection account and the department of transportation or the city, town, county or other political entity in which the crossing is located in accordance with state and federal rules and regulations. The commission shall fix in each case the amount to be paid from the crossing protection account and the amount to be paid by the department or by the city, town, county or other political entity.
Wyo. Stat. § 37-10-104 (2012)

***§ 37-10-105. Transfer and credit of monies to account.**
For the purpose of building up sufficient money to be used to defray the expenses of installation and reconstruction of automatic and other safety appliance signals and devices at railroad grade crossings, for the construction or the improvement of existing highway-railroad grade crossings

to render them safe and consistent with modern highway construction practice, the custodian of the state highway fund shall reserve to the highway crossing protection account to be used to administer the program up to a maximum of ten thousand dollars ($10,000.00) per month. Monthly contributions shall continue until the unused balance in the account reaches the sum of two hundred forty thousand dollars ($240,000.00), and no further credits or transfers shall be made except during such time that the balance in the account is less than two hundred forty thousand dollars ($240,000.00).
Wyo. Stat. § 37-10-105 (2012)

Chapter 3: Blocked Crossings

CHAPTER OVERVIEW

This chapter provides a state-by-state survey of statutory and regulatory provisions concerning the blocking of crossings by railroads, exceptions to the law, and the penalties associated with violations of these provisions. The great majority of states place restrictions on the amount of time a highway-rail grade crossing can be blocked. The time allowed for blocking varies, but generally does not exceed 20 minutes. A number of state laws contain an exception for emergencies or circumstances beyond the control of the railroad company. Individual cities and towns within states that do not have relevant statutes regarding blocked crossings may have ordinances restricting the blocking of highway-rail grade crossings within their jurisdictions. Interested readers should consult the laws and ordinances of the individual counties and municipalities.

Alabama

***§ 37-8-115. Blocking of traffic, crossings.**
No member of a train crew, yard crew or engine crew of a railroad, which is a common carrier, shall be held personally responsible or found guilty of violating any law of this state or any municipal ordinance regulating or intended to regulate the occupying or blocking of any street, road or highway crossing-at-grade by trains or passenger or freight cars upon reasonable proof that the occupying or blocking of said street, road or highway crossing-at-grade was necessary to comply with the orders or instructions either written or oral of his employer or its officers or supervisory officials; provided, that the provisions of this section shall not relieve the employer or railroad from any responsibility placed upon said employee or railroad by any such state laws or by such municipal ordinances; provided further, that nothing contained herein shall affect any civil tortious responsibility of the agent, servants, employees and the railroad itself.
Ala. Code § 37-8-115 (2012)

Alaska

No applicable statute related to this topic

Arizona

§ 40-852. Allowing engine or car to remain upon public crossing; classification
An engineer, conductor or other employee or officer of a railroad company who permits a locomotive or cars to be or remain upon the crossing of a public highway over such railway so as to obstruct travel over the crossing for a period exceeding fifteen minutes, except in cases of unavoidable accident, is guilty of a class 2 misdemeanor.
Ariz. Rev. Stat. § 40-852 (2012)

Arkansas

***23-12-1008. Unlawful delay -- Action on complaint.**
(a) (1) (A) Prior to any request by a state, municipal, or county official for sanctions against a railroad company for violation of this section and §§ 23-12-1006 and 23-12-1007, the state,

municipal, or county official shall state the claim or complaint in writing, by certified mail, to the registered agent of the railroad company in question.

(B) (i) Within forty-five (45) days after the receipt of the written claim or complaint by the railroad company, the railroad company shall respond to the claim or complaint stating with specificity the reasons for obstructing a crossing for an unlawful period of time.

(ii) This response shall be in writing to the complaining official by certified mail.

(2) (A) In the event the issue is not then resolved to the satisfaction of the complaining official, the official shall notify the State Highway Commission in writing and shall enclose a copy of the complaint and response.

(B) (i) Within sixty (60) days after receipt of the notice, the commission shall hold a hearing on the complaint.

(ii) Notice of the hearing shall be given the railroad and the complainant at least twenty (20) days before the hearing.

(C) The commission or its designated representative, after an appropriate notice and hearing on the complaint, shall determine whether the obstruction was for an unlawful period of time under the circumstances.

(3) (A) If the commission makes such a finding of unlawful delay based on information presented at a hearing before the commission or before its designated representative, the railroad company charged with the violation shall be subject to a penalty to be imposed by the commission of not less than two hundred dollars ($200) nor more than five hundred dollars ($500) per occurrence.

(B) (i) The decision of the commission may be appealed to the circuit court of the county in which the violation occurred at any time within thirty (30) days after the decision is rendered.

(ii) Provided, the decision of the commission shall be final unless appealed as authorized herein.

(b) After the initial ten-minute period or such other period as may be prescribed by regulation of the commission, each ten-minute period or other period as may be prescribed by regulation of the commission that the crossing is obstructed by a standing train shall constitute a separate offense, and penalties may be imposed accordingly.

(c) (1) If the crossing where a violation occurs is located within the boundaries of a city or town, one-half (1/2) of the moneys recovered under the provisions of this section and §§ 23-12-1006 and 23-12-1007 shall be placed in the general fund or street fund of the municipality and one-half (1/2) of the funds shall be placed in the State Highway and Transportation Department Fund.

(2) All other moneys recovered under the provisions of this section shall be divided equally between the State Highway and Transportation Department Fund and the general road fund of the county in which the violation occurred.

Ark. Code. Ann. § 23-12-1008 (2012)

<u>California</u>

No applicable statute related to this topic

<u>Colorado</u>

No applicable statute related to this topic

<u>Connecticut</u>

***Sec. 13b-339. (Formerly Sec. 16-155). Obstruction of highway at crossing.**

Any person traveling upon any public highway, which is crossed by the tracks of any railroad company, who is obstructed or prevented from crossing such tracks for a longer time than five minutes, by reason of any train, car or locomotive using or occupying such highway, or by any gate, may recover twenty-five dollars and costs from the corporation or person owning or operating such railroad, provided suit shall be brought within thirty days from the date of such obstruction. The person first filing notice with the Commissioner of Transportation of intention to bring suit under the provisions of this section shall be entitled to the only recovery for any such obstruction.

Conn. Gen. Stat. § 13b-339 (2012)

***Sec. 13b-342. (Formerly Sec. 16-158 General orders regarding crossings. Forfeiture.**
The Commissioner of Transportation may make orders for the regulation of the speed at which locomotives and cars shall cross highways and generally may make all orders which he deems necessary to prevent inconvenience to the public relating to the crossing or obstruction of highways by locomotives and cars. Any company which violates any such order shall forfeit to the state fifty dollars for each day of such violation.
Conn. Gen. Stat. § 13b-342 (2012)

Delaware

§ 701. Whistles at public highway crossings; blocking of crossings; penalty; jurisdiction
(c) Every corporation operating any line of railroad within the State shall cause its trains to cross a highway or road for the public use within 10 minutes so that the highway or road is not blocked for any longer period of time, unless an emergency is the cause of the delay.
(d) Any corporation violating subsection (c) of this section shall be fined not less than $ 500 and not more than $ 1000 for the first conviction and not less than $ 1000 and not more than $ 2000 for each subsequent conviction which occurs within 1 year after a previous conviction.
(e) Justices of the peace shall have jurisdiction of offenses under this section. There shall be a right of appeal to the Court of Common Pleas in every case.
Del. Code Ann. tit. 17, § 701 (c-e)(2012) Excerpt from applicable statute published.

District of Columbia

18-2211. STREETCARS, RAILROAD TRAINS, AND SAFETY ZONES.
2211.7 It shall be unlawful for the directing officer or operator of any railroad train or streetcar to direct the operation of or to operate the train or streetcar in such a manner as to prevent the use of any street for purposes of travel for a period of longer than five (5) minutes; Provided, that this subsection shall not apply to trains or cars in motion, other than those engaged in switching.
D.C. Mun. Regs. tit.18 § 2211 (2013) Excerpt from applicable regulation published.

24-120. Railroads and Railroad Crossings
120.7 No highway or railway crossing in the District of Columbia on which tracks of steam railroad are laid shall be obstructed by any train, locomotive, car, or crossing gates for a period longer than five (5) minutes; nor shall a train, locomotive, car, or cars be parked or stored on a street for an unreasonable time.
120.8 The supervisor of tracks or yardmaster shall be held liable and subject to prosecution for obstructions by crossing gates when, by his or her order, they are kept down for a longer time than is permitted by the rules of this chapter.
D.C. Mun. Regs. tit. 24 § 120 (2013) Excerpt from applicable regulation published.

Florida

§ 351.03. Railroad-highway grade-crossing warning signs and signals; audible warnings; exercise of reasonable care; blocking highways, roads, and streets during darkness

(5) (a) Whenever a railroad train engages 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 railroad train shall cause to be placed a lighted fusee or other visual warning device in both directions from the railroad train upon or at the edge of the pavement of the highway, street, or road to warn approaching motorists of the railroad train blocking the highway, street, or road. However, this subsection does not apply to railroad-highway grade crossings at which there are automatic warning devices properly functioning or at which there is adequate lighting.

(b) A person who violates any provision of paragraph (a) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Fla. Stat. Ann. § 351.03(5-a,b) (2012) Excerpt from applicable statute published.

§ 351.034. Railroad-highway grade crossings to be cleared for emergency vehicles

Except for trains or equipment stopped due to mechanical failure where separation or movement is not possible, any train or equipment that has come to a complete stop and is blocking a railroad-highway grade crossing must be cut, separated, or moved to clear the crossing upon the approach of any emergency vehicle, which for the purpose of this law shall be:

(1) An ambulance operated by public authority or by private persons;

(2) A fire engine; or an emergency vehicle operated by power or electric companies; or

(3) Any other vehicle when operated as an emergency vehicle, defined as one which is engaged in the saving of life, property, or responding to any other public peril; or

(4) Emergency vehicles used as such by the Government of the United States; when upon the approach of such emergency vehicle, such vehicle gives due warning of its approach to such crossing by the sounding of sirens, flashing of lights, waving of flag, or any other warning sufficient to attract attention to such emergency vehicle; and thereupon the said train or equipment shall be cut and said crossing shall be cleared with all possible dispatch to permit the crossing and passing through of said emergency vehicle.

Fla. Stat. Ann.§ 351.034 (2013)

Georgia

§ 46-8-197. Legal responsibility of member of train crew, yard crew, or engine crew for occupying or blocking street, road, or highway grade crossing pursuant to employer's order

No member of a train crew, yard crew, or engine crew of a railroad common carrier shall be held personally responsible under, or found guilty of violating, any state laws or municipal ordinances regulating or intended to regulate the occupying or blocking of any street, road, or highway grade crossing by engines or passenger or freight cars, upon reasonable proof by the crew member that the occupying or blocking of the grade crossing was necessary to comply with the orders or instructions, either written or oral, of his employer or of the officers or supervisory officials of the company owning the railroad over which the engine or cars are operated; provided, however, that this Code section shall not relieve the employer or railroad company from any responsibility placed upon such employee or railroad company by any such state laws or municipal ordinances.

Ga. Code Ann. § 46-8-197 (2012)

Hawaii

No applicable statute related to this topic

Idaho

§ 49-1425. Railroad trains not to unnecessarily block crossings

No person or government agency shall operate any train in a manner as to prevent vehicular use of any highway for a period of time in excess of fifteen (15) consecutive minutes except:

(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 governmental 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.

Idaho Code Ann. § 49-1425 (2012)

Illinois

§ 625 ILCS 5/18c-7402. Safety Requirements for Railroad Operations

Sec. 18c-7402. Safety Requirements for Railroad Operations. (1) Obstruction of Crossings.

(a) Obstruction of Emergency Vehicles. Every railroad shall be operated in such a manner as to minimize obstruction of emergency vehicles at crossings. Where such obstruction occurs and the train crew is aware of the obstruction, the train crew shall immediately take any action, consistent with safe operating procedure, necessary to remove the obstruction. In the Chicago and St. Louis switching districts, every railroad dispatcher or other person responsible for the movement of railroad equipment in a specific area who receives notification that railroad equipment is obstructing the movement of an emergency vehicle at anycrossing within such area shall immediately notify the train crew through use of existing communication facilities. Upon notification, the train crew shall take immediate action in accordance with this paragraph.

(b) Obstruction of Highway at Grade Crossing Prohibited. It is unlawful for a rail carrier to permit any train, railroad car or engine to obstruct public travel at a railroad-highway grade crossing for a period in excess of 10 minutes, except where such train or railroad car is continuously moving or cannot be moved by reason of circumstances over which the rail carrier has no reasonable control.

In a county with a population of greater than 1,000,000, as determined by the most recent federal census, during the hours of 7:00 a.m. through 9:00 a.m. and 4:00 p.m. through 6:00 p.m. it is unlawful for a rail carrier to permit any single train or railroad car to obstruct public travel at a railroad-highway gradecrossing in excess of a total of 10 minutes during a 30 minute period, except where the train or railroad car cannot be moved by reason or circumstances over which the rail carrier has no reasonable control. Under no circumstances will a moving train be stopped for the purposes of issuing a citation related to this Section.

However, no employee acting under the rules or orders of the rail carrier or its supervisory personnel may be prosecuted for a violation of this subsection (b).

(c) Punishment for Obstruction of Grade Crossing. Any rail carrier violating paragraph (b) of this subsection shall be guilty of a petty offense and fined not less than $ 200 nor more than $ 500 if the duration of the obstruction is in excess of 10 minutes but no longer than 15 minutes. If the duration of the obstruction exceeds 15 minutes the violation shall be a business offense and the following fines shall be imposed: if the duration of the obstruction is in excess of 15 minutes but

no longer than 20 minutes, the fine shall be $ 500; if the duration of the obstruction is in excess of 20 minutes but no longer than 25 minutes, the fine shall be $ 700; if the duration of the obstruction is in excess of 25 minutes, but no longer than 30 minutes, the fine shall be $ 900; if the duration of the obstruction is in excess of 30 minutes but no longer than 35 minutes, the fine shall be $ 1,000; if the duration of the obstruction is in excess of 35 minutes, the fine shall be $ 1,000 plus an additional $ 500 for each 5 minutes of obstruction in excess of 25 minutes of obstruction.
625 Ill. Comp. Stat. Ann. 5/18c-7402(a-b-c) (2012) Excerpt from applicable statute published.

Indiana

8-6-7.5-1. Blocking railroad crossings unlawful -- Exception.
It shall be unlawful for a railroad corporation to permit any train, railroad car or engine to obstruct public travel at a railroad-highway grade crossing for a period in excess of ten (10) minutes, except where such train, railroad car or engine cannot be moved by reason of circumstances over which the railroad corporation has no control.
Ind. Code Ann. § 8-6-7.5-1 (2012)

8-6-7.5-2. Obstructing vehicular movement unlawful.
It shall be unlawful for a railroad corporation to permit successive train movements to obstruct vehicular traffic at a railroad-highway grade crossing until all vehicular traffic previously delayed by such train movements has been cleared or a period of five (5) minutes has elapsed between train movements.
Ind. Code Ann. § 8-6-7.5-2 (2012)

8-6-7.5-3. Violations -- Penalty.
A railroad corporation, conductor, or engineer who violates this chapter commits a Class C infraction. However, no conductor or engineer acting under the rules or orders of the railroad corporation or its supervisory personnel may be prosecuted for such a violation.
Ind. Code Ann. § 8-6-7.5-3 (2012)

Iowa

327G.32. Blocking highway crossing.
1. A railroad corporation or its employees shall not operate a train in such a manner as to prevent vehicular use of a highway, street, or alley for a period of time in excess of ten minutes except in any of the following circumstances:
a. When necessary to comply with signals affecting the safety of the movement of trains.
b. When necessary to avoid striking an object or person on the track.
c. When the train is disabled.
d. When necessary to comply with governmental safety regulations including but not limited to speed ordinances and speed regulations.
2. a. An officer or employee of a railroad corporation violating a provision of this section is, upon conviction, subject to the penalty provided in section 327G.14.
b. An employee is not guilty of a violation if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.
3. Other portions of this section notwithstanding, a political subdivision may pass an ordinance regulating the length of time a specific crossing may be blocked if the political subdivision demonstrates that an ordinance is necessary for public safety or convenience. If an ordinance is

passed, the political subdivision shall, within thirty days of the effective date of the ordinance, notify the department and the railroad corporation using the crossing affected by the ordinance. The ordinance does not become effective unless the department and the railroad corporation are notified within thirty days. The ordinance becomes effective thirty days after notification unless a person files an objection to the ordinance with the department. If an objection is filed the department shall notify the department of inspections and appeals which shall hold a hearing. After a hearing by the department of inspections and appeals, the state department of transportation may disapprove the ordinance if public safety or convenience does not require the ordinance. The decision of the state department of transportation is final agency action. The ordinance approved by the political subdivision is prima facie evidence that the ordinance is adopted to preserve public safety or convenience.
4. The department of inspections and appeals when considering rebuttal evidence shall weigh the benefits accruing to the political subdivision as they affect the general public use compared to the burden placed on the railroad operation. Public safety or convenience may include, but is not limited to, high traffic density at a specific crossing of a main artery or interference with the flow of authorized emergency vehicles.
5. A resolution regulating the length of time a specific crossing may be blocked, which was adopted before July 1, 1989, is an ordinance for the purposes of this section.
Iowa Code § 327G.32 (2012)

Kansas

66-273. Permitting trains, engines or cars to stand on public highway.
Each and every railroad company or any corporation leasing or otherwise operating a railroad in Kansas is hereby prohibited from allowing its trains, engines or cars to stand upon any public road within one half mile of any incorporated or unincorporated city or town, station or flag station, or upon any crossing or street, to exceed ten minutes at any one time without leaving an opening in the traveled portion of the public road, street or crossing of at least thirty feet in width.
Kan. Stat. Ann. § 66-273 (2011)

66-274. Same; penalty; exemption of railroad employees from certain penalties.
Any railroad company or corporation operating a line of railroad in Kansas failing or neglecting to comply with K.S.A. 66-273, and amendments thereto, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine as follows: One hundred dollars if the blocking is for more than 10 minutes but less than 20 minutes; $ 300 if the blocking is for more than 20 minutes but less than 30 minutes; $ 600 if the blocking is for 30 minutes and $ 600 for each additional 30 minutes if the blocking is for more than 30 minutes. No member of a railroad train, yard, or engine crew shall be held personally responsible or found guilty of violating any state laws or any municipal ordinances regulating or intended to regulate the occupying or blocking of any street, road or highway crossing-at-grade by trains or passenger or freight cars upon reasonable proof that such person's action was necessary due to circumstances beyond such person's control, or to comply with the order or instructions, either written or verbal, of the person's employer or officers or supervisory officials. Nothing in this section shall relieve the employer or railroad from any responsibility placed upon such employer or railroad by any such state law or any municipal ordinance.
Kan. Stat. Ann. § 66-274 (2011)

Kentucky

277.200. Period of obstructing highway, street or navigable stream limited.
(1) No railroad company shall obstruct any public highway or street, or the navigation of any stream, by stopping and permitting trains, engines or cars to stand upon a public grade crossing or upon a drawbridge for more than five (5) minutes at any one time, unless such stopping and standing is caused by circumstances beyond control of the railroad company.
(2) No member of a railroad train crew shall be held personally guilty of violating a municipal ordinance regulating the blocking of public grade crossings by trains, engines or cars, on proof that his action was necessary to comply with the orders or instructions of the railroad company or its officers; provided that nothing in this section shall relieve the railroad company from any responsibility placed upon it by said ordinance.
Ky. Rev. Stat. Ann. § 277.200 (2012)

277.990. Penalties.
(6) Any railroad company that violates the provisions of KRS 277.200 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) for each offense. If a grade crossing or drawbridge is obstructed by two (2) or more trains stopping and standing thereon in succession without allowing accumulated highway or water traffic to pass, the obstruction by each such successive train shall constitute a separate offense.
Ky. Rev. Stat. Ann. § 277.990 (2012) Excerpt from applicable statute published.

Louisiana

§ 48:391. Obstruction of railroad grade crossings
A. (1) It shall be unlawful for any train, railroad car or equipment, or engine to obstruct vehicular traffic at a public highway railroad grade crossing for a period in excess of twenty consecutive minutes, except when such train, railroad car or equipment, or engine is moving or when such movement is prevented by any of the following:
(a) A power brake failure or other mechanical failure.
(b) Enforcement of the Hours of Service Act.
(c) Derailment or other accident.
(d) A directive of the Federal Railway Administration.
(e) Circumstances over which the railroad company or carrier has no reasonable control, such as a natural disaster or acts of third parties.
(2) No employee performing his duties under the operating rules or orders of the railroad company or carrier or its supervisory personnel shall be prosecuted for any violation of this Section.
(3) Any rail carrier violating the provisions of Paragraph (1) of this Subsection shall be fined as follows:
(a) If the duration of the obstruction is in excess of twenty minutes, but not longer than twenty-five minutes, the fine shall be not less than two hundred dollars nor more than five hundred dollars.
(b) If the duration of the obstruction is in excess of twenty-five minutes, but not longer than thirty minutes, the fine shall be five hundred dollars.
(c) If the duration of the obstruction is in excess of thirty minutes, but not longer than thirty-five minutes, the fine shall be seven hundred dollars.
(d) If the duration of the obstruction is in excess of thirty-five minutes, but not longer than forty minutes, the fine shall be nine hundred dollars.

(e) If the duration of the obstruction is in excess of forty minutes, but not longer than forty-five minutes, the fine shall be one thousand dollars.
(f) If the duration of the obstruction is in excess of forty-five minutes, the fine shall be one thousand dollars plus an additional five hundred dollars for each five minutes of obstruction in excess of forty-five minutes. However, the maximum fine shall not exceed five thousand dollars for an obstruction which occurs within a twenty-four hour period.
B. (1) Every railroad shall be operated in such a manner as to minimize obstruction of emergency vehicles at public highway grade crossings.
(2) Upon receiving notification from a law enforcement officer, member of a fire department, operator of an emergency vehicle, or a member of an emergency services provider that emergency circumstances require the clearing of a public highway railroad grade crossing, the members of the train crew of the train, railroad car or equipment, or engine blocking such crossing shall immediately notify the appropriate railroad dispatcher of the pending emergency situation and request the clearing of such crossing, consistent with the safe operation of the train.
(3) Every railroad dispatcher or other person responsible for the movement of a train, railroad car or equipment, or engine in a specific area who receives notification that a train, railroad car or equipment, or engine is obstructing the movement of an emergency vehicle at any crossing within such area shall immediately notify the train crew through use of existing communication facilities. Upon notification, the train crew shall take immediate action in accordance with this Subsection.
C. (1) Any person riding upon a train, railroad car or equipment, or engine which is running through or within this state who is accountable for the movement of the train, car or equipment, or engine shall keep on his person or upon the train, railroad car or equipment, or engine written identification of the person, corporation, firm, or agent by whom he is employed.
(2) It shall be the responsibility of any railroad company or carrier operating any railroad, engine, or train within this state to inform the chief law enforcement officer of each parish or municipality in which it operates of the telephone numbers of the railroad dispatch center having jurisdiction over such railroad, engine, or train in the parish or municipality. The information shall be updated within forty-eight hours of any change, but no less than once every six months.
D. (1) Any railroad or public agency may, by formal application to the Department of Transportation and Development, request a variance from the requirements of this Section or have different regulations provided in connection with operation over a specific crossing where local conditions so require. The application shall list any public agencies within the geographic area or any railroads which may be affected by the variance and shall detail any previous steps which may have been taken in an attempt to reach an agreement on or alternative to the proposed variance.
(2) The department shall promulgate rules and regulations for the implementation and administration of the application process provided in this Subsection.
La. Rev. Stat. Ann. §48:391 (2012)

***§ 48:392. Obstruction of railroad grade crossings; moving or nonmoving trains**
A. (1) It shall be unlawful for any moving or non-moving train, railroad car or equipment, or engine to obstruct vehicular traffic at a public highway railroad grade crossing for a period in excess of twenty consecutive minutes.
(2) No employee performing his duties under the operating rules or orders of the railroad company or carrier or its supervisory personnel shall be prosecuted for any violation of this Section.

(3) Any rail carrier violating the provisions of Paragraph (1) of this Subsection shall be fined as provided for in R.S. 48:391(A) (3).
B. (1) Any railroad or public agency may, by formal application to the department, request a variance from the requirements of this Section or have different regulations provided in connection with operation over a specificcrossing where local conditions so require. The application shall list any public agencies within the geographic area or any railroads which may be affected by the variance and shall detail any previous steps which may have been taken in an attempt to reach an agreement on or alternative to the proposed variance.
(2) The department shall promulgate rules and regulations for the implementation and administration of the application process provided in this Subsection.
La. Rev. Stat. Ann. § 48:392 (2012)

Maine

§ 7220. Speed limit at highway grade crossings
The department is authorized to fix a maximum speed limit at which trains may be run over any grade crossing of a highway or other way and, when the limit has been fixed by the department, no engine or train may be run over the crossings at a greater speed than that fixed by the department and no way may be unreasonably and negligently obstructed by engines, tenders or cars. Any railroad corporation forfeits not more than $ 100 for every violation of this section.
Me. Rev. Stat. Ann. tit. 23, § 7220 (2012)

Maryland

No applicable statute related to this topic

Massachusetts

§ 151. Obstruction of Public Way by railroad; penalty
A railroad corporation, or receiver or assignee thereof, or its or his servant or agent, shall not wilfully or negligently obstruct or unnecessarily or unreasonably use or occupy a public way, or in any case wilfully, obstruct, use or occupy it with cars or engines for more than five minutes at one time; and if a public way has been thus used or occupied with cars or engines, the railroad corporation, or receiver or assignee thereof, shall not again use or occupy it with the cars or engines of a freight train, until a sufficient time, not less than three minutes, has been allowed for the passage across the railroad of such travelers as were ready and waiting to cross when the former occupation ceased. A railroad corporation, receiver or assignee thereof, who violates this section, shall forfeit not less than two hundred nor more than five hundred dollars.
Mass. Gen. Laws Ann. ch. 160, § 151 (West 2012)

Michigan

§ 462.391. Obstruction of vehicular traffic by trains; offenses as separate violations; penalty; allocation of fines.
Sec. 391. (1) A railroad shall not permit a train to obstruct vehicular traffic on a public street or highway for longer than 5 minutes at any 1 time, except the obstruction shall not be considered a violation under the following circumstances:
(a) If the train is continuously moving in the same direction at not less than 10 miles per hour for not longer than 7 minutes.
(b) If the railroad can show that the incident occurred as a result of a verifiable accident, mechanical failure, or unsafe condition.

(2) A railroad shall not permit successive train movements to obstruct vehicular traffic on a public street or highway until all vehicular traffic previously delayed by such train movements has been cleared.
(3) A railroad company shall not permit its employees to allow the activation of active traffic control devices at a railroad grade crossing for more than 2 minutes if there is no intention to move a train or track equipment through the crossing within 20 seconds to 60 seconds after the activation of the devices.
(4) Each offense under this section shall be a separate violation punishable by a fine of not more than $500.00 unless the railroad is willfully, deliberately, and negligently blocking vehicular traffic and then the fine shall be not more than $1,000.00 and the costs of prosecution.
(5) All fines civil or otherwise collected by a local unit of government in excess of $10,000.00 annually from the enforcement of a local ordinance substantially similar to this section shall be allocated as follows:
(a) Fifteen percent shall be retained by each local unit of government for costs of enforcement of the ordinance.
(b) Eighty-five percent shall be deposited in a railroad grade crossing safety fund. The revenue collected in this fund shall be used solely for railroad grade crossing safety projects in these local units of government.
Mich. Comp. Laws Serv. § 462.391 (LexisNexis 2012)

Minnesota

219.383 SAFE OPERATION OF TRAIN OVER ROAD; PENALTY
Subdivision 1. Speed fixed. --The commissioner of transportation, on petition of a city council or a railway corporation, may fix and determine after a hearing a reasonable speed for the operation of an engine or train on and over a railroad crossing of a public highway or street in that city.
Subd. 2. Maximum speed. --Where the commissioner has fixed the speed of an engine or train over a public highway or street crossing in a city as provided in this section, the fixed speed is the lawful maximum speed at which an engine or train may be operated on and over that public highway or street crossing, until changed by subsequent order of the commissioner.
Subd. 3. Not to block public road or street. --No railway corporation shall permit a public road or streetcrossing a railroad track to be closed for traffic by a standing car, train, engine, or other railroad equipment, or by a switching movement which continuously blocks a crossing for longer than ten minutes. This subdivision does not apply to cities of the first class which regulate obstruction of streets by ordinance.
Subd. 4. Penalty. --A railway corporation violating this section is guilty of a petty misdemeanor. A corporation that commits a second or subsequent violation of this section is guilty of a misdemeanor.
Minn. Stat. § 219.383 (2012)

Mississippi

§ 77-9-235 Obstructing highways and streets; penalty
Every railroad company, upon stopping any train at a place where such railroad shall cross a highway, shall so uncouple its cars as not to obstruct travel upon such highway for a longer period than five (5) minutes. Every railroad company shall, upon stopping a train at a place where the railroad is crossed by a street, so uncouple the cars as not to obstruct travel thereon for a longer period than shall be prescribed by ordinance of the city, town or village. A failure to

observe this section shall cause a railroad company to be liable to a fine of Fifty Dollars ($ 50.00) for each offense. The conductor in charge of any train so violating the provisions of this section shall be liable to a fine of not less than Twenty-five Dollars ($ 25.00) nor more than Fifty Dollars ($ 50.00), on conviction thereof.
The provisions of this section shall be enforced by the Mississippi Department of Transportation.
Miss. Code Ann. § 77-9-235 (2012)

§ 77-9-236. Obstructing highways and streets; criminal responsibility of crew complying with orders of employer

No member of a train crew, yard crew or engine crew of a railroad which is a common carrier shall be held criminally responsible or found guilty of violating any state laws or of any municipal ordinances regulating or intended to regulate the blocking of any street, road or highway grade crossings by trains or passenger or freight cars upon reasonable proof that the blocking of said street, road or highway grade crossings was necessary to comply with the orders or instructions, either written or oral, of his employer or its officers or supervisory officials; provided, however, that the provisions of this section shall not relieve the employer or railroad from any responsibility placed upon said employee or railroad by any such state laws or by such municipal ordinances; and provided further, that the employer or railroad shall stand in the place of the member of the train crew, yard crew or engine crew in such circumstances and shall be responsible for the violation of any such state laws or municipal ordinances and any criminal fines resulting therefrom.
The provisions of this section shall be enforced by the Mississippi Department of Transportation.
Miss. Code Ann. § 77-9-236 (2012)

***§ 97-25-37. Railroads; stopping or standing at crossing**

It shall be unlawful for any locomotive or train of cars to be stopped or left standing on any railroad crossing, unless done under regulations adopted by those having the right to control such matter. Any person violating this section shall, on conviction be fined not less than one hundred dollars, nor more than one thousand dollars, or be imprisoned in the county jail for one year, or both; and if, in consequence of such violation, any person shall be killed or injured, the guilty party shall be imprisoned in the penitentiary not exceeding fifteen years.
Miss. Code Ann. § 97-25-37 (2012)

Missouri

§ 71.013. Train crewman not to be personally liable under city ordinance or state statute for blocking crossing, when

1. No member of a railroad train or yard crew shall be held criminally guilty of any responsibility of violating a state law or any municipal ordinance regulating the occupying or blocking of any street or highway railroad crossing-at-grade by trains or cars, upon reasonable proof that his action was necessary to comply with the order or instructions, either written or verbal, of his employer or its officers or supervisory officials; and provided, that nothing in this section shall relieve the employer or railroad from any responsibility placed upon said employer or railroad by any such state law or any municipal ordinance.
2. Every person, firm, company, or corporation, operating a railroad as a common carrier in the state of Missouri and violating the provisions of this section, shall be fined not less than fifty dollars for each separate offense.
Mo. Rev. Stat. § 71.013 (2012)

Montana

69-14-626 Prohibition on extended obstruction of highway crossings.
(1) It shall be unlawful for any corporation, association, or company to willfully obstruct, blockade, interfere with, or prevent the free use of any public highway within the state where such highway crosses any railroad track outside of incorporated cities and towns by stopping any railroad train, car, engine, or locomotive for more than 15 minutes at any one time or by placing, depositing, or leaving any article or thing whatsoever on any railroad track at the point where any public highway crosses such track outside of incorporated cities and towns.
(2) Any corporation, association, or company so obstructing, blockading, or interfering with the free use of any such highway shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $ 25 or more than $ 100. This section shall not be construed as repealing any existing laws prohibiting encroachments upon or obstruction of public highways.
Mont. Code Ann., § 69-14-626 (2012)

Nebraska

***§ 17-225. Railroads; blocking crossings; penalty**
It shall be unlawful for any railroad company or for any of its officers, agents, servants or employees to obstruct with car or cars, engine or engines, or with any other rolling stock, for more than ten minutes at a time, any public highway, street or alley in any unincorporated town or village in the State of Nebraska. Any corporation, person, firm or individual violating any provision of this section shall, upon conviction thereof, be fined in any sum not less than ten dollars nor more than one hundred dollars.
Neb. Rev. Stat. Ann. § 17-225 (2012)

***§ 74-594. Train, yard, or engine crew; blocking street or highway; liability; exempt**
No member of a train crew, yard crew, or engine crew of a railroad shall be held personally responsible or found guilty of violating any state laws or any municipal ordinances regulating or intended to regulate the occupying or blocking of any street, road, or highway crossing-at-grade by trains or passenger or freight cars upon reasonable proof that the occupying or blocking of the street, road, or highway crossing-at-grade was necessary to comply with orders or instructions either written or oral of his or her employer or its officers or supervisory officials. This section shall not relieve the employer or railroad from any responsibility placed upon the employer or railroad by any such state laws or by such municipal ordinances. This section shall be supplemental to any other law.
Neb. Rev. Stat. Ann. § 74-594 (2012)

§ 74-1323. Railroad car; obstructing view at crossing; violation; penalty
(1) Unless otherwise provided by city or village ordinance, the Public Service Commission, upon complaint or on its own motion, as to the crossing which is the subject of the complaint or motion, may direct that at suchcrossing any railroad car that is stored or parked on a railroad track which may be obstructing or obscuring the traveling public's view of any oncoming train be stored or parked at a minimum distance from the crossing of such railroad and public road. The minimum distance shall be that deemed by the commission to be reasonable and necessary to provide a sight distance at the crossing adequate to protect the safety of the traveling public, but in no instance shall any person who is authorized to control the movement of such railroad car or cars within such distance be prevented from reasonably conducting his or her business.

(2) Any company, its officers, agents, or employees, or any other person subject to subsection (1) of this section who fails, neglects, or refuses to promptly comply with an order of the commission issued under this section shall be guilty of a Class IV misdemeanor, but shall be fined not more than two hundred dollars for each offense. Each day of such neglect, refusal, or failure shall constitute a separate offense.
Neb. Rev. Stat. Ann. § 74-1323 (2012)

Nevada

No applicable statute related to this topic

New Hampshire

373:15 Occupancy of Crossing by Engines or Cars.
A railroad shall not occupy a grade crossing over a highway by its engines and cars more than 5 minutes at one time without authority from the department of transportation.
N.H. Rev. Stat. Ann. § 373:15 (2012)

373:16 Exceptions to 5 Minute Occupations.
I. The department of transportation, upon petition, notice and hearing, may fix the maximum time for the occupancy of a railroad on a grade crossing over a highway. The maximum time shall not exceed 9 minutes.
II. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the time of maximum occupancy of a grade crossing.
N.H. Rev. Stat. Ann. § 373:16 (2012)

373:17 Penalty.
Any person who violates the provisions of any of the preceding sections, 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.
N.H. Rev. Stat. Ann. § 373:17 (2012)

New Jersey

§ 39:4-94. Railroad blocking highway
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.
N.J. Rev. Stat. Ann. § 39:4-94 (2012)

New Mexico

No applicable statute related to this topic

New York

§ 53-c. Obstructing farm and highway crossings
Any officer or employee of a railroad corporation who shall intentionally obstruct, and any owner, officer or employee of a railroad corporation who shall intentionally cause to be obstructed any farm or highway crossing with any locomotive, train or car for a longer period than five consecutive minutes is guilty of a violation which shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than fifteen days or by both such fine and imprisonment. Notwithstanding the foregoing provisions of this section or any local

ordinance to the contrary, no owner, officer or employee of a railroad corporation who obstructs, or causes to be obstructed, any farm or highway crossing shall be subject to any civil, criminal or other penalty where such person has no control over the situation causing the obstruction or where the locomotive, train or car cannot be moved without endangering the safety of the passengers, the public or freight.
N.Y. R. R. Law § 53-c (Consol. 2012)

North Carolina

No applicable statute related to this topic

North Dakota

***49-11-01. Obstruction of crossing by railroad -- Provision for temporary way.**
Every railroad corporation while engaged in raising or lowering any railroad track or in making any other alterations, by means of which a railroad crossing may be obstructed, shall provide and keep in good order a suitable temporary way and crossing with adequate protection to enable travelers to avoid or pass such obstruction.
N.D. Cent. Code, § 49-11-01 (2012)

North Dakota

49-11-19. Blocking or obstructing crossing with train -- Penalty.
1. A person may not operate any train in a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:
a. When necessary to comply with safety signals affecting the safety of the movement of trains;
b. When necessary to avoid striking any object or person on the track;
c. When the train is disabled, by accident or otherwise;
d. When the train is in motion except when engaged in switching operations or loading or unloading operations;
e. When vehicular traffic is not waiting to use the crossing;
f. When necessary to comply with a government statute or regulation; or
g. When allowed by written agreement between the governmental entity that controls the roadway and the interested commercial entities. The agreement must indicate which party is responsible for the timely notification of local emergency service providers regarding the crossing that will be blocked and the period of time the crossing will be blocked.
2. A person that violates this section is guilty of a class B misdemeanor. This section does not apply to a city that has an ordinance covering the same subject matter.
N.D. Cent. Code, § 49-11-19 (2012)

49-11-19.1. Blocking or obstructing alternative crossings -- Penalty.
Any person operating a train who shall block or obstruct a public railroad crossing and who has the alternative of blocking or obstructing a crossing with active grade crossing traffic control devices or a crossing without such device shall, where feasible, and subject to the exception set forth in section 49-11-19, leave open the crossing with active grade crossing control devices. Any person who violates this section is guilty of an infraction.
N.D. Cent. Code, § 49-11-19.1 (2012)

Ohio

§ 5589.21. Obstruction of roads by railroads

(A) No railroad company shall obstruct, or permit or cause to be obstructed a public street, road, or highway, by permitting a railroad car, locomotive, or other obstruction to remain upon or across it for longer than five minutes, to the hindrance or inconvenience of travelers or a person passing along or upon such street, road, or highway.
(B) At the end of each five minute period of obstruction of a public street, road, or highway, each railroad company shall cause such railroad car, locomotive, or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.
(C) This section does not apply to obstruction of a public street, road, or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading, or unloading operations.
(D) If a railroad car, locomotive, or other obstruction is obstructing a public street, road, or highway in violation of division (A) of this section and the violation occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, the officers and employees of each affected county or municipal corporation may charge the railroad company with only one violation of the law arising from the same facts and circumstances and the same act.
(E) Upon the filing of an affidavit or complaint for violation of division (A) of this section, summons shall be issued to the railroad company pursuant to division (B) of section 2935.10 of the Revised Code, which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred.
Ohio Rev. Code Ann. § 5589.21 (2013)

§ 5589.24. Fines paid to railroad grade crossing improvement fund
(A) All fines collected for a violation of division (A) of section 5589.21 or 5589.211 [5589.21.1] of the Revised Code shall be paid as follows:
(1) To the railroad grade crossing improvement fund of the county if the violation occurred in an unincorporated area of the county;
(2) To the railroad grade crossing improvement fund of the municipal corporation in which the violation occurred if the violation occurred in a municipal corporation.
(B) The board of county commissioners of each county and the legislative authority of each municipal corporation shall establish a railroad grade crossing improvement fund. The fund shall consist of fines paid to the county or municipal corporation under division (A) of this section and any other moneys allocated to the fund by the county or municipal corporation. Except as otherwise provided in this division, a county or municipal corporation shall use its railroad grade crossing improvement fund to pay any part of the cost assigned by the public utilities commission to the county or municipal corporation under section 4907.471 [4907.47.1] of the Revised Code. The county or municipal corporation also may use its railroad grade crossing improvement fund for other improvements to railroad grade crossings, including signs, signals, gates, or other protective devices, as the board of county commissioners or legislative authority of a municipal corporation determines to be appropriate.
If, during any fiscal year, the fines a county collects for violations of division (A) of section 5589.21 and section 5589.211 [5589.21.1] of the Revised Code equal three thousand dollars or less, during the subsequent fiscal year the county may use that amount of money in its railroad grade crossing improvement fund for any purpose that the board of county commissioners determines to be appropriate.

If, during any fiscal year, the fines a county collects for violations of division (A) of section 5589.21 and section 5589.211 [5589.21.1] of the Revised Code exceed three thousand dollars, during the subsequent two fiscal years the county shall use all the money in its railroad grade crossing improvement fund only for those purposes described in this division. In such a case, the amount of money the county collects for violations of division (A) of section 5589.21 and section 5589.211 [5589.21.1] of the Revised Code during the fiscal year immediately following the second of those two fiscal years shall determine the disposition under this division of the money the county collects during that fiscal year.
Ohio Rev. Code Ann. § 5589.24 (2013)

§ 5589.211. Obstructing street, road or highway by abandoning locomotive
No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway, by permitting any part of a train whose crew has abandoned the locomotive to remain across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon the street, road, or highway, unless the safety of the train crew requires them to abandon the locomotive.
Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to division (B) of section 2935.10 of the Revised Code, which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred.
Ohio Rev. Code Ann. § 5589.211 (2013)

Oklahoma

No applicable statute related to this topic

Oregon

***811.475 Obstructing rail crossing; penalty.**
(1) A person commits the offense of obstructing a rail crossing if the person is operating a vehicle and the person does either of the following:
(a) Drives onto any railroad or rail fixed guideway system grade crossing when there is not sufficient space on the other side of the railroad or rail fixed guideway system grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, railroad trains or rail fixed guideway system vehicles; or
(b) While driving a commercial motor vehicle, fails to negotiate the rail crossing because of insufficient undercarriage clearance.
(2) The offense described in this section is applicable whether or not a traffic control device indicates to proceed.
(3) The offense described in this section, obstructing rail crossings, is a Class B traffic violation.

Or. Rev. Stat. § 811.475 (2011)

824.222 Authority over duration that grade crossing may be blocked; penalty.
(1) The power to fix and regulate the length of time a public railroad-highway grade crossing may be blocked by railroad equipment is vested exclusively in the state.
(2)(a) Upon petition of the public authority in interest, or of any railroad or upon the Department of Transportation's own motion, the department shall, after due investigation and hearing, unless

hearing is not required under ORS 824.214, enter an order fixing and regulating the length of time a public railroad-highway grade crossing may be blocked by railroad equipment.
(b) Upon petition of a person, the department shall investigate and may hold a hearing and, following a hearing, may enter an order fixing and regulating the length of time a public railroad-highway grade crossing may be blocked by railroad equipment.
(3) The time limits fixed by the department shall be maximum time limits and shall be commensurate with reasonable requirements of train and vehicular traffic operations.
(4) Violation of a time limit fixed by the department under this section is punishable by a civil penalty of not less than $ 100 nor more than $ 3,000 for each offense.
Or. Rev. Stat. § 824.222 (2011)

***824.223 Authority to regulate distance from grade crossing at which railroad may stop or park equipment; penalty.**
(1) The power to regulate the distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment is vested exclusively in the state.
(2)(a) Upon petition of the public authority in interest, or of any railroad or upon the Department of Transportation's own motion, the department shall, after due investigation and hearing, unless hearing is not required under ORS 824.214, enter an order establishing a safe distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment.
(b) Upon petition of a person, the department shall investigate and may hold a hearing and, following a hearing, may enter an order establishing a safe distance from a public railroad-highway grade crossing at which a railroad may stop or park equipment.
(3) In determining what constitutes a safe distance under subsection (2) of this section, the department shall consider issues including, but not limited to, hazards associated with public railroad-highway grade crossings that do not have active protective devices.
(4) Violation of an order issued under subsection (2) of this section is punishable by a civil penalty of not less than $ 100 nor more than $ 3,000 for each offense.
Or. Rev. Stat. § 824.223 (2011)

<u>Pennsylvania</u>

***§ 3713. Railroad trains not to block crossings.**
No person or government agency shall operate any train in such a manner as to prevent vehicular use of any roadway for a period of time in excess of five consecutive minutes except under any of the following circumstances:
(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 disabled.
(4) When the train is in motion except while engaged in switching operations.
(5) When there is no vehicular traffic waiting to use the crossings.
(6) When necessary to comply with a governmental safety regulation.
75 Pa. Cons. Stat. § 3713 (2012)

§ 6907. Obstructing public crossings.
It shall be a summary offense for any railroad to obstruct or block up the passage of any crossings of a highway, or obstruct such crossings, with its rolling stock. If any engineer, or any member of the train crew, or other agent of any such railroad, shall obstruct or block up such crossings, he shall be guilty of a summary offense.
18 Pa. Cons. Stat. § 6907 (2012)

§ 6908. Obstructing private crossings.
It shall be a summary offense for any railroad to continue to obstruct or block up the passage of any private crossing, wherever any private road or crossing-place may be necessary to enable the occupant or occupants of land or farms to pass over the railroad with livestock, wagons and implements of husbandry, after the railroad shall have received at least 15 minutes verbal notice to remove its rolling stock, or other obstructions from any such private road or crossing-place.
18 Pa. Cons. Stat. § 6908 (2012)

Rhode Island

§ 39-8-4. Obstruction of highway crossings
No railroad corporation, nor its servants or agents, shall willfully or negligently obstruct or unnecessarily use or occupy a highway, city or town way, or street, nor in any case at a street or highway grade crossing, with cars or engines for more than five (5) minutes at one time; and whenever a highway, city or town way or street has been thus used or occupied with cars or engines, no railroad corporation shall again use or occupy the same with cars or engines until a sufficient time, not less than three (3) minutes, has been allowed for the passage across the railroad of such travelers as were ready and waiting to cross when the former occupation ceased. For every violation of the provisions of this section, the corporation shall be fined not less than twenty-five dollars ($ 25.00) nor more than one hundred dollars ($ 100)
R.I. Gen. Laws § 39-8-4 (2012)

South Carolina

§ 57-7-240. Obstruction of roads by railroad cars and other obstacles.
If any person shall obstruct unnecessarily any street, public road or highway by permitting any railroad car or locomotive to be or remain upon or across any street, public road or highway for a longer period than five minutes, after notice to remove such car or locomotive has been given to the conductor, engineer, agent or other person in charge of such car or locomotive or shall permit any timber, wood or other obstruction to remain upon or across any such street, road or highway to the hindrance or inconvenience of travelers or any person passing along or upon such street, road or highway, such person so offending shall forfeit and pay for every such offense a sum not exceeding twenty nor less than five dollars and shall be liable for all damages arising to any highway, to be recovered by an action at the suit of the county in which such offense shall have been committed or any person suing for the same, before any magistrate within the county in which such offense shall have been committed or by indictment in the court of general sessions or suit in the court of common pleas. All fines so accruing under the provisions of this section, when collected, shall be paid over by the magistrate to the county treasurer for the district in which such offense was committed. Every twenty-four hours such person, after being notified, shall suffer such obstruction to remain, to the hindrance or inconvenience of travelers or any person going along or upon such road or highway, shall be deemed an additional offense against the provisions of this section.
S.C. Code Ann. § 57-7-240 (2011)

§ 58-17-4080. Penalty and damages for obstruction of highway by railroad car, locomotive or other object.
If any person, including any conductor of any train of railroad cars or any other agent or servant of any railroad company, shall obstruct unnecessarily any public road or highway by permitting any railroad car or locomotive to be or remain upon or across any street, public road or highway

for a longer period than five minutes, after notice to remove such cars has been given to the conductor, engineer, agent or other such person in charge of such train or shall permit any timber, wood or other obstruction to remain upon or across any such street, road or highway to the hindrance or inconvenience of travelers or any person passing along or upon such street, road or highway, every such person so offending shall forfeit and pay for every such offense any sum not exceeding twenty nor less than five dollars and shall be liable for all damages arising to any highway, to be recovered by an action at the suit of the governing body of the county in which such offense shall have been committed or any person suing therefor, before any magistrate within the county in which such offense shall have been committed or by indictment in the court of general sessions or suit in the court of common pleas. All fines so accruing under the provisions of this section, when collected, shall be paid over by the magistrate to the county treasurer for the district in which such offense was committed. Every twenty-four hours such person, after being notified, shall suffer such obstructions to the hindrance or inconvenience of travelers or any person going along or upon such road or highway to continue shall be deemed an additional offense against the provisions of this section.
S.C. Code Ann. § 58-17-4080 (2011)

South Dakota

§ 49-16A-94. Blocking of highway crossings--Employees not liable where blocking necessary under state or federal rules.
No railroad employee shall be held liable for any railroad engine or cars occupying or blocking any street, road or highway grade crossing where such occupying or blocking is necessitated or required in order to comply with a rule, regulation or order issued by any state or federal regulatory body.
S.D. Codified Laws § 49-16A-94 (2012)

§ 49-16A-119. Trains prohibited from blocking streets, roads or highways during emergency--Violation as misdemeanor.
A standing railroad engine or car may not occupy or block any street, road, or highway grade crossing for more than twenty consecutive minutes, if the path of any emergency vehicle making an emergency trip is blocked by the railroad engine or car, unless it is disabled, by accident or otherwise and cannot be moved without striking any object or person on track. A violation of this section by a railroad corporation is a Class 2 misdemeanor.
S.D. Codified Laws § 49-16A-119 (2012)

Tennessee

No applicable statute related to this topic

Texas

§ 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.
Tex. Transp. Code Ann. § 471.007 (2012)

§ 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.
Tex. Transp. Code Ann.§ 471.008 (2012)

Utah

§ 41-6a-1204. Trains -- Interference with vehicles limited
A person or government agency may not operate a train in a manner to prevent vehicular use of a roadway for a period of time in excess of five consecutive minutes except:
(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 disabled;
(4) when the train is in motion or while engaged in switching operations;
(5) when there is no vehicular traffic waiting to use the crossing;
(6) when necessary to comply with a governmental safety regulation; or
(7) as determined by a highway authority.
Utah Code Ann. § 41-6a-1204 (2012)

Vermont

§ 3586. Obstructing crossings; penalty
A person, corporation, or the agents or employees thereof, owning or operating a railroad, who wilfully or negligently obstruct a public highway or farm crossing with engines, tenders, or cars, shall be fined not more than $ 20.00 nor less than $ 5.00.
Vt. Stat. Ann. tit. 5, § 3586 (2013)

§ 3587. Obstructing crossing more than five minutes; penalty; exemption
(a) When a railroad crosses a highway or road required for farm use at rail level, the company operating such railroad shall not, nor shall its officer, agent, or employees permit an engine or railroad car, or any portion thereof, to stand on any part of such highway or road for a longer period than five minutes at any one time, or in shunting, to obstruct public traffic for a longer period than five minutes at any one time. A person or corporation violating the provisions of this section shall be fined not more than $ 50.00 nor less than $ 5.00.

(b) The provisions of this section shall not apply to:
(1) any grade crossings now existing or hereinafter established over the line of railroad extending through the city of Rutland between the River Street underpass and the Pine Street overpass; and
(2) the grade crossing in the town of Norton between the St. Lawrence & Atlantic Railroad and the class 4 town highway known as Gagnon Road (town highway #12).
Vt. Stat. Ann. tit. 5, § 3587 (2013)

Virginia

§ 56-412.1. Railroad cars obstructing street or road; standing vehicle on railroad track
It shall be unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct for a longer period than five minutes the free passage on any street or road by standing cars or trains across the same, except a passenger train while receiving or discharging passengers, but a passway shall be kept open to allow normal flow of traffic; nor shall it be lawful to stand any wagon or other vehicle on the track of any railroad which will hinder or endanger a moving train; provided that when a train has been uncoupled, so as to make a passway, the time necessarily required, not exceeding three minutes, to pump up the air after the train has been recoupled shall not be included in considering the time such cars or trains were standing across such street or road. Any such railroad company, receiver or trustee, violating any of the provisions of this section shall be fined not less than $ 100 nor more than $ 500; provided that the fine may be $ 100 for each minute beyond the permitted time but the total fine shall not exceed $ 500.
Va. Code Ann. § 56-412.1 (2012)

Washington

No applicable statute related to this topic.

West Virginia

§ 31-2A-2. Blocking of crossing prohibited; time limit.
(a) It is unlawful for any railroad company, except in an emergency, to order, allow or permit the operation of or to operate or to so operate its system so that a train blocks the passage of vehicular traffic over the railroad crossing of any public street, road or highway of this state for a period longer than ten minutes. This section does not apply to an obstruction of any such street, road or highway caused by a continuously moving train or caused by circumstances wholly beyond the control of the railroad, but does apply to all other obstructions as aforesaid, including, but not limited to, those caused by a stopped train or a train engaged in switching, loading or unloading operations: Provided, That if any such train is within the jurisdictional limits of any municipality which now has or hereafter shall have in force and effect an ordinance limiting the time a railroad crossing may be blocked by a train, such ordinance shall govern, and the provisions of this article shall not be applicable.
(b) Upon receiving notification from a law-enforcement officer, member of a fire department, operator of an emergency medical vehicle, or a member of an emergency services provider that emergency circumstances require the immediate clearing of a public highway railroad grade crossing, the members of the train crew of the train, railroad car or equipment, or engine blocking such crossing shall immediately notify the appropriate railroad dispatcher of the pending emergency situation. Upon receipt of notice of such emergency circumstances by the

train crew or dispatcher, the railroad shall immediately clear the crossing, consistent with the safe operation of the train.
W. Va. Code Ann. § 31-2A-2 (2012)

***§ 31-2A-3. Responsibility of railroad company.**
The railroad company shall be solely responsible for the acts of its agents and employees in violating any provision of this article or any provision of any ordinance of any municipality or any provision of any order of a county or other public authority regulating the period of time any such street, road or highway may be so blocked by a train.
W. Va. Code Ann.§ 31-2A-3 (2012)

***§ 31-2A-6. Fines and penalties.**
(a) Any railroad company, carrier or railroad violating the provisions of subsection (a), section two [§ 31-2A-2] of this article is guilty of misdemeanor and, upon conviction thereof, shall be fined not less than one hundred fifty dollars; upon a second conviction occurring at the same crossing within one year thereafter, shall be fined not less than two hundred fifty dollars; and upon a third or subsequent conviction occurring at the same crossing within one year after the first conviction, shall be fined not less than three hundred fifty dollars.
(b) Any railroad company, carrier or railroad violating the provisions of subsection (b), section two [§ 31-2A-2] of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand dollars; upon a second conviction occurring at the same crossing within one year thereafter, shall be fined not less than two thousand five hundred dollars; and upon a third or subsequent conviction occurring at the same crossing within one year after the first conviction, shall be fined not less than five thousand dollars.
W. Va. Code Ann. § 31-2A-6 (2012)

Wisconsin

192.292. Trains obstructing highways.
It shall be unlawful to stop any railroad train, locomotive or car upon or across any highway or street crossing, outside of cities, or leave the same standing upon such crossing longer than 10 minutes, except in cases of accident; and any railroad company that shall violate this section shall be liable to a fine of not more than 500 or any officer of such company responsible for the violation shall be liable to imprisonment of not more than 15 days.
Wis. Stat. § 192.292 (2012)

Wyoming

No applicable statute related to this topic

Chapter 4: 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 grade crossings.

Approximately 57 percent of the reported 250,523[2] highway-rail grade crossings in the United States have passive warning devices. For purposes of this chapter, passive warning devices do not include automatic gates and flashing lights or other train-activated devices.

Passive warning devices are designed to direct the attention of the driver to the location of the highway-rail grade crossing so that drivers may exercise caution when traversing the crossing. The messages conveyed by these devices provide warning and guidance, but they may also direct mandatory action by the driver. These devices consist of regulatory, warning, and guide signs, and supplemental pavement markings. Generally, most of the states require that these devices conform to the Manual on Uniform Traffic Control Devices. A number of states publish and follow their own traffic manuals.

Alabama

§ 37-2-80. Warning signs.
Every railroad company must erect, at all points where its road crosses any public road, at a sufficient elevation to admit of the free passage of vehicles of every kind, a sign, with large and distinct letters placed thereon, to give notice of the proximity of the railroad and warn persons of the necessity of looking out for the cars.
Ala. Code § 37-2-80(2012)

Alaska

17 AAC 15.481. Railroad accommodation policy
(d) A railroad/highway crossing sign (crossbuck) must be installed on the right-hand side of the roadway on each approach to any crossing, except when, in the discretion of the department, it is determined that local conditions require an alternate location. Where railroad/highway crossing signals are used, the crossbuck must be an integral part of the signal assembly. A supplemental sign indicating the number of tracks must be used where there are two or more sets of tracks at the crossing.
Alaska Admin. Code tit. 17, § 15.481(d) (2013) Excerpt from applicable statute published.

Arizona

§ 28-852. Dangerous railroad grade crossing
The director, and local authorities with the approval of the director, may designate particularly dangerous highway grade crossings of railroads and may erect stop signs at the crossings. If the

[2] According to the FRA safety data website: http://safetydata.fra.dot.gov/officeofsafety/default.aspx as of 9/30/13

stop signs are erected, the driver of a vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall proceed only on exercising due care.

Ariz. Rev. Stat. § 28-852 (2012)

Arkansas

23-12-411. Warning boards required at crossings -- Exception.
(a) Every railroad corporation in this state shall cause boards to be placed, well-supported by posts or otherwise, and constantly maintained across each public road or street where the public road or street is crossed by the railroad on the same level.
(b) (1) The boards shall be elevated so as not to obstruct travel and to be easily seen by travelers.
(2) On each side of the boards shall be printed, in capital letters of at least the size of nine inches (9") each, the words, "RAILROAD CROSSING".
(3) This section shall not apply to streets in cities or villages unless the corporation is required to put up the boards by the officers having charge of the streets.
Ark. Code. Ann. § 23-12-411 (2012)

***27-51-706. Designation of particularly dangerous crossings.**
(a) The State Highway Commission and local authorities, with the approval of the commission, are authorized to designate particularly dangerous state highway grade crossings of railroads and to erect stop signs there.
(b) When stop signs are erected, the driver of any vehicle shall stop within fifty feet (50') but not less than ten feet (10') from the nearest rail of the railroad and shall proceed only upon exercising due care.
(c) Any person, owner, or driver of any automobile, truck, motorcycle, or other motor-driven vehicle violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00).
(d) This section shall be cumulative to the other laws of this state and shall not repeal any laws or parts of laws except where specifically in conflict with this section.
Ark. Code. Ann. § 27-51-706 (2012)

California

Pub Util Code § 7538. Stop signs for farm and private crossings; Stopping of vehicles; Misdemeanors
At every farm or private grade crossing of a railroad where no automatic grade crossing protective device is in place there shall be installed, as a means of protecting the crossing, one or more stop signs of the type described in Section 21400 of the Vehicle Code or of such other design as the commission may prescribe unless, after a hearing, the commission shall find that the installation of such sign or signs at a particular crossing would create a hazard or dangerous condition that would not otherwise exist. At any grade crossing where stop signs are installed or in place, before traversing such crossing the driver of any vehicle shall stop such vehicle not less than 10 nor more than 50 feet from the nearest rail of the track and while so stopped shall listen, and look in both directions along the track, for any approaching train or other equipment using such rails. The vehicle shall remain standing while any train or other equipment using such rails is approaching the crossing and is close enough to constitute a hazard. A driver of any vehicle who fails to keep his vehicle standing while any train or equipment using such rails is

approaching the crossing and which is so close as to constitute a hazard is guilty of a misdemeanor.
Cal. Pub. Util. Code § 7538 (Deering 2012)

***Cal Veh Code § 21400. Uniform standards and specifications; Revision of speed limits**
a) (1) The Department of Transportation shall, after consultation with local agencies and public hearings, adopt rules and regulations prescribing uniform standards and specifications for all official traffic control devices placed pursuant to this code, including, but not limited to, stop signs, yield right-of-way signs, speed restriction signs, railroad warning approach signs, street name signs, lines and markings on the roadway, and stock crossing signs placed pursuant to Section 21364.
Cal. Veh. Code § 21400 (Deering 2012) Excerpt from applicable statute published.

Colorado

No applicable statute related to this topic

Connecticut

***Sec. 13b-344. (Formerly Sec. 16-160). Signs at grade crossings. Notification of locations of railroad crossings. Local police or firemen to direct traffic at crossings with malfunctioning gates or signals.**
(a) Each town, city or borough shall place, inspect and maintain warning signs and pavement markings consisting of stop lines and advance warning markings on each highway approaching a crossing at grade of such highway and the tracks of any railroad within the respective limits of such town, city or borough. Such signs shall be furnished by the railroad company crossing such highway. Such signs and pavement markings shall conform with the Federal Highway Administration's Manual on Uniform Traffic Control Devices and shall be placed in a manner that conforms with said manual. If in the case of any such crossing it appears that the placing of the signs prescribed by this section is impracticable or unnecessary, the Commissioner of Transportation may release such municipality from the obligation of placing and maintaining such signs on the highway near such crossing. The Department of Transportation shall annually notify in writing the appropriate town, city or borough of the location of all railroad crossings within the respective limits of such town, city or borough and the obligations of such town, city or borough under the provisions of this subsection.
(b) Each town, city or borough, upon receipt of a report of a malfunctioning grade crossing gate or signal shall dispatch local police or firemen to the crossing who shall, upon consultation with the railroad company crossing such highway, either direct traffic across the crossing or to an alternate route until such time as the railroad company crossing such highway repairs the gate or signal or assumes responsibility for directing traffic.
Conn. Gen. Stat. § 13b-344 (2012)

Sec. 13b-345a. Towns authorized to petition the department to install a mandatory stop on any municipal or state highway approaching a crossing at grade.
Any town, city or borough may petition the Department of Transportation to provide a mandatory stop on any municipal or state highway approaching a crossing at grade. Upon receipt of any such petition, the department shall fix a time and place of hearing, within a reasonable time, and shall provide notice of such hearing to the public through publication of notice in a newspaper having general circulation in the town, city or borough where such crossing is

located. Within sixty days of the hearing the department shall render a written decision on the petition.
Conn. Gen. Stat. § 13b-345a (2012)

Delaware

§ 501. Erection of signs by local authorities; signs necessary to enforce local
Local authorities in their respective jurisdictions may erect and maintain signs designating residence and business districts, highways and steam or interurban railway grade crossings and such other signs as may be deemed necessary to carry out this title and such additional signs as may be appropriate to give notice of local parking and other special regulations. Local parking and other special regulations shall not be enforceable against an alleged violation if, at the time and place of the alleged violation, an appropriate sign giving notice thereof is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
Del. Code Ann. tit. 21, § 501 (2012)

District of Columbia

24-120. Railroads and Railroad Crossings.
120.10 The person or persons, or corporation or corporations using the railroad sidings, switches, and standing tracks shall be responsible for the construction of the protection devices; and for maintaining them in sound, safe, and serviceable condition once they are approved by the Mayor.
D.C. Mun. Regs. tit. 24, §120 (2013)

Florida

§ 316.171. Traffic control devices at railroad-highway grade crossings
Every railroad company operating or leasing any track intersecting a public road at grade and upon which railroad trains are operated shall erect traffic control devices that are necessary to conform with the requirements of the uniform system of traffic control devices adopted pursuant to s. 316.0745. This section does not require the railroad company to erect those devices, such as pavement markings and advance warning signs, which are the responsibility of the governmental entity having jurisdiction over or maintenance responsibility for the public road. Any change in the design of a traffic control device in the uniform system of traffic control devices applies only at new installations and at locations where replacements of existing devices are being made.
Fla. Stat. Ann. § 316.171 (2012)

§ 351.03. Railroad-highway grade-crossing warning signs and signals; audible warnings; exercise of reasonable care; blocking highways, roads, and streets during darkness
(1) Every railroad company shall exercise reasonable care for the safety of motorists whenever its track crosses a highway and shall be responsible for erecting and maintaining crossbuck grade-crossing warning signs in accordance with the uniform system of traffic control devices adopted pursuant to s. 316.0745. Such crossbuck signs shall be erected and maintained at all public or private railroad-highway grade crossings.
(2) Advance railroad warning signs and pavement markings shall be installed and maintained at public railroad-highway grade crossings in accordance with the uniform system of traffic control devices by the governmental entity having jurisdiction over or maintenance responsibility for the highway or street. All persons approaching a railroad-highway grade crossing shall exercise reasonable care for their own safety and for the safety of railroad train crews as well as for the safety of train or vehicle passengers.

Fla. Stat. § 351.03(1)(2) (2012) Excerpt from applicable statute published.

Georgia

§ 40-6-141. Erection and observance of stop signs at railroad grade crossings
The Department of Transportation and local authorities with the approval of the department are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
Ga. Code Ann. § 40-6-141 (2012)

§ 46-8-194. Erection and maintenance of crossbuck signs at highway grade crossings; conformance of signs to Department of Transportation standards
By July 31, 1976, each railroad company shall erect and continue to maintain a reflectorized railroad crossbuck sign at each grade crossing where a railroad crossbuck sign is required by Georgia law to be erected. Such reflectorized railroad crossbuck signs shall conform to standards established by the Georgia Department of Transportation.
Ga. Code Ann. § 46-8-194 (2012)

Hawaii

§ 291C-92. All vehicles must stop at certain railroad grade crossings.
The director of transportation and the counties are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only if no train is approaching. If a train is approaching, and is approximately within fifteen hundred feet of thecrossing, the driver must not proceed until after the train has passed.
Haw. Rev. Stat. Ann. § 291C-92 (LexisNexis 2012)

Idaho

***§ 49-202. Duties of department**
(25) Wherever a highway crosses one (1) or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.
Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.
Idaho Code Ann. § 49-202 (2012) Excerpt from applicable statute published.

Illinois

§ 625 ILCS 5/18c-7401. Safety Requirements for Track, Facilities, and Equipment
Sec. 18c-7401. Safety Requirements for Track, Facilities, and Equipment.

(3) Railroad Crossings. Every rail carrier operating within this State shall remove from its right of way at all railroad-highway grade crossings within the State, such brush, shrubbery, and trees as is reasonably practical for a distance of not less than 500 feet in either direction from each grade crossing. The Commission shall have power, upon its own motion, or upon complaint, and after having made proper investigation, to require the installation of adequate and appropriate luminous reflective warning signs, luminous flashing signals, crossing gates illuminated at night, or other protective devices in order to promote and safeguard the health and safety of the public. Luminous flashing signal or crossing gate devices installed at grade crossings, which have been approved by the Commission, shall be deemed adequate and appropriate. The Commission shall have authority to determine the number, type, and location of such signs, signals, gates, or other protective devices which, however, shall conform as near as may be with generally recognized national standards, and the Commission shall have authority to prescribe the division of the cost of the installation and subsequent maintenance of such signs, signals, gates, or other protective devices between the rail carrier or carriers, the public highway authority or other public authority in interest, and in instances involving the use of the Grade Crossing Protection Fund, the Illinois Department of Transportation. Except where train crews provide flagging of the crossing to road users, yield signs shall be installed at all highway intersections with every grade crossing in this State that is not equipped with automatic warning devices, such as luminous flashing signals or crossing gate devices. A stop sign may be used in lieu of the yield sign when an engineering study conducted in cooperation with the highway authority and the Illinois Department of Transportation has determined that a stop sign is warranted. If the Commission has ordered the installation of luminous flashing signal or crossing gate devices at a grade crossing not equipped with active warning devices, the Commission shall order the installation of temporary stop signs at the highway intersection with the grade crossing unless an engineering study has determined that a stop sign is not appropriate. If a stop sign is not appropriate, the Commission may order the installation of other appropriate supplemental signing as determined by an engineering study. The temporary signs shall remain in place until the luminous flashing signal or crossing gate devices have been installed. The rail carrier is responsible for the installation and subsequent maintenance of any required signs. The permanent signs shall be in place by July 1, 2011.
625 Ill. Comp. Stat. Ann. 5/18c-7401(3) (LexisNexis 2012) Excerpt from applicable statute published.

<u>Indiana</u>

8-6-4-1. Signals at crossings.
(b) A railroad company shall erect a sign that is:
(1) not more than one-fourth (1/4) mile in advance of a crossing or multiple consecutive crossings; and
(2) visible from an approaching train;
to notify the engineer or other person in charge of or operating an engine to sound the engine's whistle in accordance with federal law. The railroad company shall maintain the sign in good repair or replace the sign. However, this subsection does not apply to a crossing to which an ordinance adopted under subsection (d) applies. The locomotive engineer or other person in charge of the train shall notify, in writing, the appropriate maintenance of way supervisor of the railroad of any missing or damaged whistle post, and the railroad shall, within thirty (30) days after the maintenance of way supervisor is notified under this subsection, repair or replace the missing or damaged whistle post.
Burns Ind. Code Ann. § 8-6-4-1(b) (2012) Excerpt from applicable statute published.

8-6-6-1. Warning signs required -- Penalty.
It is a Class C infraction for a person, or the lessee or receiver of any person, who owns or operates any line of steam or interurban railroad to run trains without installing and maintaining, at each grade crossing of its railroad with any public highway, railroad crossing signs (crossbucks) and number of tracks signs if required, placed at right angles with the highway, where possible. The construction of the signs and warning notice must be in conformance with the manual on uniform traffic control devices adopted under IC 9-21-2-1.
Ind. Code Ann. § 8-6-6-1 (LexisNexis 2012)

***8-6-15-3. "Tracks out of use" signs.**
An abandoned or unused railroad grade crossing designated under section 2 [IC 8-6-15-2] of this chapter must be marked with signs reading "tracks out of service". The signs must:
(1) be posted and maintained by the department or the local road authority having jurisdiction over the roadway; and
(2) be in conformance with the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as adopted under IC 9-21-2-1.
Ind. Code Ann. § 8-6-15-3 (LexisNexis 2012)

***8-6-15-4. Notice of resumption of operation over abandoned or unused crossing.**
(a) The railroad shall provide the department and the local road authority having jurisdiction over a roadway with written notice at least thirty (30) days prior to resuming operation over an abandoned or unused railroad crossing. The notice must include a request that the signs posted under section 3 [IC 8-6-15-3] of this chapter be removed from the crossing.
(b) After removal of the signs under subsection (a), the railroad shall mark the railroad grade crossing for six (6) months with signs reading "train traffic resumed -- tracks in service".
Ind. Code Ann. § 8-6-15-4 (LexisNexis 2012)

<u>Iowa</u>

***321.342. Stop at certain railroad crossings -- posting warning.**
1. The driver of any vehicle approaching a railroad grade crossing across which traffic is regulated by a stop sign, a railroad sign directing traffic to stop or an official traffic control signal displaying a flashing red or steady circular red colored light shall stop prior to crossing the railroad at the first opportunity at either the clearly marked stop line or at a point near the crossing where the driver has a clear view of the approaching railroad traffic.
2. The department, city or county shall be required to post the standard sign as prescribed by the manual on uniform traffic-control devices adopted by the department pursuant to section 321.252 in advance of each railroad gradecrossing to warn the motorist that the motorist is approaching a railroad grade crossing. Upon properly posting all railroad grade crossings within its jurisdiction and upon implementing the standards established in accordance with section 307.26, the department, city, or county shall not have any other affirmative duty to warn a motor vehicle operator approaching or at the railroad grade crossing.
Iowa Code § 321.342 (2012)

***327G.2. Crossings -- signs.**
Every corporation constructing or operating a railway shall make and construct at all points where such railway crosses any public road good, sufficient, and safe crossings and erect at such

points, at a sufficient elevation from such road as to admit a free passage of vehicles of every kind, a sign with large and distinct letters placed thereon, to give notice of the proximity of the railway, and warn persons of the necessity of looking out for trains. Any railway company neglecting or refusing to comply with the provisions of this section shall be liable for all damages sustained by reason of such refusal or neglect, and it shall only be necessary, in order to recover, for the injured party to prove such neglect or refusal.
Iowa Code § 327G.2 (2012)

Kansas

8-1552. Designation of dangerous railroad grade crossings; vehicles required to stop, when.
The secretary of transportation and local authorities, with the approval of the secretary, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
Kan. Stat. Ann. § 8-1552 (2011)

66-2,121. Railroad-highway crossing signs; specifications.
Every railway corporation shall cause railroad-highway crossing signs in the form of a crossbuck to be erected, well supported by posts or otherwise, alone or in combination with other protective devices, and constantly maintained on the right-hand side of the traveled public road or street, on each approach to the crossing when the same is crossed by the railway on the same level. Said railroad-highway crossing signs shall be elevated so that they may be easily seen by travelers. Each side of a railroad-highway sign shall be a white reflectorized background, with the words "RAILROAD CROSSING" in black lettering. When crossbuck signs are a part of a flashing light signal assembly, such signs and assemblies shall conform to the manual and specifications adopted by the secretary of transportation pursuant to K.S.A. 8-2003.
If any such crossing consists of two or more tracks, including sidings, the number of tracks shall be indicated on an auxiliary sign of inverted T-shape, mounted below the railroad-highway crossing sign. Said auxiliary sign shall be of white reflectorized background, with black lettering. This section shall not apply to streets in cities, unless the railway corporation shall be required to put up such railroad-highway crossing signs by the governing body of such city, or the officer thereof having charge of such streets.
Kan. Stat. Ann. § 66-2,121 (2011)

Kentucky

189.560. Railroad crossings.
(2) Whenever the tracks of any railroad or interurban railway over which trains or cars are regularly operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop no closer than a marked stop line or fifteen (15) feet, nor more than thirty (30) feet, from the nearest rail of the tracks.
(3) At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position, or, if the stopping position is not marked, on the pavement not more than twenty-five (25) feet in advance of the track, an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than ten (10) inches in height.

(4) The cabinet shall install the signs described in subsection (3), within sixty (60) days after the crossing is designated unsafe.
(5) Subsections (2) to (4) shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen. (6) The failure to observe subsections (2) to (5) shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property. (7) If subsection (6) is declared unconstitutional, then subsections (2) to (7) shall be ineffective.
Ky. Rev. Stat. Ann. § 189.560 (LexisNexis 2012) Excerpt from applicable statute published.

277.160. Signs at railroad crossings -- Imitation forbidden.
(1) Every railroad company shall cause signal boards to be placed and constantly maintained at each public highway where it is crossed by the railroad track at the same level, except that such boards need not be put up in any city unless required by the city authorities. The boards shall be well supported, and shall be placed so as to be easily seen by travelers and not to obstruct travel, and shall contain on each side, in capital letters at least five (5) inches high, the words "Railroad Crossing."
(2) No person shall erect on or near a public highway any signboard or other contrivance similar to or like the danger signals used by railroads, interurbans and electric railway companies at road crossings.
Ky. Rev. Stat. Ann. § 277.160 (LexisNexis 2012)

<u>Louisiana</u>

§ 32:169. Cross buck, stop and warning signs, traffic control devices
A. Any person, firm, or corporation controlling any railroad track which intersects a public road or street at grade crossings, except those contained in the maintenance system of the department, shall erect and maintain a "Railroad Cross Buck" sign at the crossings above referred to which shall be white with the "Railroad Crossing" in black letters. The sign shall be reflectorized. If there are two or more tracks, same shall be indicated on an auxiliary sign of inverted "T" shape mounted below the cross buck. This sign shall be erected on the right hand side of the roadway of such approach to the crossing not more than fifty feet nor less than fifteen feet from the nearest rail and not less than six feet or more than twelve feet from the edge of the roadway. The sign shall be ten feet above the level of the highway and said sign shall be constructed in accordance with the standards of the department.
B. The person, firm, or corporation controlling any railroad track hereinabove referred to may, with written approval of the chief engineer of the department or his designated representative, erect stop signs at any grade crossingsof railroads on highways not contained in the state maintenance system. Said signs shall be octagonal in shape, shall have a red background, and carry the word "stop" in white letters all in accordance with the standards of the department. Said signs shall be located not less than fifteen feet nor more than fifty feet from the nearest rail and shall be erected on the right hand side of the highway of each approach to the crossing and not less than six feet nor more than twelve feet from the edge of the roadway. Where "stop" signs are erected the said railroad shall also erect and maintain 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 said crossing measured along the highway, said sign shall be a yellow disk thirty-six inches in diameter carrying a ninety degree cross buck x and the letters R.R. in black in accordance with the standards of the department. When such signs are erected, the driver of any

vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon the exercising of due care and being sure that it is safe to proceed.
C. All cross buck and warning signs provided for herein shall be installed by the person, firm or corporation controlling the railroad as the present signs are replaced.
D. Subsections A and B of this Section do not apply to grade crossings of any roadway which is contained in the state maintained highway system.
La. Rev. Stat. Ann. § 32:169 (2012) Excerpt from applicable statute published.

***§ 32:172. All vehicles must stop at certain railroad grade crossings**
A. (1) The department shall determine highway grade crossings of railroads on state maintained highways or roads which are of particular danger to public safety and shall erect stop signs thereat.
(2) The department shall also make a preliminary determination of highway grade crossings of railroads on non-state maintained public highways or roads which are of particular danger to public safety which shall be made available to parishes and municipalities. The governing authorities of such parishes and municipalities may erect stop signs at such crossings.
(3) The department shall promulgate rules and regulations, not later than December 15, 1998, which set forth criteria to determine those crossings which are particularly dangerous, to include but not be limited to crossingswhere multiple collisions have occurred, crossings which are high-profile crossings, and crossings with reduced sight distance or visibility. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of such railroad and shall proceed only upon exercising due care.
B. The opinions and final report of the department promulgated or published pursuant to this Section shall not be subject to any discovery or production nor be admissible evidence in any judicial proceeding in this state.
C. A decision of the department relative to the placement of a stop sign at a crossing which possesses any other warning device shall not be considered as presumptive or conclusive evidence of fault on the part of the state or its agents or any political subdivision or its agents.
D. Nothing in this Section shall relieve the railroad of its responsibility to maintain safe crossings and operate its trains in a safe manner.
La. Rev. Stat. Ann. § 32:172 (2012)

Maine

§ 1251. Erection of warning signs
There shall be placed and thereafterward maintained warning signs on every highway or other way within the State approaching a crossing at grade of such highway or other way and the tracks of a railroad. Such signs shall be placed on each side of such crossing at such distances as shall be determined upon by the Department of Transportation which is required, and vested with authority, to cause to be located and maintained such warning signs. In the compact parts of cities and towns where the conditions mentioned in section 2920 exist and are observed and at all other places where in the judgment of the 2 commissions such signs are unnecessary, no such warning signs need be erected.
Me. Rev. Stat. Ann. tit. 23, § 1251 (2012)

§ 1252. Signs to be clearly visible; removal of obstructions
The signs referred to in section 1251 shall be of such size, design and color as shall be established by order of the Department of Transportation. Such signs shall be placed in

conspicuous locations at a distance not less than 300 feet from the nearest rail of such crossing unless conditions make it reasonable to cause such signs to be located at a lesser distance from said rail. Such locations shall always be kept clear that such signs shall be plainly visible and the municipal officers of the several towns in which such signs are located are authorized and required either on their own motion or when requested by the department to cut down, trim or remove all bushes, trees or other obstructions which may impair the view of any such signs.
Me. Rev. Stat. tit. 23, § 1252 (2012)

***§ 1253. State pays expense**
The expense of the erection and maintenance of each warning sign mentioned in sections 1251 and 1252 shall be borne by the State and paid out of any highway funds not otherwise appropriated.
Me. Rev. Stat. Ann. tit. 1253, § 1253 (2012)

§ 1253-A. Stop signs at highway-railroad grade crossings

The Department of Transportation is authorized to designate any highway-railroad grade crossing as a stop intersection and to install and maintain stop signs thereat. The department is authorized to so designate such highway-railroad grade crossings on town ways, and local municipalities shall, when ordered by the department, erect and maintain stop signs on such town ways. When such stop signs are erected, the driver of any vehicle shall stop within 50 feet but not less than 10 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
Any person who shall operate a vehicle in violation of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $ 50 or by imprisonment for not more than 60 days, or by both.
The expense of the erection and maintenance of each stop sign installed by virtue of this section shall be borne by the railroad.
Me. Rev. Stat. Ann. tit. 23, § 1253-A (2012)

§ 7211. Crossing signs on each side of track; whistle and bell
At every temporary crossing, established in accordance with section 7210, boards with the words "Temporary railroad crossing, stop, look, listen" distinctly painted on each side, in letters plainly legible, shall be placed on each side line of the railroad right-of-way at the crossing, on a post or other structure, in a position as to be easily seen by persons about to cross the railroad at those places.
Me. Rev. Stat. Ann. tit. 23, § 7211 (2012) Excerpt from applicable statute published.

§ 7214. Signboards at grade crossings; ringing of engine bells

Every railroad corporation shall cause signboards with the words "Railroad Crossing" distinctly painted on each side of the signboards, or as a minimum on one side if signboards are placed facing on-coming traffic in each direction, in letters plainly legible, to be placed and constantly maintained at the side of highways and town ways where they are crossed at grade by those railroads, on posts or other structures, in a position as to be easily seen by persons passing on those ways.
The Commissioner of Transportation may temporarily erect experimental signs at certain grade crossings instead of the signboards with the words "Railroad Crossing," as required in this section, for the purpose of conducting research for the development of improved signs. The erection of experimental signs by the department at a particular crossing shall relieve the railroad

company using that crossing from any liability in damages, which might otherwise arise against that company by the temporary removal or temporary obliteration of the railroad company signboard required by this section. The erection and removal of the temporary signs shall be at the expense of the department and the removal and reinstallation of signboards with the words "Railroad Crossing" shall also be at the expense of the department.
Nothing in this section prevents the department from making further rules for safety at any crossing, including a private, temporary, farm or industrial crossing, as it deems expedient or necessary.
Me. Rev. Stat. Ann. tit. 23, § 7214 (2012) Excerpt from applicable statute published.

Maryland

***§ 9-313. Warnings at highway crossings**
(a) Signs at highway crossings. -- At each place where its tracks cross a public highway, a Maryland railroad company shall erect signs high enough to allow all vehicles to pass and with large and distinct letters that warn of the proximity of the railroad crossing and of the necessity to look for trains.
(b) Liability. -- A Maryland railroad company that neglects or refuses to comply with the requirements of this section is liable for any resulting injuries to individuals or damages to property.
Md. Code Ann., Pub. Util. § 9-313 (LexisNexis 2012)

§ 21-702. All vehicles to stop at certain railroad crossings
(a) Posting of stop sign. -- The State Highway Administration and any local authority with the approval of the State Highway Administration may place a stop sign at any railroad grade crossing of a highway that the local authority or State Highway Administration designates as a particularly dangerous crossing.
Md. Code Ann., Transp. § 21-702 (LexisNexis 2012) Excerpt from applicable statute published.

Massachusetts

§ 140. Signs protecting public ways
Every railroad corporation shall cause boards, supported by posts or otherwise at such height as to be easily seen by travelers, and not obstructing travel, containing on each side in capital letters at least nine inches long the following inscription,--Railroad Crossing--Look out for the Engine,-- to be placed and constantly maintained across each public way where it is crossed by the railroad at the same level; or the corporation may substitute therefor warning boards on each side of the crossing, of such form, size and description as the department approves.
Mass. Gen. Laws Ann. ch. 160, § 140 (West 2012)

§ 141. Signs protecting a traveled place
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 corporation to erect and maintain them. If it refuses or neglects so to do, they may apply to the department. If the department, after public notice and a hearing, decides that such erection is necessary for the better security of the public, the corporation shall comply with such decision.
Mass. Gen. Laws Ann. ch. 160, § 141 (West 2012)

§ 142. Signs erected by municipalities.
Every county, city and town shall, except as hereinafter provided, and the department of highways shall, unless in any case it deems it unnecessary or impracticable so to do, place and maintain warning signs on every public way subject to its jurisdiction where the way crosses the tracks of a railroad at grade. Said warning signs shall be placed in a conspicuous location beside the public way on each side of the crossing at a distance of not less than two hundred and fifty feet from the nearest rail of the crossing and shall conform in design with the official standards of the department of highways.
Mass. Gen. Laws Ann. ch. 160, § 142 (West 2012)

***§ 143. Signs erected by municipality; duty to supply**
Every railroad corporation shall, within four months after receiving a written request therefor, furnish to any county, city or town in the commonwealth, or to the department of highways, as the case may be, a sufficient number of such warning signs to enable such county, city or town, or the said department, from time to time to comply with the preceding section. The said signs shall be furnished, as aforesaid, without charge, unless they are to be used for replacement purposes, in which case the railroad corporation may require the payment of the net cost thereof.
Mass. Gen. Laws Ann. ch. 160, § 143 (West 2012)

***§ 144. Release of railroad or municipality from duty to provide signs**
When it appears that the placing of the signs prescribed by section one hundred and forty or section one hundred and forty-two or by both of said sections, is impracticable or unnecessary, the department, on petition, may release the railroad corporation or the county, city or town, as the case may be, from compliance with said section or sections.
Mass. Gen. Laws Ann. ch. 160, § 144 West (2012)

§ 145. Violations; Penalties
If any county, city or town shall neglect, for sixty days, to comply with the requirements of section one hundred and forty-two, unless released therefrom by order of the department of telecommunications and energy, or unless prevented by the failure of any railroad corporation to comply with the requirements of section one hundred and forty-three, or if any railroad corporation shall neglect, for sixty days after the expiration of the four months prescribed in section one hundred and forty-three, to comply with the requirements thereof, it shall forfeit one dollar for each day during which such neglect continues, to be recovered in an action of tort brought in the name and for the use of the commonwealth by the attorney general or by the district attorney of the district where the violation occurred.
Mass. Gen. Laws Ann. ch. 160, § 145 (West 2012)

***§ 147A. Reflectorizing of signs, etc. at crossings**
All signs, signal posts, gates or other devices maintained by a railroad corporation at a grade crossing shall be reflectorized in accordance with standards prescribed by the department of telecommunications and energy.
Mass. Gen. Laws Ann. ch. 160, § 147A (West 2012)

<u>Michigan</u>

§ 257.668. Designating certain grade crossings as "stop" crossings or "yield" crossings; signs; duties of driver; cost of yield sign installations; action for negligence; failure to stop or yield as civil infraction.

Sec. 668. (1) The state transportation department with respect to highways under its jurisdiction, the county road commissions, and local authorities with reference to highways under their jurisdiction, may designate certain grade crossings of railways by highways as "stop" crossings, and erect signs at the crossings notifying drivers of vehicles upon the highway to come to a complete stop before crossing the railway tracks. When a crossing is so designated and signposted, the driver of a vehicle shall stop not more than 50 feet but not less than 15 feet from the railway tracks. The driver shall then traverse the crossing when it may be done in safety.
(2) The state transportation department with respect to highways under its jurisdiction, the county road commissions, and local authorities with reference to highways under their jurisdiction, may designate certain grade crossings of railways by highways as yield crossings, and erect signs at the crossings notifying drivers of vehicles upon the highway to yield. Yield signs may be mounted on the same post as is the crossbuck sign. Drivers of vehicles approaching a yield sign at the grade crossing of a railway shall maintain a reasonable speed based upon existing conditions and shall yield the right-of-way. The cost of yield sign installations shall be borne equally by the railroad and the governmental authority under whose jurisdiction the highway rests. The erection of or failure to erect, replace, or maintain a stop or yield sign or other railroad warning device, unless such devices or signs were ordered by public authority, shall not be a basis for an action of negligence against the state transportation department, county road commissions, the railroads, or local authorities.
(3) A person who fails to stop or yield as required by this section is responsible for a civil infraction.
Mich. Comp. Laws Serv. § 257.668 (LexisNexis 2012)

§ 462.303. Traffic control devices; determination and order by department.

Sec. 303. The department, at no cost to the freight railroads or adjacent property owners, may order traffic control devices at existing farm, other private, bicycle, and pedestrian crossings of the railroad tracks of a high speed rail corridor including signs, signals, crossing gates, movable barriers, or other devices. The department may determine the number, type, and location of signs, signals, gates, or other types of safety devices which shall conform as closely as possible with generally recognized national standards.
Mich. Comp. Laws Serv. § 462.303 (2012)

***§ 462.311. Passive traffic control devices; street lighting.**

Sec. 311. (1) The road authority, at its own expense, shall furnish, renew, and maintain all passive traffic control devices on public streets or highways approaching grade crossings of streets and highways with railroad tracks, including the various advance warning signs, railroad pavement markings, railroad grade crossing signs, number of tracks signs, and other special signs located, designed, and maintained as prescribed by the Michigan manual of uniform traffic control devices. The number of tracks sign shall include a designation "railroad crossing [---------] tracks" (insert number of tracks), indicating the actual number of tracks to be crossed. If there is only 1 track in the crossing, the sign stating the number of tracks shall be omitted. These passive traffic control devices shall conform to designs prescribed by the department and shall be subject to revision from time to time as the department considers necessary in the interest of public safety, conforming as closely as possible with generally recognized national standards.
(2) The department, for the purposes of this act, may install and maintain or arrange for the installation and maintenance of highway street lighting at any grade crossing of a state trunkline highway.
Mich. Comp. Laws Serv. § 462.311 (LexisNexis 2012)

Minnesota

219.06 SIGNS AT CROSSINGS
A railroad company shall maintain, wherever its lines cross a public road, a proper and conspicuous sign indicating the crossing. A railroad company failing to comply with this section shall forfeit to the town or municipality having charge of the road $ 10 for each day the failure continues.
Minn. Stat. § 219.06 (2012)

219.17 UNIFORM WARNING SIGNS
The commissioner by rule shall require that uniform warning signs be placed at grade crossings. There must be at least three distinct types of uniform warning signs: a home crossing sign, for use in the immediate vicinity of the crossing; an approach crossing sign, to indicate the approach to a grade crossing; and, when deemed necessary, a stop sign with the word "stop" plainly appearing on it, to indicate that persons on the highway approaching the crossing, whether in vehicles or otherwise, must come to a stop before proceeding over the grade crossing.
Minn. Stat. § 219.17 (2012)

***219.18 RAILROAD TO ERECT SIGN**
At each grade crossing established after April 23, 1925 and where and when crossing signs existing as of April 24, 1925 are replaced, the railway company operating the railroad at that crossing shall erect and maintain one or more uniform home crossing signs. The signs must be on each side of the railroad tracks and within 75 feet from the nearest rail.
Minn. Stat. § 219.18 (2012)

219.19 ADDITIONAL WARNING SIGN
At each grade crossing where, because of the conditions surrounding it, the reasonable protection to life and property necessitates placing additional warning signs on the highway farther from the crossing than the home crossing signs, approach warning signs must be installed. The commissioner may designate grade crossings requiring additional signs on either or both sides of the crossing. Upon designating a crossing as requiring additional protection, the commissioner shall notify the road authority having the care of the highway. The road authority, within 30 days after notification, shall furnish and maintain uniform signs in the appropriate places on the highway on either or both sides of the grade crossings.
Minn. Stat. § 219.19 (2012)

219.20 STOP SIGN
Subdivision 1. When installation required; procedure. --At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection of life and property makes it necessary for persons approaching the crossing to stop before crossing the railroad tracks, stop signs must be installed. When the government entity responsible for a road that crosses a railroad track deems it necessary to install stop signs at that crossing, it shall petition the commissioner to order the installation of the stop signs. The commissioner shall respond to the petition by investigating the conditions at the crossing to determine whether stop signs should be installed at the crossing. On determining, after an investigation following a petition from a governmental agency or subdivision or on the commissioner's own motion, that stop signs should be installed at a crossing, the commissioner shall designate the crossing as a stop crossing and shall notify the railway company operating the railroad at the crossing of this designation. Within 30 days

after notification, the railway company shall erect the uniform stop crossing signs in accordance with the commissioner's order.
Minn. Stat. § 219.20 (2012) Excerpt from applicable statute published.

***219.29 PROHIBITED SIGN**
Subdivision 1. Obstructing sign. --No person, firm, or corporation shall place or maintain any advertising sign or other similar obstruction upon, over, or adjacent to a highway between an approach sign and the grade crossing which it marks.
Subd. 2. Resembling sign. --No person, firm, or corporation shall place or maintain upon, over, or adjacent to a public highway any sign or symbol resembling the signs provided for in sections 219.16 to 219.30.
Minn. Stat. § 219.29 (2012)

219.402 ADEQUATE CROSSING PROTECTION
Crossing warning devices or improvements installed or maintained under this chapter as approved by the commissioner or any predecessor, whether by order or otherwise, are adequate and appropriate warning for the crossing.
Minn. Stat. § 219.402 (2012)

<u>Mississippi</u>

§ 77-9-247. Railroads shall erect "railroad crossbuck."
Every railroad corporation or company or person or persons operating or controlling any railroad track intersecting a public road or street at grade crossings shall erect and maintain at each such crossing the standard sign known as "railroad crossbuck," the design of which has been standardized by the Association of American Railroads and which appears in the "Manual on Uniform Traffic Control Devices" for the State of Mississippi as adopted by the Commissioner of Public Safety, the Mississippi Transportation Commission and the United States Department of Transportation.
Provided, further, that said railroad crossbuck shall be reflectorized and be placed in the right side of the road or street on both sides of the railroad and shall indicate the number of tracks crossing the road or street in accordance with the aforesaid manual on uniform traffic control devices.
The provisions of this section shall be enforced by the Mississippi Department of Transportation.
Miss. Code Ann. § 77-9-247 (2012)

***§ 77-9-248. Installation of crossbuck as present signs are replaced**
The crossbuck signs provided for in Section 77-9-247 shall be installed by the corporation, company or persons controlling the railroad as the present signs are replaced.
The provisions of this section shall be enforced by the Mississippi Department of Transportation.
Miss. Code Ann. § 77-9-248 (2012)

<u>Missouri</u>

***§ 227.220 Road markings and guide boards -- danger signals -- advertising signs -- penalty for violation**
1. The commission is authorized to prescribe uniform marking and guide boards on the state highways, and to cause to be removed all other markings and guide boards and advertising signs, and to remove any other obstruction to the lawful use of a state highway, including the right to remove or trim trees located within or overhanging the right-of-way of a state highway, and to

prohibit and regulate the erection of advertising or other signs on the right-of-way of the state highways. The commission is authorized to erect, or cause to be erected danger signals or warning signs at railroad crossings, highway intersections or other places along the state highways which the commission deem to be dangerous. After plans and specifications and estimates have been made and filed by the engineer and approved by the commission it shall be the duty of the commission to advertise for bids, as is now provided for letting of contracts for constructing the state highway system as provided in section 227.100, for the erection and maintenance of marking signs, guide boards, danger signals or warning signs, and to authorize the display of such signals, signs or guide boards advertising, which, in the opinion of the commission, is not unsightly or does not obstruct the view of such signals, signs or boards, in consideration of such signals, signs or boards being erected and maintained without cost of the state, and the commission is authorized to prohibit the display of any other advertising matter within a distance of three hundred feet of such signals, signs or boards so as not to obstruct the view or impair the purpose of the same.
2. Any person who erects or maintains advertising signs, marking or guide boards or signals on the right-of-way of any state highway without the written permission of the commission, or any person who willfully damages, removes or obstructs the view of sign boards or signals, erected or maintained on the highways without the written permission of the commission, shall be deemed guilty of a misdemeanor; provided, that any person, firm, or corporation who shall damage or destroy any part of the state highway system by the doing of any act in violation of law shall be liable to such commission for the amount of such damages; and such damages may be recovered by civil suit in any court of competent jurisdiction, which suit may be brought in the name of the state highway commission of Missouri, as plaintiff against the person, firm or corporation so causing such damage or destruction; and in the event such damage or destruction shall be caused by the use of vehicles on such state highway which are forbidden by law, or by the use of vehicles carrying loads in excess of the maximum weight prescribed by law, or by vehicles operated at a rate of speed in excess of that prescribed by law, then the owner of such vehicle shall be personally liable for the amount of such damage or destruction which may be recovered in like manner; and the amount of such damages, when collected, shall be deposited in and become a part of the state road fund; and provided further, that nothing in this section shall be so construed as to relieve any person, firm or corporation or owner of vehicles from the criminal liability which may be provided by law on account of the doing of such prohibited acts.
Mo. Rev. Stat. § 227.220 (2012)

Montana

69-14-612 Reflectorized material on crossing signs required.
Within 2 years after April 9, 1987, a railroad company shall install and maintain reflectorized material on the front and back sides of crossbuck blades on all public crossing signs the railroad company is required to construct and maintain under 69-14-602 and 69-14-603.
Mont. Code Ann. § 69-14-612 (2012)

Nebraska

***§ 74-1334 Crossings; public; safety regulations; gates and alarms; closure; when.**
(1) Wherever any railroad track crosses any public road in a cut, on a curve or side hill, in timber lands, near buildings, or near any obstruction of view from the road, the Department of Roads shall direct such precautions to be taken as it deems necessary for the safety of the traveling public. Each railroad carrier shall also provide and maintain such gates, crossings, signs, signals,

alarm bells, and warning personnel as the department directs. The department may direct the placement of special signs where the physical conditions of any crossing warrant such action.
(2) Except as provided in subsection (3) of this section, any public railroad crossing without gates, signals, alarm bells, or warning personnel located within one-quarter mile from a public railroad crossing with gates, signals, alarm bells, or warning personnel shall be closed unless it is the only railroad crossing which provides access to property.
(3) An interested party may object to an action taken under subsection (2) of this section only if a written request is submitted to the Department of Roads by a professional engineer licensed to practice in the State of Nebraska. The engineer shall state in writing that the engineer is familiar with the requirements in this section and with all relevant aspects of the railroad crossing. The engineer shall also provide a detailed explanation of why subsection (2) of this section should not apply to the railroad crossing in question and a statement that the railroad crossing corridor has been examined by the engineer and the engineer believes that the railroad crossing will be safe as designed. Such a written request shall exempt a railroad crossing from being closed under subsection (2) of this section.
Neb. Rev.Stat. Ann. § 74-1334 (LexisNexis 2012)

Nevada

***484B.557. Stop required at certain railroad grade crossings.**
The Department of Transportation, and local authorities with the approval of the Department of Transportation, may designate dangerous highway grade crossings of railroads and erect official traffic-control devices at such crossings directing a stop. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest track of such a grade crossingand afterward may proceed only upon exercising due care.
Nev. Rev. Stat. Ann. § 484B.557 (LexisNexis 2012)

New Hampshire

265:49 All Vehicles Must Stop at Certain Railroad Grade Crossings.
The commissioner of transportation is hereby authorized to designate particularly dangerous highway gradecrossings of railroads and to order stop signs erected at such crossings. It shall be the duty of the commissioner to erect such stop signs at such designated crossings where said highways are under his jurisdiction. Local communities shall when ordered by the commissioner erect such stop signs on highways within their jurisdiction. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
N.H. Rev. Stat. Ann. § 265:49 (LexisNexis 2012)

373:10 Railroad Signs, Gates and Other Protection.
Every railroad shall construct, or improve, and operate and maintain at every grade crossing of its railroad with another railroad or highway such warning signs, gates or other protection; it shall so regulate the speed of its trains across any grade crossing and it shall give such appropriate warning of the approach of its trains to any grade crossing as the department of transportation, after notice and hearing, may find necessary in the interest of safety of the railroad or of the public; provided, however, that cost of constructing or improving such warning signs, gates or other protection shall be apportioned in accordance with the provisions of RSA 373:3. The railroad shall maintain signs, signals, gates or other equipment installed within the limits of its right of way, after the installation thereof.

N.H. Rev. Stat. Ann. § 373:10 (LexisNexis 2012)

373:11 Warning Signs.

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, at a reasonable distance on each side of such crossing. The department of transportation shall prescribe the standards for warning signs for highway grade crossings. If any governmental authority, except the state, shall neglect to comply with the requirements hereof it shall forfeit $1 for each day during which it shall neglect to place or maintain each sign required hereby to be placed or maintained by it, such forfeiture to be recovered in an action of debt, in the name and for the use of the state.

N.H. Rev. Stat. Ann. § 373:11 (LexisNexis 2012)

New Jersey

§ 48:12-58. Warning signs at grade crossings

Every railroad company shall install and maintain at each highway crossing at grade a conspicuous sign with such inscription and of such standard and design as shall be approved by the Board of Public Utility Commissioners, so as to be easily seen by travelers.

N.J. Stat. Ann. § 48:12-58 (West 2012)

New Mexico

No applicable statute related to this topic

New York

***§ 53. Sign boards, flagmen and gates at crossings**

1. Every railroad corporation shall cause a sign board to be placed, well supported and constantly maintained, at every crossing where its road is crossed by a public highway at grade. Such sign board shall be of a shape and design to be approved by the commissioner of transportation, and shall have suitable words painted thereon to warn travelers of the existence of such grade crossing. The commissioner of transportation shall have power to prescribe the location and elevation of such sign and the words of warning thereon. The commissioner of transportation may dispense with the use of such sign boards at such crossings as he may designate in cities and villages. At any point where a steam or electric railroad operating upon private right of way crosses a street, highway, turnpike, plankroad, or traveled way at grade, the corporation owning or operating such steam or electric railroad must upon order of the commissioner of transportation station a flagman, erect gates to be opened and closed when an engine or train passes, or provide other means of protection, and where a steam railroad crosses a street railroad at grade, and the corporation owning or operating such railroad refuses to station a flagman, erect gates, to be opened and closed when an engine or train passes, the commissioner of transportation may, upon application, order that a flagman be stationed at such point, or that gates shall be erected thereat, and that a person be stationed to open and close them when an engine or train passes, or may make such other order respecting the same as he deems proper.

2. Whenever the crossing by a railroad at grade of the streets, highways, turnpikes, plank-roads or traveled ways of any village or city, having a population by the last state or federal enumeration of less than fifty thousand, shall be protected by gates with persons to open and close the same or by any type of automatic protection, when an engine or train passes, the local authorities of the city or village shall not impose any limitation, less than forty miles an hour, on

the rate of speed at which such engine or train shall be run, or enforce any existing limitation upon such rate of speed, less than forty miles an hour.
N.Y. R.R. Law § 53 (Consol. 2012)

§ 53-a. Warning signs

Every municipality or political subdivision, or in case of state highways the department of transportation, which is charged with the duty of maintaining a highway at places where such highway crosses a railroad at grade, shall install and maintain an approach warning sign in each such highway on each side of each railroad grade crossing. In case of the failure or refusal of any such municipality or political subdivision or railroad company to install or furnish such signs as herein provided the commissioner of transportation shall take proceedings to compel obedience to the provisions of this section by the municipality or political subdivision or by the railroad company. The supreme court at a special term upon a special proceeding brought by the commissioner of transportation shall have the power in all cases to compel compliance with the provisions of this section subject to appeal to the appellate division of the supreme court and the court of appeals in the same manner and with like effect as is provided in case of appeals from a judgment of the supreme court.

Where physical conditions at any grade crossing are such that the commissioner of transportation deems it impracticable to place such approach warning signs, such commissioner of transportation may by order release the municipality or other political subdivision or the department of transportation from the obligation of installing and maintaining such signs and may by order direct other suitable warning signs to be furnished by the railroad company and installed and maintained by the municipality. The erection and maintenance of any sign or signs other than said approach warning signs may be prohibited by any such municipality, political subdivision or department of transportation in any highway between any such approach warning sign and any such crossing, or in any location where the warning sign may be obscured from view by the presence of such other sign or signs.

The design, location, and manner of installation of such signs shall conform to the manual and specifications for a uniform system of traffic-control devices adopted by the department of transportation.

It shall be the duty of the driver of any vehicle using such street or highway and crossing to reduce speed to a safe limit upon passing such sign and to proceed cautiously and carefully with the vehicle under complete control.

The commissioner of transportation may require the railroad company or municipality or political subdivision which is charged with the duty of maintaining the highway wherever practicable to maintain its property at or near such grade crossing free of obstruction to vision.

Provided, however, any approach warning sign, maintained pursuant to this section, installed prior to the time this act takes effect may continue as and shall be deemed a lawful approach warning sign for the purposes of applying the provisions of this section.
N.Y. R.R. Law § 53-a (Consol. 2012)

§ 71-a. Reflective whistle signs

1. It shall be the duty of every class one railroad operating in the state of New York to install a retro-reflective whistle sign at the approach to each rail highway grade crossing. Such whistle sign shall be sheeted with a retro-reflective material as specified by the commissioner of transportation.

2. Defacing, damaging or unauthorized removal of a reflective whistle sign is prohibited and each separate violation of the provisions of this section shall be punishable by a fine of not less than one hundred dollars nor more than five hundred dollars.
N.Y. R.R. Law § 71-a (Consol. 2012)

***§ 1685. All vehicles must stop or yield at certain railroad grade crossings where a stop or yield sign is erected**
The state transportation commissioner, with respect to state highways, and local authorities with respect to local streets within their jurisdiction, with the approval of the state transportation commissioner are hereby authorized to install a stop or yield sign at any highway-railroad crossings within their respective jurisdictions.
The design and place and manner of installation of such signs shall conform to the manual and specifications for a uniform system of traffic control devices adopted by the state transportation commissioner.
N.Y. Veh. & Traf. Law § 1685 (Consol. 2012) Excerpt from applicable statute published.

North Carolina

No applicable statute related to this topic

North Dakota

***24-09-01.1. Standard railroad crossing warning systems -- Survey for additional warning systems.**
The standard warning system at each public highway-railroad grade crossing must be railroad crossbucks and advance warning signs designed and located pursuant to section 39-13-07. These signing requirements and standards must be deemed adequate and appropriate for warning of the existence and nature of each railroad crossing for all purposes whatsoever. However, because of the availability of substantial federal funds, and for the purpose of promoting the additional safety and general welfare of the motoring public, and railroad employees, and to secure the practical and orderly development of additional warning systems beyond the standards herein, and to enable the various jurisdictional authorities to implement existing statutes authorizing the determination of need and selection of additional warning systems, and within the practical limitations of time and available public funds, the department shall conduct and systematically maintain a survey of all streets and highways as required by the Federal Highway Safety Act of 1973, to identify those railroad crossings which may need additional warning systems beyond the standard crossbucks and advance warning signs. To implement such survey and to make the determination of need and selection of additional warning systems, the department may screen, rate, and prioritize said crossings for additional warning systems and establish an installation program. In order to foster additional warning systems beyond the standards herein or improvements thereto, where such additional warnings or improvements thereto are deemed necessary by any jurisdictional authority either under this statute or any other statutes, neither the actions, proceedings, findings, or orders of any jurisdictional authority, nor the actions of the railroad regarding such additional warning or improvements thereto, prior to installation and operation thereof, are admissible in evidence in any civil action for personal injury, death, or damage to property arising out of a public highway-railroad crossing accident.
N.D. Cent. Code § 24-09-01.1 (2012)

24-09-02. Uniform warning systems at railroad crossings.

The department shall adopt and prescribe uniform warning systems in conformity with sections 39-13-06and 39-13-07 for use at public grade crossings in this state which will be deemed adequate and appropriate warning of the existence and nature of such grade crossings for all purposes whatsoever.
N.D. Cent. Code § 24-09-02 (2012)

24-09-03. Railroads to establish signs.
At each grade crossing in this state hereafter established and at each grade crossing where and when the existing crossing signs are replaced, the railway company operating the railroad thereat shall erect and maintain on the highway on each side of the railroad track or tracks, and within a distance of seventy-five feet [22.86 meters] from the nearest rail, one or more of such uniform home-crossing signs.
N.D. Cent. Code § 24-09-03 (2012)

24-09-04. Advance warning signs -- Exceptions.
The sole signing duty of the road authority, except as otherwise designated by the commission undersection 24-09-08, at public grade crossings in the state is the erection and maintenance of advance warning signs in accordance with the manual on uniform traffic control devices. The road authorities have a reasonable length of time, not exceeding two years, in which to fully implement this requirement.
N.D. Cent. Code § 24-09-04 (2012)
24-09-05. Stop signs may be required.
At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection to life and property makes it necessary for all persons approaching the same to stop before crossing the railroad tracks thereat, stop signs shall be installed. The department, after performing an engineering study of the crossing, may designate any crossing requiring such additional protection as a stop crossing and shall notify the road authority with jurisdiction over the roadway of such designation and of the location where the stop sign is to be installed. Within thirty days after such notification, the road authority shall erect uniform stop signs on separate posts at the designated location on each side of said crossing.
N.D. Cent. Code § 24-09-05 (2012)

<u>Ohio</u>

***§ 4513.40. Warning sign before safety device at street crossing**
When a safety device has been installed in the traveled portion of a street at a railroad grade crossing for the protection of the traveling public, the municipal corporation shall place a warning sign not less than two hundred feet from the crossing. The driver of any vehicle shall place his vehicle under control at the location of said warning signs so as to be able to bring said vehicle to a complete stop at said safety device. Colliding with such safety device at the crossing is prima-facie evidence that the driver is a reckless driver.
Ohio Rev. Code Ann. § 4513.40 (LexisNexis 2013)

§ 4955.33. Crossbuck signs
At all points where its railroad crosses a public road at a common grade, each company shall erect crossbuck signing at positions at each such crossing that are in accordance with the department of transportation manual for uniform traffic control devices, adopted under section 4511.09 of the Revised Code, to give notice of the proximity of the railroad and warn persons to be on the lookout for the locomotive. Any such signing that has been or is erected in accordance

with this section may lawfully be continued in use until it is replaced. A company that neglects or refuses to comply with this section is liable in damages for all injuries that occur to persons or property from such neglect or refusal.
Ohio Rev. Code Ann. § 4955.33 (LexisNexis 2013)

Oklahoma

§ 86. Extra hazardous crossings--Protective devices--Costs
The Oklahoma Corporation Commission shall have the authority, after having made proper investigations, to designate those grade crossings which are extra hazardous. At all such crossings so designated, the Commission shall have the authority to order the installation of appropriate protective devices. All such installations to be performed by the railroad. The Commission shall have the authority to determine the number, type, and location of such signs, signals, gates or other protective devices, which, however, shall conform as near as may be with generally-recognized national standards, and said Commission shall have authority to prescribe the division of the cost of the installation of such signs, signals, gates or other protective devices between the public utility and the state or its political subdivisions; provided, however, that the cost to the utility shall be not less than ten percent (10%) or more than twenty-five percent (25%) of the total costs. The railroads shall be responsible for all subsequent maintenance and cost thereof. Provided, however, that the results of investigation or investigations, findings, determinations, or orders of the Corporation Commission shall not be admissible in any civil action.
Okla. Stat. tit. 17, § 86 (2012)

§ 124. Signs at crossings
Every railroad corporation operating a line of road within this State must erect suitable signs of caution at each crossing of its road with a public highway.
Okla. Stat. tit. 66, § 124 (2012)

***§ 125. Failure to erect signs**

In case any railroad corporation shall refuse or neglect, for a space of thirty (30) days after notice given by the board of county commissioners, to comply with the provisions of the preceding section, it shall become the duty of the county commissioners of each county through which any such railroad shall be in operation to erect such signs, and the company shall be liable for all expenses so incurred by said commissioners.
Okla. Stat. tit. 66, § 125 (2012)

***§ 125b. Warning Signs**
Whenever said barricading device shall be constructed or installed and maintained and operated, the public authorities having jurisdiction and control over the highway or street at such point shall erect and maintain a reflector warning sign with appropriate words thereon. If said barricading device is located at a railroad crossing, said warning shall be installed and maintained not less than four hundred (400) feet from the crossing, when said crossing is located on highways or streets where vehicular traffic is permitted to travel at speeds in excess of thirty (30) miles per hour; and not less than two hundred (200) feet from the crossing, when said crossing is located on highways or streets where vehicular traffic is permitted to travel at speeds not in excess of thirty (30) miles per hour. It shall be the duty of the driver of any vehicle, on approaching such warning sign, to place his vehicle under such control as to be able to bring such vehicle to a complete stop at a distance of not less than seventy-five (75) feet in advance of

the crossing. The colliding of a vehicle with the barricading device at a crossing shall be prima facie evidence that the driver thereof did not comply with the provisions of this act, and such driver shall be deemed a reckless driver, and be subjected to the penalties provided for reckless driving under the motor vehicle laws of this state, and shall be liable for any damage done to such barricading device on account of such collision.
Okla. Stat. tit. 66, § 125b (2012)

Oregon

824.220 Protective devices; rules.
The Department of Transportation shall adopt rules prescribing specifications for the design and location of protective devices.
Or. Rev. Stat. § 824.220 (2011)

824.224 When stop signs are to be installed by railroad; exemption; grade crossing alteration, relocation or closure.
(2) The Department of Transportation shall, after hearing, unless hearing is not required under ORS 824.214, prescribe the number, type and location of the stop signs and may exempt a farm or private grade crossing if the department finds that the installation of such sign or signs at the crossing would create a hazard or dangerous condition that would not otherwise exist.
Or. Rev. Stat. § 824.224(2) (2011) Excerpt from applicable statute published.

Pennsylvania

No applicable statute related to this topic

Rhode Island

§ 31-20-3. Stop signs at dangerous railroad crossings
The state traffic commission and local authorities with the approval of the state traffic commission are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those crossings.
R.I. Gen. Laws § 31-20-3 (2012) Excerpt from applicable statute published.

§ 39-8-13. Erection of warning signs along highway
Every railroad corporation shall cause to be erected and to be maintained at every turnpike, highway, or public way, where it is crossed by the railroad upon the same level therewith, a suitable sign board upon each side of the crossing; and on each side of the sign boards shall be painted in black capital letters of at least the length of nine inches (9”) such words or phrases as may in the opinion of the division of public utilities and carriers constitute a proper warning to both pedestrian and vehicular traffic using the crossing. The sign board shall be of such design as may be ordered by the division and shall be placed under the direction and with the consent of the division. The sign board shall indicate whether the railroad crossing is a public or private crossing. Every railroad corporation shall also adopt such other precautionary measures at such grade crossings as shall be deemed proper by the division.
R.I. Gen. Laws § 39-8-13 (2012)

§ 39-8-15. Failure to erect signs or ring bell
Every railroad corporation which shall neglect or refuse to comply with the provisions of §§ 39-8-13 and39-8-14 shall be fined not exceeding one thousand dollars ($ 1,000); and the corporation

shall be liable for all damages sustained by any person by reason of neglect or refusal on the part of the corporation.
R.I. Gen. Laws § 39-8-15 (2012)

South Carolina

***§ 56-5-910. Approval by Department of Transportation of stop signs or traffic-control signals placed by local authorities.**
No local authority shall erect or maintain any stop sign or traffic-control signal at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Transportation.
S.C. Code Ann. § 56-5-910 (2011)

§ 56-5-1010. Railroad signs at grade crossings.
All railroad companies operating railroads in the State shall place and maintain at every crossing of a highway and railroad at grade standard cross-buck signs in accordance with the requirements of the manual of standards and specifications for uniform traffic-control devices referred to in § 56-5-920.
S.C. Code Ann. § 56-5-1010 (2011)

***§ 56-5-2715. Stop required at designated railroad grade crossings.**
The Department of Transportation, and local authorities with the approval of the Department of Transportation, may designate particularly dangerous highway grade crossings of railroads and erect stop signs thereat. When such signs are erected, the driver of any vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad and shall proceed only upon exercising due care.
S.C. Code Ann. § 56-5-2715 (2011)

§ 58-17-1390. Signs shall be maintained at crossings with public roads.
Every railroad corporation shall cause signs to be placed and constantly maintained alongside of each public road or street where it is crossed by the railroad on the same level. Each such sign shall be elevated so as to be easily seen by travelers and on each side of it shall be printed in large letters the words “Railroad Crossing” unless the railroad corporation elects to place two of such signs at each crossing, one on each side of the track in which case each of such signs may have thereon in large letters, only on the side facing the traffic approaching the crossing, the words “Railroad Crossing.” But this section shall not apply to streets in cities, towns and villages unless the corporation be required to put up such sign by the officers having charge of such streets.
S.C. Code Ann. § 58-17-1390 (2011)

***§ 58-17-1450. Railroad crossing safety requirements.**
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 prescribed by Section 58-17-1390, and for the presence of stop signs authorized by law to be placed at railroad crossings. The Department of Transportation hereinafter referred to as the department, 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, and the governing body of each municipality is responsible for inspecting railroad crossings on road and street rights-of-way maintained by municipalities. The department shall inform 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 the required crossbucks are not in place, properly in place or maintained, or 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 railway, the person inspecting the crossing must immediately notify the Deputy Director of Engineering within the Department of Transportation of the hazard. The notice must identify the crossing and describe the hazard. The inspector in the notice shall also inform the State Highway Engineer whether or not there is a stop sign at the crossing and, if not, whether or not in his opinion one should be added. Upon receipt of notice from the person inspecting the crossing, 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 shall direct the railroad to cut or remove the vegetation, growth, and objects not permanently affixed to realty that are obstructing a motorist's view or to erect, maintain, or properly situate crossbucks.

The department must also notify the governing body of any county or municipality which maintains the highways or roadways at the crossing that the inspector stated in his opinion that a stop sign should be added at the crossing.

Removal and elimination of obstructions must be made by the responsible railroad within sixty days of receipt of notification from the department. Measures to assure that crossbucks are properly in place and maintained must be taken by the responsible railroad within thirty days of receipt of notification from the department; however, if crossbucks are not present or have been removed, then the railroad has ten days from the notification to erect new crossbucks. Failure of the railroad company to remove or eliminate the obstruction within the railroad's right-of-way and to erect or properly place and maintain crossbucks within the specified time period subjects the railroad company to a civil penalty of not less than one hundred dollars nor 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 and for each day crossbucks are not erected or properly placed and maintained after the specified period.

The person initially inspecting the railroad crossing is responsible for inspecting the crossing at appropriate intervals after notice to the railroad of the hazard to determine if obstructions have been eliminated and crossbucks properly placed and serviced within the period allowed before civil penalties may be assessed.

S.C. Code Ann. § 58-17-1450 (2011) Excerpt from applicable statute published.

§ 58-17-3380. Warning boards shall be maintained near drawbridges and grade crossings.

Every company, lessee, manager or receiver owning or operating a railroad in this State shall provide, maintain and place warning boards near drawbridges and places where railroads cross at grade. Such boards shall have letters of sufficient size to be clearly seen from the engine and to describe the place of danger and shall be placed not more than eight feet from the side of the track.

S.C. Code Ann. § 58-17-3380 (2011)

§ 58-17-3390. Penalty for failure to erect or replace warning boards.

Any railroad company, receiver or lessee thereof doing business within this State which shall fail to comply with the provisions of § 58-17-3380 after ten days' notice thereof in writing shall be subject to a fine of five dollars per day for every day thereafter that such failure shall continue

and any such railroad, receiver or lessee failing to re-erect such warning board, in case any such board for any cause be down or removed, after ten days' notice in writing, shall be subject to the penalty herein provided of five dollars per day for each day that such railroad, receiver or lessee shall fail to so re-erect such warning boards. This penalty shall be recoverable by any person resident in this State in any court of competent jurisdiction, one half to go to the person bringing the action and one half to go into the county treasury in which such action may be brought, to be used for ordinary county purposes.
S.C. Code Ann. § 58-17-3390 (2011)

South Dakota

§ 31-28-7. Railway grade crossing signs -- Location of signs -- Violation as misdemeanor
The public board or officer whose duty it is to repair or maintain any public highway shall erect and maintain at points in conformity with standard uniform traffic control practices on each side of the place at which a highway crosses an operational railway track or right-of-way, except within the limits of municipalities, a standard railroad advance warning sign. The sign shall be on the right-hand side of the highway approaching such crossing and at a distance from the crossing as the department or other controlling body shall direct. Any legally abandoned or nonoperational track which is crossed by a public highway and at which the crossing has been properly marked as a railway grade crossing may be marked with a supplemental sign, meeting uniform traffic control practices, to inform drivers of vehicles identified in§ 32-29-5 that a stop is not required at that crossing. Failure to comply with the provisions of this section is a Class 1 misdemeanor.
S.D. Codified Laws § 31-28-7 (2012)

§ 31-28-13. Erection and maintenance of signs by local authorities
Local authorities in their respective jurisdictions may cause appropriate signs to be erected and maintained, designating residence and business districts, highway and steam or interurban railway grade crossing, and such other signs as may be deemed necessary to carry out the provisions of chapters 32-14, 32-22 and 32-25 to 32-31, inclusive, and such additional signs as may be appropriate to give notice of local parking and other special regulations. Local parking and other special regulations shall not be enforceable against an alleged violator if, at the time and place of the alleged violation, an appropriate sign giving notice thereof is not in proper position and sufficiently legible to be seen by an ordinarily observant person.
S.D. Codified Laws § 31-28-13 (2012)

§ 31-28-17. Designation of hazardous intersections -- Railroad crossings -- Warning signs
Except within the limits of a municipality, the department and county commissioners may designate any hazardous intersection as a stop intersection, and designate any railroad crossing as a stop crossing. The intersections and railroad crossings shall be designated by placing a stop sign at the point of stop. The sign to be preceded by a warning sign so as to give warning of stop. Failure to stop at the point of stop of such intersections and railroad crossings is a Class 2 misdemeanor.
S.D. Codified Laws § 31-28-17 (2012)

§ 32-29-7. Designation of particular dangerous railroad highway grade crossings -- Erection of stop signs -- Duty to obey -- Class 2 misdemeanor
The Department of Transportation and local authorities with the approval of the transportation commission may designate particularly dangerous highway grade crossings of railroads and to

erect stop signs thereat. If such signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-29-7 (2012)

§ 49-16A-87. Crossing standards--Warning sign
Each railroad shall construct at all points where its road crosses any public road, good, sufficient, and safe crossings and shall erect at such points, at a sufficient elevation from the road to admit free passage of vehicles of every kind, a sign with large and distinct letters giving notice of the proximity of the road and warning persons of the necessity for looking out for trains.
S.D. Codified Laws § 49-16A-87 (2012)

§ 49-16A-89. Crossings--Erection of lighting or alarms at order of department
If, in the opinion of the Department of Transportation, it is necessary for the safety and protection of the public that street crossings over railroad tracks be lighted or street crossing alarms be installed to notify the public of approaching trains, the department shall order the railroad over whose road such street crosses to install crossing alarms or order the crossings to be lighted, or order both alarms and lighting by the railroad in a manner and method as, in the opinion of the department, will be the most suitable for the protection of the public.
S.D. Codified Laws § 49-16A-89 (2012)

***§ 49-16A-89.1. Erection of stop signs until alarms or lighting operational.**
If the Department of Transportation orders a railroad to install crossing alarms or orders a crossing to be lighted pursuant to § 49-16A-89, the department shall erect and maintain stop signs, which conform with standards found in the manual on uniform traffic control devices, at the crossing from the time of issuance of the order until such time as the alarms or lighting have been installed and are operational.
S.D. Codified Laws § 49-16A-89.1 (2012)

<u>Tennessee</u>

65-11-105. Form of railroad crossing sign.
The commissioner of transportation or the commissioner's designee, after conducting such hearing as is deemed appropriate, is empowered and directed to determine a standard railroad crossing sign for the state.
Tenn. Code Ann. § 65-11-105 (2012)

***65-11-115. Installation of warning strips authorized.**
The department of transportation may install warning strips on both approaches of any highway crossing on the system of state highways not protected by automatic warning or protective devices, unless the surface of such approaches is gravel or chip and seal paving.
Tenn. Code Ann. § 65-11-115 (2012)

65-18-104. Crossing signs.
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 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.”
Tenn. Code Ann. § 65-18-104 (2012)

Texas

§ 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.
Tex. Transp. Code § 471.002 (2012)

§ 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.
Tex. Transp. Code § 471.004 (2012)

*§ 471.009. Enhanced Pavement Marking Visibility at Certain Grade Crossings

(a) In this section:
(1) “Grade crossing” and “reflecting material” have the meanings assigned by Section 471.004.

(2) “Pavement markings” means markings applied or attached to the surface of a roadway to regulate, warn, or guide traffic.
(3) “Stop bar” means the marking that is applied or attached to the surface of a roadway on either side of a grade crossing and that indicates that a vehicle must stop at the grade crossing.
(b) A county or municipality shall use standards developed by the department in applying 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. In developing its standards, the department shall follow the standards in the Manual on Uniform Traffic Control Devices issued by the United States Department of Transportation Federal Highway Administration and, where appropriate, require the use of reflecting materials.
Tex. Transp. Code § 471.009 (2012)

Utah

No applicable statute relating to this topic.

Vermont

***§ 1006. Stopping at railroad crossings**
The traffic committee may designate particularly dangerous railroad grade crossings, and the agency of transportation shall erect stop signs at each. The expense of erecting these stop signs shall be borne by the agency of transportation.
Vt. Stat. Ann. tit. 23, § 1006 (2013)

§ 3581. Warning devices and signs at grade crossings; exemption from stopping
(a) A railroad shall maintain railroad crossing (crossbuck) signs conforming to the Federal Highway Administration's Manual on Uniform Traffic Control Devices, as amended from time to time, at every public highway where the same is crossed by its railroad at grade.
(b) The transportation board, upon recommendation of the agency of transportation and after notice to the railroad and the person having control of the highway and an opportunity to be heard, may designate certain crossings as “exempt” and may impose such conditions as the interests of safety and the public good dictate. However, a flagperson shall be stationed at every crossing whenever a train is crossing a highway where an exempt sign is displayed. Within 90 days of such an order, the railroad in the case of warning devices, and the person having control of the highway in the case of advance warning signs, shall affix “exempt” signs in accordance with 23 V.S.A. § 1025. The petitioner shall bear the expense of the exempt sign.
(c) At the request of the agency of transportation, the railroad, or the person having control of the highway, and after notice and an opportunity to be heard, the transportation board may rescind an “exempt”crossing designation. The railroad and the person having control of the highway shall remove the “exempt” signs as directed by the transportation board.
Vt. Stat. Ann. tit. 5, § 3581 (2013)

Virginia

§ 56-405.2. Construction and maintenance of crossbucks
Every railroad company shall cause signal boards, hereinafter referred to as crossbucks, well supported by posts or otherwise and approved by the Department of Transportation at such heights as to be easily seen by travelers from both directions of the public highway, and not obstructing travel, containing in capital letters, at least five inches high, the inscription “railroad crossing,” to be placed, and constantly maintained, at each public highway at or near, and on

both sides of, each place where it is crossed by the railroad at the same level. The requirements of this section in localities that maintain their own streets may be waived at specific crossings on the petition of any such company to both the Commissioner of Highways and the public road authority if both the Commissioner and the public road authority determine that any such crossing has or will have other adequate warning devices or that the placement of new crossbucks will not enhance the safety of the traveling public. Neither official action nor failure to act as hereinabove provided shall impair the power of the Commissioner or the public road authority to require crossbucks at specific public crossings should a subsequent determination of their need be made.

The cost of erecting crossbucks placed at a public highway for the first time or whenever the Commissioner or the public road authority determines an upgrade of the standards is required may be paid or supplemented from federal funds when available to the Department of Transportation for such purpose at the sole discretion of the Commissioner of Highways. But the election of the Commissioner not to participate in such cost shall not relieve any company from the obligation of this section.

This section shall apply as to cities and towns in the case of new crossbucks beginning July 1, 1977.

Va. Code Ann. § 56-405.2 (2012)

Washington

***§ 36.86.040. Uniform standard for signs, signals, guideposts -- Railroad grade crossings**

The county legislative authority shall erect and maintain upon the county roads such suitable and proper signs, signals, signboards, and guideposts and appropriate stop, caution, warning, restrictive, and directional signs and markings as it deems necessary or as may be required by law. All such markings shall be in accordance with the uniform state standard of color, design, erection, and location adopted and designed by the Washington state department of transportation. In respect to existing and future railroad grade crossings over county roads the legislative authority shall install and maintain standard, nonmechanical railroad approach warning signs on both sides of the railroad upon the approaches of the county road. All such signs shall be located a sufficient distance from the crossing to give adequate warning to persons traveling on county roads.

Wash. Rev. Code Ann. § 36.86.040 (2012)

§ 47.36.050. Duty to erect traffic devices on state highways and railroad crossings

The department shall erect and maintain upon every state highway in the state of Washington suitable and proper signs, signals, signboards, guideposts, and other traffic devices according to the adopted and designated state standard of design, erection, and location, and in the manner required by law. The department shall erect and maintain upon all state highways appropriate stop signs, warning signs, and school signs. Any person, firm, corporation, or municipal corporation, building, owning, controlling, or operating a railroad that crosses any state highway at grade shall construct, erect, and maintain at or near each point of crossing, or at such point or points as will meet the approval of the department, a sign of the type known as the saw buck crossing sign with the lettering “railroad crossing” inscribed thereon and also a suitable inscription indicating the number of tracks. The sign must be of standard design that will comply with the plans and specifications furnished by the department. Additional safety devices and signs may be installed at any time when required by the utilities and transportation commission as provided by laws regulating railroad-highway grade crossings.

Wash. Rev. Code Ann. § 47.36.050 (2012)

§ 47.36.070. Failure to erect signs, procedure
Whenever any person, firm, corporation, municipal corporation, or local authorities responsible for the erection and maintenance, or either, of signs at any railroad crossing or point of danger upon any state highway fails, neglects, or refuses to erect and maintain, or either, the sign or signs as required by law at highway-railroad grade crossings, the utilities and transportation commission shall upon complaint of the department or upon complaint of any party interested, or upon its own motion, enter upon a hearing in the manner provided by law for hearings with respect to railroad-highway grade crossings and make and enforce proper orders for the erection or maintenance of the signs, or both.
Wash. Rev. Code Ann.§ 47.36.070 (2012)

§ 47.36.080. Signs at railroad crossings
Wherever it is considered necessary or convenient the department may erect approach and warning signs upon the approach of any state highway to a highway-railroad grade crossing situated at a sufficient distance therefrom to make the warning effective. The department may further provide such additional or other highway-railroad grade crossing markings as may be considered to serve the interests of highway safety.
Wash. Rev. Code Ann. § 47.36.080 (2012)

West Virginia

§ 17C-12-2. All vehicles must stop at certain railroad grade crossings.
The state Road Commission [Commissioner of Highways] and local authorities with the approval of the state Road Commission [Commissioner of Highways] are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
W. Va. Code Ann. § 17C-12-2 (2012)

§ 31-2-9. Signboards or warning notices at crossings.
Every railroad company shall, at every place where a road or street crosses its railroad on the same level, erect and maintain suitable signboards or notices of warning apprising persons of the danger in crossing its tracks. All such signboards or notices shall be of the design and construction and shall be located in the manner required or approved by the State Road Commission [Commissioner of Highways]. Any railroad company failing to comply with the provisions of this section shall be fined five dollars for each week that any such failure continues.
W. Va. Code Ann. § 31-2-9 (2012)

Wisconsin

***192.29. Train bells and crossing signs at street and highway crossings.**
(5) RAILROAD CROSSING AND YIELD SIGNS.
(a) Wherever its track crosses a public highway or street, every railroad corporation shall maintain on each side of the track a highway-rail-grade crossing sign, commonly known as a crossbuck sign, that conforms with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e).

(b) No later than July 1, 2007, at every railroad crossing at which a railroad corporation is required to maintain a sign described in par. (a) and that is not controlled by a gate, automatic signal, or official stop sign, the railroad corporation shall install and maintain, below the sign described in par. (a), a yield sign that conforms with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e).
Wis. Stat. § 192.29(5a) (2012) Excerpt from applicable statute published.

195.285. Exempt railroad crossings.
(1) Upon the petition of a railroad corporation, the department, or the governing body of any city, village, town or county asserting that the stopping of vehicles under s. 346.45 at a railroad crossing is hazardous to human life, the office shall hold a hearing on the matter as provided under s. 195.04. Notice of petition shall be served upon the department, which shall be an interested party, and any recommendations it may file with the office regarding the hazardous effect of vehicles stopping at such crossings shall be considered as evidence in the proceedings. Upon the recommendation of the department and concurrence by the office, the petition may be dismissed without holding a hearing. If, upon the public hearing, the office determines that it would be in the public interest to exempt vehicles specified in s. 346.45 from stopping at such grade crossing, it may order the public body having jurisdiction over the highway to erect signs, signals, markings or other devices exempting such vehicles from stopping at the crossing.
(2) Signs placed upon the order of the office under this section shall exempt vehicles from stopping as required under s. 346.45, unless a train, an engine, or railroad track equipment is occupying or approaching the crossing.
(3) The department shall establish standards for the type of signs, signals, markings or other devices for exempting vehicles from stopping as required under s. 346.45 and their location in relation to the highway and railroad track. The office may upon petition or its own motion, with or without a hearing, order the removal of a sign exempting vehicles from stopping at a crossing.
Wis. Stat. § 195.285 (2012)

195.286. Highway crossings, advance warning signs.
(1) RAILROADS TO FURNISH; PLACEMENT.
Each railroad company shall furnish to each county in which it operates, upon request of the county highway commissioner, a sufficient quantity of advance warning signs to enable the county and town to comply with this section. The county highway commissioner on roads maintained by the county and the town board on roads maintained by the town shall immediately install and thereafter maintain such signs in good condition, near each grade crossing (other than state trunk highway crossings and crossings within the limits of cities and incorporated villages). The town board shall requisition its needs for advance warning signs from the county highway commissioner. The cost of such installation and maintenance shall be paid out of moneys received by the county or town, as the case may be, for highway maintenance. The department shall provide, install and maintain advance warning signs at all railroad grade crossings on the state trunk highway system outside of cities and incorporated villages. The department, upon petition and upon investigation and finding that such signs are impracticable or unnecessary on any highway, may release the town, county or state from the provisions of this section as to such highway.
(2) SIGNS DESCRIBED.
Such signs shall be round and of a size, color and message as specified by the department and approved by the office. Any change in these signs shall not be retroactive.
(3) LOCATION.

Such signs shall be placed in conspicuous locations beside every highway which crosses a railroad at grade (outside of cities and incorporated villages) as near as practicable to the traveled portion of the highway on each side of such crossing, at a location and in a manner to be prescribed by the department, the county highway commissioner or the town board, or, if the crossing is so near city or village limits that the sign will be within such limits, by the city council or the village board, as the case may be.
(4) DUPLICATES.
In case any sign installed as provided in this section, other than that on the state trunk highway system, is destroyed or becomes illegible by any cause whatsoever, the railroad company, upon request from the county highway commissioner, shall forthwith deliver another such sign at the crossing near which it is to be installed; neither the installation of said signs nor the failure to install or maintain the same shall render the town, county or state liable for any accident that may occur by reason of such installation or neglect.
(5) OTHER SIGNS PROHIBITED.
No other sign of the general size or appearance of the signs provided for in this section shall be placed or permitted upon any highway, nor any sign between such advance signs except signs or signals required by law or permitted by the office for protection at railway crossings.
Wis. Stat. § 195.286(1-5) (2012) Excerpt from applicable statute published.

349.085. Authority to install stop signs at railroad grade crossings.
Local authorities may, by ordinance, when they deem it necessary for the public safety, install official stop signs at public traveled railroad grade crossings on highways maintained by the respective authorities.
Wis. Stat. § 349.085 (2012)

Wyoming

No applicable statute relating to this topic

Chapter 5: 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 states and the District of Columbia to provide some type of auditory alarm as they approach grade crossings. States may require that a train be equipped with a bell and require the repeated use of that bell or other audible warning device beginning at a specified distance from the crossing. Some 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 may lead to penalties.

Since June of 2005, Federal Railroad Administration regulations on the use of locomotive horns at highway-rail grade crossings (Title 49 Code of Federal Regulations (CFR) Part 222) require trains to sound the locomotive horn at public highway-rail grade crossings and establish a maximum sound level for the locomotive horn. These regulations also establish standards by which public entities can establish federal quiet zones where routine locomotive horn sounding practices at grade crossings can be restricted and/or prohibited. For more detailed information, the reader is directed to 49 CFR Part 222.

Alabama

§ 37-2-81. Locomotive horn.
The engineer or other person operating a locomotive on any railroad must blow the horn or whistle or ring the bell:
(1) At least one fourth of a mile before reaching any public road crossing or any regular station or stopping place on such railroad and continue with such signal at short intervals, until such crossing or such station or stopping place has been passed;
(2) Immediately before and at the time of leaving a station or stopping place and also immediately before entering any curve crossed by a public road, not marked in accordance with Section 37-2-80, where he cannot see at least one quarter of a mile ahead, and must approach and pass such unmarked crossing at such speed as to prevent an accident in the event of an obstruction at the crossing; and
(3) At short intervals, on entering into, or while moving within or passing through any village, town or city.
He must also, on perceiving any obstruction on the track, use all means within power, known to skillful engineers, such as applying brakes, in order to stop the train.
Ala. Code § 37-2-81(2012)

§ 37-2-90. Locomotive lights.
All companies, corporations, lessees, owners, operators, or receivers of any railroad or railway company operating a railroad or railway in whole or in part in this state shall equip, maintain and use upon every locomotive being operated in road service in this state in the nighttime a power headlight of not less than 1,500 candle power brilliancy, measured with the aid of a suitable reflector. Nothing in this division shall be so construed as to prevent a locomotive engine, whose

headlight has become defective while on the road, from proceeding to the most convenient terminal or division point where the necessary facilities exist for remedying such defect. This section shall not apply to industrial roads, such as tram roads, mill roads, and roads engaged principally in lumber or logging transportation in connection with mills, and the provisions of this section shall not apply during the first 90 days of a strike of the particular employees, whose duties are to repair and maintain headlights.
Ala. Code § 37-2-90 (2012)

***§ 37-8-113. Warning devices; superintendents.**
Any superintendent of a railroad who fails to instruct the engineers and conductors thereof as to the provisions of this title in regard to blowing the horn or whistle, ringing the bell and stopping and handling the train, and order them to comply therewith, must, on conviction, be fined not less than $1,000.00, and may be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than 12 months, at the discretion of the jury.
Ala. Code § 37-8-113 (2012)

***§ 37-8-114. Warning devices; engineers and conductors.**
Any engineer, conductor or other person who, having the control or management of any engine or electric motor running on any railroad in this state, fails to use proper precautions to prevent accidents by ringing the bell, blowing the horn or whistle or checking the speed of his engine, on approaching any curve in the road, or any depot, station or crossing of any public road, or on leaving any depot or station, must, on conviction, be fined not less than $100.00 nor more than $1,000.00, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

Ala. Code § 37-8-114(2012)

Alaska

No applicable statute related to this topic

Arizona
§ 40-846. Electric headlights; violation; penalty
A. Every railroad corporation, or receiver or lessee thereof, shall equip its locomotives used in the transportation of trains over the railroad, except locomotives regularly used in switching cars or trains, with electric headlights of not less than fifteen hundred candle power measured without the aid of a reflector.
B. Any railroad company, or receiver or lessee thereof, doing business in this state, which violates the provisions of this section is liable to the state for a penalty of not less than one hundred nor more than one thousand dollars for each offense.
C. Action shall be brought to recover such penalty in a court of competent jurisdiction in the name of the state by the attorney general or by the county attorney of any county in or through which the railroad is operated.
Ariz. Rev. Stat. § 40-846 (2012)

§ 40-847. Bells on locomotives; violation; penalties
A. Each railroad corporation shall equip its locomotives with a bell weighing not less than twenty pounds.
Ariz. Rev. Stat. § 40-847 (2012)

§ 40-848. Automatic bell ringer required; violation; classification

A. It is unlawful for any railroad to operate on its tracks within the state an engine not equipped with an automatically operated bell ringer for ringing the bell on the engine, which will cause the bell on the engine to continue to ring after being set in motion by the engineer or fireman. The device for starting or stopping the bell ringer shall be placed in a position where it can be operated by the engineer or fireman from his usual position in the cab.
B. A railroad violating this section is guilty of a petty offense for each day that any locomotive engine is used in violation of this section, but if any ringer becomes out of order while the engine in which it is installed is in use, the engine may complete its trip.
Ariz .Rev. Stat. § 40-848 (2012)

§ 40-854. Failure to warn at public crossing; classification
A person in charge of a railroad locomotive who before crossing any traveled public way omits to cause the bell to ring or a whistle, siren or other sounding device to sound at a distance of at least eighty rods from a crossing and until it is reached, is guilty of a class 2 misdemeanor.
Ariz .Rev. Stat. § 40-854 (2012)

Arkansas

23-12-402. Locomotives to have headlights of requisite candlepower.
(a) Any company, corporation, or officer of court, owning or operating a railroad over fifty (50) miles in length, which is in whole or in part within this state, shall be required to equip, maintain, and use on each and every locomotive being operated in road service in this state in the nighttime a headlight of power and brilliancy of one thousand five hundred (1,500) candlepower.
(b) Any company, corporation, or officer of court owning or operating a railroad over fifty (50) miles in length, which is in whole or in part within this state, violating the provisions of this section, shall be liable on conviction to a penalty of a fine of not less than three hundred dollars ($300) nor more than five hundred dollars ($500) for each separate offense. The amount shall be recovered in a civil action in the name of the state.
(c) It is made the duty of any prosecuting attorney of any district in this state to enforce the provisions of this section when a complaint is properly filed in his or her office.
Ark. Code Ann. § 23-12-402 (2012)

23-12-410. Audible warning device to be sounded at crossing -- Penalty and damages.
(a) To give warning of a train's approach, an audible warning device meeting standards prescribed by the Federal Railroad Administration shall be sounded at least one-quarter (1/4) mile in advance of each location in Arkansas where a railroad crosses any public road, highway, or street or where any public road, highway, or street crosses any railroad and shall be sounded until the lead locomotive clears the crossing.
(b) Any railroad company failing to warn of the train's approach as required in this section shall be liable upon a finding of a violation for a fine of two hundred dollars ($200) for each occurrence. The penalty shall be recovered in a civil action in the name of the state.
Ark. Code Ann. § 23-12-410 (2012)

California

***Pub Util Code § 1202 Exclusive powers of commission**
The commission has the exclusive power:
(2) The Legislature finds and declares that for the communities of the state that are traversed by railroads, there is a growing need to mitigate train horn noise without compromising the safety of

the public. Therefore, it is the intent of the Legislature that the commission may authorize the following pilot projects, after an application is filed and approved by the commission:
(A) To test the utility and safety of stationary, automated audible warning devices as an alternative to trains having to sound their horns as they approach highway-rail crossings in the communities of Roseville, Fremont, Newark, and Lathrop, and in any other location determined to be suitable by the commission.
(B) To authorize supplementary safety measures, as defined in Section 20153 (a)(3) of Title 49 of the United States Code, for use on rail crossings.
No new pilot project may be authorized after January 1, 2003. The commission shall report to the Legislature by March 31, 2004, on the outcome of this pilot project.
(3) In light of the pending proposed ruling by the Federal Railroad Administration on the use of locomotive horns at all highway-rail crossings across the nation, it would be in the best interest of the state for the commission to expedite the pilot projects authorized under paragraph (2) in order to contribute data to the federal rulemaking process regarding the possible inclusion of stationary, automated warning devices as a safety measure option to the proposed federal rule.
Cal. Pub. Util. Code § 1202(2),(3) (Deering 2012) Excerpt from applicable statute published.

Pub Util Code § 7604. Sounding of bell, siren, horn, whistle or similar audible warning device

(a) (1) Except as provided in paragraph (3), a bell, siren, horn, whistle, or similar audible warning device shall be sounded at any public crossing in accordance with Section 222.21 of Title 49 of the Code of Federal Regulations.
(2) Except as provided in paragraph (3), a bell, siren, horn, whistle, or similar audible warning device shall be sounded, consistent with paragraph (1), at all rail crossings not subject to the requirements of Subpart B (commencing with Section 222.21) of Part 222 of Title 49 of the Code of Federal Regulations.
(3) A bell, siren, horn, whistle, or similar audible warning device shall not be sounded in those areas established as quiet zones pursuant to Subpart C (commencing with Section 222.33) of Part 222 of Title 49 of the Code of Federal Regulations.
(4) This section does not restrict the use of a bell, siren, horn, whistle, or similar audible warning device during an emergency or other situation authorized inSection 222.23 of Title 49 of the Code of Federal Regulations.
(b) Any railroad corporation violating this section shall be subject to a penalty of two thousand five hundred dollars ($2,500) for every violation. The penalty may be recovered in an action prosecuted by the district attorney of the proper county, for the use of the state. The corporation is also liable for all damages sustained by any person, and caused by its locomotives, train, or cars, when the provisions of this section are not complied with.
Cal. Pub. Util. Code. § 7604.(Deering 2012)

Pub Util Code § 7605 Automatic bell ringer for steam locomotives; Penalty for violation

Every railroad corporation, or receiver or lessee thereof, operating any line of railroad in this State by steam locomotives, shall equip all steam locomotives used or to be used in the hauling or propelling of trains over the railroad with a bell ringer apparatus or device which, when set in operation, will ring and continue to ring the locomotive bell automatically, and which is so constructed that it may be set in operation from either or both sides of the locomotive cab.

Any railroad company, receiver or lessee thereof, operating any line of railroad within this State by steam locomotives, violating this section shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) for each offense.
Cal. Pub. Util. Code § 7605 (Deering 2012)

Pub Util Code § 7607 Quality of locomotive headlights; Application of provision; Penalty for violation
Every railroad corporation, or receiver or lessee thereof, operating any line of railroad in this State, shall equip all locomotive engines used in the transportation of trains over the railroad with electric or other headlights which will project sufficient light to enable the locomotive engineer to observe clearly a dark object the size of an average man, at a distance of not less than 800 feet on a dark, clear night while his train is running at a rate of speed not less than 30 miles per hour. This section shall not apply to locomotive engines regularly used in the switching of cars or trains or used exclusively between sun up and sun down, or going to or from repair shops when ordered in for repairs, nor to locomotive engines used on short lines or local lines where in the judgment of the commission, the headlight required by this section is not necessary for the preservation of public safety.
Any railroad company, or receiver or lessee thereof, who violates this section, is liable to the State for a penalty of not less than one hundred dollars ($100), nor more than one thousand dollars ($1,000) for each offense. Suit shall be brought to recover the penalty in a court of competent jurisdiction, in the name of the people of the State of California, by the Attorney General or by the district attorney of any county in or through which the railroad is operated.
Cal. Pub. Util. Code § 7607 (Deering 2012)

Colorado

31-15-711. Other public improvements
(1) The governing body of each municipality has the power:
(i) To construct, maintain, and operate safety measures that are necessary to allow the municipality to restrict the sounding of locomotive horns at highway-rail grade crossings in compliance with 49 U.S.C. sec. 20153, as amended, and the applicable rules of the federal railroad administration. The governing body of the municipality shall construct, maintain, and operate the safety measures in accordance with the provisions of section 40-4-106, C.R.S., and the standards of safety prescribed by the public utilities commission pursuant to section 40-29-110, C.R.S.
Colo. Rev. Stat. 31-15-711 (2012) Excerpt from applicable statute published.

31-25-1212.5. Improvements - railroad quiet zones
A district has the power to construct, maintain, and operate safety measures that are necessary to allow the municipality to restrict the sounding of locomotive horns at highway-rail grade crossings in compliance with 49 U.S.C. sec. 20153, as amended, and the applicable rules of the federal railroad administration. The district shall construct, maintain, and operate the safety measures in accordance with the provisions of section 40-4-106, C.R.S., and the standards of safety prescribed by the public utilities commission pursuant to section 40-29-110, C.R.S.
Colo. Rev. Stat. 31-25-1212.5 (2012)

40-29-106. Locomotive headlights - exceptions
It is the duty of every railroad corporation, receiver, or lessee thereof operating any line of railroad in this state to equip all locomotive engines used in the transportation of trains over said

railroad with headlights of not less than twelve hundred candle power, measured without the aid of a reflector; but this section and section 40-29-107shall not apply to locomotive engines which are regularly employed in yard service, known as switch engines; engines running for a distance of not more than sixteen miles within the limits of this state to complete their runs; those used exclusively between sunrise and sunset; nor engines going to or returning from repair shops when ordered to such shops for repair.
Colo. Rev. Stat. 40-29-106 (2012)

Connecticut

Sec. 13b-329. (Formerly Sec. 16-145). Audible signals; distance from grade crossing when sounding is to commence; maximum decibel level regulations.
(a) Each engine used upon a railroad shall be supplied with an audible signal of sufficient amplification for existing circumstances, which audible signal shall be so attached to such engine as to be conveniently accessible to the engineer and in good order for use. Each person controlling the motions of an engine on a railroad shall commence sounding the audible signal when such engine is approaching and is within eighty rods of the place where such railroad crosses any highway at grade and shall keep such audible signal occasionally sounding until such engine has crossed such highway, provided when it appears to the Commissioner of Transportation upon the written complaint of an elected official of any town, city or borough wherein such crossing at grade is located that public safety requires the commencing of the sounding of the audible signal at a distance greater or lesser than eighty rods from such crossing at grade, the Commissioner of Transportation shall make such order in relation thereto as he deems advisable, provided in no event shall said Commissioner of Transportation order the sounding of any audible signal to commence at a distance of less than twenty-seven rods from any crossing at grade. The company in whose service such person may be shall pay all damages which may accrue to any person in consequence of any omission to comply with any provision of this subsection; and no railroad company shall knowingly employ an engineer who has been twice convicted of violating any provision of this subsection.
(b) The Commissioner of Transportation, with the advice of the Commissioner of Environmental Protection may establish by regulation the maximum decibel levels which may be emitted by any audible signal attached to a train engine, provided such maximum decibel level shall not be less than eighty-seven decibels.
(c) Any railroad company operating any train engine which is equipped with an audible signal which produces noise emissions in excess of the maximum decibel levels allowed for such devices as established by said Commissioner of Transportation is in violation of this section.
Conn. Gen. Stat. § 13b-329 (2012)

Sec. 13b-334. (Formerly Sec. 16-150). Commissioner of Transportation may regulate signals.
When the selectmen of any town, the mayor and common council of any city or the warden and burgesses of any borough bring their petition in writing to the Commissioner of Transportation, representing that the public interest requires that the blowing of the engine whistle at certain points within the limits of such town, city or borough shall be dispensed with, the commissioner shall appoint a time and place for hearing such petition and shall give reasonable notice thereof to the petitioners and the company operating such railroad. If, after such hearing, the commissioner is of the opinion that the sounding of the whistle can be safely dispensed with, he

shall direct such company to omit such signal and require any other signal in lieu thereof which he judges best. The commissioner may, at any time, modify or annul any such order.
Conn. Gen. Stat. § 13b-334 (2012)

Delaware

§ 701. Whistles at public highway crossings; blocking of crossings; penalty; jurisdiction
(a) Every corporation operating any line of railroad within this State shall cause the approach of its locomotive engine to every public highway crossing such line of railroad at grade to be signalled by sounding 2 long blasts followed by 1 short blast followed by 1 long blast of the engine whistle on every such locomotive engine, beginning at least 300 yards from such crossing. Where 2 or more public highways cross any such railroad within a distance of 400 yards, the signal for the crossing first reached shall answer for all. This section shall not apply to the City of Wilmington, nor to any other crossings than those at grade nor to any such as are guarded by a watchperson or protected by safety gates.
(b) If any corporation neglects or omits the performance of the duty prescribed and imposed by subsection (a) of this section, it shall be fined for the first offense $ 20, for the second offense $ 40 and for every subsequent offense not more than $ 100.
(e) Justices of the peace shall have jurisdiction of offenses under this section. There shall be a right of appeal to the Court of Common Pleas in every case.
Del. Code Ann. tit. 17, § 701 (a-b)(e) (2012) Excerpt from applicable statute published.

District of Columbia

24-120. Railroads and Railroad Crossings.
120.6 No person, firm, or corporation shall move, cause to be moved, or take part in moving a railway locomotive, car, or train of cars on or upon a street or other public space between sunset and sunrise, unless a headlight or other equivalent reflecting lantern, or a hand lantern in the hands of an attendant, is displayed upon the most advanced approaching part of the locomotive, car, or train or cars to give due warning of its approach to persons near or crossing the tracks.
D.C. Mun. Regs. tit. 24, § 120 (2013)

Florida

§ 351.03. Railroad-highway grade-crossing warning signs and signals; audible warnings; exercise of reasonable care; blocking highways, roads, and streets during darknes
(3) Except as provided in subsection (4), any railroad train approaching within 1,500 feet of a public railroad-highway grade crossing shall 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 railroad-highway grade crossings for the purpose of preventing vehicles from going around, under, or through lowered railroad gates.
2. The municipality or county has in effect an ordinance that unconditionally prohibits the sounding of railroad train horns and whistles during the hours of 10 p.m. and 6 a.m. at all public railroad-highway grade crossings within the municipality or county and where the municipality, county, or state has erected signs at the crossing announcing that railroad
train horns and whistles may not be sounded during such hours. Signs so erected shall be in conformance with the uniform system of traffic control devices as specified in s. 316.0745
(b) Upon final approval and verification by the department and the Federal Railroad Administration that such traffic operations system meets all state and federal safety and traffic

regulations and that such railroad-highway gradecrossings can be secured, the municipality or county may pass an ordinance prohibiting the sounding of audible warning devices by trains upon approaching such railroad-highway grade crossings between the hours of 10 p.m. and 6 a.m
(c) Nothing in this subsection shall be construed to nullify the liability provisions of s. 768.28.
Fla. Stat. Ann. § 351.03(3)(4) (2012) Excerpt from applicable statute published.

Georgia

No applicable statute related to this topic

Hawaii

No applicable statute related to this topic

Idaho

***§ 18-6002. Neglect to sound bell or whistle**
Every person in charge of a locomotive engine who, before crossing any traveled public way, omits to cause a bell to ring or steam, air, electric or other similar whistle to sound at the distance of at least eighty (80) rods from the crossing, and up to it, is guilty of a misdemeanor.
Idaho Code Ann. § 18-6002 (2012)

§ 62-412. Bell or whistle
The operator of a train or locomotive is not required to sound the locomotive's bell, horn or whistle when approaching any location at which the railroad crosses a private highway, private road or private street at grade.
Idaho Code Ann. § 62-412 (2012)

Illinois

§ 625 ILCS 5/18c-7402. Safety Requirements for Railroad Operations
Sec. 18c-7402. Safety Requirements for Railroad Operations.
(2) Other Operational Requirements.
(a) Bell and Whistle-Crossings. Every rail carrier shall cause a bell, and a whistle or horn to be placed and kept on each locomotive, and shall cause the same to be rung or sounded by the engineer or fireman, at the distance of a least 1,320 feet, from the place where the railroad crosses or intersects any public highway, and shall be kept ringing or sounding until the highway is reached; provided that at crossings where the Commission shall by order direct, only after a hearing has been held to determine the public is reasonably and sufficiently protected, the rail carrier may be excused from giving warning provided by this paragraph.
(a-5) The requirements of paragraph (a) of this subsection (2) regarding ringing a bell and sounding a whistle or horn do not apply at a railroad crossing that has a permanently installed automated audible warning device authorized by the Commission under Section 18c-7402.1 [625 ILCS 5/18c-7402.1] that sounds automatically when an approaching train is at least 1,320 feet from the crossing and that keeps sounding until the lead locomotive has crossed the highway. The engineer or fireman may ring the bell or sound the whistle or horn at a railroad crossing that has a permanently installed audible warning device.
625 Ill. Comp. Stat. Ann. 5/18c-7402(2)(a) (LexisNexis 2012) Excerpt from applicable statute published.

Indiana

8-6-4-1. Signals at crossings.

(a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection (d) applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway, or street in this state:

(1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and

(2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(c) It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

(d) A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2. An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing. Before an ordinance adopted under this subsection goes into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:

(1) school bus routes;

(2) emergency service routes;

(3) hazardous materials routes;

(4) pedestrian traffic;

(5) trespassers;

(6) recreational facilities;

(7) trails; and

(8) measures to increase safety in the corridor, including:

(A) four (4) quadrant gates;

(B) median barriers;

(C) crossing closures;
(D) law enforcement programs; and
(E) public education.
The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county.
(e) Notwithstanding a contrary provision in an ordinance adopted under subsection (d), an engineer or other person who is operating an engine shall sound the engine's whistle if, in the determination of the engineer or other person who is operating the engine, an apparent emergency exists.
(f) A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection (d) applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.
(g) The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection (d) applies not less than one (1) time in a five (5) year period.
(h) The Indiana department of transportation may not revoke the permission granted under subsection (d) for an ordinance.
(i) The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety.
Ind. Code Ann. § 8-6-4-1 (LexisNexis 2012) Excerpt from applicable statute published.
***8-6-4-2. Penalty for failure to give signals at crossings**
(a) Every engineer or other person in charge of or operating an engine, who shall fail or neglect to comply with the provisions of section 1 [IC 8-6-4-1] of this chapter, shall be held personally liable to the state, in a penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), to be recovered in a civil action brought by the state in the circuit or superior court of any county where the crossing is located.
(b) A railroad company that violates section 1(c) [IC 8-6-4-1(c)] of this chapter shall be held liable therefor to the state for a penalty of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000), to be recovered in a civil action brought by the state in the circuit or superior court of any county where the crossing is located. The railroad company in whose employ such engineer or person may be, as well as the engineer or person in charge of or operating the engine, shall be liable in damages to any person, or the person's representatives, who may be injured in property or person, or to any corporation that may be injured in property, by the neglect or failure of said engineer or other person as aforesaid.
(c) A railroad company that violates section 1(b) [IC 8-6-4-1(b)] of this chapter may be held liable to the state for a penalty of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000), to be recovered in a civil action brought by the state in the circuit or superior court of any county where the crossing is locate.
Ind. Code Ann. § 8-6-4-2 (LexisNexis 2012)

<u>Iowa</u>

327G.13. Signals at road crossings.
A bell and a horn shall be placed on each locomotive engine operated on any railway, which horn shall be sounded at least one thousand feet before a road crossing is reached, and after the sounding of the horn the bell shall be rung continuously until the crossing is passed; but at street

crossings within the limits of cities the sounding of the horn may be omitted, unless required by ordinance or resolution of the council thereof; and the company shall be liable for all damages which shall be sustained by any person by reason of such neglect.
Iowa Code § 327G.13 (2012)

***327G.14 Violations.**
Any officer or employee of any railway corporation violating any of the provisions of section 327G.13 shall, upon conviction, be subject to a schedule "two" penalty.
Iowa Code § 327G.14 (2012)

Kansas

66-2,120. Failure of locomotive to sound whistle at crossing; penalties; payment to informer.
An air whistle shall be attached to each locomotive engine, and shall be sounded four (4) times (two long, one short and one long blast) beginning at least eighty (80) rods from the place where the railroad shall cross any public road or street and to be prolonged or repeated until the crossing is occupied by the engine or car, except in cities and villages, under a penalty of not more than twenty dollars ($ 20) for every neglect of the provisions of this section, to be paid by the corporation owning the railway on the suit of the county attorney, one-half thereof to go to the informer, and the other half to the county treasurer; and the corporation shall also be liable for all damages which shall be sustained by any person by reason of such neglect: Provided, however, That such penalty shall be sued for within one (1) month from the time the cause of action accrues, and not thereafter: And provided further,That but one penalty shall be recovered in any one action.
Kan. Stat. Ann. § 66-2,120 (2011)

Kentucky

277.190. Bell to be rung or whistle sounded at crossings -- Local government regulation of sounding train whistles at night.
(1) Every railroad company shall provide each locomotive engine running over any of its lines with a bell of ordinary size and a whistle. The bell shall be rung or the whistle sounded at a distance of at least fifty (50) rods from the place where the track crosses upon the same level any highway or crossing where a signboard is required to be maintained. The bell shall be rung or the whistle sounded continuously or alternately until the engine has reached the highway or crossing except as provided in subsection (2) of this section.
(2) A city, county, urban-county, or charter county government may regulate the sounding of train whistles at night if the city, county, urban-county, or charter county government enacts an ordinance adopting the provisions of Emergency Order Number 15, Notice Number 4, issued by the Federal Railroad Administration on August 31, 1993. If the Federal Railroad Administration updates the requirements of Emergency Order 15, a city, county, urban-county, or charter county government that has adopted the provisions of Emergency Order 15 shall by ordinance adopt the most recent federal requirements governing the sounding of train whistles.
Ky. Rev. Stat. Ann. § 277.190 (LexisNexis 2012)

Louisiana

§ 32:168. Equipment of locomotive with bell and whistle or horn, sounding of signals

A. Every railroad company or person owning and operating a railroad in this state shall equip each locomotive engine with a bell and a whistle or horn which, under normal conditions, can be heard at a distance of not less than one quarter of a mile.
B. Except as specifically exempted by law, any person controlling the motion of an engine on any railroad shall commence sounding the audible signal when such engine is approaching and not less than one quarter of a mile from the place where such railroad crosses any highway. Such sounding shall be prolonged either continuously or by blasts of the whistle or horn to be sounded in the manner provided by the Uniform Code of Railroad Operating Rules until the engine has crossed the roadway, unless the distance from that crossing to the start of the movement or the distance between the crossings is less than one quarter of a mile, in which event such warning signals shall be so sounded for the lesser distance. In cases of emergency said whistles or horn may be sounded in repeated short blasts.
C. The provisions of this Section shall not apply to the Kansas City Southern railroad line which runs parallel to Perkins Road in the city of Baton Rouge, Louisiana.
La. Rev. Stat. Ann. § 32:168 (2012)

Maine

***§ 7211. Crossing signs on each side of track; whistle and bell**
At every temporary crossing, established in accordance with section 7210, boards with the words "Temporary railroad crossing, stop, look, listen" distinctly painted on each side, in letters plainly legible, shall be placed on each side line of the railroad right-of-way at the crossing, on a post or other structure, in a position as to be easily seen by persons about to cross the railroad at those places. For any crossing so established, engine bells shall be rung and engine whistles sounded, as provided in section 7214.
Me. Rev. Stat. Ann. tit. 23, § 7211 (2012)

§ 7214. Signboards at grade crossings; ringing of engine bells
Every corporation shall cause a whistle and a bell of at least 35 pounds in weight to be placed on each locomotive used on its railroad, and the whistles shall be sounded as a warning beginning at a distance of 990 feet, on standard or narrow gauge railroads, from allcrossings of those ways on the same level, unless the Department of Transportation, on petition of the corporation or of the municipal officers or of 10 or more residents of any city or town in which the crossingis located, after notice and hearing, shall order the sounding of the whistle to be discontinued in any city or village until further order of the department. The bell shall be rung at a distance of 990 feet, on standard or narrow gauge railroads, from grade crossings and be kept ringing until the engine has passed thecrossings. On petition of 10 or more residents of the State, after notice to the railroad corporation and a public hearing, the department may in writing order the corporation to give additional warning to travelers on those ways by requiring the sounding of the whistles or the ringing of the bells at other places where the railroads cross the public ways other than at grade or run contiguous to the ways, and the orders shall have the same force and place the same obligations on railroad corporations as when required under this section.
Me. Rev. Stat. Ann. tit. 23, § 7214 (2012) Excerpt from applicable statute published.

Maryland

No applicable statute related to this topic

Massachusetts

§ 15. Precautions at Railroad Crossings.
Except as hereinafter otherwise provided, every person operating a motor vehicle, upon approaching a railroad crossing at grade, shall reduce the speed of the vehicle to a reasonable and proper rate before proceeding over the crossing, and shall proceed over the crossing at a rate of speed and with such care as is reasonable and proper under the circumstances. Every person operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo, or part of a cargo, upon approaching a railroad crossing at grade, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad, and shall not proceed to cross until it is safe to do so. The operator of a school bus, in addition to bringing his vehicle to a full stop, as aforesaid, shall open the service door, ascertain if he may cross safely and thereupon close said door before proceeding. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by red lights which flash as a warning, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said lights stop flashing. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a lowered automatic gate, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said automatic gate is raised. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a railroad employee waving a red flag or white lantern, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said railroad employee signals that it is safe to do so. A railroad train approaching within approximately one thousand five hundred feet of a highway crossing shall emit a warning signal audible from such distance. Whoever violates any provisions of this section and is operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than $500 or by being required to perform a total of 100 hours of community service which may include service in the operation lifesaver program. All other persons violating the provisions of this section not operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than $100 nor more than $200 or by being required to perform a total of 50 hours of community service which may include service in the operation lifesaver program.
Mass. Gen. Laws Ann. ch. 90, § 15 (West 2012)

§ 138. Signals at Crossings -- Bell to be Rung or Whistle Sounded.
Every railroad corporation shall cause a bell of at least thirty-five pounds in weight, and a whistle, to be placed on each locomotive engine passing upon its railroad; and such bell shall be rung or at least three separate and distinct blasts of such whistle sounded at the distance of at least eighty rods from the place where the railroad crosses upon the same level any public way or traveled place over which a signboard is required to be maintained as provided in sections one hundred and forty and one hundred and forty-one; and such bell shall be rung or such whistle sounded continuously or alternately until the engine has crossed such way or traveled place. This section shall not affect the authority conferred upon the department by the following section.
Mass. Gen. Laws Ann. ch. 160, § 138 (West 2012)

§ 139. Signals at Crossings -- Sounding of Whistles Regulated.
The department, upon petition, and after notice to the railroad corporation and a public hearing, may, for good cause shown, recommend to such railroad corporations such changes as it considers proper in the manner of making up and shifting freight trains or freight cars, and of sounding of whistles on locomotives, and it may by written order forbid or regulate the sounding of whistles on the locomotives of such corporation at any specified grade crossings of the tracks of such corporation with any public way. The corporation which is subject to such order shall, until the order has been modified or annulled by the department, conform in all respects to the terms thereof.
Mass. Gen. Laws Ann. ch. 160, § 139 (West 2012)

Michigan

***§ 462.318. Whistle post; erection and maintenance as notice to engineer of approach to public crossing.**
Sec. 318. A railroad shall erect and maintain a whistle post in advance of a public crossing or multiple consecutive crossings to notify the engineer of an approaching public crossing.
Mich. Comp. Laws Serv. § 462.318 (2012)

Minnesota

219.567 FAILURE TO RING BELL
An engineer driving a locomotive on a railway who fails to ring the bell or sound the whistle on the locomotive, or have it rung or sounded in accordance with Federal Railroad Administration regulations under United States Code, title 49, section 20153, is guilty of a misdemeanor.
Minn. Stat. § 219.567 (2012)

Mississippi

§ 77-9-225 Locomotives to give warning when approaching crossings; penalty
Every railroad company shall cause each locomotive engine run by it to be provided with a bell of at least thirty (30) pounds weight and with a whistle or horn which can be heard distinctly at a distance of three hundred (300) yards, and shall cause the bell to be rung or the whistle or horn to be blown at the distance of at least three hundred (300) yards from the place where the railroad crosses over any public highway or municipal street. The bell shall be kept ringing continuously or the whistle or horn shall be kept blowing at repeated intervals until said crossing is passed. Every person, company or corporation violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than Fifty Dollars ($ 50.00) or be imprisoned not more than thirty (30) days, or be both so fined and imprisoned, in the discretion of the court.
The provisions of this section shall be enforced by the Mississippi Department of Transportation.
Miss. Code Ann. § 77-9-225 (2012)

Missouri

§ 389.900. Locomotives to be equipped with electric headlights -- power of same -- exceptions
That all companies, corporations, lessees, owners, operators or receivers of any railroad or railway company operating a railroad or railway in whole or in part in this state, are hereby required to equip, maintain and use upon every locomotive being operated in road service in this state in the nighttime an electric headlight of fifteen hundred candle power brilliancy, measured

with the aid of a reflector, and classification signals not less than six candle power; provided, that nothing in this law shall be so construed as to prevent a locomotive engine whose headlight has become defective while on the road from proceeding to the most convenient terminal or division point where the necessary facilities exist for remedying such defect, but nothing in this law shall relieve any such company, corporation, lessee, owner, operator or receiver of any railroad or railway company of any liability for injury or damage to persons or property, or for the death of any person, caused by proceeding with an engine having such defective headlight; and provided further, that the provisions of this law shall not apply to independent lines of railroad less than seventy-five miles in length; and provided further, that the provisions of this law shall not apply during the first ninety days of a strike of the particular employees whose duties are to repair and maintain electric headlights.
Mo. Rev. Stat. § 389.900 (2012)

§ 389.990. Bell and whistle at crossings -- penalty
A bell shall be placed on each locomotive engine, and be rung at a distance of at least eighty rods from the place where the railroad shall cross any traveled public road or street, and be kept ringing until it shall have crossed such road or street, or a horn or whistle shall be attached to such engine and be sounded at least eighty rods from the place where the railroad shall cross any such road or street, except in cities, and be sounded at intervals until it shall have crossed such road or street, under a penalty of twenty dollars for every neglect of the provisions of this section, to be paid by the corporation owning the railroad, to be sued for by the prosecuting or circuit attorney of the proper circuit, within ten days after such penalty was incurred, one-half thereof to go to the informer and the other half to the county; and said corporation shall also be liable for all damages which any person may hereafter sustain at such crossing when such bell shall not be rung or such horn or whistle sounded as required by this section; provided, however, that nothing herein contained shall preclude the corporation sued from showing that the failure to ring such bell or sound such horn or whistle was not the cause of such injury.
Mo. Rev. Stat. § 389.990 (2012)

Montana

69-14-236 Headlights and speedometers for locomotives.
(1) A person, corporation, or company operating a railroad or railway in this state must equip all locomotive engines used in the transportation of trains over the railroad or railway with:
(a) electric headlights of at least 1,500 candlepower, measured without the aid of a reflector; and
(b) a speedometer that is maintained in good working order at all times and that is located in the lead or controlling unit.
(2) A locomotive used exclusively in yard service is not required to be equipped with a speedometer.
(3) If the speedometer fails en route, it will be deemed as being in good working order until it reaches the next terminal where it will be exchanged with an engine with a working speedometer if one is available.
(4) Any person, corporation, or company, operating any railroad or railway in this state, violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than $ 100 or more than $ 1,000 for each offense.
Mont. Code Ann. § 69-14-236 (2012) Excerpt from applicable statute published.

***69-14-562 Regulation of safety on railroads.**

(1) A railroad corporation within this state is guilty of a misdemeanor and upon conviction is subject to the penalties provided in subsection (2) if the corporation:
(c) fails to have a locomotive in use by it equipped with a properly functioning horn and bell;
(d) except as provided in 69-14-620, permits a locomotive to approach a public highway, public road, or public railroad crossing without causing the locomotive horn and bell to be sounded at the distance from the crossing provided in 61-8-347;
(2) For the purposes of subsection (1)(d):
(a) the horn and bell must be sounded from the specified point until the crossing is occupied, but if a train has stopped within 1,320 feet of a crossing, the horn and bell must be sounded for a minimum of 15 seconds prior to the train occupying the crossing;
b) the railroad corporation shall erect and maintain a sign at a minimum of 1,320 feet in advance of a crossing at which the horn and bell are required to be sounded to notify the locomotive crew in advance of a crossing that requires the locomotive horn and bell to be sounded;
(c) if the owner or permit holder of a private crossing makes a written request to the railroad corporation to have the locomotive horn and bell sounded at a private crossing, the railroad shall comply with the request, but the owner or permit holder is not subject to any liability as a result of not making a request; and
(d) the phrase "public highway, public road, or public railroad crossing" means that the easement, right-of-way, or fee title for the public highway, public road, or public railroad crossing is held in the name of a federal, state, tribal, or local government entity on both sides of the crossing and that the easement, right-of-way, or fee title is recorded in the office of the clerk and recorder in the county where the crossing is located.
(3) Upon conviction of the offenses provided in subsection (1), a railroad corporation is subject to a fine of:
(a) $ 1,000 for the first offense;
(b) $ 2,000 for the second violation of the same provision; and
(c) not less than $ 5,000 or more than $ 10,000 for subsequent violations of a provision for which it has twice been found guilty.
Mont. Code Ann. § 69-14-562 (2012) Excerpt from applicable statute published

69-14-620 Establishment of railroad quiet zones.
(1) For the purposes of this section, "quiet zone" means a segment of a railroad within which is situated one or a number of consecutive railroad crossings at which locomotive horns and bells are not routinely sounded.
(2) A governing body of a municipality or a board of county commissioners may petition to the secretary of the United States department of transportation to establish quiet zones at railroad crossings that meet the requirements established in the rules adopted to implement 49 U.S.C. 20153(c). In developing the petition, the governing body of the municipality or the board of county commissioners shall consult with the railroad corporations that operate the rail lines through crossings that are within the proposed quiet zone. The petition must include how the municipality or county intends to implement the supplemental safety measures that are required by the United States department of transportation at railroad crossings within quiet zones.
(3) A quiet zone may not be established at a railroad crossing unless the governing body of a municipality or a board of county commissioners follows the procedure provided in subsection (2) and receives the approval of the secretary of the United States department of transportation or the secretary's designee.
Mont. Code Ann. § 69-14-620 (2012)

Nebraska

No applicable statute related to this topic

Nevada

705.360. Headlights on locomotive; penalty.

1. Every company, corporation lessee, manager or receiver, owning or operating a railroad in this state, shall equip, maintain, use and display at night upon each locomotive being operated in road service in this state an electric or other headlight of at least 1,500 candle power, measured without the aid of a reflector. Any electric headlight which will pick up and distinguish a person dressed in dark clothes upon a dark, clear night at a distance of 1,000 feet is deemed the equivalent of a 1,500 candle power headlight measured without the aid of a reflector.
2. This section does not apply to:
(a) Locomotive engines regularly used in switching cars or trains.
(b) Railroads not maintaining regular night train schedules.
(c) Locomotives going to or returning from repair shops when ordered in for repairs.
3. Any railroad company, or the receiver or lessee thereof, which violates the provisions of this section is liable to the Public Utilities Commission of Nevada for a penalty of not more than $1,000 for each violation.
Nev. Rev. Stat. Ann. § 705.360 (Lexis Nexis 2012)

***705.430. Penalty for unlawful failure to ring bell or sound whistle at crossing; exceptions.**

1. Except as otherwise provided in subsection 2, every engineer driving a locomotive on any railway who fails to ring the bell or sound the whistle or horn upon the locomotive or to cause the bell, whistle or horn to be rung or sounded at least 80 rods from any place where the railway crosses a traveled road or street that is customarily used by the public for the purpose of travel, or who fails to continue the ringing of the bell or the sounding of the whistle or horn until the locomotive has crossed the road or street, is guilty of a misdemeanor.
2. The provisions of subsection 1 do not apply in any quiet zone established pursuant to regulations of the Federal Railroad Administration of the United States Department of Transportation.
3. As used in this section, "quiet zone" has the meaning ascribed to it in 49 C.F.R. § 222.9.
Nev. Rev. Stat. Ann. § 705.430 (LexisNexis 2012)

New Hampshire

No applicable statute related to this topic

New Jersey

§ 48:12-57. Safety measure for locomotives; penalties; "supplementary safety measure" defined; limitations

a. Every railroad company shall place on each engine a bell weighing not less than 30 pounds which shall be rung continuously in approaching a grade crossing of a highway, beginning at a distance of at least 300 yards from the crossing and continuing until the engine has crossed such highway, or a whistle or horn operated by steam, air or electricity, which shall be sounded, except in cities, at least 300 yards from the crossing and at intervals until the engine has crossed the highway.
For every default the company operating such road shall pay a penalty of $ 100.00 to be sued for by any informer within 10 days after such penalty was incurred, 1/2 to go to the informer and 1/2

to the county wherein such default occurred. Nothing herein shall take away any remedy for such neglect from any person injured thereby.

Upon application from the governing body of a county or municipality in which a grade crossing is located, the Commissioner of Transportation may, in his discretion, exempt railroad companies from observing the provisions of this section with respect to grade crossings in that county or municipality employing supplementary safety measures which have been approved by the Federal Railroad Administration or the Secretary of Transportation of the United States pursuant to 49 U.S.C. § 20153 as fully compensating for the absence of the warning provided by the locomotive horn and which have received a waiver or exemption under 49 U.S.C. § 20153(d).

As used in this act, "supplementary safety measure" means a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary of Transportation of the United States to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing, for example, as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel, and that conforms to standards prescribed by the Secretary, shall be deemed to constitute a supplementary safety measure. However, the following do not, individually, or in combination, constitute supplementary safety measures: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

b. With respect to that portion of a rail passenger line located in a county of the second class having a population between 420,000 and 425,000, according to the most recent federal decennial census, running between a municipality having a population between 15,100 and 15,125, according to the most recent federal decennial census, and a municipality having a population between 19,940 and 19,965, according to the most recent federal decennial census, upon application of a municipality in which a grade crossing of such line is located, the Commissioner of Transportation shall require that a railroad company or entity providing rail passenger service not sound a whistle or horn in that municipality between the hours of 7:00 p.m. and 7:00 a.m., but instead require that a bell weighing not less than 30 pounds be rung between such hours at such grade crossing location as required by subsection a. of this section, except that notwithstanding this requirement an operator shall not be subject to a penalty for sounding a whistle or horn in an emergency.

c. With respect to that portion of a rail passenger line located in a county of the first class having a population more than 825,000, according to the most recent federal decennial census, running through a municipality having a population between 30,530 and 30,560, according to the most recent federal decennial census, a municipality having a population between 9,850 and 9,900, according to the most recent federal decennial census, a municipality having a population between 10,870 and 10,900, according to the most recent federal decennial census, a municipality having a population between 3,900 and 3,950, according to the most recent federal decennial census, a municipality having a population between 17,890 and 17,920, according to the most recent federal decennial census, a municipality having a population between 7,030 and 7,060, according to the most recent federal decennial census, a municipality having a population between 11,980 and 12,020, according to the most recent federal decennial census, a

municipality having a population between 24,140 and 24,170, according to the most recent federal decennial census, a municipality having a population between 9,755 and 9,760, according to the most recent federal decennial census, a municipality having a population between 9,230 and 9,260, according to the most recent federal decennial census, and a municipality having a population between 15,360 and 15,400, according to the most recent federal decennial census, upon application of a municipality in which a grade crossing of such line is located, the Commissioner of Transportation shall require that a railroad company or entity providing rail passenger service not sound a whistle or horn in that municipality between the hours of 7:00 p.m. and 7:00 a.m., but instead require that a bell weighing not less than 30 pounds be rung between such hours at any such grade crossing location, except that notwithstanding this requirement, an operator shall not be subject to a penalty for sounding a whistle or horn in an emergency.
N.J. Stat. Ann. § 48:12-57 (West 2012)

New Mexico

§ 63-3-34. Bell to be rung at highway crossings
A. Except as provided in Subsection B of this section, every railroad corporation shall cause a bell to be attached to each of its locomotives and shall cause the bell to be rung at a distance of not less than eighty rods from the crossing of any public street, road or highway.
B. For a railroad, owned by the state or one of its political subdivisions, if the crossing is within a designated quiet zone pursuant to federal railroad administration rules and the maximum allowed speed for a train using the crossing is equal to or less than forty miles per hour, the bell shall be rung not less than three hundred feet from the crossing.
C. A railroad corporation violating a provision of Subsection A or B of this section shall be subject to a penalty of one hundred dollars ($ 100) to be recovered by action in the name of the state in any court of competent jurisdiction, one-half of which shall go to the informer and the other half of which shall go to the state. The corporation shall also be liable for all damages that may be sustained by any person by reason of noncompliance with the provisions of this section.
N.M. Stat. Ann. § 63-3-34 (LexisNexis 2012)

New York

§ 53-b. Ringing bells and blowing whistles at crossings
A person acting as engineer, driving a locomotive on any railway in this state, who fails to ring the bell, or sound the whistle, upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street on the same level, except in cities, or to continue the ringing of such bell or sounding such whistle at intervals, until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street is guilty of a misdemeanor.
N.Y. R.R. Law § 53-b (Consol. 2012)

North Carolina

No applicable statute related to this topic

North Dakota

49-11-21. Warning device sounded at crossing by locomotive -- Exceptions.

1. A warning device must be placed on each locomotive engine and the device on the lead locomotive must be sounded when approaching a public railroad crossing, and must continue to be sounded until the locomotive enters the public railroad crossing.
2. The warning device may not be sounded at a private railroad crossing. However, a party may petition the commission to request that a horn be sounded at a private railroad crossing. The commission shall review the request and issue an order approving or denying the request based on the safety concerns of the public. A party may not be subject to any liability as a result of not making a request.
3. The governing body of a city may adopt a quiet zone ordinance, as allowed by federal law and implemented under the federal railroad administration's supplemental safety measures for at-grade crossings, prohibiting a locomotive engine from sounding a warning device at crossings within the quiet zone under regular crossing conditions.
4. Notwithstanding any other provision of this section, a locomotive engineer may sound a locomotive horn at any crossing to provide a warning to animals, vehicle operators, pedestrians, trespassers, or crews on other trains in an emergency situation if in the locomotive engineer's judgment the action is appropriate to prevent imminent injury, death, or property damage.
N.D. Cent. Code § 49-11-21 (2012)

49-11-22. Liability for failure of locomotive to sound bell, horn, or whistle at crossing.
1. A railroad that has operational control of a locomotive that fails to sound its warning device at any crossing as required by section 49-11-21 is guilty of an infraction.
2. If a crew member of a locomotive does not sound a warning device at a crossing for which the sounding of a warning device is not required, any crew member or railroad with operational control of the locomotive may not be liable for any damages sustained by a person by reason of the failure to sound a warning device.
3. This section does not exempt a railroad corporation from any liability created under chapter 49-16 or the Federal Employers' Liability Act [45 U.S.C. 51 et seq.] for injuries to its employees or agents.
N.D. Cent. Code, § 49-11-22 (2012)

49-11-23. Liability of engineer for failure to sound bell, horn, or whistle of locomotive at crossing.
Every locomotive engineer who does not cause a warning device to be sounded as required by section 49-11-21 shall be guilty of an infraction.
N.D. Cent. Code § 49-11-23 (2012)

<u>Ohio</u>

§ 4955.32. Use of bell and whistle at crossing
(A) Every company shall attach to each locomotive engine passing upon its railroad a bell of the ordinary size in use on such engines and a steam or compressed air whistle.
(B) When an engine in motion and approaching a turnpike, highway, or street crossing or private crossing where the view of such crossing is obstructed by embankment, trees, curve, or other obstruction to view, upon the same line with the crossing, and in like manner where the railroad crosses any other traveled place, by bridge or otherwise, either of the following shall occur:
(1) The engineer or person in charge of such engine shall sound such whistle at a distance of at least eighty and not further than one hundred rods from such crossing and ring such bell continuously until the engine passes the crossing;

(2) An alternative audible warning system approved by the public utilities commission under section 4955.321 of the Revised Code shall be activated in accordance with guidelines established by the public utilities commission.
(C) This section shall not interfere with the proper observance of an ordinance passed by the legislative authority of a municipal corporation regulating the management of railroads, locomotives, and steam whistles on locomotives, within the limits of such municipal corporation.
(D) The establishment of an alternative audible warning system does not preclude the sounding of a whistle by an engineer or other person in charge of an engine in an emergency situation, as determined by the sole judgment of the engineer or other person.
Ohio Rev. Code Ann. § 4955.32 (LexisNexis 2013)

§ 4955.321. Alternative audible warning system
The public utilities commission may evaluate alternative systems for providing an audible warning of an approaching locomotive engine. The commission may approve the use of an audible warning system as an alternative to the whistle and bell required under division (B)(1) of section 4955.32 of the Revised Code only if it determines that the alternative audible warning system complies with applicable federal requirements for an audible warning of an approaching train and only if train-activated warning devices also are present at any crossing at which the alternative audible warning system is installed. The commission shall establish guidelines for the use and operation of any alternative audible warning system it approves.
Ohio Rev. Code Ann. § 4955.321 (LexisNexis 2013)

***§ 4955.34. Failure to erect warning signs; forfeiture**
Every engineer or person in charge of an engine who fails to comply with section 4955.32 of the Revised Code is personally liable to a penalty of not less than fifty nor more than one hundred dollars, to be recovered by civil action at the suit of the state in the court of common pleas of a county in which the crossing is located.
The company in whose employ such engineer or person in charge of an engine is, as well as the person himself, is liable in damages to a person or company injured in person or property by such neglect or act of such engineer or person.
Ohio Rev. Code Ann. § 4955.34 (LexisNexis 2013)

***§ 4955.42. Establishment of railroad quiet zones**
(A) A municipal corporation or township may establish within its jurisdiction one or more railroad quiet zones implementing and using one or more supplemental safety measures, through the enactment or adoption, after the effective date of initial regulations adopted pursuant to the "Swift Rail Development Act," Pub. L. No. 103-440, 108 Stat. 4615, 49 U.S.C. 20153, of an ordinance or resolution authorizing each zone and subject to public utilities commission approval under this section.
(B) (1) Following enactment of an ordinance or resolution under division (A) of this section, the municipal corporation or township shall send a detailed written notice by certified mail, return receipt requested, to each railroad operating over a public grade crossing within the quiet zone. The notice shall request the railroad to give a written reply that includes its comments about the quiet zone and details any concerns the railroad has with any aspect of the quiet zone. The notice shall inform the railroad that if the municipal corporation or township does not receive the railroad's written reply within sixty days of the date of delivery of the notice, the municipal corporation or township is permitted to submit its application for approval of the quiet zone to the commission without the railroad's written reply and inform the commission that it provided

the written notice as required by this section but that the railroad did not reply in a timely manner.
(2) The municipal corporation or township then may file with the commission an application for commission approval of the railroad quiet zone authorized pursuant to the ordinance or resolution. The application shall be in such form and contain such information as the commission specifies. All applications also shall include all of the following:
(a) The written reply described in division (B)(1) of this section, if any, from each railroad operating over a public grade crossing located within the quiet zone. If there is a written reply and it contains concerns that the railroad has about any aspect of the quiet zone, the municipal corporation or township shall include a written statement explaining how it will meet those concerns.
(b) A written statement from the federal railroad administration, stating that the agency has no objection to the establishment of the quiet zone;
(c) If a municipal corporation or township makes application under this division and wishes to pay all or part of the cost of the installation or maintenance of supplemental safety measures at a highway grade crossing located within the quiet zone in an adjoining municipal corporation or township, a written statement from the adjoining municipal corporation or township agreeing to that arrangement;
(d) A list of the private grade crossings, if any, that are located within the quiet zone, and a description of how the municipal corporation or township will ensure the safety of those who utilize those private grade crossings if the commission approves the quiet zone.
(3) Any combination of municipal corporations and townships may file a joint application for commission approval of quiet zones within their respective jurisdictions.
(C) Upon the filing of an application under division (B) of this section, the commission shall authorize a limited period for the filing of comments by any party regarding the application. After considering any such comments and only by order issued after the effective date of initial regulations adopted pursuant to the “Swift Rail Development Act,” Pub. L. No. 103-440, 108 Stat. 4615, 49 U.S.C. 20153, the commission may approve the application, approve it with conditions, or reject the application. If the application is complete and otherwise meets all the requirements of this section, the commission shall approve the railroad quiet zone if the commission finds that the supplemental safety measures proposed for each public crossing included in the zone comply with the guidelines for the use and operation of those measures as set forth in Appendix (A) of 49 C.F.R. part 222 and are appropriate and adequate for the crossing. If the commission disapproves all or part of an application as to a particular crossing, the commission's order shall state the findings and reasons for disapproval. Nothing in this section precludes the subsequent filing of a substantially modified application by the municipal corporation or township.
The commission shall reject an application that does not include the documents described in divisions (B)(2)(a), (b), and, if applicable, (B)(2)(c) and (d) of this section. If the application includes a written reply and a written statement described in division (B)(2)(a) of this section, the commission shall reject the application if the commission finds that the statement from the municipal corporation or township does not adequately address the concerns of the railroad contained in the railroad's written reply. If the application includes a statement described in division (B)(2)(d) of this section, the commission shall reject the application if the commission finds that the application does not adequately address the issue of the safety of those persons who

will utilize the private grade crossings located within the quiet zone if the commission approves its creation.
Ohio Rev. Code Ann. § 4955.42 (LexisNexis 2013)

***§ 4955.43. Notice prior to operation of quiet zone; order prohibiting sounding of audible warning device**

(A) At least ninety days prior to the date of first operation of a railroad quiet zone established pursuant to section 4955.42 of the Revised Code, the municipal corporation or township shall provide detailed, written notice of the established zone by certified mail, return receipt requested, to each railroad operating over a public grade crossing included in the zone, the highway or traffic control authority or law enforcement authority having responsibility for control of vehicular traffic at the crossings, the public utilities commission, the director of public safety, and the associate administrator for safety for the federal railroad administration.
(B) For each railroad quiet zone established pursuant to section 4955.42 of the Revised Code, the commission shall issue an order expressly prohibiting any engineer or other person in charge of a locomotive from sounding any locomotive whistle, horn, bell, or other audible warning device within the distance of each public crossing in the zone, as that distance is designated in the order of the commission.
Ohio Rev. Code Ann. § 4955.43 (LexisNexis 2013)

§ 4999.04. Duties of engineer

(A) No person in charge of a locomotive shall do the following:
(1) Fail to bring the locomotive to a full stop at least two hundred feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear;
(2) When approaching a grade crossing, fail to sound the locomotive whistle at frequent intervals, beginning no less than thirteen hundred twenty feet from such crossing and continuing until the locomotive has passed the crossing.
(B) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this section causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree.
Ohio Rev. Code Ann. § 4999.04 (LexisNexis 2013)

Oklahoma

§ 126. Bells and whistles

A bell of at least thirty (30) pounds weight, or a whistle, shall be placed on each locomotive engine, and shall be rung or whistled at the distance of at least eighty (80) rods from the place where the railroad shall cross any other road or street, under a penalty of Fifty Dollars ($ 50.00) for every neglect, to be paid by the corporation owning the railroad, one-half thereof to go to the informer, and the other half to the state, and shall also be liable for all damages which shall be sustained by any person by reason of such neglect.
Okla. Stat. tit. 66, § 126 (2012)

§21-1253. Failure to ring bell of locomotive.

Every person in charge, as engineer of a locomotive engine, who omits to cause a bell to ring or a steam whistle to sound at the distance of at least eighty (80) rods from the place where the track crosses, on the same level, any traveled public way, is punishable by a fine not exceeding Fifty Dollars ($50.00), or by imprisonment in the county jail not exceeding sixty (60) days.

Okla. Stat. tit. 21, § 1253 (2012)

Oregon

***824.208 Authority to fix speeds and regulate sounding of train warning devices at crossings.**
(1) The power to fix and regulate the speed of railway trains and to regulate the sounding of railway train warning devices at public railroad-highway crossings is vested exclusively in the state.
(2) Upon petition of any public authority in interest or of any railroad or upon the Department of Transportation's own motion, the Department of Transportation shall, after due investigation and hearing, unless a hearing is not required under ORS 824.214 enter an order fixing and regulating the speed of railway trains or regulating the sounding of railway train warning devices.
Or. Rev. Stat. § 824.208 (2011) Excerpt from applicable section of statute published.

Pennsylvania

No applicable statute related to this topic

Rhode Island

§ 39-8-14. Warning bells
Every railroad corporation shall cause a bell of at least thirty-two (32) pounds in weight to be placed on each locomotive engine passing upon its road, and the bell shall be rung at a distance of at least eighty (80) rods from the place where the railroad crosses any turnpike, highway, or public way upon the same grade with the railroad, and shall be kept ringing until the engine has crossed the turnpike or road. No car or carriage for the transportation of passengers or freight over any railroad in this state shall be propelled across any highway, after the locomotive has been detached therefrom, unless a bell is rung or a whistle sounded at the crossing during the whole time the train is crossing the highway.
R.I. Gen. Laws § 39-8-14 (2012)

§ 39-8-15. Failure to erect signs or ring bell
Every railroad corporation which shall neglect or refuse to comply with the provisions of §§ 39-8-13 and39-8-14 shall be fined not exceeding one thousand dollars ($ 1,000); and the corporation shall be liable for all damages sustained by any person by reason of neglect or refusal on the part of the corporation.
R.I. Gen. Laws § 39-8-15 (2012)

South Carolina

§ 58-15-910. Bell and whistle shall be installed on locomotives and sounded at crossings.
A bell of at least thirty pounds' weight and a steam or air whistle shall be placed on each locomotive engine or interurban car and such bell shall be rung or such whistle sounded by the engineer, fireman or motorman at the distance of at least five hundred yards from the place where the railroad crosses any public highway, street or traveled place and be kept ringing or whistling until the engine or interurban car has crossed such highway, street or traveled place. If such engine or car shall be at a standstill within less distance than one hundred rods of such crossing such bell shall be rung or such whistle sounded for at least thirty seconds before such engine or interurban car shall be moved and shall be kept ringing or sounding until such engine or interurban car shall have crossed such public highway or street or traveled place. A gong of

not less than ten inches in diameter may be placed upon interurban cars in lieu of a bell as herein required and shall be sounded as herein provided.
S.C. Code Ann. § 58-15-910 (2011)

South Dakota

No applicable statute related to this topic

Tennessee

65-12-108. Precautions required for prevention of accidents.
In order to prevent accidents upon railroads, the following precautions shall be observed:
(1) The officials having jurisdiction over every public road crossed by a railroad shall place at each crossing a sign, marked as provided by § 65-11-105. The county legislative body shall appropriate money to defray the expenses of the signs. The failure of any engine driver to blow the whistle or ring the bell at any public crossing so designated by either the railroad company or the public official shall constitute negligence with the effect and all as set forth in § 65-12-109;
(2) On approaching every crossing so distinguished, the whistle or bell of the locomotive shall be sounded at the distance of one fourth (1/4) of a mile from the crossing, and at short intervals until the train has passed the crossing;
(3) Every railroad company shall keep the engineer, fireman, or some other person upon the locomotive, always upon the lookout ahead; and when any person, animal, or other obstruction appears upon the road, the alarm whistle shall be sounded, the brakes put down, and every possible means employed to stop the train and prevent an accident; and
(4) It is unlawful for any person operating a railroad to use road engines without having them equipped with an electric light placed on the rear of the engine, tank, or tender, which light shall be a bull's eye lens of not less than four inches (4") in diameter with a bulb of not less than sixty (60) watts power, so that such road engine can be operated with safety when backing and the light so placed shall be burning while any such engine may be used in any backing movement. Such lights shall be operated at night; and any person violating any of these provisions shall be fined the sum of not less than twenty-five dollars ($25.00), and not more than one hundred dollars ($100), for each offense.
Tenn. Code Ann. § 65-12-108 (2012)

65-12-109. Violation of § 65-12-108 is negligence per se.
A violation of any of the provisions of § 65-12-108 by any railroad company constitutes negligence per se and in the trial of any causes involving § 65-12-108, the burden of proof, the issue of proximate cause, and the issue of contributory negligence shall be tried and be applied in the same manner and with the same effect as in the trial of other negligence actions under the common law in Tennessee.
Tenn. Code Ann. § 65-12-109 (2012)

65-12-114. Standard of care required when livestock on tracks.
Whenever livestock appears on the tracks as an obstruction ahead of a railroad train, it shall be the duty of the engineer, or the person in charge of the operation of the train, to blow the alarm whistle and apply the brakes, in order to prevent, if reasonably possible, the striking of the livestock.
Tenn. Code Ann. § 65-12-114 (2012)

Texas

§ 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.
Tex. Transp. Code Ann. § 471.006 (2012)

Utah

§ 56-1-14. Procedures at grade crossings

Every locomotive shall be provided with a bell which shall be rung continuously from a point not less than eighty rods from any city or town street or public highway grade crossing until such city or town street or public highway grade crossing shall be crossed, but, except in towns and at terminal points, the sounding of the locomotive whistle or siren at least one-fourth of a mile before reaching any such grade crossing shall be deemed equivalent to ringing the bell as aforesaid; during the prevalence of fogs, snow and dust storms, the locomotive whistle shall be sounded before each street crossing while passing through cities and towns. All locomotives with or without trains before crossing the main track at grade of any other railroad must come to a full stop at a distance not exceeding 400 feet from the crossing, and must not proceed until the way is known to be clear; two blasts of the whistle or two sounds of the siren shall be sounded at the moment of starting; provided, that whenever interlocking signal apparatus and derailing switches or any other crossing protective device approved by the Department of Transportation is adopted such stop shall not be required.
Provided, that local authorities in their respective jurisdiction may by ordinance approved by the Department of Transportation provide more restricted sounding of bells or whistles or sirens than is provided herein and may prescribe points different from those herein set forth at which such signals shall be given and may further restrict such ringing of bells or sounding of whistles or sirens so as to provide for either the ringing of a bell or the sounding of a whistle or of a siren or the elimination of the sounding of such bells or whistles or sirens or either of them, except in case of emergency.
The term locomotive as used herein shall mean every self-propelled steam engine, electrically propelled interurban car and so-called diesel operated locomotive.
Every person in charge of a locomotive violating the provisions of this section is guilty of a misdemeanor, and the railroad company shall be liable for all damages which any person may sustain by reason of such violation.

Utah Code Ann. § 56-1-14 (2012)

Vermont

§ 3582. Crossings; use of audible warning device

(a) An audible warning device meeting standards prescribed by the Federal Railroad Administration shall be sounded sufficiently in advance of each public highway grade crossing to give warning of a train's approach and shall be kept sounding until the train has crossed the highway.

(b) Notwithstanding subsection (a) of this section, the agency, following the procedures set forth in 3 V.S.A. chapter 25, may prohibit the sounding of audible warning devices at public and private grade crossings equipped with the following safety features or other safety features of similar effect:

(1) Flashing lights in each direction which are automatically activated by approaching trains.

(2) Two gates, one on each side of the crossing, both of which are automatically lowered by the approaching train and both extended across approximately half the width of the lanes of traffic so that the entire width of the lanes of traffic is blocked when the gates are lowered.

(3) A bell that is automatically activated by the approaching train.

(4) Overhead street lights.

(5) Signs posted before the crossing in each direction warning motorists and pedestrians of the crossing ahead.

(6) Posted speed limits for traffic of not more than 40 miles per hour.

(7) Not more than two lanes of vehicular traffic in each direction at the crossing.

(c) No prohibition by the agency under subsection (b) of this section shall become effective until the Federal Railroad Administration grants a waiver or exemption under 49 U.S.C. § 20153. The agency shall promptly notify all affected railroads when a waiver or exemption is granted.

(d) A railroad operating a train over a crossing at which the agency has prohibited the sounding of audible warning devices shall not, on the basis of its omission to sound an audible warning device, be liable to any person for death, personal injury or property damage resulting from use of the crossing.

(e) Nothing in this section shall prohibit a railroad's use of an audible warning device in emergency circumstances.

Vt. Stat. Ann. tit. 5, § 3582 (2013)

Virginia

§ 56-414. Bell and whistle or horn; when sounded

Every railroad company shall provide each locomotive passing upon its road with a bell of ordinary size and steam whistle or horn, and such whistle or horn shall be sharply sounded outside cities and towns at least twice at a distance of not less than 300 yards nor more than 600 yards from the place where the railroad crosses upon the same level any public highway or crossing, and such bell shall be rung or whistle or horn sounded continuously or alternately until the locomotive has reached such highway crossing, and shall give such signals in cities and towns as their local governing bodies may require.

The governing body of any county, city, or town may by ordinance require locomotives to sound their whistle upon approaching designated railroad trestles or bridges having lengths of 100 feet or more. Notice of any such requirement shall be given by registered mail to the registered agent of the railroad operating in the affected county, city, or town. Affected railroads shall comply with any such ordinance within 30 days of receiving the notice.

The governing body of any county, city, or town may, by ordinance adopted following a public hearing, petition the State Corporation Commission to enter an order, pursuant to the Commission's Rules of Practice and Procedure, requiring locomotives to sound their whistle or horn at specifically identified private crossings in the same manner as required for public crossings. If the Commission should deem the blowing of the locomotive whistle at such private crossings to be necessary in the interest of safety under all relevant circumstances, then it shall enter an order. The affected railroad shall comply with the order within 90 days of receipt by its registered agent of notice sent by registered mail and the locality must first install stop signs on both sides of such private crossing, to be paid for by the locality or the landowner. The Commission may establish and collect a fee, not to exceed its actual costs, from applicants for an order to sound locomotive whistles pursuant to this section.
Va. Code Ann. § 56-414 (2012)

§ 56-415. Penalty for violation of § 56-414
Every officer or employee of any railway company, whose duty it shall be to carry out any of the provisions of § 56-414 and shall fail to do so, shall be punished by a fine not exceeding ten dollars for each offense.
Va. Code Ann. § 56-415 (2012)

§ 56-416 Effect of failure to give statutory signals
If the employees in charge of any railroad engine or train fail to give the signals required by law on approaching a grade crossing of a public highway not protected with an automatically operating gate, operating wigwag signal or other operating electrical or operating automatic crossing protection device, the fact that a traveler on such highway failed to exercise due care in approaching such crossing shall not bar recovery for an injury to or death of such traveler, nor for an injury to or the destruction of property in his charge, where such injury, death, or destruction results from a collision on such crossing between such engine or train and such traveler or the property in his charge, respectively; but the failure of the traveler to exercise such care may be considered in mitigation of damages.
Va. Code Ann. § 56-416 (2012)

Washington

No applicable statute related to this topic

West Virginia

§ 31-2-8. Warning of approach of train at crossings; crossing railroad tracks.
A bell or steam whistle shall be placed on each locomotive engine, which shall be rung or whistled by the engineer or fireman, at a distance of at least sixty rods from the place where the railroad crosses any public street or highway, and be kept ringing or whistling for a time sufficient to give due notice of the approach of such train before such street or highway is reached, and any failure so to do is a misdemeanor punishable by a fine of not exceeding one hundred dollars; and the corporation owning or operating the railroad shall be liable to any party injured for all damages sustained by reason of such neglect. When the tracks, other than switch or sidetracks, of two railroads cross each other, or in any way connect at a common grade, thecrossing shall be made and kept in repair, and watchmen maintained thereat at the joint expense of the companies owning the tracks; all trains or engines passing over such tracks shall come to a full stop not nearer than two hundred feet nor farther than eight hundred feet from the

crossing and shall not cross until signaled so to do by the watchman, nor until the way is clear; and when two passenger or freight trains approach the crossing at the same time, the train on the road first built shall have precedence if the tracks are both main tracks over which all passengers and freights on the roads are transported; but if only one track is such main track, and the other is a side or depot track, the train on the main track shall have precedence; and if one of the trains is a passenger train and the other a freight train, the former shall take precedence; and regular trains on time shall take precedence over trains of the same grade not on time, and engines with cars attached not on time shall take precedence over engines without cars not on time: Provided, That if such two railroads crossing each other, or in any way connecting at a common grade, by works or fixtures to be erected by them render it safe to pass over such crossing without stopping, and such works and fixtures first be approved by the Public Service Commission of West Virginia and the plan thereof for such crossing designating the plan of crossing has been filed with said commission and approved by it, the provisions of this section relating to railroad crossings shall not apply.
W. Va. Code Ann. § 31-2-8 (2012)

Wisconsin

192.15. Engine equipment.
(11) Engines shall be equipped with whistles or horns mounted to face the direction in which the engine is moving and placed to emit a warning sound at a sound level which accords with established practices to warn employees and the public of the engines approach.
Wis. Stat. § 192.15(11) (2012)

192.29. Train bells and crossing signs at street and highway crossings.
(3) BELL TO RING, MUNICIPAL AUTHORITY.
(a) No railroad train or locomotive shall run over any public traveled grade crossing within any city or village, except where gates are operated, or a flagman is stationed, unless the engine bell shall be rung continuously within 330 feet of the crossing and until the crossing is reached.
(4) HIGHWAYS; BELL.
No railroad train or locomotive shall run over any public traveled grade highway crossing outside of the limits of municipalities unless the engine bell shall be rung continuously from 1,320 feet before the crossing until the crossing is reached. But the office may order that the ringing of the bell as required by this subsection shall be omitted at any crossing.
Wis. Stat. § 192.29(3a)(4) (2012) Excerpt from applicable statute published.

192.54. General penalty for this chapter.

If any railroad corporation, its officers, agents or servants violate or fail to comply with any provision of this chapter the corporation shall, for every violation or failure, unless some other penalty is specifically provided, forfeit not less than 10 nor more than 1,000, and be liable to the person injured for all damages sustained thereby.
Wis. Stat. § 192.54 (2012) Excerpt from applicable statute published.

Wyoming

No applicable statute related to this topic

Chapter 6: Warning Devices – Active

CHAPTER OVERVIEW

This chapter surveys the various state laws and regulations concerning active warning devices. Not all states have laws or regulations covering these devices. For purposes of this chapter, "active warning devices" means those warning devices located at highway-rail grade crossings that are activated automatically upon the approach of a train.

Alabama

No applicable statute related to this topic.

Alaska

17 AAC 15.481. Railroad accommodation policy
(e) The department will, in its discretion, require railroad crossing signals which indicate the approach or presence of trains to be installed at those railroad crossings where there is a need for protection beyond that provided by signs. On multiple-lane highways, cantilever-mounted signals will, in the discretion of the department, be required. For railroad crossings at highway intersections, additional signal-light units may be used to supplement the normal complement of lights. At crossings where multiple train movements may occur simultaneously or at crossings in congested urban areas, the use of gates will, in the discretion of the department, be required.
(h) All railroad signs and signals must conform to the requirements of the Alaska Traffic Manual, 2005, described in 17 AAC 20.950(1), and adopted by reference, or the special provisions of a railroad permit issued under 17 AAC 15.471 relating to vertical clearances of signs and signals over highways or other highway-related facilities such as bike paths, pathways, and sidewalks.
Alaska Admin. Code tit. 17, §15.481(e)(h) (2012) Excerpt from applicable statute published.

Arizona

§ 40-336. Power of commission to require safety devices
The commission may by order, rule or regulation, require every public service corporation to maintain and operate its line, plant, system, equipment, and premises in a manner which will promote and safeguard the health and safety of its employees, passengers, customers and the public, and may prescribe the installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signalling, establish uniform or other standards of equipment, and require the performance of any other act which health or safety requires.
Ariz. Rev. Stat. § 40-336 (2012)

§ 40-337.01. Installation of automatic warning devices; agreements for sharing cost; apportionment of cost
A. The commission may determine, after a public hearing, whether any particular crossing of a railroad and a public highway or street is sufficiently hazardous as to require the installation of

automatic warning signals or devices at such crossing, provided, that a public hearing shall not be required if the parties in interest have entered into an agreement for the construction of such crossing and for the apportionment between them of the cost of acquiring and installing such automatic warning signals or devices and provided further such agreement assesses the cost at not to exceed the amounts prescribed in subsection B.

B. If the commission finds that any crossing requires the installation of automatic warning signals or devices, it shall order such installation, and if the parties in interest are unable to agree upon the apportionment of the cost of acquisition and installation, then the cost shall be borne as follows:

1. The railroad, fifty per cent.
2. Where a city street is involved: the city, fifty per cent.
3. Where a county highway is involved: the county, fifty per cent.
4. When a state highway is involved: the state highway fund, fifty per cent.
5. City, county or state highway funds may be used to finance the cost of installation of automatic warning signals or devices in amounts greater than those set forth in this subsection, provided that federal funds are available for and are actually reimbursed to the city, county or state highway to cover the cost of the installation.

C. When a railroad has installed automatic signals or warning devices pursuant to order of the commission, it shall secure reimbursement for that portion of the cost thereof which, in accordance with the agreement of the parties in interest or the provisions hereof, is to be borne by others, by filing verified claims with the appropriate fiscal officers, and such claims shall be approved and paid without reference to or limitation by the provisions of any other law. For the purpose of determining the amount of reimbursement to which the railroad is entitled, the commission shall retain jurisdiction of the matter and upon completion of the installation of the automatic signals and warning devices, shall make a determination as to the cost of installing same, including but not limited to, the cost of acquisition and expense of installation.

Ariz. Rev. Stat. § 40-337.01 (2012)

§ 40-337.02 Allocation of funds for automatic warning signals at railway crossings

A. In each annual budget request prepared by the corporation commission, ten per cent, but not more than two hundred thousand dollars, of the total amount approved for the same year by the federal highway administration for railroad-highway projects within this state under the provisions of the federal highway acts of 1973 and 1976, and subsequent acts, shall be set aside from the general or any other fund for the installation of automatic warning signals or devices or the upgrading of existing warning signals or devices at public railroad grade crossings. Such appropriation shall be used exclusively for the ten per cent required under the federal highway acts of 1973 and 1976, and subsequent acts, for railroad-highway projects approved for federal funding in any year under such acts.

B. Funds appropriated pursuant to this section shall be available for allocation and expenditure without regard to fiscal years.

C. Funds appropriated pursuant to this section shall be in addition to any funds appropriated for the purposes of section 40-337.01.

D. The corporation commission shall in its request for such funds, provide a full report of accomplishments for the previous year and an accounting of all funds not utilized from previous appropriations.

Ariz. Rev. Stat. § 40-337.02 (2012)

§ 40-337.03. Determination of location of automatic warning signals

On or before February 15 of each year, the commission shall submit to the railroad involved and the city, county and department of transportation in which jurisdiction a public railroad grade crossing is located, an array of such crossings where the installation of automatic warning signals or devices should be considered during the year, or within a reasonable time thereafter depending upon the availability of monies, materials, labor and other factors involved in such installation.
Ariz. Rev. Stat. § 40-337.03 (2012)

Arkansas
No applicable statute related to this topic

California

***Pub Util Code § 768. Authority to direct use of safety devices**
The commission may, after a hearing, require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. The commission may prescribe, among other things, the installation, use, maintenance, and operation of appropriate safety or other devices or appliances, including interlocking and other protective devices at grade crossings or junctions and block or other systems of signaling. The commission may establish uniform or other standards of construction and equipment, and require the performance of any other act which the health or safety of its employees, passengers, customers, or the public may demand. The Department of the California Highway Patrol shall have the primary responsibility for the regulation of the safety of operation of passenger stage corporations. The commission shall cooperate with the Department of the California Highway Patrol to ensure safe operation of these carriers.
Cal. Pub. Util. Code § 768 (Deering 2012)

***Pub Util Code § 1201.1. Uniform standards for traffic enforcement at railroad crossing**
The commission, in consultation with the Department of Transportation, shall adopt rules and regulations prescribing uniform standards regarding the time after the warning signal begins at a railroad crossing at which traffic enforcement shall begin, after public hearings and consultation with transit districts or transportation commissions and multicounty rail transit entities established under Division 12 (commencing with Section 130000), that provide rail transportation.
Cal. Pub. Util. Code § 1201.1 (Deering 2012)

Pub Util Code § 1202.2. Apportionment of cost of automatic grade-crossing protection; Liability of cities and counties; Agreements between corporations and public agencies; Payment from state fund
In apportioning the cost of maintenance of automatic grade-crossing protection constructed or altered after October 1, 1965 under Section 1202, as between the railroad or street railroad corporations and the public agencies affected, the commission shall divide such maintenance cost in the same proportion as the cost of constructing such automatic grade-crossing protection is divided. The liability of cities, counties and cities and counties to pay the share of maintenance costs assigned to such local agencies by the commission shall be limited to funds set aside for allocation to the commission pursuant to Section 1231.1. The railroad or street railroad corporations and the public agencies affected may agree on a different division of maintenance costs. If the public agency affected agrees to assume a greater proportion of the cost of

maintenance than the apportionment of the cost of construction, the difference shall be paid by the public agency from funds other than the State Highway Fund or any other state fund.
Cal. Pub. Util. Code § 1202.2 (Deering 2012)

***Pub Util Code § 1202.7. Reuse of signal equipment**
Whenever existing automatic grade-crossing safety signal equipment that was installed within the previous 10 years is planned for removal due to upgrade or closure projects undertaken pursuant to Section 130 of Title 23 of the United States Code, and the commission determines that it will meet the same performance criteria and inspection standards as new equipment and therefore be safe to use, the signal equipment shall be made available to the following:
(a) With the consent of the participating railroad, to a state agency designated by the commission, for storage and potential use at a railroad crossing currently nominated by the commission for funding to eliminate hazards of railway-highway crossings pursuant to Section 130 of Title 23 of the United States Code.
(b) To other railroads for use at other railway-highway crossings within the state.
Cal. Pub. Util. Code § 1202.7 (Deering 2012)

Colorado

32-1-1004. Metropolitan districts - additional powers and duties
(1) In addition to the powers specified in section 32-1-1001, the board of any metropolitan district has the following powers for and on behalf of such district:
(b) To erect and maintain, in providing safety protection services, traffic and safety controls and devices on streets and highways and at railroad crossings and to enter into agreements with the county or counties in which a metropolitan district is situate or with adjoining counties, the department of transportation, or railroad companies for the erection of such safety controls and devices and for the construction of underpasses or overpasses at railroad crossings;
d) Safety protection through traffic and safety controls and devices on streets and highways and at railroad crossings;
Colo. Rev. Stat. § 32-1-1004 (2012) Excerpt from applicable statute published.

40-29-116. Highway-rail crossing signalization fund created - annual appropriation
(1) The highway-rail crossing signalization fund is hereby created in the state treasury, in order to promote the public safety and to provide for the payment of the costs of installing, reconstructing, and improving automatic and other safety appliance signals or devices at crossings at grade of public highways or roads over the tracks of any railroad or street railway corporation in this state. None of the moneys in the highway-rail crossing signalization fund shall be used to pay any part of the cost of the installation, reconstruction, or improvement of any such signals or devices at any crossing when any part of such cost will be paid from moneys available under any federal or federal-aid highway act.
(2) Subject to annual appropriation by the general assembly, the sum of two hundred forty thousand dollars shall be paid from the general fund and credited to the highway-rail crossing signalization fund. Notwithstanding section 24-36-114 (1), C.R.S., any interest earned on the deposit and investment of moneys in the highway-rail crossing signalization fund shall remain in the fund and shall not be credited or transferred to the general fund or any other fund. Such earned interest moneys are hereby continuously appropriated to the public utilities commission for use for the purposes of the highway-rail crossing signalization fund.
Colo. Rev. Stat. § 40-29-116 (2012)

Connecticut

Sec. 13b-343. (Formerly Sec. 16-159). Gates, flagmen and signals at grade crossings. Forfeiture. Notice and hearing re reactivation of railroad line.

The Commissioner of Transportation, when requested in writing by the selectmen of any town, the mayor and common council of any city or the warden and burgesses of any borough to order gates, a flagman or electric signals or other signal device to be installed and maintained at any railroad crossing where a railroad crosses a public highway at grade within such town, city or borough, shall hold a hearing thereon or may, of his own motion, hold such hearing, first giving the town, city or borough wherein the crossing is located, and the company operating the railroad, reasonable notice thereof. If the commissioner upon such hearing finds that public safety requires it, the commissioner shall order such company to install and maintain, at such crossing, gates, a flagman or such electric signals or other signal device as may be approved by the commissioner, or to do any other act deemed necessary for the protection of the public. The commissioner may rescind, alter or amend any such order, whenever the commissioner deems it necessary, upon first giving the municipality wherein the crossing is located and the railroad company an opportunity to be heard thereon. If any such company fails to comply with any order of the commissioner made pursuant to this section, it shall forfeit to the state fifty dollars for each day of such failure. The commissioner shall notify state and municipal elected officials of affected towns of the reactivation of any railroad line not later than forty-five days from notification to the Department of Transportation, by the railroad, of such reactivation. The commissioner, or the commissioner's designee, shall determine if a public hearing on the safety of rail crossings is required on the reactivated railroad line, provided, if a state or municipal official requests a public hearing, the commissioner shall hold a public hearing. Any such hearing shall be scheduled not later than ninety days prior to the reactivation of such railroad line. Any comments or recommendations on railroad safety that are provided to the public hearing officer during the public hearing shall be reviewed and incorporated, as deemed appropriate by the commissioner, to address concerns raised at the hearing.
Conn. Gen. Stat. § 13b-343(2012)

Sec. 13b-344. (Formerly Sec. 16-160). Signs at grade crossings. Notification of locations of railroad crossings. Local police or firemen to direct traffic at crossings with malfunctioning gates or signals.

(a) Each town, city or borough shall place, inspect and maintain warning signs and pavement markings consisting of stop lines and advance warning markings on each highway approaching a crossing at grade of such highway and the tracks of any railroad within the respective limits of such town, city or borough. Such signs shall be furnished by the railroad company crossing such highway. Such signs and pavement markings shall conform with the Federal Highway Administration's Manual on Uniform Traffic Control Devices and shall be placed in a manner that conforms with said manual. If in the case of any such crossing it appears that the placing of the signs prescribed by this section is impracticable or unnecessary, the Commissioner of Transportation may release such municipality from the obligation of placing and maintaining such signs on the highway near such crossing. The Department of Transportation shall annually notify in writing the appropriate town, city or borough of the location of all railroad crossings within the respective limits of such town, city or borough and the obligations of such town, city or borough under the provisions of this subsection.
(b) Each town, city or borough, upon receipt of a report of a malfunctioning grade crossing gate or signal shall dispatch local police or firemen to the crossing who shall, upon consultation with

the railroad company crossing such highway, either direct traffic across the crossing or to an alternate route until such time as the railroad company crossing such highway repairs the gate or signal or assumes responsibility for directing traffic.
Conn. Gen. Stat. § 13b-344(2012)

Delaware

No applicable statute related to this topic

District of Columbia

24-120. Railroads and Railroad Crossings.
120.5 If, in the opinion of the Mayor, the volume of pedestrian or vehicular traffic at any intersection at grade is sufficient to justify additional safeguards, the intersection shall, if ordered by the Mayor, be guarded also by a standard railway cross-arm warning sign, gate, electric bells, electric automatic flashing red signal lights, or other appliance, or combination of appliances, to be approved by the Mayor. The safeguarding appliances shall be constructed, operated, and maintained by and at the cost of the company operating the railway.
D.C. Mun. Regs. tit. 24, § 120 (2013)

Florida

§ 316.171. Traffic control devices at railroad-highway grade crossings
Every railroad company operating or leasing any track intersecting a public road at grade and upon which railroad trains are operated shall erect traffic control devices that are necessary to conform with the requirements of the uniform system of traffic control devices adopted pursuant to s. 316.0745. This section does not require the railroad company to erect those devices, such as pavement markings and advance warning signs, which are the responsibility of the governmental entity having jurisdiction over or maintenance responsibility for the public road. Any change in the design of a traffic control device in the uniform system of traffic control devices applies only at new installations and at locations where replacements of existing devices are being made.
Fla. Stat. Ann. § 316.171 (2013)

Georgia

§ 32-6-200. Installation of protective devices at grade crossings
(a) Whenever, in the judgment of the department in respect to the state highway system, a county in respect to its county road system, or a municipality in respect to its municipal street system, such protection is reasonably necessary for the safety of the traveling public, the department or the county or the municipality may order the protection of a grade crossing by the installation of protective devices. Prompt notice of such order shall be given to the railroad or railroads involved; and within 30 days thereafter the representatives of the department, the county, or the municipality and of the railroad or railroads involved shall meet and, within 90 days, agree to a plan and specifications for the acquisition and installation of protective devices. If an agreement is not reached within 90 days, the department, the county, or the municipality may order the railroad company or companies involved to proceed with the acquisition and installation of protective devices, as indicated in the plan and specifications accompanying its order. However, no work leading to the installation of protective devices at a grade crossing on a county or municipal public road system shall commence until and unless the plan and specifications for such device are approved by the department. It shall be the duty of the railroad or railroads to

proceed with acquisition and installation of protective devices within 60 days after receipt of an order to that effect and to complete such acquisition and installation within six months thereafter.
(b) (1) The expense of acquiring and installing a protective device shall be shared between:
(A) The department and the railroad involved, in such portions as may be determined by the negotiation procedures set forth in subsection (b) of Code Section 32-6-195, including consideration of all pertinent factors included in said subsection to be weighed in determining a reasonable division of costs and including the right of the department after a hearing to make the determination of the fair and reasonable costs to be shared by the railroad in the event that agreement as to such division of costs cannot be reached; and
(B) The county or municipality and the railroad involved, equally.
However, if such device shall be required as a result of a new road being constructed over an existing railroad, 100 percent of such cost shall be the responsibility of the department, county, or municipality involved; and, if such device shall be required as the result of a new railroad, 100 percent of such cost shall be the responsibility of the railroad.
(2) As used in this subsection, the term "expense of acquiring and installing a protective device" means:
(A) In the case of a protective device for part of a county road or municipal street system, the total cost of such project less the sum of any funds for such project furnished by the federal and state governments; and
(B) In the case of a protective device for part of the state highway system, the total cost of such project less any funds furnished by the federal government.
(3) The railroad or railroads shall maintain all protective devices at its or their own expense; and nothing in this subsection shall be construed to impose any public liability on the department or any county or municipality in any manner regarding such devices. However, nothing in this subsection shall prevent an agreement between the railroad or railroads and an industry or industries, which agreement assesses the cost of construction or maintenance of such devices against the industry or industries to be served by such track.
(c) In any case where the protective devices are acquired and installed by agreement or by order of the department, a county, or a municipality, a statement of such public agency's share of the costs of the project, as determined by such agreement or pursuant to subsection (b) of this Code section, shall be submitted by the railroad involved to the public agency involved upon completion of the project and upon nonpayment may be collected as provided by law.
(d) (1) As used in this subsection, the term "active warning devices" means automated control gates, lights, and warning bells, used singly or in any combination.
(2) Each local school district in this state shall survey its established school bus routes annually and submit to the Department of Transportation a list identifying each rail crossing that does not have active warning devices on an established bus route. Each local school district shall be required to submit this information to the department each year by no later than September 1.
(3) Each local school district shall exercise best efforts to minimize the number of established school bus routes that cross rail crossings that do not have active warning devices.
(4) The department shall use the information about school bus routes as an important factor in selecting rail crossings to upgrade with active warning devices.
Ga. Code Ann. § 32-6-200

Hawaii

No applicable statute related to this topic

Idaho

§ 62-304A. Creation of railroad grade crossing protection fund

In order to promote the public safety at railroad grade crossings and public streets, roads or highways and to provide for the payment of all or part of the costs of installing, reconstructing, maintaining or improving automatic or other safety appliances, signals or devices at railroad grade crossings of public streets, roads or highways over the tracks of any railroad company or companies, or to support public education and safety programs which promote awareness of public safety at railroad grade crossings of public streets, roads or highways, there is hereby created in the dedicated fund in the state treasury a fund to be known as the railroad grade crossing protection fund.

Idaho Code Ann.§ 62-304A (2012)

§ 62-304D. Establishing priorities for hazardous railroad locations -- Accident reports to be filed with Idaho transportation department

In its administration of the railroad grade crossing protection account, the Idaho transportation department shall establish a priority rating for railroad crossings, assigning priority first to the most hazardous railroad crossing locations, giving proper weight to traffic volume over such crossings by school buses and vehicles transporting dangerous commodities and if the Idaho transportation department determines from all of the evidence that public safety does not require installation of protective signals or devices at a crossing under consideration, it may refuse to order the installation of signals or devices or may defer their installation until more hazardous crossings have been protected. Every railroad company shall file with the Idaho transportation department a copy of each report of accident which is filed with the Idaho public utilities commission pursuant to the provisions of section 61-517, Idaho Code, for the Idaho transportation department to consider in making its determination. No part of any report filed with the Idaho transportation department as required in this section, or of any record, or a copy thereof, of any hearing held under the provisions of this act or of the determination provided for in this section and no finding, conclusion or order made by the Idaho transportation department in the administration of this act shall be used as evidence in any trial, civil or criminal, arising out of an accident at or in the vicinity of any crossing prior to installation of signals or other warning devices pursuant to an order of the Idaho transportation department as a result of any such investigation or proceeding.

Idaho Code Ann. § 62-304D (2012)

Illinois

§ 625 ILCS 5/18c-7401. Safety Requirements for Track, Facilities, and Equipment

Sec. 18c-7401. Safety Requirements for Track, Facilities, and Equipment. (1) General Requirements. Each rail carrier shall, consistent with rules, orders, and regulations of the Federal Railroad Administration, construct, maintain, and operate all of its equipment, track, and other property in this State in such a manner as to pose no undue risk to its employees or the person or property of any member of the public.

(2) Adoption of Federal Standards. The track safety standards and accident/incident standards promulgated by the Federal Railroad Administration shall be safety standards of the Commission. The Commission may, in addition, adopt by reference in its regulations other federal railroad safety standards, whether contained in federal statutes or in regulations adopted pursuant to such statutes.

(3) Railroad Crossings.

No railroad may change or modify the warning device system at a railroad-highway grade crossing, including warning systems interconnected with highway traffic control signals, without having first received the approval of the Commission. The Commission shall have the further power, upon application, upon its own motion, or upon complaint and after having made proper investigation, to require the interconnection of grade crossing warning devices with traffic control signals at highway intersections located at or near railroad crossings within the distances described by the State Manual on Uniform Traffic Control Devices adopted pursuant to Section 11-301 of this Code [625 ILCS 5/11-301]. In addition, State and local authorities may not install, remove, modernize, or otherwise modify traffic control signals at a highway intersection that is interconnected or proposed to be interconnected with grade crossing warning devices when the change affects the number, type, or location of traffic control devices on the track approach leg or legs of the intersection or the timing of the railroad preemption sequence of operation until the Commission has approved the installation, removal, modernization, or modification. Commission approval shall be limited to consideration of issues directly affecting the public safety at the railroad-highway grade crossing. The electrical circuit devices, alternate warning devices, and preemption sequences shall conform as nearly as possible, considering the particular characteristics of the crossing and intersection area, to the State manual adopted by the Illinois Department of Transportation pursuant to Section 11-301 of this Code and such federal standards as are made applicable by subsection (2) of this Section. In order to carry out this authority, the Commission shall have the authority to determine the number, type, and location of traffic control devices on the track approach leg or legs of the intersection and the timing of the railroad preemption sequence of operation. The Commission shall prescribe the division of costs for installation and maintenance of all devices required by this paragraph between the railroad or railroads and the highway authority in interest and in instances involving the use of the Grade Crossing Protection Fund or a State highway, the Illinois Department of Transportation.
625 Ill. Comp. Stat. Ann. 5/18c-7401(1)(2)(3) (2012) Excerpt from applicable statute published.

§ 625 ILCS 5/18c-7402.1. Pilot projects; automated audible warning devices.
Sec. 18c-7402.1. Pilot projects; automated audible warning devices. (a) The General Assembly finds and declares that, for the communities of the State that are traversed by railroads, there is a growing need to mitigate train horn noise without compromising the safety of the public. Therefore, after applications are filed and approved by the Commission, the Commission shall authorize pilot projects in the counties of Cook, DuPage, Lake, and Will to test the utility and safety of stationary automated audible warning devices as an alternative to trains having to sound their horns as they approach highway-rail crossings.
(b) In light of the pending proposed ruling by the Federal Railroad Administration on the use of locomotive horns at all highway-rail crossings across the nation, it is in the best interest of the State for the Commission to expedite the pilot projects in order to contribute data to the federal rulemaking process regarding the possible inclusion of stationary automated warning devices in the counties of Cook, DuPage, Lake, and Will as a safety measure option to the proposed federal rule.
(c) The Commission shall adopt rules for implementing the pilot projects in the counties of Cook, DuPage, Lake, and Will.
625 Ill. Comp. Stat. Ann. 5/18c-7402.1 (2012)

<u>Indiana</u>

***8-3-1-21.1. Notice of intent to abandon rights-of-way -- Removal of crossing control devices -- Feasibility for conversion to recreational purposes.**

(a) Upon receiving notice of intent to abandon railroad rights-of-way from any railroad company, the department shall, upon receipt, notify:

(1) the county executives, county surveyors, and cities and towns of the counties affected;

(2) the Indiana economic development corporation;

(3) the office of tourism development; and

(4) the department of natural resources;

of the notice.

(b) Within one (1) year of a final decision of the Interstate Commerce Commission permitting an abandonment of a railroad right-of-way, the railroad shall remove any crossing control device, railroad insignia, and rails on that part of the right-of-way that serves as a public highway and reconstruct that part of the highway so that it conforms to the standards of the contiguous roadway. The Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the highway may restore the crossing if the unit:

(1) adopts construction specifications for the project; and

(2) enters into an agreement with the railroad concerning the project.

The cost of removing any crossing control device, railroad insignia, rails, or ties under this subsection must be paid by the railroad. The cost of reconstructing the highway surface on the right-of-way must be paid by the Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the crossing.

(c) If a railroad fails to comply with subsection (b), the Indiana department of transportation or the county, city, or town department of highways having jurisdiction over the crossing may proceed with the removal and reconstruction work. The cost of the removal and reconstruction shall be documented by the agency performing the work and charged to the railroad. Work by the agency may not proceed until at least sixty (60) days after the railroad is notified in writing of the agency's intention to undertake the work.

(d) This section does not apply to an abandoned railroad right-of-way on which service is to be reinstated or continued.

(e) As used in this section, “crossing control device” means any traffic control device installed by the railroad and described in the National Railroad Association's manual, Train Operations, Control and Signals Committee, Railroad-Highway Grade-Crossing Protection, Bulletin No. 7, as an appropriate traffic control device.

(f) Costs not paid by a railroad under subsection (b) may be added to the railroad's property tax statement of current and delinquent taxes and special assessments under IC 6-1.1-22-8.1.

(g) Whenever the Indiana department of transportation notifies the department of natural resources that a railroad intends to abandon a railroad right-of-way under this section, the department of natural resources shall make a study of the feasibility of converting the right-of-way for recreational purposes. The study must be completed within ninety (90) days after receiving the notice from the Indiana department of transportation. If the department of natural resources finds that recreational use is feasible, the department of natural resources shall urge the appropriate state and local authorities to acquire the right-of-way for recreational purposes.

Ind. Code Ann. § 8-3-1-21.1 (2012)

8-6-7-1. Extra-hazardous grade crossings.

The Indiana department of transportation shall, upon proper petition by:

(1) Five (5) or more citizens of this state; or

(2) A board of county commissioners;
conduct a hearing to declare as dangerous or extra hazardous any grade crossing in this state that the department finds to be of such a character as that the safety of the users of the highway requires the installation of automatic train-activated warning signals or other crossing safety devices. The petition, hearing, and all proceedings must conform with IC 4-21.5.
Ind. Code Ann. § 8-6-7-1 (2012)

8-6-7.7-2. Automatic train-activated warning signals.
The Indiana department of transportation, in authorizing the construction of any new grade crossing under IC 8-6-1-7 and section 3.4 [IC 8-6-7.7-3.4] of this chapter, may order the installation of automatic train-activated warning signals at the crossing. The department may order the installation, replacement, relocation, modernization, or improvement of automatic train-activated warning signals at any grade crossing in the state in existence at the time the department issues such an order. The authority of the department to require the installation of the signals is exclusive and supersedes the power of any other state or local governmental agency.
Ind. Code Ann. § 8-6-7.7-2 (2012)

***8-6-7.7-4. Grade crossing warning signals -- Installation -- Costs -- Time for completion -- Penalty.**
(a) The Indiana department of transportation, whenever it orders the construction, installation, replacement, relocation, modernization, or improvement of automatic train-activated warning signals, may prescribe the division of the costs of the equipment, the installation of the equipment, the construction, and the operation and maintenance of the equipment between the railroad and the public. The share of the costs allocated to the public shall be paid with funds appropriated to the department for such purpose. In allotting the costs, IC 8-23-5-2 applies except as provided in subsections (b) through (c).
(b) Whenever a grade crossing not protected by automatic warning signals is ordered so protected, the department shall prescribe the division of the cost of the equipment, its installation, its operation and maintenance, and its construction between the railroad involved and the public, giving due regard to the net benefits received by the parties, and the causes creating the need for signals at the crossing.
(c) The physical work of constructing, installing, replacing, relocating, modernizing, or improving, and thereafter operating and maintaining automatic warning signals under order of the department shall be performed by the railroad involved. All orders of the department relating to the signals shall provide for allocation among the parties involved for the extraordinary costs of signal repair or replacement if they are damaged or destroyed by accident or external causes.
(d) When the department orders the railroad to proceed with the construction, installation, relocation, modernization, or replacement of automatic signals at a grade crossing, the department shall order the railroad involved to complete the construction, installation, relocation, modernization, or replacement of signals not later than twelve (12) months after the date of the order.
(e) A railroad may request the department for additional time to complete the construction, installation, relocation, modernization, or replacement of signals specified in the department's order under subsection (d). The railroad shall submit the request for additional time in writing to the department. The request shall specifically set forth the basis for the railroad's need for additional time to complete the work. The department's decision to grant or deny a request for additional time is not subject to review under IC 4-21.5.

(f) If the railroad fails to complete the construction, installation, relocation, modernization, or replacement of signals by the date specified:
(1) in the department's order under subsection (d); or
(2) by the department if a request for additional time is granted by the department under subsection (e);
the department may assess a civil penalty against the railroad of not more than one thousand dollars ($1000) for each day the construction, installation, relocation, modernization, or replacement of signals is late.
(g) All civil penalties collected under this section shall be deposited with the treasurer of state to be deposited by the treasurer of state in the railroad grade crossing fund created under IC 8-6-7.7-6.1.
Ind. Code Ann. § 8-6-7.7-4 (2012)

***8-6-7.7-5. Orders of department -- Loans or grants to local units.**
(a) Orders of the Indiana department of transportation relating to automatic train-activated warning signals and to the closing of grade crossings may be issued:
(1) On the department's own initiative;
(2) Upon petition of a governing body or authorized official administering a public highway or street; or
(3) Upon petition of a person or entity operating a railroad.
All procedures shall be prescribed by rules established by the department, which must give regard to the requirements of notice and opportunity to be heard.
(b) Whenever any grade crossing is under consideration by the department for the installation of automatic warning signals, the department shall, in cooperation with other governmental agencies of the state, determine if the installation of signals can be made with the use of federal aid funds. If funds are available, the department's order may provide for the use of the funds and for all necessary compliance with applicable federal statutes and regulations.
(c) The authority vested in the department to order the installation, replacement, relocation, modernization, or improvement of automatic warning signals and the closing of grade crossings does not preclude the signal work or closing being performed by contract between a railroad and the governmental agency controlling the public way. If a mutually agreed upon contract for action has been made, no petition to the department is required, and if a contract is agreed upon after the department has assumed jurisdiction, the department may dismiss the proceeding upon the motion of a party.
(d) For the purpose of expediting railroad grade crossing protection projects that require the obligation of local funds to supplement federal aid funds available for railroad grade crossing protection, the department may make loans or grants to local units from the railroad grade crossing fund created under section 6.1 [IC 8-6-7.7-6.1] of this chapter to provide the money necessary to supplement those federal aid funds. The loans or grants shall be made under terms and conditions established by the department under rules adopted under IC 4-22-2. A local unit may contract with a railroad concerning payment of the money necessary to supplement federal aid funds upon terms and conditions as they may agree.
Ind. Code Ann. § 8-6-7.7-5 (2012)

<u>Iowa</u>

***307.26. Rail and water.**
The department's administrator for rail and water shall:

5. Advise and assist the director in the conduct of research on railroad-highway grade crossings and encourage and develop a safety program in order to reduce injuries or fatalities including, but not limited to, the following:
b. The establishment of standards for warning devices for particularly hazardous crossings or for classes of crossings on highways, which standards are designed to reduce injuries, fatalities and property damage. Such standards shall regulate the use of warning devices and signs which shall be in addition to the requirements of section 327G.2. Implementation of such standards shall be the responsibility of the government agency or department or political subdivision having jurisdiction and control of the highway and such implementation shall be deemed adequate for the purposes of railroad grade crossing protection. The department, or the political subdivision having jurisdiction, may direct the installation of temporary protection while awaiting installation of permanent protection. A railroad crossing shall not be found to be particularly hazardous for any purpose unless the department has determined it to be particularly hazardous.
Iowa Code § 307.26(5B) (2012)

327G.15. Railway and highway crossing at grade.
1. Wherever a railway track crosses or shall hereafter cross a highway, street or alley, the railway corporation owning such track and the department, in the case of primary highways, the board of supervisors of the county in which such 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 and flasher lights or gate arm signals at the crossing and allocation of costs thereof. The department shall become a party to the 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 at the crossing and an unlimited portion of the cost of installing flasher lights or gate arm signals at the crossing may be paid from the gradecrossing safety fund.
2. Notwithstanding other provisions of this section, maintenance of flasher lights or gate signals installed or ordered to be installed before July 1, 1973, shall be assumed wholly by the railroad corporation.
3. a. Payments from the grade crossing safety fund shall be made by the treasurer of state upon certification by the department that the terms of the agreement have been followed.
b. The department shall promulgate rules according to chapter 17A for processing claims to the grade crossing safety funds.
4. The provisions of this section shall not apply to the repair of the grade crossing surface.
Iowa Code § 327G.15 (2012)

***327G.16. Disagreement -- application -- notice.**
If the persons specified in section 327G.15 cannot reach an agreement, either party may make written application to the department requesting resolution of the disagreement. The department shall request the department of inspections and appeals to set a date for hearing. The department of inspections and appeals shall give ten days' written notice of the hearing date.
Iowa Code § 327G.16 (2012)

327G.28. Compulsory establishment.
Whenever in the judgment of the department it is necessary for the public safety, said department may require the establishment of an interlocking system or other safety device at any railroad crossing, junction or drawbridge.
Iowa Code § 327G.28 (2012)

Kansas

***68-414. Improvement of railroad crossings on state highway system; division of cost; safety devices or signals.**
When the secretary of transportation deems it advisable, said railroad company may be required by order of the secretary, to install and maintain suitable safety devices or warning signals at dangerous or obscure crossings to indicate the approach of trains.
Kan. Stat. Ann. § 68-414 (2011) Excerpt from applicable statute published.

Kentucky

189.561. Investigation of certain public grade crossings not equipped with gates -- Results -- Costs.
(1) The cabinet shall investigate any public grade crossing not equipped with gates, with an average daily traffic of four thousand (4,000) or more, at which two (2) or more accidents involving a train and a vehicle traversing thecrossing of a railroad and a highway have occurred in a consecutive five (5) year period, beginning January 1, 1986. The cabinet shall not consider nonfatal accidents caused by mechanical failure of the motor vehicle; accidents in which the operator of the highway motor vehicle was in violation of the provisions of KRS Chapter 189A; or other nonwarning signal related cause as set forth by the cabinet in an administrative regulation. If the cabinet installed active warning devices under its normal crossing safety improvement program since January 1, 1986, the five (5) year period for the determination of accidents shall begin at the time of this installation. The cabinet shall request written comments from the affected local government prior to reaching a decision on a particular crossing. After receiving a report from the affected local government supporting the installation of gates, the cabinet, utilizing matching funds available from the Federal Highway Administration's rail/highway grade crossing safety program, shall program the installation of gates at the crossing. Locations which do not receive a favorable report from the affected local government shall be reconsidered at the time of the next update of the five (5) year accident period.
(2) The cost of installing gates shall be the responsibility of the cabinet and railroad in accordance with KRS 277.065 and shall not be charged to any unit of local government.
Ky. Rev. Stat. Ann. § 189.561 (2012)

189.562. Duty of railroad company when warning device incorrectly remains activated.
If a warning device at a grade crossing is activated, for a period of thirty (30) minutes or more, in the absence of an approaching train, due to track maintenance or train movements in the vicinity, and the railroad company responsible is unable to disengage the warning device, then the company shall position a flagman at the affected intersection.
Ky. Rev. Stat. Ann § 189.562 (2012)

277.170. Flagman or gate at crossing of railroad with highway.
If the Kentucky Transportation Cabinet determines it is in the public interest for a gate to be erected or maintained or a flagman stationed at any highway crossing within one mile of the corporate limits of any city, the cabinet shall give the superintendent or manager of the railroad written notice that a gate or flagman is required. If a gate is required, the notice shall prescribe the time within which the gate shall be erected, the character of gate required, and shall designate the hours during which a man shall be kept in charge of the gate. If a flagman is required, the notice shall designate the hours during which he shall be kept at the crossing. The railroad

company shall comply with the provisions of the notice. The cabinet may authorize the discontinuance of the gate or flagman whenever, in its judgment, the public interest no longer requires it.
Ky. Rev. Stat. Ann § 277.170 (2012)

Louisiana

§ 32:169. Cross buck, stop and warning signs, traffic control devices
E. (1) A railroad company shall install a traffic control device or devices at a public railroad grade crossing pursuant to an agreement with the Department of Transportation and Development. Whenever the department determines that a particular traffic control device needs to be installed at a public highway railroad grade crossing, the railroad company shall cooperate with the department in the installation of such device or devices. In the case of a federally funded grade crossing project, the railroad company shall enter into an agreement with the department for the installation or upgrade of such traffic control device. A railroad company shall not be required to provide the non-federal share of costs involved in federally funded grade crossing improvement projects.
(2) (a) The Department of Transportation and Development, in cooperation with each parish superintendent of transportation, shall identify all public highway railroad grade crossings located on state highways within one-half mile of any public or private elementary or secondary school. The department shall further identify such grade crossings that have active warning devices in place, whether such active warning devices include lights only or lights and cross-arms, and also identify the grade crossings that are scheduled to have active warning devices installed, and the grade crossings that do not have active warning devices in place.
(b) The survey shall be completed no later than February 1, 2003. A report of the survey shall be submitted to the Senate Committee on Transportation, Highways and Public Works and the House Committee on Transportation, Highways and Public Works no later than March 1, 2003. Beginning in 2004, the department shall file an annual report with the committees no later than March first of each year. The report shall contain but not be limited to the following information: the number of grade crossings located within one-half mile of any public or private elementary or secondary school; the number of affected grade crossings that have active warning devices in place; whether such active warning devices include lights only or lights and cross-arms; the number of affected grade crossings scheduled to have active warning devices installed; the expected dates of installation of active warning devices for those affected grade crossings; and the number of affected grade crossings that do not have active warning devices in place.
(c) After all grade crossings located within one-half mile of any public or private elementary or secondary school have been identified and the initial report has been filed, the department shall prioritize the affected gradecrossings according to standards of the industry as set forth in the Railroad Grade Crossing Handbook. The department is authorized to use at least twenty-five percent of all federal or state funds available to the department for grade crossing upgrades to upgrade such affected grade crossings, each year, until all such affected grade crossings have been upgraded with active warning devices, including lights and cross-arms provided that such use complies with all other state and federal laws and regulations.
(3) A railroad company may install a traffic control device or make other improvements or modifications at a railroad grade crossing at its own expense under the following conditions:
(a) When such crossing upgrade, improvement, or modification will improve the safety of the traveling public, train crew members, or train passengers.

(b) When such crossing upgrade, improvement, or modification is needed due to the presence of hazardous conditions or certain operation factors or a combination of both.
(c) When such crossing upgrade, improvement, or modification is incidental to a railroad improvement project relating to track structures or train control systems.
(4) Any upgrade, improvement, or modification performed by a railroad company under the provisions of this Subsection shall comply with all conditions and requirements in the Manual on Uniform Traffic Control Devices.
F. Nothing in this Section shall relieve a railroad company of its responsibility to maintain safe crossings.
G. In any civil action to recover damages arising from or out of a railroad grade crossing accident, the survey and initial or annual reports of railroad grade crossings prepared pursuant to Subsection E of this Section shall not be considered as comparative negligence and shall not be discoverable or admissible as evidence in any civil trial.
La. Rev. Stat. Ann. § 32:169 (2012) Excerpt from applicable statute published.

§ 48:386. Repairs to railway grade crossings and crossing warning devices; responsibility on railroads
A. Whenever a highway crosses a railroad track at grade, and the grade crossing needs repair and should, in the judgment of the chief engineer or his duly authorized representative, be repaired, and if, after fifteen days' notice in writing, the railroad company whose tracks are crossed thereby fails to repair it, the department may make the repairs and maintain the crossing and charge the expenses thereof to the railroad company.
B. Whenever a warning device located at a railroad crossing needs repair or is not being maintained in compliance with federal guidelines and should, in the judgment of the chief engineer or his duly authorized representative, be repaired or receive maintenance, written notice of the necessity of such repair or maintenance shall be given to the railroad company owning the track at which the device is located. If the railroad does not proceed with the repair or maintenance within thirty days after receipt of the notice, the department may initiate the performance of the repair or maintenance of the warning device and charge the expenses thereof to the railroad company.
La. Rev. Stat. Ann § 48:386 (2012)

§ 48:387. Contributions by the Department of Highways to the maintenance of flashing light signals at railroad crossings; conditions
The Department of Transportation and Development may, to the extent that the legislature appropriates funds therefor, make payments to railroads, whose railroad grade crossings across state highways are or shall hereafter be marked by the installation of flashing light signals, for not more than one-half the cost of maintenance of such flashing light signals during the fiscal year for which the funds are appropriated.
La. Rev. Stat. Ann. § 48:387 (2012)

Maine

§ 7221. Automatic signals; expense; definition
The department may require each railroad company operating within this State to install, operate and maintain an automatic signal, gates or other protective device or to require a flagger to be stationed at any highway crossing within this State where, after reasonable notice and hearing, the department decides that public safety requires a signal, gates or other protective device or flagger as a proper measure of protection. Notice and hearing are not required for automatic

grade crossing protection funded and installed under the federal program. The expense of installing, operating and maintaining any signal, gates or other protective device or of providing the flagger must be borne by the corporation operating the railroad passing over the crossing to be protected, except that at crossings located on state and state aid highways the expense of installing the signal, gates or other protective device must be apportioned between the corporation and the State in proportions as the department determines. Wherever the term "signal" or "automatic signal" is used in this chapter, it is construed to be an appliance that gives warning of the approach of a train and that is either audible and visible by day and by night, or audible or visible as determined by the department.
Me. Rev. Stat. Ann. tit. 23, § 7221 (2012)

***§ 7308. Safety provisions**
10. AUTOMATIC SIGNALS; EXEMPTIONS. The Commissioner of Transportation may, on the application of any railroad whose road crosses another railroad at the same level, after due notice and hearing of the parties, authorize the applicant to establish and maintain a system of interlocking or automatic signals at any crossing of the roads, at its own expense, and erect and maintain the necessary wires, rods, signal posts and signals in a manner as the commissioner shall prescribe. When the system is established and has been approved in writing by the commissioner, the corporation establishing the system and its railroad shall be excepted, as to that crossing, from subsections 8 and 9.
11. SHARING OF SIGNAL COST BY NONPARTICIPATING RAILROAD; EXEMPTION. Whenever, after establishment and approval of the system of signals, the nonparticipating railroad under subsection 10 shall have paid the applicant railroad a part of the cost of establishing the system of signals as shall be awarded by the Commissioner of Transportation after hearing on petition of the nonparticipating railroad, both railroads shall be excepted as to that crossing from subsections 8 and 9, as provided in subsection 10. Until payment is made, the nonparticipating railroad shall contribute toward the expense of operating the signals, in semiannual payments, a sum equal to the cost to it of operating the signals used by it at the crossing before the establishment of the signals provided for in subsection 10. After payment of the award, the expense of maintaining and operating the system of signals shall be borne by the 2 railroad corporations according to the proportions fixed by the award for paying the original cost of the signals, and the award, so far as it relates to the cost of maintaining and operating the signals, may, at the request of either party, be revised after an interval of 5 years from the original award or from the award next preceding the request.
Me. Rev. Stat. Ann. tit. 23, § 7308(10-11) (2012) Excerpt from applicable statute published.

Maryland

***§ 9-312. Protection of highway crossing -- Reflectors at safety gates**
(a) Required. -- Each safety gate at a grade crossing in the State shall have reflectors of sufficient size to ensure visibility at night.
(b) Regulations. -- The Secretary of Transportation shall adopt regulations to carry out this section.
(c) Penalty. -- A railroad company that does not comply with an order of the Secretary of Transportation to provide or maintain reflectors under this section is subject to a fine of $ 100 per day for each day that the company is not in compliance.
Md. Code Ann., Pub. Util. § 9-312 (2012)

Massachusetts

***§ 136. Signals at Crossings -- Department May Prescribe Rules for Crossings.**
The department shall make general regulations for all such crossings or special regulations for such particular crossings as it may designate, and in such detail as it may consider expedient; and the supreme judicial court may issue any processes necessary to secure the enforcement of such regulations, or, upon the petition of the department, may enjoin the running of trains on a railroad upon which any regulation relative to such crossing is not exactly observed. The approval of the department shall be required for a system of signals to be established and maintained in concert by corporations operating railroads which cross each other; but no such regulation or system of signals shall exempt a railroad upon or across which passenger trains are run from the requirements of the preceding section, unless a system of interlocking or automatic signals, approved in writing by the department, is adopted by both corporations.
Mass. Gen. Laws ch. 160, § 136 (2012)

***§ 137. Signals at Crossings -- Interlocking Signals.**
The department may, on the application of a railroad corporation whose railroad crosses another railroad at the same level, after notice to the parties and a hearing, authorize the applicant at its own expense, to establish and maintain a system of interlocking or automatic signals at any crossing of said railroad, and to erect and maintain the necessary wires, rods, signal posts and signals, in such manner as the department shall prescribe. Such corporation, after the system has been established and approved in writing by the department, shall be exempt as to such crossing from the requirements of section one hundred and thirty-five so long as the department continues its approval. Upon payment to such corporation by the corporation owning or operating the other railroad at such crossing of so much of the cost of establishing such system of signals as, upon petition of the latter corporation and a hearing, is awarded by the department, both railroad corporations shall, as to that crossing, be exempted from the requirements of said section. Until such payment the latter corporation shall semi-annually contribute toward the expense of operating said signals an amount equal to the cost to it of operating the signals used by it at said crossing before the establishment of the signals herein provided for. After the payment of such award, the expense of maintaining and operating such system of signals shall be borne by the two railroad corporations according to the proportions fixed by the award for paying the original cost of the signal. So much of the award as relates to the cost of maintaining and operating said signals may, at the request of either party, be revised at the expiration of five years from the original award or from any revision thereof.
Mass. Gen. Laws ch. 160, § 137 (2012)

§ 138A. Signals at Crossings -- Installation of Manual Warning Devices at Certain Railroad Grade Crossings.
A railroad corporation whose railroad is crossed by a public way at the same grade shall, at its own expense, install at any such grade crossing designated by the department and used by through passenger trains or cars or through freight trains a device to activate by hand a warning signal which shall audibly or visibly warn an approaching train from the grade crossing of danger at said grade crossing.
Mass. Gen. Laws ch. 160, § 138A (2012)

***§ 147. Signals at Crossings -- Gates at Crossings.**

Where a railroad and a public way or travelled place cross at the same level, the department, after notice to the interested parties and a hearing, shall order the crossing to be protected by gates, flagman, flashing light signals or such other protective measures as the department determines the better security of human life or the convenience of public travel requires, and the railroad corporation operating the railroad over the crossing shall install, maintain and operate the protection in compliance with such order. The cost of installing, maintaining and operating such protection shall be apportioned by the department between the railroad passing over the crossing, the town or city in which the highway is located, the county, if the highway is a county road, or the commonwealth, if the highway is a state highway, and any land in a limited and determinable area receiving benefit or advantage, other than the general advantage to the community, from such protection, and in accordance with the relative benefit to be derived by each from such protection, giving due consideration to whether the railroad or the highway was first constructed, to the nature and volume of highway travel, to the number of trains operated by the railroad over the crossing, and to all other relevant facts and circumstances. No part of the cost of installing, maintaining or operating such protection shall be apportioned or charged under this section against any city or town in the fourteen cities and towns or the sixty-four cities and towns, both as defined in section one of chapter one hundred and sixty-one A, with respect to any crossing of a railroad or railroad corporation operated under any contract with the Massachusetts Bay Transportation Authority. Any costs apportioned against land under this section shall be levied, assessed and collected in the same manner as a betterment under chapter eighty, so far as applicable.
Mass. Gen. Laws ch. 160, § 147 (2012)

***§ 148. Signals at Crossings -- Penalty for Failing to Comply with § 141 or 147.**
A railroad corporation which unreasonably neglects to comply with an order or decision made under section one hundred and forty-one or one hundred and forty-seven shall forfeit not more than one thousand dollars.
Mass. Gen. Laws ch. 160, § 148 (2012)

***§ 149. Signals at Crossings -- Signals at Overhead Crossings.**
The department may require a railroad corporation whose railroad crosses a highway by a crossing above the level of the highway to give such signal as the department may designate of the approach of trains to such crossing. The department may in each case determine the nature of the signal to be given, and, in its discretion, may require an automatic signal.
Mass. Gen. Laws ch. 160, § 149 (2012)

Michigan

§ 462.303. Traffic control devices; determination and order by department.
Sec. 303. The department, at no cost to the freight railroads or adjacent property owners, may order traffic control devices at existing farm, other private, bicycle, and pedestrian crossings of the railroad tracks of a high speed rail corridor including signs, signals, crossing gates, movable barriers, or other devices. The department may determine the number, type, and location of signs, signals, gates, or other types of safety devices which shall conform as closely as possible with generally recognized national standards.
Mich. Comp. Laws Serv. § 462.303 (2012)

§ 462.315. Active traffic control devices.
Sec. 315. (1) The department, by order, in accordance with section 301, may prescribe active traffic control devices to warn of the approach of trains about to cross a street or highway at

public railroad grade crossings consisting of signals with signs, circuitry, or crossing gates and other appurtenances as depicted in the Michigan manual of uniform traffic control devices. A determination shall detail the number, type, and location of signals with signs, circuitry, or gates and appurtenances, which, however, shall conform as closely as possible with generally recognized national standards.
(2) Except as otherwise provided for in this act, the cost of any installation, alteration, or modernization of active traffic control devices shall be at equal expense of the railroad and road authority.
(3) After initial installation, all active traffic control devices, circuitry, and appurtenances at crossings shall be maintained, enhanced, renewed, and replaced by the railroad at its own expense, except that the road authority shall pay $760.00 for flashing signals on a single track, $830.00 for flashing signals and gates on a single track, $895.00 for flashing signals with cantilever arm on a single track, $1,215.00 for flashing signals with cantilever arm with gates on a single track, $1,230.00 for flashing signals and gates on multiple tracks, $1,630.00 for flashing signals with cantilever arms and gates on a multiple track, $725.00 for flashing signals on a multiple track, and $1,005.00 for flashing signals with cantilever arms on a multiple track annually for maintenance to the railroad for each crossing with active traffic control devices not covered by existing or future railroad-road authority agreements. The railroad shall furnish standard equipment uniform for all railroads at a cost and installation basis consistent for all railroads. By January 1, 2010 and every 10 years after 2010, the department shall complete a study to determine the cost of maintenance of active traffic control devices and shall forward a copy of the study to the members of the house and senate committees that consider railroad legislation.
(4) Standard active railroad-highway traffic control devices consisting of side of street flashing light signals with or without half-roadway gates and cantilevers shall include the railroad crossing (crossbuck) sign, “stop on red signal” sign, and number of tracks sign located, designed, and maintained on the signal support as prescribed by the Michigan manual of uniform traffic control devices. The railroad shall perform actual installation and maintenance of these signs. The railroad shall also install, renew, and maintain any signs placed on cantilevered signal supports. Whenever active traffic control devices are installed at any crossing, they shall be so arranged that for every train or switching movement over the grade crossing, the active traffic control device shall be in operation for a period of not less than 20 seconds or more than 60 seconds in advance of the train movement reaching the nearest established curb line or highway shoulder and the devices shall continue to operate until the train movement has passed the established curb line or shoulder on the far side of the highway.
(5) The department may order a railroad, at the railroad's expense, to stop and flag a crossing for normal train service or when active traffic control devices may become inoperable.
Mich. Comp. Laws Serv.§ 462.315 (2012)

<u>Minnesota</u>

219.24 ADDITIONAL SAFEGUARD
If the commissioner of transportation finds in an investigation instituted upon the commissioner's own motion or upon complaint and after notice and hearing, that conditions at a grade crossing require additional safeguards to protect life and property, such as crossing gates or other suitable devices, the commissioner shall specify the nature of the devices required and may order the railway company operating the railroad at the crossing to install them.
Minn. Stat. § 219.24 (2012)

***219.26 PROTECTIVE CROSSING DEVICE; UNIFORMITY**
The commissioner, so far as practicable, shall secure uniformity in the devices used to protect grade crossings. No devices may be installed until they have been approved by the commissioner. All devices which, in the opinion of the commissioner, conflict with devices approved by the commissioner, either in design or method of operation, so as to create a hazard to travel at the crossing, must be immediately modified by the railroad company controlling the crossing to conform to those devices approved by the commissioner.
Minn. Stat. § 219.26 (2012)

219.402 ADEQUATE CROSSING PROTECTION
Crossing warning devices or improvements installed or maintained under this chapter as approved by the commissioner or any predecessor, whether by order or otherwise, are adequate and appropriate warning for the crossing.
Minn. Stat. § 219.402 (2012)

Mississippi

***§ 65-1-70. Construction of protective devices at railroad crossings**
The Mississippi State Highway Department is authorized to construct protective devices 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, based upon a showing of need resulting from a multidisciplinary study, whenever federal funds are available for such construction. The department is further authorized to supply, out of any available funds in the State Highway Fund, a maximum of one percent (1%) of the funds required for such construction if the county or incorporated municipality in which the construction will be performed complies with the necessary conditions for receipt of the balance of federal matching funds for such construction.
Miss. Code Ann. § 65-1-70 (2012)

***§ 65-1-70.5. Imputation of liability as to protective devices at railroad crossings**
The provisions of Section 65-1-70 shall not impute any liability of any kind or nature to the Mississippi State Highway Commission, the Mississippi State Highway Department or its agents, servants or employees.
Miss. Code Ann. § 65-1-70.5 (2012)

Missouri

***§ 389.614. Warning signals for crossings presumed adequate -- duty of reasonable care required of railroads**
Railroad warning devices which are installed or maintained by order or by rule of the division of motor carrier and railroad safety are presumed to be adequate and appropriate warning devices for the crossing. All railroads shall continue to exercise reasonable care at railroad crossings for the safety of the members of the public using the crossing.
Mo. Rev. Stat. § 389.614 (2012)

Montana

***61-8-203 Department of transportation to place traffic control devices on highways it maintains and approve traffic control devices on highways under its jurisdiction**
(1) The department of transportation shall place and maintain traffic control devices, conforming to its manual and specifications, upon all highways maintained by the department of

transportation that the department considers necessary to carry out the provisions of chapter 9 and this chapter or to regulate, warn, or guide traffic.
(2) A local authority or other entity may not place or maintain a traffic control device upon a highway under the jurisdiction of the department of transportation except with the department's permission.
(3) The unauthorized erection of a sign, marker, emblem, or other traffic control device on a highway under the jurisdiction of the department of transportation by any other entity is a misdemeanor and is punishable as provided in 61-8-712.
(4) The erection or maintenance of a sign, marker, emblem, or traffic control device on a highway under the jurisdiction of the department of transportation is subject to the rules and specifications that the department adopts and publishes in the interest of public safety and convenience.
(5) (a) An automated enforcement system designed to detect traffic violations that is attached to a traffic control device may not be used to enforce traffic laws.
(b) Subsection (5)(a) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings.
Mont. Code Ann., § 61-8-203 (2012)

Nebraska

§ 74-1334 Crossings; public; safety regulations; gates and alarms; closure; when.
(1) Wherever any railroad track crosses any public road in a cut, on a curve or side hill, in timber lands, near buildings, or near any obstruction of view from the road, the Department of Roads shall direct such precautions to be taken as it deems necessary for the safety of the traveling public. Each railroad carrier shall also provide and maintain such gates, crossings, signs, signals, alarm bells, and warning personnel as the department directs. The department may direct the placement of special signs where the physical conditions of any crossing warrant such action.
(2) Except as provided in subsection (3) of this section, any public railroad crossing without gates, signals, alarm bells, or warning personnel located within one-quarter mile from a public railroad crossing with gates, signals, alarm bells, or warning personnel shall be closed unless it is the only railroad crossing which provides access to property.
(3) An interested party may object to an action taken under subsection (2) of this section only if a written request is submitted to the Department of Roads by a professional engineer licensed to practice in the State of Nebraska. The engineer shall state in writing that the engineer is familiar with the requirements in this section and with all relevant aspects of the railroad crossing. The engineer shall also provide a detailed explanation of why subsection (2) of this section should not apply to the railroad crossing in question and a statement that the railroad crossing corridor has been examined by the engineer and the engineer believes that the railroad crossing will be safe as designed. Such a written request shall exempt a railroad crossing from being closed under subsection (2) of this section.
Neb. Rev. Stat. Ann. § 74-1334 (2012)

Nevada

***484B.557. Stop required at certain railroad grade crossings.**
The Department of Transportation, and local authorities with the approval of the Department of Transportation, may designate dangerous highway grade crossings of railroads and erect official traffic-control devices at such crossings directing a stop.
Nev. Rev. Stat. Ann. § 484B.557 (2012) Excerpt from applicable statute published.

New Hampshire

373:10 Railroad Signs, Gates and Other Protection.
Every railroad shall construct, or improve, and operate and maintain at every grade crossing of its railroad with another railroad or highway such warning signs, gates or other protection; it shall so regulate the speed of its trains across any grade crossing and it shall give such appropriate warning of the approach of its trains to any grade crossing as the department of transportation, after notice and hearing, may find necessary in the interest of safety of the railroad or of the public; provided, however, that cost of constructing or improving such warning signs, gates or other protection shall be apportioned in accordance with the provisions of RSA 373:3. The railroad shall maintain signs, signals, gates or other equipment installed within the limits of its right of way, after the installation thereof.
N.H. Rev. Stat. Ann. § 373:10 (2012)

New Jersey

***§ 48:2-29. Protection at grade crossings**
Whenever it shall appear to the board that a public highway and a railroad or a street railway, or that a railroad and a street railway, cross one another at the same level and that conditions at such grade crossing make it necessary that gates be erected or that some other reasonable provision for the protection of the traveling public be adopted, the board may order the railroad or street railway company or both, to install such protective device or adopt such other reasonable provision for the protection of the traveling public at the crossing as in the discretion of the board shall be necessary.
N.J. Rev. Stat. Ann. § 48:2-29 (2012)

§ 48:12-54. Protections at grade crossings; group signals
Every company operating on a fixed track or tracks, freight or passenger trains or cars, shall provide protection to pedestrians and the traveling public at every crossing of its tracks by any public road. Such protection may be in the form of safety gates, flagmen, electric bell, electric signs or other recognized system of alarm or protection approved by the Board of Public Utility Commissioners.
When several crossings lie so close together that an audible signal at one crossing may be sufficiently heard at others near it, such crossings may be protected by such device or signals as will sufficiently protect all crossings in the group.
When on any line or part thereof all traffic is discontinued for any part of the night, no crossing guards need be operated while traffic is so discontinued.
This section shall not apply to street car lines or tracks used principally for street car purposes.
The provisions of this section shall be construed to be mandatory and shall be operative without order or direction of the board.
N.J. Rev. Stat. Ann.§ 48:12-54 (2012)

§ 48:12-55. Compelling proper protection of grade crossing
The Board of Public Utility Commissioners, upon its own initiative or upon the application of any municipality or citizen dissatisfied with the protection provided or the failure to provide any or sufficient protection at any crossing within such municipality or used by such citizen may by order compel proper compliance with section48:12-54 of this Title. Such application shall be considered and acted upon in accordance with the board's rules of practice.
N.J. Rev. Stat. Ann. § 48:12-55 (2012)

***§ 48:12-83. Crossing not having protective device; contributory negligence jury question**
In any action against a railroad company to recover damages for injury or death occurring at any crossing at which the company has not installed any safety gates, bell or other warning or protective device of the kind usually employed to warn and protect the traveling public and such injuries or death are alleged to be due to the negligence of the company, the plaintiff's action shall not be dismissed on the ground of contributory negligence on the part of the person injured or killed, but it shall be left to the jury to determine whether such person was exercising due and reasonable care under the conditions existing at the crossing at the time of such injury or death. If the jury shall determine that the person injured or killed was not exercising due and reasonable care under the circumstances, the verdict shall be against the plaintiff and in favor of the defendant.
N.J. Rev. Stat. Ann. § 48:12-83 (2012)

***§ 48:12-84. Traveler's right to assume proper operation of safety devices at grade crossing**
Whenever a railroad shall install any safety gates, bell or other device designed to protect the traveling public at any crossing, or has placed at such crossing a flagman, any person approaching any such crossing, shall, during such hours as posted notice at the crossing shall specify, be entitled to assume that the safety gates or other warning appliances are in proper order and will be duly and properly operated, unless a written notice bearing the inscription "out of order" be posted in a conspicuous place at the crossing, or that the flagman will guard the crossing with sufficient care whereby the traveler will be warned of any danger in passing over the crossing.
In any action brought for injuries to person or property or for death caused at any crossing protected as aforesaid, no plaintiff shall be barred of the action because of the failure of the person injured or killed to stop, look and listen before passing over the crossing.
N.J. Rev. Stat. Ann. § 48:12-84 (2012)

New Mexico

***§ 5-17-22. General powers**
Except as limited by the service plan of the infrastructure development zone, the board has the following powers:
Q. to erect and maintain, in providing safety protection services, traffic and safety controls and devices on streets and highways and at railroad crossings, and to enter into agreements with each county in which an infrastructure development zone is located or with adjoining counties, the department of transportation or railroad companies for the erection of the safety controls and devices and for the construction of underpasses or overpasses at railroad crossings;
N.M. Stat. Ann. § 5-17-22(Q) (2012) Excerpt from applicable statute published.

New York

No applicable statute related to this topic

North Carolina

***§ 136-20.1. To require installation and maintenance of block system and safety devices; automatic signals at railroad intersections**
(a) The Department of Transportation is empowered and directed to require any railroad company to install and put in operation and maintain upon the whole or any part of its road a block system of telegraphy or any other reasonable safety device, but no railroad company shall

be required to install a block system upon any part of its road unless at least eight trains each way per day are operated on that part.
(b) The Department of Transportation is empowered and directed to require, when public safety demands, where two or more railroads cross each other at a common grade, or any railroad crosses any stream or harbor by means of a bridge, to install and maintain such a system of interlocking or automatic signals as will render it safe for engines and trains to pass over such crossings or bridge without stopping, and to apportion the cost of installation and maintenance between said railroads as may be just and proper.
N.C. Gen. Stat. § 136-20.1 (2012)

North Dakota

24-09-08.1. Department of transportation to apportion cost -- Exception.
In order to promote public safety at intersections of railroad lines and all classes of highways, the department shall apportion the cost of automatic grade crossing protection devices in accordance with this section. In the event that the commission in accordance with the provisions of section 24-09-08 orders that any grade crossing must be protected by automatic grade crossing protection devices, the commission shall in its order apportion the cost thereof between the railroad interested, 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 such parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device. For the purpose of this section, the cost attributable to the benefit of the highway users must be apportioned to the state of North Dakota or to the political subdivision having jurisdiction of the highway involved or to both of such parties. The cost apportioned to the state of North Dakota must be paid out of the highway fund in the state treasury, provided that not more than one hundred thousand dollars may be expended for this purpose in any one biennium.
N.D. Cent. Code, § 24-09-08.1 (2012)

24-09-09. Warning devices must be approved by department of transportation.
The department, so far as practicable, shall secure uniformity in the devices used to protect grade crossings. No such devices may be installed until the same have been approved by the department. Except for devices prescribed under section 24-09-08, all devices installed, which conflict with the devices approved by the department, either in their design or method of operation, so as to create a hazardous condition to travel at such crossing, must be modified immediately by the railway company controlling the same so as to conform to those approved by the department.
N.D. Cent. Code, § 24-09-09 (2012)

Ohio

§ 4907.47. Installation of crossing signals; apportionment of cost; additional protective devices
(A) If, after public hearing as to the necessity for installing protective devices at a public railroad highway grade crossing, written notice of which is published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the crossing is located and is given the railroad and public authority involved at least thirty days in advance of such hearing, it is the opinion of the public utilities commission that the public safety requires a gate, automatic alarm bell, or other mechanical device to be erected and maintained at any place where a public

road or street is crossed at the same level by a railroad, and the crossing has been declared by the commission to be so dangerous and hazardous as to require additional protective devices, or the public safety requires that a flagman be stationed and maintained at such crossing, the commission shall give the superintendent, manager, or other officer in charge of such railroad a written order of what is required, and shall assign the cost of installing any such device between the railroad and the public in any proportion it determines proper that is consistent with any applicable federal requirements, after giving due consideration to the factors listed in division (B) of this section.

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

Any person owning or operating a railroad and neglecting or refusing to erect or maintain such gate, automatic alarm bell, or other mechanical device, or to maintain such flagman, when required by the commission pursuant to this section or section 4907.471 of the Revised Code, and after the commission has issued an appropriate order finding that the public funds will be made available with respect to any protective device it has ordered installed, shall forfeit to the state, for every such neglect or refusal, one thousand dollars, and in addition, shall forfeit one thousand dollars for each day such neglect or refusal continues.

Ohio Rev. Code Ann. § 4907.47 (2013)

§ 4907.471. Survey to determine crossings with highest probability of accident; additional protective devices

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

relevant. The commission shall submit the formula to the director of transportation, who shall review it to ensure that it is consistent with applicable federal requirements.
The commission shall classify all such public crossings according to that formula and shall prepare a priority list for the protection of such crossings, giving highest priority to the crossings at which the commission finds the highest probability of accident, and lowest priority to the ones at which it finds the least probability of accident, provided that for the purposes of this section the commission shall place first on the list any crossing that meets all of the following criteria:
(1) The crossing is at a section of railroad track that is being reactivated on or after May 1, 1990, and that has not been used for at least three years prior to the reactivation as determined by the commission;
(2) The territory abutting the railroad's right-of-way for a distance of three hundred feet or more has been improved with residences during the period of time the track was not being used;
(3) The commission has designated the crossing as dangerous and hazardous under division (A) of this section.
The priority list shall be for the use of the commission in carrying out this section and sections 4907.47,4907.474, and 4907.475 of the Revised Code and shall not be admissible in evidence in any action to recover damages for negligence arising out of the use of such grade crossings. The list shall be made available to the department of transportation for use in carrying out sections 4511.61 and 4955.33 of the Revised Code.
The survey shall be continuous, and after the original list is prepared, the commission may change the respective priority ratings as it may from time to time determine. When new crossings at grade are opened, the commission shall survey them and place them on the priority list at such places as in its opinion the probability of accident at those crossings warrants.
The commission may, pursuant to the priority ratings established as provided in this section, designate as dangerous and hazardous any railroad highway grade crossing it determines to be in need of additional protective devices. With respect to a high priority crossing so designated, the commission may negotiate with the railroad concerned, and with the state agency or political subdivision having jurisdiction over the crossing, an agreement providing for the installation at the crossing of appropriate luminous reflecting warning signs, luminous flashing signals, crossing gates illuminated at night, or other protective devices. The number, type, and location of the signs, signals, gates, or other protective devices, which shall conform with generally recognized national standards, shall be determined by agreement among the commission, the railroad concerned, and the state agency or political subdivision. The assignment of any part or all of the cost of the installation and subsequent maintenance of such signs, signals, gates, or other protective devices to the railroad and to the state or the political subdivisions shall be by the commission in any proportion it determines proper that is consistent with any applicable federal requirements, after giving due consideration to the factors listed in division (C) of this section.
(B) In cases where the railroad does not agree that the installation of additional protective devices is necessary, or where no agreement can be reached with the railroad as to the number, type, or location of such devices or the proportion of cost to be assigned to the railroad, the commission shall hold a public hearing as to the necessity for installing additional protective devices at the crossing at issue. Written notice of the hearing shall be given to the railroad at least thirty days in advance of the hearing, and notice of the hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the crossing at issue is located. If, after the hearing, it is the opinion of the commission that the

public safety requires additional protective devices to be erected and maintained at the crossing, the commission shall give the superintendent, manager, or other officer in charge of the railroad a written order of the protective devices required and the date by which any action shall be completed, and shall assign to the parties the cost of installing and maintaining the protective devices in any proportion it determines proper that is consistent with any applicable federal requirements, after giving due consideration to the factors listed in division (C) of this section.
(C) In assigning the cost of additional protective devices, the commission shall consider factors of volume of vehicular traffic, volume of train traffic, train type and speed, limitations of view and the causes thereof, savings, if any, which will inure to the railroad as the result of the installation, benefits to the public resulting from the reduction of hazard at the crossing, the probable cost of the installation, the future cost to the railroad of maintaining the devices, and any other special factors and conditions that the commission considers relevant. The commission may accept a railroad's agreement to maintain the additional protective devices as being its share of the cost for the protection. If any part of the cost of installation is assigned by the commission to the state agency or political subdivision having jurisdiction over the crossing, that cost may be paid from any funds levied and made available for highway or street purposes, provided that funds from the grade crossing protection fund created by section 4907.472 of the Revised Code may be used to pay the public's share of the cost. After the commission has issued an appropriate order requiring that additional protective devices be installed by a specific date, which shall be a reasonable time from the date of the order, the railroad concerned shall erect or install the additional protective devices within the time prescribed by the order. If the additional protective devices are not erected or installed within that time, the commission may reduce or eliminate the amount of any funds in the grade crossing protection fund obligated to pay the public's share of the costs relating to the erection, installation, and maintenance of the additional protective devices and, consistent with any applicable federal requirements, may assign to the railroad concerned any amount, up to one hundred per cent, of the total amount of the costs of erecting, installing, and maintaining the additional protective devices.
Ohio Rev. Code Ann. § 4907.471 (2013)

***§ 4907.476. Adherence to federal laws, regulations; use of state funds only**
In its administration of sections 4907.47 to 4907.475 of the Revised Code, the public utilities commission shall, to the extent that it uses federal funds in connection with the erection, installation, or maintenance of any grade crossing protective devices or additional grade crossing protective devices, adhere to all pertinent federal laws and regulations. Where such laws or regulations require that the department of transportation make final decisions for the state in matters regarding grade crossing protective device projects or additional grade crossing protective device projects, or enter into contracts and agreements for such projects on behalf of the state, or take other actions regarding such projects on behalf of the state that are necessary to comply with such laws and regulations, the commission shall work with and through the department, and may make agreements with the department, in its administration of sections 4907.47 to 4907.475 of the Revised Code.
As a means of simplifying its administration of such sections, the commission may elect to use only state funds for the design or administrative costs associated with any such project. As a means of enforcing its orders under such sections, the commission may, as allowed by federal law and regulation, elect to use no federal funds in connection with the erection, installation, or maintenance of [a] particular grade crossing protective device or additional grade crossing protective device projects.

ORC Ann. 4907.476 (2013)

§ 4907.48. Regulation of crossing signals

All gates, bells, or devices erected under the direction of the public utilities commission shall be built within the time, in the manner, and of materials approved by the commission. Such devices so authorized shall be located in the highway or street on one or both sides of the railroad tracks, as the commission deems the public safety requires. Such gates shall be so constructed that when closed they obstruct or prevent passage across such railroad from the side on which a gate is located. Such bell must be so constructed that it will ring before the approach of every train of cars or locomotive within three hundred feet or more of such crossing, and continue to ring until such train or locomotive has reached the crossing. A person shall be in charge of such gate who shall close it at the approach of each train or locomotive and keep it open at all other times. If an automatic bell or other mechanical device is required at such crossing, the railroad shall keep such bell or device in good working order. For every neglect of duty imposed by this section such railroad shall forfeit twenty-five dollars.

Ohio Rev. Code Ann. § 4907.48 (2013)

***§ 4907.52. Safety devices at grade crossings**

When two railroads, a railroad and an interurban railroad or electric or street railway, two interurban railroads, or a railroad or electric railway and a street or highway cross at grade, if, in the opinion of the public utilities commission, public safety requires protection, the commission, upon its own motion or upon complaint, after notice to the railroads interested and full investigation, may make an order requiring the railroads so intersecting and crossing to install such devices as in the opinion of the commission will properly protect such crossing.

The commission may make any other orders regulating the speed and running of trains or of cars and the switching of cars over such crossing or street, and it shall apportion the expense of installation or maintenance of such devices between the railroad companies whose tracks are thus protected.

Ohio Rev. Code Ann. § 4907.52 (2013)

***§ 5733.43. Railroad company credit for maintenance of active grade crossing warning devices**

(A) As used in this section:

(1) “Railroad company” means a railroad as defined in section 4907.02 of the Revised Code that is subject to the tax imposed by section 5733.06 of the Revised Code.

(2) “Active grade crossing warning device” means signs, signals, gates, or other protective devices erected or installed at a public highway-railway crossing at common grade and activated by an electrical circuit.

(3) “Annual maintenance expenditures” means expenditures made by a railroad company to maintain active grade crossing warning devices.

(B) There is hereby granted to railroad companies a credit against the tax imposed by section 5733.06 of the Revised Code for the maintenance of active grade crossing warning devices in this state. The credit shall equal ten per cent of the sum of the annual maintenance expenditures for each active grade crossingwarning device for which such expenditures were made during the taxable year, not to exceed two hundred dollars for each device in this state for which such expenditures were made during the taxable year. The credit shall be claimed in the order prescribed by section 5733.98 of the Revised Code. The credit shall not exceed the amount of tax

otherwise due under section 5733.06 of the Revised Code after deducting any other credits that precede the credit claimed under this section in that order.
(C) A railroad company claiming the credit under this section shall compile records of the annual maintenance expenditures for which the credit was claimed and shall keep those records for a period of four years following the end of the tax year for which the credit is claimed. The records shall be open to inspection to the tax commissioner upon the tax commissioner's request.
Ohio Rev. Code Ann. § 5733.43 (2013)

Oklahoma

§ 125a. Railroads--Highway crossings--Safety devices
Whenever the public authorities having jurisdiction and control over any public highway or street in this state shall deem that the safety of lives and property at any railroad intersection with any highway or street, shall so require, such public authorities as are hereby authorized and empowered to construct or install, or to order the company owning such railroad so intersected, to construct or install, and thereafter maintain and operate, an automatic or mechanically operated barricading device, which, when giving warning, shall become a barrier in such highway or street; provided, however, that before any such device is constructed or installed, maintained and operated at a railroad intersection, the detailed plans of such device, with a description of the proposed mode of operation thereof, and a map showing the proposed location of the same, shall be first submitted to, and approved by, the State Highway Commission of Oklahoma.
Okla. Stat. tit. 66, § 125a (2012)

§ 130. Warning signal devices--Rules and regulations
The Oklahoma Corporation Commission shall promulgate rules and regulations for the design, installation, construction, maintenance, inspection, and testing of warning signal devices at highway and railroadcrossings in the State of Oklahoma.
Okla. Stat. tit. 66, § 130 (2012)

Oregon

810.210 Placement and control of traffic control devices
(1) The Oregon Transportation Commission is vested with exclusive jurisdiction over the installation at railroad-highway grade crossings of signs, signals, gates, protective devices or any other device to warn or protect the public at a railroad-highway crossing. The commission is granted exclusive authority under this subsection to determine the character or type of device to be used.
(2) Each road authority shall place, maintain and control traffic control devices used upon its own highway as the road authority considers necessary for the safe and expeditious control of traffic, necessary to carry out the provisions of the vehicle code or local traffic ordinances or necessary to regulate, warn or guide traffic. The commission shall act as road authority under this section in lieu of the Department of Transportation. The authority granted under this subsection is subject to all of the following
(a) All traffic control devices erected and used under this subsection shall conform to the state manual and specifications established under ORS 810.200.
(b) The commission has general supervision with respect to the placing, construction and operation of traffic control devices under this subsection for the purpose of obtaining, so far as practicable, uniformity as to type and location of traffic control devices throughout the state.

(c) Only the commission has authority over a state highway whether or not the state highway is within the jurisdiction of another road authority. No traffic control device shall be erected, maintained or operated upon any state highway under this subsection by any authority other than the commission, except with the written approval of the commission.
(d) When the governing body of a city makes a determination that placement or construction of a traffic control device on a highway within the city selected as a state highway under ORS 373.010 is necessary to carry out the provisions of the vehicle code or to regulate, warn or guide traffic, the city governing body shall submit written findings and recommendations to the Director of Transportation in support of placing or constructing the traffic control device on the state highway. If the director approves the findings and recommendations, the director shall notify the city governing body in writing and proceed to place or construct the traffic control device in accordance with the findings and recommendations. If the director does not notify the governing body of disapproval within 90 days after receipt of the findings and recommendations, the findings and recommendations shall be considered approved and the director shall proceed to place or construct the traffic control device in accordance with the findings and recommendations.
(e) The commission is authorized to classify, designate and mark both interstate and intrastate highways within the boundaries of this state.
Or. Rev. Stat. § 810.210 (2011)

824.206 Elimination, relocation or alteration of grade crossing; installation or alteration of protective devices.
(1) The Department of Transportation may, upon its own motion or upon application by a railroad or the public authority in interest, subsequent to a hearing, unless a hearing is not required under ORS 824.214, and upon finding that such action is required by the public safety, necessity, convenience and general welfare:
(d) Require installation or alteration of protective devices.
Or. Rev. Stat. § 824.206(1)(d) (2011) Excerpt from applicable statute published.

***824.236 Protective devices at unauthorized railroad-highway crossing; apportionment to railroad; reimbursement; closure.**
(1) Except as provided in subsection (2) of this section, the Department of Transportation may, underORS 823.033, order a railroad to install and maintain protective devices at an unauthorized railroad-highway crossing and order the public authority in interest to install and maintain stop signs at and other protective devices in advance of an unauthorized railroad-highway crossing.
(2) The department may not order the railroad to install at an unauthorized railroad-highway crossing devices which are activated immediately in advance of, and during, each train movement over the crossing unless the department determines that the railroad intentionally created the unauthorized crossing after June 2, 1995.
(3) Except as provided in subsection (4) of this section, in any proceeding under subsections (1) and (2) of this section, or unless the parties agree otherwise, installation and maintenance costs of protective devices shall be apportioned to the railroad.
(4) The railroad may seek reimbursement or indemnity from third parties.
(5) Under ORS 823.033, the department may open an investigation to consider closure of an unauthorized railroad-highway crossing. If the department decides to open an investigation, it shall post notice of the investigation at the crossing at least 30 days prior to opening the investigation. If the department is unable to complete an investigation within two years from the date it was opened, the department shall order the crossing closed within one year from the

expiration of the two-year period allowed for investigation unless closure of the unauthorized railroad-highway crossing would remove the only access to any land.
Or. Rev. Stat. § 824.236 (2011)

For additional information, see Or. Rev. Stat. sec. 824.826, 824.242 and 824.244 in chapter 2

Pennsylvania

No applicable statute related to this topic

Rhode Island

***§ 39-8-9. Order to maintain flag person or precautionary appliance at grade crossing**
Every railroad corporation or lessees, receivers, or trustees of the corporation operating railroads within this state shall cause flag persons or gates or other precautionary measures or appliances to be established or substituted wherever the railroads cross public highways, whenever and as often as in the opinion of the commission it is necessary for the safety of the public.
R.I. Gen. Laws § 39-8-9 (2012)

***§ 39-8-10. Failure to maintain flag person or precautionary appliances**
Every railroad corporation which shall refuse or neglect to comply with an order, or with a confirmation of such order upon appeal, shall, for every day's neglect after seven (7) days from the date of the service of the order upon the president, treasurer, or any director of the corporation, forfeit five hundred dollars ($ 500), one half (1/2) thereof to the use of the state and one half (1/2) thereof to the use of the city or town where the crossing is located.
R.I. Gen. Laws § 39-8-10 (2012)

***§ 39-8-11. Order to maintain electric signals at crossing**
At any point where a highway, city or town way, or traveled place is crossed at the same level by a railroad where a gate or flag person is not maintained, the commission may, after notice to and hearing of the railroad corporation whose road so crosses, direct that the crossing shall be furnished with electric signal or signals as they shall decide the better security of human life or the convenience of the public travel requires, and the corporation shall comply with the order. If the railroad corporation shall refuse or neglect to comply with the order within three (3) months from the date thereof, it shall be fined twenty-five dollars ($ 25.00) for each day that the refusal or neglect shall continue unless it shall furnish reasons satisfactory to the commission for the refusal or neglect. Nothing in this section shall be so construed as to affect §§ 39-8-9 and 39-8-10.
R.I. Gen. Laws § 39-8-11 (2012)

§ 39-8-12. Municipal order to maintain crossing gates or fence
Every railroad corporation whose railroad crosses any street or highway at grade in the city of Providence shall erect, maintain, and cause to be operated gates across every street or highway satisfactory in all respects to the city council upon receiving notice from the city council, and shall also fence its line of track within the limits of the city in such manner and at such places as the city council may direct. Any railroad corporation violating any of the provisions of this section shall, for every day's neglect after twenty (20) days from notice or direction to the president, treasurer, or any director of the corporation from the city council as aforesaid, to comply with the provisions of this section or with the order or direction of the city council, be

fined fifty dollars ($ 50.00), one half (1/2) thereof to the use of the state and the other one half (1/2) to the use of the complainant.
R.I. Gen. Laws § 39-8-12 (2012)

South Carolina

***§ 58-17-1410. Commission may require flagman to be stationed at important crossings.**
The Public Service Commission may, upon the application of a county supervisor, if it deem it necessary, require any railroad corporation to have a stationary flagman at any crossing the importance of which may demand it.
S.C. Code Ann. § 58-17-1410 (2011)

***§ 58-17-1440. Penalty and damages for injury at crossing not having required signals.**
If a person is injured in his person or property by collision with the engine or any car of a railroad corporation at a crossing and it appears that the corporation neglected to give the signals required by the General Railroad Law and that such neglect contributed to the injury, the corporation shall be liable for all damages caused by the collision or to a fine recoverable by indictment, unless it is shown that in addition to a mere want of ordinary care the person injured or the person having charge of his person or property was at the time of the collision guilty of gross or wilful negligence or was acting in violation of the law and that such gross or wilful negligence or unlawful act contributed to the injury.
S.C. Code Ann. § 58-17-1440 (2011)

South Dakota

§ 49-16A-89. Crossings--Erection of lighting or alarms at order of department.
If, in the opinion of the Department of Transportation, it is necessary for the safety and protection of the public that street crossings over railroad tracks be lighted or street crossing alarms be installed to notify the public of approaching trains, the department shall order the railroad over whose road such street crosses to install crossing alarms or order the crossings to be lighted, or order both alarms and lighting by the railroad in a manner and method as, in the opinion of the department, will be the most suitable for the protection of the public.
S.D. Codified Laws § 49-16A-89 (2012)

§ 49-16A-89.2. Alarm or lighting device required where railroad crosses state trunk highway system
Any railroad tracks over which an operating train travels which crosses a portion of the state trunk highway system, as defined in chapter 31-4, shall have a crossing alarm or a lighting device, or both, to alert the public of approaching trains and to notify the public of trains crossing the highway. The crossing alarm or lighting device shall be in place by December 31, 1998. The Department of Transportation shall decide the method which is most suitable for the protection of the public. The Department of Transportation shall use any federal highway safety funds to pay for the crossing alarms and lighting devices. However, if federal highway safety funds are not available, the railroad owning or operating the tracks is liable for the expenses of the crossing alarm or lighting device.
S.D. Codified Laws § 49-16A-89.2 (2012)

Tennessee

65-11-113. Automatic warning or protective devices.

(a) (1) Within six (6) months after the occurrence of a fatality resulting from a collision between any railroad engine or train and a vehicle or pedestrian at any unmarked railroad grade crossing, where there are regularly scheduled trains, one hundred (100) or more vehicles cross daily and it is also a regular school bus crossing, and/or upon the order of the commissioner of transportation or the commissioner's designee, the railroad company responsible for maintaining the track and right-of-way at such grade crossing shall install or cause to be installed a railroad crossing marker with automatic flashing signal lights and a bell on either side of the tracks along such street, road or highway crossing such tracks, in such a manner that approaching motorists, riders or pedestrians may be warned of the hazard and alerted to watch for an oncoming train or engine.
(2) A railroad company shall have six (6) months from the time of an order of the commissioner or the commissioner's designee in which to install or cause to be installed the automatic warning or protective devices required. If such devices are not installed and operative at the end of this period of time, and the commissioner has not granted an extension based on hardship or act of God, the speed of trains operating within one (1) mile in each direction of such crossing shall be restricted to not more than twenty-five (25) miles per hour. This restriction shall continue until the devices are fully operational.
(b) (1) The cost of installing such signal devices shall be borne equally by the railroad company, the state of Tennessee, and the county, or the municipality, if such signal devices are installed within the corporate limits or the metropolitan government, where applicable.
(2) Payment of the state's share shall be made as reimbursement of the railroad company of one third (1/3) of the cost of such installation, by warrant of the commissioner of finance and administration upon the state treasury, after inspection of the site and certification by the commissioner of transportation or the commissioner's designee that such signal devices have been installed in compliance with this section; provided, that the railroad company has first submitted to the commissioner of finance and administration a sworn statement of the total costs incurred by the railroad company in installing such signal devices.
(3) Payment of the municipality's or county's or metropolitan government's share of the costs shall similarly be made in accordance with the fiscal procedures of such municipality, county, or metropolitan government after receipt of a sworn statement from the railroad company of the total cost of the installations and verification of such installation by the appropriate municipal, county or metropolitan government official.
(c) If any county, municipal or metropolitan government fails or refuses to reimburse the railroad company as provided in this section, the commissioner of finance and administration shall cause the necessary amount of money to be withheld from such county, municipal or metropolitan government any amount due such county, municipal or metropolitan government from the proceeds of the state gasoline tax and reimburse the railroad company using such funds otherwise due the county, municipal or metropolitan government. The Tennessee department of transportation shall be prohibited from adopting any rules or regulations which will circumvent the purposes of this section by setting incompatible criteria for determining priorities for the installation of railroad crossing signals.
(d) In the event federal funds are available to defray the cost of such installation in whole or in part, the federal rules then applicable shall determine the allocation of the costs of such installation.
(e) Any railroad company failing to comply with the requirements of subsections (a)-(d) is subject to a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day of continued violation.

(f) The department of transportation is authorized to construct protective or warning devices at or in the vicinity of any railroad crossing of a public highway owned by a county or incorporated city or town, based upon the showing of need resulting from a multidisciplinary study, whenever federal funds are available for such construction. The department of transportation is further authorized to supply a maximum of one percent (1%) of the funds required for such construction provided the county or incorporated city or town in which the construction will be performed complies with the necessary conditions for receipt of the balance of federal matching funds for such construction.
(g) Notwithstanding any other provision of law to the contrary, the department of transportation shall construct automatic warning devices at the railroad crossing at Tipton Station Road in Southern Knox County.
Tenn. Code Ann. § 65-11-113 (2012)

Texas

§ 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.
Tex. Transp. Code Ann. § 471.003 (Vernon 2012)

Utah

§ 54-4-15.1. Signals or devices at grade crossings -- Duty to provide
The Department of Transportation so as to promote the public safety shall as prescribed in this act provide for the installing, maintaining, reconstructing, and improving of automatic and other safety appliances, signals or devices at grade crossings on public highways or roads over the tracks of any railroad or street railroad corporation in the state.
Utah Code Ann. § 54-4-15.1 (2012)

Vermont

§ 3584. Gates, electric signals, flaggers
When requested in writing by three or more freeholders or registered voters or residents of a city or village to order a gate or electric signal to be erected, or a flagger to be stationed at any railroad crossing at grade within such city or village, or when so requested by three or more freeholders or registered voters or residents of a town to order an electric signal to be erected at any railroad crossing at grade within that town, or, acting on its own initiative, the transportation board shall visit that place, first giving the parties making the request, the secretary of transportation, and the railroad corporation notice thereof. If the public safety requires, the board shall order the corporation operating the railroad to do any act at that place needful for the protection of the public, and may make any other order or further order it deems necessary in the premises, including but not limited to an order, after hearing and due notice to the parties in interest, directing the state, the municipality, and the railroad to pay all or part of the costs as the board finds just and equitable. The board shall not make further order without first visiting the place and giving the railroad corporation, the secretary of transportation, and the parties making request an opportunity to be heard thereon.
Vt. Stat. Ann. tit. 5, § 3584 (2013)

§ 3585. Procedure for payment of state's portion of cost
In making an order under section 3584 of this title, the transportation board shall require the submission of an itemized statement of the cost incurred by the state agency, municipality, corporation, or person responsible for compliance with the order, with an affidavit of an appropriate officer or person that the costs shown on the statement were incurred and are reasonable to the best of the officer's or person's knowledge and belief. Upon approval by the board of the statement and its certification to the commissioner of finance and management, the state treasurer shall issue a warrant to pay the state's portion of the cost in accordance with the order of the board.
Vt. Stat. Ann. tit. 5, § 3585 (2013)

Virginia

§ 56-406.1. Proceedings for installation and maintenance of automatically operated gates, signals and other automatic crossing warning devices
Railroads shall cooperate with the Virginia Department of Transportation and the Department of Rail and Public Transportation in furnishing information and technical assistance to enable the Commonwealth to develop plans and project priorities for the elimination of hazardous conditions at any crossing of a public highway which crosses at grade including, but not limited to, grade crossing elimination, reconstruction of existing grade crossings, and grade crossing improvements. The Commonwealth shall provide each locality a listing of grade crossing safety needs for its consideration. Information collected and analyses undertaken by the designated

state agencies are subject to 23 U.S.C. § 409. A railroad shall not unilaterally select or determine the type of grade crossing warning system to be installed at any crossing of a public highway and railroad at grade. The railroad shall only install or upgrade a grade crossing warning system at anycrossing of a public highway and railroad at grade pursuant to an agreement with the Virginia Department of Transportation or representative of the appropriate public road authority authorized to enter into such agreements. A railroad is not required but is permitted to upgrade, at its own expense, components of any public highway at grade warning system when such upgrade is incidental to a railroad improvement project relating to track, structures or train control systems.

When required by the Commissioner of Highways or representative of the appropriate public road authority, every railroad company shall cause a grade crossing warning device including flashing lights approved by the Department of Transportation at such heights as to be easily seen by travelers, and not obstructing travel, to be placed, and maintained at each public highway at or near each place where it is crossed by the railroad at the same level. Such warning device shall be automatically activated by the approaching train so as to be clearly discernible to travelers approaching the railroad crossing from each direction at a distance of two-hundred feet. Such warning devices shall be erected at the initiative of the appropriate public road authority only when required by ordinance or resolution adopted by the Commissioner or the appropriate public road authority thereof stating that such political subdivision will pay the full initial installation cost of such warning devices and that maintenance costs will be fixed as provided in § 56-406.2. A certified copy of such ordinance or resolution shall be delivered to such railroad company, and such railroad company shall forthwith install such warning devices at the full initial cost of such public road authority. The cost of such installation and maintenance of such warning devices may be shared by agreement between such railroad company and the Commissioner of Highways or the appropriate public road authority, when initiating such installation. The railroad shall be responsible for the continuing maintenance of the warning devices.

In the event that such Commissioner or representative of the appropriate public road authority and the railroad company or companies involved are unable to agree on (i) the necessity for such grade crossingwarning device, or (ii) the plans and specifications for and the method and manner of construction or operation thereof, or (iii) the share of the cost of construction, if any, to be borne by the railroad company or companies involved, then the Commissioner of Highways or representative of the appropriate public road authority, as the case may be, shall petition the State Corporation Commission setting forth the gradecrossing warning devices desired and the plans and specifications for and the method and manner of construction and operation of the devices desired and the facts which, in the opinion of the petitioner, justify the requiring of the same. Copies of the petition and plans and specifications shall be forthwith served by the State Corporation Commission on the railroad company or companies involved. Within twenty days after service on it of such petition and plans and specifications, each such railroad company shall file an answer with the State Corporation Commission setting out its objections to the proposed project, and the Commission shall hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine (a) whether public necessity justifies or requires the proposed warning devices, (b) whether the plans and specifications or the method and manner of construction and operation be proper and appropriate, and (c) what share of the cost of the project, if any, to be borne by any railroad company involved is fair and reasonable, having regard to the benefits, if any, accruing to such railroad company from providing such grade

crossing warning devices, and either dismiss the proceeding as against such railroad company or enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction.
Va. Code Ann. § 56-406.1 (2012)

§ 56-406.2 Proceeding for fixing cost of maintaining such warning devices at public grade crossings

Whenever any automatically operated gate, signal or other automatic crossing warning device has been or may hereafter be installed at any highway, road or street grade crossing by any railroad company, the Commissioner of Highways or the public road authority may agree with the railroad company involved as to the division of the cost of the future maintenance of any such device or devices. The basis for the division of costs shall be determined by the Department of Rail and Public Transportation utilizing the calculated average maintenance cost of all previous warning device maintenance performed and documented by all railroads operating in Virginia. In the event that the Commissioner or the public road authority and the railroad company involved are unable to agree upon the share of the cost of maintenance of any such device or devices to be borne by the railroad company, if any, then such railroad company may file a petition with the State Corporation Commission setting forth the crossing protection provided at such crossing, the terms of the contract and/or the conditions of the order of said Commission or the public road authority under which it was constructed and installed and the estimated future annual cost of maintaining the same. Copies of such petition shall forthwith be served by the State Corporation Commission upon the Commissioner of Highways or the public road authority who shall, within twenty days after service of such petition, file an answer thereto setting out reasons for declining to participate in the future cost of maintaining such warning device or devices as requested by the railroad company, and the Commission shall thereupon hear and determine the matter as other matters are heard and determined by that body. The Commission shall consider all the facts and circumstances surrounding the case and shall determine what share of the cost of the future maintenance of such warning device or devices, if any, shall be borne by the railroad company and/or the Commonwealth Transportation Board or the public road authority, having regard to the benefits, if any, accruing to such railroad company from the continued maintenance of such protection of said public highway, road or street grade crossing, and either dismiss the proceeding or enter an order deciding and disposing of the matters therein submitted to its jurisdiction.
Va. Code Ann. § 56-406.2 (2012)

Washington

§ 81.53.261. Crossing signals, warning devices -- Petition -- Hearing -- Order -- Costs apportionment -- Records not evidence for actions -- Appeal

Whenever the secretary of transportation or the governing body of any city, town, or county, or any railroad company whose road is crossed by any highway, shall deem that the public safety requires signals or other warning devices, other than sawbuck signs, at any crossing of a railroad at common grade by any state, city, town, or county highway, road, street, alley, avenue, boulevard, parkway, or other public place actually open and in use or to be opened and used for travel by the public, he or it shall file with the utilities and transportation commission a petition in writing, alleging that the public safety requires the installation of specified signals or other warning devices at such crossing or specified changes in the method and manner of existing crossing warning devices. Upon receiving such petition, the commission shall promptly set the

matter for hearing, giving at least twenty days notice to the railroad company or companies and the county or municipality affected thereby, or the secretary of transportation in the case of a state highway, of the time and place of such hearing. At the time and place fixed in the notice, all persons and parties interested shall be entitled to be heard and introduce evidence, which shall be reduced to writing and filed by the commission. If the commission shall determine from the evidence that public safety does not require the installation of the signal, other warning device or change in the existing warning device specified in the petition, it shall make determinations to that effect and enter an order denying said petition in toto. If the commission shall determine from the evidence that public safety requires the installation of such signals or other warning devices at such crossing or such change in the existing warning devices at said crossing, it shall make determinations to that effect and enter an order directing the installation of such signals or other warning devices or directing that such changes shall be made in existing warning devices. The commission shall also at said hearing apportion the entire cost of installation and maintenance of such signals or other warning devices, other than sawbuck signs, as provided in RCW 81.53.271: PROVIDED, That upon agreement by all parties to waive hearing, the commission shall forthwith enter its order.

No railroad shall be required to install any such signal or other warning device until the public body involved has either paid or executed its promise to pay to the railroad its portion of the estimated cost thereof.

Nothing in this section shall be deemed to foreclose the right of the interested parties to enter into an agreement, franchise, or permit arrangement providing for the installation of signals or other warning devices at any such crossing or for the apportionment of the cost of installation and maintenance thereof, or compliance with an existing agreement, franchise, or permit arrangement providing for the same.

The hearing and determinations authorized by this section may be instituted by the commission on its own motion, and the proceedings, hearing, and consequences thereof shall be the same as for the hearing and determination of any petition authorized by this section.

No part of the record, or a copy thereof, of the hearing and determination provided for in this section and no finding, conclusion, or order made pursuant thereto shall be used as evidence in any trial, civil or criminal, arising out of an accident at or in the vicinity of any crossing prior to installation of signals or other warning devices pursuant to an order of the commission as a result of any such investigation.

Any order entered by the utilities and transportation commission under this section shall be subject to review, supersedeas and appeal as provided in chapter 34.05 RCW.

Nothing in this section shall be deemed to relieve any railroad from liability on account of failure to provide adequate protective devices at any such crossing.

Wash. Rev. Code Ann. § 81.53.261 (LexisNexis 2012)

§ 81.53.271. Crossing signals, warning devices -- Petition contents -- Apportionment of installation and maintenance costs

The petition shall set forth by description the location of the crossing or crossings, the type of signal or other warning device to be installed, the necessity from the standpoint of public safety for such installation, the approximate cost of installation and related work, and the approximate annual cost of maintenance. If the commission directs the installation of a grade crossing protective device, and a federal-aid funding program is available to participate in the costs of such installation, installation and maintenance costs of the device shall be apportioned in accordance with the provisions of RCW 81.53.295. Otherwise if installation is directed by the

commission, it shall apportion the cost of installation and maintenance as provided in this section:
Wash. Rev. Code Ann. § 81.53.271 (LexisNexis 2012)

§ 81.53.275. Crossing signals, warning devices -- Apportionment when funds not available from grade crossing protective fund
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 fund: PROVIDED, That in such instances the city, town, county or state shall not be assessed more than sixty percent of the total cost of installation on other than federal aid designated highway projects: AND PROVIDED FURTHER, That in such instances the entire cost of maintenance shall be apportioned to the railroad.
Wash. Rev. Code Ann. § 81.53.275 (LexisNexis 2012)

§ 81.53.281. Crossing signals, warning devices -- Grade crossing protective fund -- Created -- Transfer of funds -- Allocation of costs -- Procedure -- Federal funding
There is hereby created in the state treasury a "grade crossing protective fund" to carry out the provisions of RCW 81.53.261, 81.53.271, 81.53.281, 81.53.291, and 81.53.295; for grants and/or subsidies to public, private, and nonprofit entities for rail safety projects authorized or ordered by the commission; and for personnel and associated costs related to supervising and administering rail safety grants and/or subsidies. The commission shall transfer from the public service revolving fund's miscellaneous fees and penalties accounts moneys appropriated for these purposes as needed. At the time the commission makes each allocation of cost to said grade crossing protective fund, it shall certify that such cost shall be payable out of said fund. When federal-aid highway funds are involved, the department of transportation shall, upon entry of an order by the commission requiring the installation or upgrading of a grade crossing protective device, submit to the commission an estimate for the cost of the proposed installation and related work. Upon receipt of the estimate the commission shall pay to the department of transportation the percentage of the estimate specified in RCW 81.53.295, as now or hereafter amended, to be used as the grade crossing protective fund portion of the cost of the installation and related work. The commission may adopt rules for the allocation of money from the grade crossing protective fund.
Wash. Rev. Code Ann. § 81.53.281 (LexisNexis 2012)

West Virginia

No applicable statute related to this topic

Wisconsin

***86.135. Railroad highway crossings; traffic control.**
All railroad companies, and their officers, agents, and employees, constructing, maintaining, or repairing railroad highway crossings shall comply with the traffic control provisions directed to the safe and expeditious movement of traffic through construction and maintenance zones and to the safety of the work force performing these operations contained in the manual establishing a uniform system of traffic control as adopted by the department under s. 84.02 (4) (e)
Wis. Stat. § 86.135 (2012)

***192.29. Train bells and crossing signs at street and highway crossings.**

(3) BELL TO RING, MUNICIPAL AUTHORITY.
(b) Flagmen or gates shall be placed and maintained, or such mechanical safety appliances shall be installed upon such public traveled grade crossings in villages and cities as the city or village authorities and the railroad company may by agreement decide; such agreement may include the apportionment of the cost of installation of such mechanical devices.
Wis. Stat. § 192.29 (2012) Excerpt from applicable statute published.

***195.26. Safety devices; block system.**
Every railroad and water carrier shall adopt reasonably adequate safety measures and install, operate and maintain reasonably adequate safety devices for the protection of life and property to the extent consistent with federal law. If after investigation the office shall determine that public safety requires it, the office may, if permitted under federal law, order a railroad to install, operate and maintain a block system or order a railroad or water carrier to install, operate, and maintain any other safety device or measure as may be necessary to render the operation of the railroad or water carrier reasonably safe.
Wis. Stat. § 195.26 (2012)

195.28. Protecting grade crossings.
(1) Petition; hearing; order. Upon petition of the department, city council, village board, town board, superintendent of highways or by 5 or more electors in any town, village or city, or of any railroad corporation or railroad historical society, to determine whether a public highway and railroad grade crossing protects and promotes public safety, the office may investigate and issue an appropriate order without a public hearing. If the petitioner, railroad, railroad historical society or any interested party objects to the order and requests a hearing within 20 days after the date that the order is issued, the office shall proceed under s. 195.04. Notice of an investigation or hearing shall be served upon the department, which shall be an interested party, and any recommendation it may file with the office at or prior to a hearing, if there is one, regarding crossing protection shall be considered as evidence in the proceeding. The office shall determine whether the existing warning devices at such crossing are adequate to protect and promote public safety. If the office determines, either without or after a hearing, that protection is 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 device at specific locations at such crossing. The office may order the relocation of existing signals and devices to improve protection at a crossing. Any crossing protection installed or maintained as approved by the office, whether by order or otherwise, shall be deemed adequate and appropriate protection for the crossing.
(1m) ARTERIAL STOP SIGNS.
In any proceeding under sub. (1), the office may by order require that the state or municipality install at any crossing involved in such proceeding an official stop sign.
(2) INSTALLATION COSTS.
The cost of any signal or other crossing protection device which is ordered installed under sub. (1) and the cost of installing any such device shall be paid by the department from the appropriations under s. 20.395 (2) (gj), (gr) and (gx)
(3) MAINTENANCE COSTS.
Except as otherwise provided in this subsection, the cost of maintaining crossing protection devices ordered under sub. (1) shall be the responsibility of the railroad or railroad historical society. Any railroad company or railroad historical society that incurs expenses for maintenance of signals or other safety devices may file a claim for reimbursement with the department

regardless of the date of installation of the signals or devices. At the close of each fiscal year the department shall reimburse claimants under this subsection for 50% of the costs, as determined by the office, incurred for maintenance of railroad crossing protection devices from the appropriations under s. 20.395 (2) (gj) and (gq) If the amount in the appropriations under s. 20.395 (2) (gj) and (gq) is not adequate to fund maintenance reimbursement under this subsection, the amount shall be prorated in the manner determined by the office.
(4) PREVIOUS OFFICE ORDERS.
Subsection (3) applies to maintenance costs for all crossing protection devices regardless of any prior order of the office apportioning maintenance costs.
Wis. Stat. § 195.28 (2012)

Wyoming

***§ 31-5-113. Placement and maintenance of traffic-control devices by department.**
(a) The department shall place and maintain such traffic-control devices, conforming to the department's manual and specifications, upon all state highways as it deems necessary to indicate and to carry out this act or to regulate, warn or guide traffic.
(b) No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the highway department except with the highway department's permission.
Wyo. Stat. Ann. § 31-5-113 (2012)

§ 37-10-102. Power to close or establish crossings; establishing priority for hazardous crossing locations.
(b) Upon application to the commission from the duly authorized agents of the cities, counties or other governmental entities or the affected railroad for participation under the terms of this act or upon its own motion when the public interest clearly indicates action should be taken, the commission shall consider the need from the evidence presented, availed or adduced and shall establish a priority rating from the applications or evidence before the commission, assigning priority first to the most hazardous railroad crossing locations, giving proper weight to increased rail traffic and to the traffic volume over such crossing with due consideration being given for school buses and dangerous commodities. If the commission determines there is a need for grade crossing protection, then they shall determine the type of crossing protection required, including whether the crossing is to be made at grade or a grade separation structure. If the crossing be at grade, the commission shall determine the kind and type of grade crossing protection signals and devices required. If the crossing is to be a grade separation structure, the commission shall determine the kind and type of grade separation structure.
Wyo. Stat. Ann. § 37-10-102 (2012) Excerpt from applicable statute published.

§ 37-10-103. Apportionment of cost of grade crossing devices and grade separation structures; between railroad and state, county and city government.
(a) With respect to the installation of safety devices or safety equipment at railroad-highway crossings, under the direction of the affected railroad, it shall be the duty of the transportation commission to apportion the costs and expenses of installing or reconstructing the crossings and safety devices between the railroads and the department of transportation or the county, city or other governmental entity involved in proportion to the respective benefits to be derived, and to make the apportionment of the costs in accordance with state and federal rules and regulations.
Wyo. Stat. Ann. § 37-10-103 (2012) Excerpt from applicable statute published.

Chapter 7: Slow, Low, and Special Vehicles

CHAPTER OVERVIEW

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

"Slow and Low Vehicles" are referred to in the statutes as a type 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 10 mph or less. Some statutes specifically mention 6 mph or less for this category of vehicles.

"Special Vehicles," as defined in the statutes, are vehicles carrying passengers for hire (commercial) and school buses carrying children. Vehicles carrying explosive substances, flammable materials, or other types of hazardous materials are also included in this category.

Federal regulations require every bus transporting passengers and certain vehicles carrying hazardous materials to stop and listen and to 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 drivers from manually shifting gears while moving across the tracks.

This chapter also contains state laws and regulations that address "Exempt Crossings" at which the stopping requirements for slow, low, and special vehicles do not apply. These provisions generally mirror federal regulations, which exempt the following types of crossings:

1. A streetcar crossing or railroad tracks used exclusively for industrial switching 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 transmitting a green indication which, under local law, permits the commercial vehicle to proceed across the tracks without slowing or stopping.
4. An abandoned crossing marked with a sign indicating that the rail line is abandoned.
5. An industrial or spur line grade crossing marked with a sign reading "EXEMPT" that has been erected by or with the consent of the state or local authority.

For more information, please refer to 49 CFR 392.10.

Alabama

§ 32-5A-151. Railroad crossings; stop required by certain vehicles. (Special Vehicles and Exempt Crossings)

(a) Except as provided in subsection (b), the driver of any vehicle described in regulations issued pursuant to subsection (c), before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver shall not manually shift gears while crossing the track or tracks. Nothing contained in this section is intended to abrogate or modify the present Alabama doctrine of "stop, look and listen" obtaining in the courts of Alabama.

(b) This section shall not apply at:

(1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;

(2) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;

(3) Any railroad grade crossing protected by crossing gates or any alternately flashing light signal intended to give warning of the approach of a railroad train;

(4) Any railroad grade crossing at which an official traffic control device gives notice that the stopping requirement imposed by this section does not apply.

(c) The Highway Director shall adopt such regulations as may be necessary describing the vehicles which must comply with the stopping requirements of this section. In formulating such regulations the Highway Director shall give consideration to the number of passengers carried by the vehicle and the hazardous nature of any substance carried by the vehicle in determining whether such vehicle shall be required to stop. Such regulations shall correlate with and so far as possible conform to the most recent regulation of the United States Department of Transportation.

Ala. Code § 32-5A-151 (2012)

§ 32-5A-152. Railroad crossings; heavy motorized equipment. (Slow and Low Vehicles)

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 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 any tracks at a railroad grade crossing without first complying with this section.

(b) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(c) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

Ala. Code § 32-5A-152 (2012)

Alaska

3 AAC 02.250. Mandatory vehicle stops at railroad crossings (Special Vehicles and Exempt Crossings)

(a) Except for the driver of any motor vehicle, other than a passenger car, a taxi cab, and a limousine, a vehicle carrying passengers for hire, a school bus, or a vehicle carrying an explosive substance or a flammable liquid as a cargo or a part of a cargo or a residue of a cargo must stop the vehicle within the distance required in 13 AAC 02.240(a) before crossing a railroad grade. While stopped, the driver must listen and look in both directions along the track for an approaching train and for a signal indicating the approach of a train, and may not proceed until the driver can do so safely. The driver of a school bus approaching a railroad grade crossing shall activate the vehicle's amber lights for a distance not less than 300 feet before stopping at a railroad grade crossing. After stopping, the amber lights must be deactivated. Upon proceeding when safe, the driver of a vehicle must cross only in that gear of the vehicle that will not require changing gears while traversing the crossing, and the driver may not shift gears while crossing.
(b) This section does not apply at
(1) a railroad grade crossing at which traffic is directed to proceed by a police officer, an authorized flagman, or an official traffic-control device.
(2) repealed 4/20/82.
Alaska Admin. Code tit. 13, §02.250 (2012)

13 AAC 02.255. Moving heavy equipment at railroad grade crossings. (Slow and Low Vehicles)

(a) No person may drive or move a crawler-type tractor, steam shovel, derrick, roller, or equipment or device having a normal operating speed of 10 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 from the surface of a roadway, across a railroad grade crossing without first complying with this section.
(b) Notice of an intended crossing must be given to a station agent of the railroad, and reasonable time must be given to the railroad to provide proper protection at the crossing.
(c) Before making a crossing, the person operating or moving a vehicle or equipment must stop the vehicle or equipment and proceed as required in 13 AAC 02.240 and 13 AAC 02.250(a). No crossing may be made when warning is given of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing must be under his direction.
Alaska Admin. Code tit. 13, §02.255 (2012)

Arizona

§ 28-853. Railroad grade crossing; stop required of certain vehicles; other requirements (Special Vehicles and Exempt Crossings)

A. Except as otherwise provided in this article, before crossing at grade any track or tracks of a railroad, the driver of a motor vehicle carrying passengers for hire, of any school bus carrying any school child or of any vehicle carrying or returning after delivery of explosive substances or flammable liquids as a cargo or part of a cargo shall stop the vehicle within fifty feet but not less than fifteen feet from the nearest rail of the railroad, while stopped listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train and not proceed until the driver can do so safely. After stopping as required by this section and on proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of

the vehicle for which there is no need to change gears while traversing the crossing and shall not shift gears while crossing the track or tracks. This subsection does not apply at:
1. A crossing where a police officer or a traffic control signal directs traffic to proceed.
2. A street railway grade crossing within a business or residence district.
B. A driver of a commercial motor vehicle shall not enter a railroad or rail transit crossing unless there is sufficient space on the other side of the railroad or rail transit crossing to accommodate the vehicle being driven.
C. A driver of a commercial motor vehicle shall not enter a railroad or rail transit crossing unless there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including a train or a city transit vehicle.
Ariz. Rev. Stat. § 28-853 (2012).

§ 28-854. Railroad grade crossing; moving heavy equipment; exception; definition (Slow and Low Vehicles)
A. A person shall not operate or move any heavy equipment on or across a track at a railroad grade crossing unless:
1. Notice of the intended crossing is given to a station agent of the railroad.
2. Before making the crossing, the person operating or moving the vehicle or equipment:
(a) Stops the vehicle or equipment at least fifteen feet but not more than fifty feet from the nearest rail of the railroad.
(b) While so stopped, listens and looks in both directions along the track for an approaching train and for signals indicating the approach of a train.
3. Does not proceed until the crossing can be made safely.
B. A person shall not make a crossing pursuant to this section when a warning is given by automatic signal, crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under the flagman's direction.
C. This section does not apply to the normal movement of farm equipment in the regular course of a farm operation.
D. For the purposes of this section, “heavy equipment” means any crawler type tractor, steam shovel, derrick, roller or other 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 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.
Ariz. Rev. Stat. § 28-854 (2012)

<u>Arkansas</u>

27-51-703. Certain vehicles to stop at all crossings -- Exceptions. (Special Vehicles and Exempt Crossings)
(a) The driver of any motor vehicle carrying passengers for hire, any school bus carrying any school child, or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo before crossing at grade any tracks of a railroad shall stop the vehicle within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad and, while so stopped, shall listen and look in both directions along the track for any approaching train and for signals indicating that approach of a train, except as provided, and shall not proceed until he or she can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in the gear of the vehicle in which there will be

no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the tracks.
(b) No stop need be made at any such crossing where a police officer or a traffic control signal directs traffic to proceed.
(c) This section shall not apply at street railway grade crossings within a business or residential district.
Ark. Code Ann. § 27-51-703 (2012).

27-51-704. Trucks carrying explosives or flammable liquids. (Special Vehicles)
(a) The operator of any truck carrying any explosive substances or flammable liquids or gases as a cargo or part of a cargo shall, before crossing any railroad tracks, stop the vehicle within fifty feet (50') but not less than fifteen feet (15') from the nearest railroad and while stopped shall open the door of the truck on the driver's side or roll down the window at least twelve inches (12") in order to remove any obstruction of the sound of a train whistle. He or she shall also listen and look in both directions along the track for any approaching train or signals indicating the approach of a train and shall proceed to cross the tracks only after he or she has determined that it is safe to do so.
(b)(1) Any operator of a truck who fails to comply with the provisions of this section shall be guilty of a misdemeanor.
(2)(A)(i) Upon a first conviction, the operator shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300).
(ii) In addition, the chauffeur's license of the operator shall be suspended for a period of thirty (30) days.
(B)(i) For a second offense, the operator shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300).
(ii) In addition, that person's chauffeur's license shall be suspended for a period of one (1) year.
Ark. Code Ann. § 27-51-704 (2012)

27-51-705. Moving heavy equipment at crossings. (Slow and Low Vehicles)
(a) No person shall 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 (10 m.p.h.) or a vertical body or load clearance of less than one-half inch (1/2") per foot of the distance between any two (2) adjacent axles or, in any event, of less than nine inches (9"), measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
(b) Notice of any intended crossing shall be given to a station agent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
(c) Before making any crossing, the person operating or moving any such vehicle or equipment shall first stop it not less than fifteen feet (15') nor more than fifty feet (50') from the nearest rail of the railroad. While stopped that person shall listen and look in both directions along the tracks for any approaching train and for signals indicating the approach of a train and shall not proceed until the crossing can be made safely.
(d)(1) No crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car.
(2) If a flagger is provided by the railroad, movement over the crossing shall be under his or her direction.
Ark. Code Ann. § 27-51-705

California

Slow and Low Vehicles

No applicable statute related to this topic

Veh. Code § 13201. License suspension on conviction of specified misdemeanors
A court may suspend, for not more than six months, the privilege of a person to operate a motor vehicle upon conviction of any of the following offenses:
(c) Failure of the driver of a vehicle to stop at a railway grade crossing as required by Section 22452.
Cal. Veh. Code § 13201(c) (Deering 2012)

Veh. Code § 22452. Special Stops Required (Special Vehicles and Exempt Crossings)
(a) Subdivisions (b) and (d) apply to the operation of the following vehicles:
(1) A bus or farm labor vehicle carrying passengers.
(2) A motor truck transporting employees in addition to those riding in the cab.
(3) A schoolbus and a school pupil activity bus transporting school pupils, except as otherwise provided in paragraph (4) of subdivision (d).
(4) A commercial motor vehicle transporting any quantity of a Division 2.3 chlorine, as classified by Title 49 of the Code of Federal Regulations.
(5) A commercial motor vehicle that is required to be marked or placarded in accordance with the regulations of Title 49 of the Code of Federal Regulations with one of the following federal classifications:
(A) Division 1.1.
(B) Division 1.2, or Division 1.3.
(C) Division 2.3 Poison gas.
(D) Division 4.3.
(E) Class 7.
(F) Class 3 Flammable.
(G) Division 5.1.
(H) Division 2.2.
(I) Division 2.3 Chlorine.
(J) Division 6.1 Poison.
(K) Division 2.2 Oxygen.
(L) Division 2.1.
(M) Class 3 Combustible liquid.
(N) Division 4.1.
(O) Division 5.1.
(P) Division 5.2.
(Q) Class 8.
(R) Class Division 1.4.
(S) A cargo tank motor vehicle, whether loaded or empty, used for the transportation of a hazardous material, as defined in Parts 107 to 180, inclusive, of Title 49 of the Code of Federal Regulations.
(6) A cargo tank motor vehicle transporting a commodity that at the time of loading has a temperature above its flashpoint, as determined under Section 173.120 of Title 49 of the Code of Federal Regulations.

(7) A cargo tank motor vehicle, whether loaded or empty, transporting a commodity under exemption in accordance with Subpart B of Part 107 of Title 49 of the Code of Federal Regulations.
(b) Before traversing a railroad grade crossing, the driver of a vehicle described in subdivision (a) shall stop that vehicle not less than 15 nor more than 50 feet from the nearest rail of the track and while so 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 he or she can do so safely. Upon proceeding, the gears shall not be shifted manually while crossing the tracks.
(c) The driver of a commercial motor vehicle, other than those listed in subdivision (a), upon approaching a railroad grade crossing, shall be driven at a rate of speed that allows the commercial vehicle to stop before reaching the nearest rail of that crossing, and shall not be driven upon, or over, the crossing until due caution is taken to ascertain that the course is clear.
(d) A stop need not be made at a crossing in the following circumstances:
(1) Of railroad tracks running along and upon the roadway within a business or residence district.
(2) Where a traffic officer or an official traffic control signal directs traffic to proceed.
(3) Where an exempt sign was authorized by the Public Utilities Commission prior to January 1, 1978.
(4) Where an official railroad crossing stop exempt sign in compliance with Section 21400 has been placed by the Department of Transportation or a local authority pursuant to Section 22452.5. This paragraph does not apply with respect to a schoolbus or to a school pupil activity bus transporting school pupils.
Cal. Veh. Code § 22452 (Deering 2012)

Colorado

***42-4-707. Certain vehicles must stop at railroad grade crossings (Special Vehicles and Exempt Crossings)**
(1) Except as otherwise provided in this section, the driver of a school bus, as defined in paragraph (b) of subsection (5) of this section, carrying any schoolchild, the driver of a vehicle carrying hazardous materials that is required to be placarded in accordance with regulations issued pursuant to section 42-20-108, or the driver of a commercial vehicle, as defined in section 42-4-235, that is transporting passengers, before crossing at grade any tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until the driver can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not manually shift gears while crossing the tracks.
(2) This section shall not apply at street railway grade crossings within a business district.
(3) When stopping as required at such railroad crossing, the driver shall keep as far to the right of the roadway as possible and shall not form two lanes of traffic unless the roadway is marked for four or more lanes of traffic.
(4) Subsection (1) of this section shall not apply at:
(a) (Deleted by amendment, L. 2006, p. 42, § 1, effective July 1, 2006.)
(b) Any railroad grade crossing at which traffic is regulated by a traffic control signal;
(c) Any railroad grade crossing at which traffic is controlled by a police officer or human flagperson;

(d) Any railroad crossing where state or local road authorities within their respective jurisdictions 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", which shall give notice when so posted that such crossing is exempt from the stopping requirement provided for in this section.
(5) For the purposes of this section:
(a) The definition of hazardous materials shall be the definition contained in the rules adopted by the chief of the Colorado state patrol pursuant to section 42-20-108.
(b) "School bus" means a school bus that is required to bear on the front and rear of such school bus the words "SCHOOL BUS" and display visual signal lights pursuant to section 42-4-1903 (2) (a).
(6) Any person who violates any provision of this section commits a class A traffic infraction.
Colo. Rev. Stat. § 42-4-707 (2012)

42-4-708. Moving heavy equipment at railroad grade crossing (Slow and Low Vehicles)
(1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, or 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 nine inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.
(2) Notice of any such intended crossing shall be given to a superintendent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
(3) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(4) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagperson or otherwise of the immediate approach of a railroad train or car.
(5) Subsection (3) of this section shall not apply at any railroad crossing where state or local road authorities within their respective jurisdictions 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", which shall give notice when so posted that such crossing is exempt from the stopping requirement provided in this section.
(6) Any person who violates any provision of this section commits a class B traffic infraction.
Colo. Rev. Stat. § 42-4-708 (2012)

Connecticut

Sec. 14-250. Certain motor vehicles to stop at railroad crossing. Regulations. Penalty. (Special Vehicles)
(a) The operator of each commercial motor vehicle transporting passengers, service bus or motor vehicle used for the transportation of school children and the operator of each commercial motor vehicle with a cargo tank or carrying hazardous materials, as defined in section 14-1, whether loaded or empty, before crossing at grade any track or tracks of a railroad, shall stop such vehicle not less than fifteen feet or more than fifty feet from the nearest rail of such track, and, while so stopped, shall listen and look in each direction along such track or tracks for approaching locomotives or trains before crossing such track or tracks; and such operator shall not, in any

event, cross such track or tracks when warned by automatic signal, crossing gates, flagman, law enforcement officer or otherwise of the approach of a railroad locomotive or train.
(b) The operator of any commercial motor vehicle shall not attempt to cross a railroad grade crossing if such vehicle cannot be driven completely through such crossing, without shifting gears, on account of insufficient undercarriage clearance.
(c) The operator of any commercial motor vehicle shall not attempt to cross a railroad grade crossing if such vehicle does not have sufficient space to drive completely through such crossing and to clear the tracks without stopping.
(d) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section, including exemptions for certain crossings and vehicles that are allowed by the provisions of 49 CFR 392.10.
(e) Any person who violates any provision of subsection (a) of this section shall be fined not less than one hundred fifty dollars or more than two hundred fifty dollars. Violation of any provision of subsection (b) or (c) of this section shall be an infraction.
Conn. Gen. Stat. § 14-250 (2012)

***Sec. 14-281a. Speed of school buses. Display of head lamps. (Special Vehicles)**
(a) Every school bus shall be operated at a safe rate of speed, consistent with the volume of traffic, intersections, curves, railway crossings and any other condition requiring special caution. The maximum speed shall not exceed fifty miles per hour on divided limited access highways and forty miles per hour on all other highways or, where highway signs indicate lower speeds, shall not exceed such posted speed limits.
Conn. Gen. Stat. § 14-281(a) (2012) Excerpt from applicable statute published.

Delaware

§ 4163. Certain vehicles must stop at all railroad grade crossings (Special Vehicles and Exempt Crossings)
(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at any grade or any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until the driver can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.
(b) This section shall not apply at:
(1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;
(2) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;
(3) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;
(4) Any railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.
Del. Code Ann. tit. 21, § 4163 (2012)

***§ 4163A. Railroad crossing violations for operators of commercial vehicles only (Special Vehicles)**
In addition to the existing railroad crossing violations in § 4163 of this title, the following railroad crossing infractions shall apply to commercial motor vehicle operators.
(1) Every commercial motor vehicle operator other than those listed in § 4163 of this title shall, upon approaching a railroad-highway grade crossing:
a. Slow down and check that the tracks are clear of an approaching train; and
b. Stop before reaching the crossing if the tracks are not clear.
(2) The driver of a commercial motor vehicle shall obey a traffic control device and comply with a lawful order or direction of a police officer or other enforcement official who is guiding, directing, controlling, or regulating traffic at a railroad-highway gradecrossing.
(3) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient undercarriage clearance.
(4) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient space and can be driven completely through the crossing without stopping.
Del. Code Ann. tit. 21, § 4163A (2012)

§ 4167. Moving heavy equipment at railroad grade crossings (Slow and Low Vehicles)
(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 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 2 adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
(c)Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until the crossing can be made safely.
(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be under the flagger's direction.
Del. Code Ann. tit. 21, § 4167 (2012)

District of Columbia

Slow and Low Vehicles
No applicable statute related to this topic

***§ 50-405.01. Commercial motor vehicle operation; additional requirements, violation, adjudication (Special Vehicles)**
(a) No person while operating a commercial motor vehicle shall:
(1) Fail to slow down and stop before reaching a railroad crossing to check that railroad tracks are clear of an approaching train;
(2) Fail to leave sufficient space to drive through a railroad crossing without stopping;

(3) Fail to obey a traffic control device or the directions of an enforcement official at a railroad crossing;
(4) Fail to negotiate a railroad crossing because of insufficient undercarriage clearance;
(5) Violate an out-of-service order; or
(6) Have an alcohol concentration of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
(b) Any person found in violation of any provision of subsection (a) of this section shall be fined $ 300 for each offense, but no traffic points shall be assessed.
(c) Violations of subsection (a) of this section shall be adjudicated as moving violations pursuant to § 50-2301.01 et seq.
D.C. Code Ann. § 50-405.01 (LexisNexis 2012)

Florida

§ 316.159. Certain vehicles to stop or slow at all railroad grade crossings (Special Vehicles and Exempt Crossings)

(1) The driver of any motor vehicle carrying passengers for hire, excluding taxicabs, of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad and, while so stopped, shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he or she can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in a gear of the vehicle so that there will be no necessity for changing gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks.
(2) No stop need be made at any such crossing where a police officer, a traffic control signal, or a sign directs traffic to proceed. However, any school bus carrying any school child shall be required to stop unless directed to proceed by a police officer.
(3) The driver of any commercial motor vehicle that is not required to stop under subsection (1) or subsection (2) shall slow the motor vehicle before crossing the tracks of any railroad grade crossing and check that the tracks are clear of an approaching train.
(4) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.
Fla. Stat. Ann. § 316.159 (LexisNexis 2012)

§ 316.170. Moving heavy equipment at railroad grade crossings (Slow and Low Vehicles)

(1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, or roller, or any equipment or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than 1/2 inch per foot of the distance between any two adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
(2) Notice of any such intended crossing shall be given to a station agent or other proper authority of the railroad, and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
(3) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest

rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(4) No such crossing shall be made when warning is being given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be under his or her direction.
(5) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.
Fla. Stat. Ann. § 316.170 (LexisNexis 2012)

Georgia

§ 40-6-142. Certain vehicles to stop at all railroad crossings (Special Vehicles and Exempted Crossings)
(a) Except as provided in subsection (b) of this Code section, the driver of any motor vehicle carrying passengers for hire, any bus, whether or not operated for hire, or of any school bus, whether carrying any school children or empty, or of any vehicle carrying any hazardous material listed in Section 392.10 of Title 49 of the Code of Federal Regulations as those regulations currently exist or as they may in the future be amended or in regulations adopted by the commissioner of public safety, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until he or she can do so safely. After stopping as required in this Code section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.
(b) No stop need be made at any such crossing where:
(1) Traffic is directed to proceed by a police officer, a firefighter, or a railroad flagman;
(2) A traffic-control signal directs traffic to proceed;
(3) The highway crosses an abandoned railroad track which is marked with a sign indicating its abandoned status, where such signs are erected by or under the direction of the local or state authority having jurisdiction over the highway; or
(4) The highway crosses an industrial siding or spur track marked “exempt,” where such signs are erected by or under the direction of the local or state authority having jurisdiction over the highway.
Ga. Code Ann. § 40-6-142 (2012)
§ 40-6-143. Moving heavy equipment at railroad grade crossings (Slow and Low Vehicles)
(a) No person shall operate or move a crawler-type tractor, steam shovel, derrick, roller, or 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 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 any tracks at a railroad grade crossing without first complying with this Code section.
(b) Notice of any such intended crossing shall be given to a station agency of such railroad and a reasonable time shall be given to such railroad to provide proper protection at such crossing.
(c) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop it not less than 15 feet nor more than 50 feet from the nearest rail of

such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train and shall not proceed until the crossing can be made safely.
(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
Ga. Code Ann. § 40-6-143 (2012)

Hawaii

§ 291C-93. Certain vehicles must stop at all railroad crossings. (Special Vehicles and Exempt Crossings)
(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and if a train is approaching, and is approximately within fifteen hundred feet of the crossing, shall not proceed until after the train has passed. After stopping as required herein and determining that no train is approaching, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.
(b) No stop need be made at any such crossing where a police officer or a traffic-control signal directs traffic to proceed.
(c) This section shall not apply at street-railway grade crossings within a business or residence district.
Haw. Rev. Stat. Ann. § 291C-93 (LexisNexis 2012)

Slow and Low Vehicles
No applicable statute related to this topic

Idaho

§ 33-1508 Operation of school buses (Special)
(1) All school buses shall at all times be operated in conformity with law and with rules of the Idaho state police and the state board of education.
Idaho Code Ann. § 33-1508 (2012)

For additional information, see Idaho Code Ann. § 49-649 in chapter 8

§ 49-650. Moving heavy equipment at railroad grade crossings (Slow and Low)
(1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two (2) adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a highway, upon or across any tracks at a railroad gradecrossing without first complying with this section.

(2) Notice of intended crossing shall be given to a station agent of the railroad and a reasonable time be given to the railroad to provide proper protection at the crossing.
(3) Before making the crossing the person operating or moving the vehicle or equipment shall first stop not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train or for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(4) No crossing shall be made when warning is given by automatic signal, crossing gates, a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over thecrossing shall be under his direction.
Idaho Code Ann. § 49-650 (2012)

Illinois

§ 625 ILCS 5/11-1202. Certain vehicles must stop at all railroad grade crossings (Special and Exempt Crossings)
(a) The driver of any of the following vehicles shall, before crossing a railroad track or tracks at grade, stop such vehicle within 50 feet but not less than 15 feet from the nearest rail and, while so stopped, shall listen and look for the approach of a train or railroad track equipment and shall not proceed until such movement can be made with safety:
1. Any second division vehicle carrying passengers for hire;
2. Any bus that meets all of the special requirements for school buses in Sections 12-801, 12-803, and 12-805 of this Code [625 ILCS 5/12-801, 625 ILCS 5/12-803, and 625 ILCS 5/12-805]. The driver of the bus, in addition to complying with all other applicable requirements of this subsection (a), must also (i) turn off all noise producing accessories, including heater blowers, defroster fans, auxiliary fans, and radios, and (ii) open the service door and driver's window, before crossing a railroad track or tracks;
3. Any other vehicle which is required by Federal or State law to be placarded when carrying as a cargo or part of a cargo hazardous material as defined in the “Illinois Hazardous Materials Transportation Act” [430 ILCS 30/1 et seq.].
After stopping as required in this Section, the driver shall proceed only in a gear not requiring a change of gears during the crossing, and the driver shall not shift gears while crossing the track or tracks.
(b) This Section shall not apply:
1. At any railroad grade crossing where traffic is controlled by a police officer or flagperson;
2. At any railroad grade crossing controlled by a functioning traffic-control signal transmitting a green indication which, under law, permits the vehicle to proceed across the railroad tracks without slowing or stopping, except that subsection (a) shall apply to any school bus;
3. At any streetcar grade crossing within a business or residence district; or
4. At any abandoned, industrial or spur track railroad grade crossing designated as exempt by the Illinois Commerce Commission and marked with an official sign as authorized in the State Manual on Uniform Traffic Control Devices for Streets and Highways.
625 Ill. Comp. Stat. Ann. 5/11-1202 (LexisNexis 2012)

§ 625 ILCS 5/11-1203. Moving heavy equipment at railroad grade crossing (Slow and Low)
(a) No person shall operate or move any crawler-type tractor, power shovel, derrick, roller, or any equipment or structure having a normal operating speed of 10 or less miles per hour, or, for such equipment with 18 feet or less distance between two adjacent axles, having a vertical body

or load clearance of less than 9 inches above a level surface, or, for such equipment with more than 18 feet between two adjacent axles, having a vertical body or load clearance of less than 1/2 inch per foot of distance between such adjacent axles above a level surface upon or across any tracks at a railroad grade crossing without first complying with this Section.
(b) Notice of any such intended crossing shall be given to a superintendent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railway and while so stopped shall listen and look in both directions along such track for any approaching train or railroad track equipment and for signals indicating the approach of a train or railroad track equipment, and shall not proceed until the crossing can be made safely.
(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train, railroad track equipment, or car.
625 Ill. Comp. Stat. Ann. 5/11-1203 (LexisNexis 2012)

<u>Indiana</u>

***9-21-8-40. Types of vehicles or equipment requiring notice to railroad prior to crossing railroad grading -- Procedure to be followed. (Slow and Low)**
(a) A person may not operate or move a caterpillar tractor, steam shovel, derrick, roller, or any equipment or structure weighing more than ten (10) tons and having a normal operating speed of not more than six (6) miles per hour or a vertical body or load clearance of less than nine (9) inches above the level surface of a roadway upon or across tracks at a railroad grade crossingwithout first complying with this section.
(b) Notice of an intended crossing under this section shall be given to a superintendent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection at thecrossing.
(c) Before making a crossing under this section, the person operating or moving a vehicle or equipment described in subsection (a) shall first stop the vehicle or equipment not less than ten (10) feet and not more than fifty (50) feet from the nearest rail or the railway. While stopped, the person shall listen and look in both directions along the track for an approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment. The person shall not proceed until the crossing can be made safely.
(d) A crossing may not be made when warning is given by automatic signal, crossing gates, a flagman, or otherwise of the immediate approach of a railroad train or other on-track equipment.
Ind. Code Ann. § 9-21-8-40 (LexisNexis 2012)

9-21-12-5. Stopping at railroad crossing -- Procedure for crossing track or tracks -- Obeying police officer or traffic control signals at crossings. (Special Vehicles and Exempt Crossings)
(a) This section does not apply to the following:
(1) A street railway grade crossing within a business or residence district.
(2) Abandoned or unused railroad grade crossings that are:
(A) designated by the Indiana department of transportation under IC 8-6-15-2; and
(B) marked with a “tracks out of service” sign that complies with the requirements of IC 8-6-15-3.
(b) A person who drives:

(1) a motor vehicle carrying passengers for hire;
(2) a school or private bus that is carrying passengers; or
(3) a vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo;
shall, before crossing at grade a track of a railroad, stop the vehicle not more than fifty (50) feet and not less than fifteen (15) feet from the nearest rail of the railroad.
(c) While stopped in accordance with subsection (b), the person shall do the following:
(1) Listen through an open window or door.
(2) Look in both directions along the track for an approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment.
(3) Not proceed until the person can proceed safely.
After stopping, the person shall cross only in a gear of the vehicle so there will be no necessity for changing gears while traversing the crossing. The person who drives the vehicle may not shift gears while crossing the track or tracks.
(d) If a police officer or traffic control signal directs traffic to proceed at a railroad crossing, the person who drives a vehicle subject to this section shall proceed in accordance with the instructions of the police officer or traffic control signal.
Ind. Code Ann. § 9-21-12-5 (LexisNexis 2012)

***9-21-12-17. Railroad crossing procedures. (Special Vehicles)**
(a) Except as provided in subsection (b), before crossing any railroad track at grade, the driver of a school bus or special purpose bus shall stop the bus within fifty (50) feet but not less than fifteen (15) feet from the nearest rail. While the bus is stopped, the driver shall:
(1) listen through an open door;
(2) look in both directions along the track for an approaching train or other on-track equipment; and
(3) look for signals indicating the approach of a train or other on-track equipment.
The driver may not proceed until it is safe to proceed. When it is safe to proceed, the driver shall select a gear that will allow the driver to cross the tracks without changing gears. The driver may not shift gears while crossing the tracks.
(b) The driver is not required to stop when a police officer is directing the flow of traffic across railroad tracks.
(c) Upon conviction of a violation of this section, a driver shall have the driver's operator's license suspended for a period of not less than sixty (60) days in addition to the penalties provided by section 11 [IC 9-21-12-11] of this chapter.
Ind. Code Ann. § 9-21-12-17 (LexisNexis 2012)

***9-24-6-6. Serious driving violations while driving commercial vehicle or holding any class of commercial driver's license. (Special Vehicles)**

(a) The following, if committed while driving a commercial motor vehicle or while holding any class of commercial driver's license or permit, are serious traffic violations:
(7) For drivers who are not required to always stop at a railroad crossing, failing to do any of the following:
(A) Slow down and determine that the railroad tracks are clear of an approaching train or other on-track equipment, in violation of IC 9-21-5-4, IC 9-21-8-39, IC 35-42-2-4, or any similar statute.

(B) Stop before reaching the railroad crossing, if the railroad tracks are not clear of an approaching train or other on-track equipment, in violation of IC 9-21-4-16, IC 9-21-8-39, or any similar statute.
(8) For all drivers, whether or not they are required to always stop at a railroad crossing, to do any of the following:
(A) Stopping in a railroad crossing, in violation of IC 9-21-8-50 or any similar statute.
(B) Failing to obey a traffic control device or failing to obey the directions of a law enforcement officer at a railroad crossing, in violation of IC 9-21-8-1 or any similar statute.
(C) Stopping in a railroad crossing because of insufficient undercarriage clearance, in violation of IC 35-42-2-4, IC 9-21-8-50, or any similar statute.
(b) Subsection (a)(1) through (a)(11) are intended to comply with the provisions of 49 U.S.C. 31311(a)(10) and regulations adopted under that statute.
Ind. Code Ann. § 9-24-6-6 (LexisNexis 2012) Excerpt from applicable statute published.

<u>Iowa</u>

321.343. Certain vehicles must stop. (Special Vehicles and Exempt Crossing)
1. The driver of a motor vehicle carrying passengers for hire, a school bus, or a vehicle carrying hazardous material and required to stop before crossing a railroad track by motor carrier safety rules adopted under section 321.449, before crossing at grade any track of a railroad, shall stop the vehicle within fifty feet but not less than fifteen feet from the nearest rail. While stopped, the driver shall listen and look in both directions for an approaching train, and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely.
2. The driver of a commercial motor vehicle shall comply with all of the following provisions that apply to the driver:
a. If the driver is not always required to stop at a railroad crossing, slow down when approaching the crossing and check that the railroad tracks are clear of an approaching train before proceeding.
b. If the driver is not always required to stop at a railroad crossing, stop before reaching the crossing if the railroad tracks are not clear.
c. Refrain from proceeding through a railroad crossing if sufficient space is not available to drive completely through the crossing without stopping.
d. Obey a traffic-control device or the directions of an enforcement official at a railroad crossing.
e. Have sufficient undercarriage clearance before negotiating a railroad crossing.
3. No stop need be made at a crossing where a peace officer or a traffic-control device directs traffic to proceed. No stop need be made at a crossing designated by an “exempt” sign. An “exempt” sign shall be posted only where the tracks have been partially removed on either side of the roadway.
Iowa Code § 321.343 (2012)

***321.343A. Employer violations -- penalty.**
An employer shall not knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in violation of section 321.341 or 321.343 or any other federal or local law or regulation pertaining to railroad grade crossings. An employer who violates this section shall be subject to a fine of not more than ten thousand dollars.
Iowa Code § 321.343A (2012)

321.344. Heavy equipment at crossing.(Slow and Low/ Exempt Crossing)

1. No person shall operate or move any caterpillar tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Notice of any such intended crossing shall be given to a superintendent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
3. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than ten feet nor more than fifty feet from the nearest rail of such railway and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
4. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.
Iowa Code § 321.344 (2012)

Kansas

8-1553. Certain vehicles required to stop at railroad grade crossings; exceptions.(Special and Exempt Crossings)
(a) Except as provided in subsection (b), the driver of any vehicle described in rules and regulations issued pursuant to subsection (c), before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until such driver can do so safely. After stopping as required and upon proceeding when it is safe to do so, the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossings and the driver shall not manually shift gears while crossing the track or tracks.
(b) This section shall not apply at:
(1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;
(2) any railload grade crossing at which traffic is controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits a vehicle to proceed across the railroad tracks without slowing or stopping;
(3) any abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned;
(4) any industrial or spur line railroad grade crossing marked with a sign reading “Exempt.” Such exempt signs shall be erected only by or with the consent of the appropriate state or local authority;
(5) a railroad grade crossing used exclusively for industrial switching purposes, within a business district defined in K.S.A. 8-1407, and amendments thereto.
(c) The secretary of transportation, in conjunction with the state corporation commission, shall adopt such rules and regulations as may be necessary describing the vehicles which must comply with the stopping requirements of this section. Such rules and regulations shall correlate with and so far as possible conform to the federal motor carrier safety regulations of the United States department of transportation.
Kan. Stat. Ann. § 8-1553 (2011)

8-1554. Moving heavy equipment at railroad grade crossings; notice to railroad's station agent. (Slow and Low)
(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two (2) adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad gradecrossing without first complying with this section.
(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
(c) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under the direction of the flagman.
Kan. Stat. Ann. § 8-1554 (2011)

Kentucky

Slow and Low
No applicable statute related to this topic

189.550. Vehicles used for transporting children to stop at railroad crossings. (Special Vehicles)
Operators of all buses and motor vehicles used for transporting children shall stop their vehicles before crossing any railroad when tracks are at the same level of the roadway. The stop shall be made not less than fifteen (15) feet nor more than fifty (50) feet from the nearest track over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall open the service door and carefully look in each direction and listen for approaching trains or maintenance vehicles before proceeding. If visibility is impaired at the required distance for stopping under this section, the operator may allow the vehicle to slowly roll forward for the purpose of gaining the visibility necessary to safely cross the railroad tracks.
Ky. Rev. Stat. Ann. § 189.550 (2012)

***189.565. Operator of motor vehicle used in transporting inflammable liquids or explosives to stop vehicle at railroad crossings -- Exceptions. (Special Vehicles)**
The operator of any motor vehicle used in the transportation of inflammable liquids or explosives shall stop such motor vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where the crossing is a guarded crossing protected by gates or a flag controlled crossing or operated by an employee of the railroad or interurban company. The stop shall be made no closer than a marked stop line or fifteen (15) feet, nor more than thirty (30) feet, from the nearest track to be crossed. After making the stop, the operator shall look carefully in each direction for approaching cars or trains, and shall not start his vehicle until he has ascertained that no cars or trains are approaching in either direction.

Ky. Rev. Stat. Ann. § 189.565 (2012)

281.745. Passenger vehicles required to stop at railroad crossings.(Special Vehicles)
The driver or chauffeur of any motor vehicle used in the transportation of passengers for hire shall stop such motor vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where thecrossing is a guarded crossing protected by gates or a flag controlled or operated by an employee of the railroad or interurban company. The stop shall be made at not less than ten (10) feet nor more than thirty (30) feet from the nearest track to be crossed. After making the stop, the chauffeur shall look carefully in each direction for approaching cars or trains, and shall not start his vehicle until he has ascertained that no cars or trains are approaching in each direction.
Ky. Rev. Stat. Ann. § 281.745 (2012)

281.990. Penalties.
(1) Except as provided in subsection (5) of this section, a person shall be fined not less than twenty-five dollars ($25) and no more than two hundred dollars ($200), if the person:
(a) Violates, causes, aids, or abets any violation of the provisions of this chapter, or any order, rule, or administrative regulation lawfully issued pursuant to authority granted by this chapter;
(b) Knowingly makes any false or erroneous statement, report, or representation to the Department of Vehicle Regulation with respect to any matter placed under the jurisdiction of the department by this chapter;
(c) Knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter; or
(d) Knowingly fails to keep, or knowingly destroys or mutilates, any accounts or records.
Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or administrative regulation of the department issued pursuant thereto, shall constitute a violation thereof.
(3) In addition to the penalties prescribed in subsection (1) of this section, in case of violation by any person in whose name an industrial bus is licensed, the person shall forfeit all certificates and permits held by him, and shall not be eligible to hold any certificate or permit for a period of five (5) years thereafter.
Ky. Rev. Stat. Ann. § 281.990(1)(3) (2012)

<u>Louisiana</u>

§ 32:173.1. Railroad grade crossings; stopping required (Special Vehicles)
A. All buses transporting passengers and all commercial motor vehicles who are required to abide by 49 CFR Part 392.10, as amended, relative to methods by which a commercial motor vehicle carrying certain materials and buses transporting passengers, shall stop at railroad grade crossings within fifty feet of, and not closer than fifteen feet to, the tracks; thereafter, the driver shall listen and look in each direction along the tracks for an approaching train and ascertain that no train is approaching. When it is safe to do so, the driver may drive the commercial motor vehicle or bus across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without a change of gears.
B. Notwithstanding any provision of law to the contrary, the driver of any motor vehicle carrying passengers for hire, or of any school bus whether carrying any school child or not, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet, but not less than fifteen feet, from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the

approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding, when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing, and the driver shall not shift gears while crossing the track or tracks.
C. The driver of any school bus, in addition to the requirements of Subsection B of this Section, after coming to a complete stop, shall open the door of the school bus and shall leave it open while ascertaining that no train or other vehicle is approaching on the railroad track from either side and until immediately prior to proceeding over the railroad crossing.
La. Rev. Stat. Ann. § 32:173.1 (2012)

§ 32:174. Moving heavy equipment at railroad grade crossings (Slow and Low)
A. No person shall operate or move 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 any tracks at a railroad grade crossing without first complying with this Section.
B. Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
C. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions, and shall not proceed until the crossing can be made safely.
D. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
La. Rev. Stat. Ann. § 32:174 (2012)

***§ 32:251. Permission for operation; crossing railroad grade crossings; markings (Special Vehicles and Exempt Crossing)**
A. The owner or operator of a vehicle transporting flammable liquids shall not, except where he is protected by a flagman then on duty, cross any railroad without coming to a full stop, before reaching it, in such manner and for such time as to make certain that no train or other facility is approaching, as provided in R.S. 32:173. If the vehicle is transporting explosives, the operator shall proceed across the tracks only under the protection of a competent flagman furnished by the owner or himself. Under no circumstances whatever shall any vehicle transporting explosives carry as part of its load any other commodity or thing.
B. The commissioner is authorized to adopt regulations concerning the markings and identification of vehicles transporting explosives and flammable liquids.
La. Rev. Stat. Ann. § 32:251 (2012)

<u>Maine</u>

§ 2076. Railroad or grade crossings (Special Vehicles and Exempt Crossings)
3. REQUIRED STOPS. A person operating any of the following vehicles shall stop the vehicle at a grade crossing between 50 feet and 15 feet from the nearest rail, listen, look in each direction along the tracks for an approaching train and ascertain that no train is approaching:
A. A bus transporting passengers;

B. A motor vehicle transporting any quantity of chlorine;
C. A motor vehicle that, in accordance with 49 Code of Federal Regulations, Part 172, Subpart F, is required to be marked or placarded;
D. A cargo tank vehicle, whether loaded or empty, used to transport:
1) A hazardous material as defined in 49 Code of Federal Regulations, Parts 170 to 189; or
2) A commodity under special permit in accordance with the provisions of the Code of Federal Regulations; or
E. A cargo tank vehicle transporting a commodity that at the time of loading has a temperature above its flash point as determined by 49 Code of Federal Regulations, Part 173.115.
3-A. YIELD AT GRADE CROSSING. The operator of any of the vehicles listed in subsection 3 shall yield at a grade crossing to an approaching train.
4. EXCEPTIONS. An operator is not required to stop under this section:
A. At a streetcar crossing or railroad tracks used exclusively for industrial switching purposes, within a business district;
B. When a law enforcement officer or crossing flagger directs traffic to proceed;
C. At an abandoned crossing that is marked with a sign indicating that the rail line is abandoned; or
D. At an industrial or spur line railroad grade crossing marked with a sign reading "exempt." An "exempt" sign must be erected by or with the consent of the Department of Transportation.
5. PENALTY. The following penalties apply to violations of this section.
B. An operator who fails to comply with subsection 3 commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
C. An operator commits a Class D crime if that operator is required to stop under subsection 3 and fails to stop for or yield the right-of-way to a train, engine or conveyance on the track. This crime is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
Me. Rev. Stat. Ann. tit. 29, § 2076 (2012) Excerpt from applicable statute published.

§ 2306. School buses to stop at railroad track crossings (Special Vehicles)
1. FULL STOP. The operator of a school bus shall come to a full stop before crossing a railroad track at a point not more than 50 feet nor less than 15 feet from the nearest rail.
2. ENSURE NO TRAIN. The operator shall ascertain beyond a reasonable doubt that no train, engine or conveyance is approaching on the track before proceeding to cross.
3. VIOLATION. A person commits a Class E crime if that person, while operating a school bus, fails to stop or yield the right-of-way as required by this section.
4. SUSPENSION. On conviction of failure to stop or yield to a train, an operator's permit to operate a school bus must be revoked by the Secretary of State for a period of not less than 2 years.
Me. Rev. Stat. Ann. tit. 29, § 2306 (2012)

Maryland

§ 21-703. Certain vehicles to stop at all railroad crossings (Special Vehicles and Exempt Crossings)
(a) Vehicles to which section applies. -- Except as provided in subsection (g) of this section, this section applies to:
(1) Every motor vehicle carrying a passenger for hire;
(2) Every school vehicle carrying any passenger;
(3) Every bus that is owned or operated by a church and carrying any passenger;

(4) Every vehicle carrying as cargo a flammable liquid or an explosive; and
(5) Every vehicle carrying hazardous materials of a type and quantity requiring placarding under federal hazardous materials regulations.
(b) Duties of driver. -- If the driver of any vehicle described in subsection (a) of this section approaches a railroad grade crossing, the driver shall stop within 50 feet but not less than 15 feet from the nearest rail in the crossing.
(c) Listening and looking for approaching trains. -- If the driver of any vehicle described in subsection (a) of this section approaches a railroad grade crossing, the driver, while stopped, shall listen and look in both directions along the track for any approaching or passing railroad train and for any signals indicating the approach or passage of a railroad train.
(d) Prceeding at grade crossings -- In general. -- If the driver of any vehicle described in subsection (a) of this section approaches a railroad grade crossing, the driver may not proceed until he can do so safely.
(e) Proceeding at grade crossings -- Gears. -- If the driver of any vehicle described in subsection (a) of this section approaches a railroad grade crossing, the driver may proceed only in that gear of the vehicle in which it will be unnecessary to shift gears manually while passing through the crossing.
(f) Proceeding at grade crossings -- Shifting gears manually while passing over tracks. -- If the driver of any vehicle described in subsection (a) of this section approaches a railroad grade crossing, the driver may not shift gears manually while passing over any track of the railroad.
(g) Exceptions. --
(1) This section does not apply to the vehicles described in subsection (a) (1), (4), and (5) of this section, at any railroad grade crossing in a business district or residential district.
(2) This section does not apply to school buses and church buses, as described in subsection (a) (2) and (3) of this section, at locations within Baltimore City where complying with the provision of this section would conflict with the existing traffic signal indications.
Md. Code Ann., Transp. § 21-703 (2012)

***§ 21-703.1. Procedure upon approaching a railroad crossing (Special Vehicles)**
Unless otherwise provided in this subtitle, upon approaching a railroad grade crossing, the operator of every commercial motor vehicle shall:
(1) Slow down and check that the tracks are clear of an approaching train;
(2) Stop before reaching the crossing, if the tracks are not clear;
(3) Attempt to negotiate the crossing only if the crossing and the roadway beyond the crossing are sufficiently clear of other traffic so that the driver can drive completely through and clear of the crossing without stopping;
(4) Obey a traffic control device or the directions of a police officer at the crossing; and
(5) Attempt to negotiate the crossing only if the vehicle has sufficient undercarriage clearance.
Md. Code Ann., Transp. § 21-703.1 (2012)

§ 21-704. Moving heavy equipment at railroad crossings (Slow and Low Vehicles)
(a) Application of section. -- Unless a person has complied with this section, he may not drive or move on or across any railroad grade crossing any power shovel, derrick, roller, crawler-type tractor, or other equipment or structure that has:
(1) A normal operating speed of 10 miles an hour or less; or
(2) A vertical body or load clearance, measured above the level surface of a roadway, of less than:
(i) One-half inch for each foot of the distance between any two adjacent axles; or

(ii) 9 inches.
(b) Notice of intended crossing. -- Before any person drives or moves any equipment described in subsection (a) of this section on or across any railroad grade crossing, the person shall:
(1) Notify an agent of the railroad of his intention; and
(2) Afford the railroad reasonable time to provide proper protection at the crossing.
(c) Duty to stop, look, and listen. -- When the person approaches the crossing, he:
(1) Shall stop within 50 feet but not less than 15 feet from the nearest rail in the crossing;
(2) While stopped, shall listen and look in both directions along the track for any approaching or passing railroad train and for any signals indicating the approach or passage of a railroad train; and
(3) May not proceed until he can do so safely.
(d) Obedience to signals. --
(1) The person may not proceed if a warning is given by an automatic signal, crossing gate, flagman, or otherwise of the immediate approach or passage of a railroad train.
(2) If the railroad provides a flagman, the person may proceed over the crossing only at the direction of the flagman.
Md. Code Ann., Transp. § 21-704 (2012)

Massachusetts

Slow and Low Vehicles
No applicable statute related to this topic

§ 15. Precautions at Railroad Crossings (Special Vehicles)
Except as hereinafter otherwise provided, every person operating a motor vehicle, upon approaching a railroad crossing at grade, shall reduce the speed of the vehicle to a reasonable and proper rate before proceeding over the crossing, and shall proceed over the crossing at a rate of speed and with such care as is reasonable and proper under the circumstances. Every person operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo, or part of a cargo, upon approaching a railroad crossing at grade, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad, and shall not proceed to cross until it is safe to do so. The operator of a school bus, in addition to bringing his vehicle to a full stop, as aforesaid, shall open the service door, ascertain if he may cross safely and thereupon close said door before proceeding. Under the circumstances. Every person operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo, or part of a cargo, upon approaching a railroad crossing at grade, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad, and shall not proceed to cross until it is safe to do so. The operator of a school bus, in addition to bringing his vehicle to a full stop, as aforesaid, shall open the service door, ascertain if he may cross safely and thereupon close said door before proceeding. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by red lights which flash as a warning, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said lights stop flashing. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a lowered automatic gate, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said automatic gate is raised. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a

railroad employee waving a red flag or white lantern, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said railroad employee signals that it is safe to do so. A railroad train approaching within approximately one thousand five hundred feet of a highway crossing shall emit a warning signal audible from such distance. Whoever violates any provisions of this section and is operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than $500 or by being required to perform a total of 100 hours of community service which may include service in the operation lifesaver program. All other persons violating the provisions of this section not operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than $100 nor more than $200 or by being required to perform a total of 50 hours of community service which may include service in the operation lifesaver program.
Mass. Gen. Law ch. 90, § 15 (2012) Excerpt from applicable statute published.

Michigan

§ 257.669. Certain vehicles to stop at railroad track grade crossing; driver to listen and look in both directions; shifting gears prohibited; exceptions; violation as civil infraction. (Special Vehicles and Exempt Crossings)
Sec. 669. (1) Except as provided in subsections (2), (3), and (4), the driver of a motor vehicle transporting 16 or more passengers including the driver, a motor vehicle carrying passengers for hire, or a motor vehicle that is required to be marked or placarded under 49 C.F.R. parts 100 to 180 before crossing a railroad track at grade, shall activate the vehicle hazard warning lights and stop the vehicle within 50 feet but not less than 15 feet from the nearest rail. While stopped, the driver 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. After stopping as required in this subsection, and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of the vehicle that does not require changing gears while traversing the crossing. The driver shall not shift gears while crossing the track or tracks.
(2) A stop need not be made at a railroad track grade crossing where a police officer or a traffic-control signal directs traffic to proceed.
(3) A stop need not be made at an abandoned railroad track grade crossing. As used in this subsection, “abandoned railroad track” means a railroad track which meets all of the following requirements:
(i) The track has been abandoned pursuant to federal law.
(ii) The track has been covered or removed.
(iii) All signs, signals, and other warning devices are removed.
(4) A stop shall not be made at an industrial or spur line railroad grade crossing marked with a sign reading “exempt”. Exempt signs may be erected only by or with the consent of the state transportation department after notice to and an opportunity to be heard by all railroads operating over that industrial or spur line.
(5) A person who violates this section is responsible for a civil infraction.
Mich. Comp. Laws Serv. § 257.669 (2012)

***§ 257.669a. Federal motor carrier safety regulations; adoption; transportation of persons and property over railroad-highway grade crossings. (Special Vehicles)**

Sec. 669a. (1) This state adopts motor carrier safety regulations 49 C.F.R. 392.10 and 392.11 on file with the office of the secretary of state, to provide for the safe transportation of persons and property over railroad-highway grade crossings with the intent of following the policies and procedures of the United States department of transportation's federal motor carrier safety administration as they relate to title 49 of the code of federal regulations. For purposes of this subsection, “commercial motor vehicle” means that term as defined in section 7a.
(2) The driver of a commercial motor vehicle shall comply with a lawful order or direction of a police officer guiding, directing, controlling, or regulating traffic at a railroad-highway grade crossing.
(3) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient undercarriage clearance.
(4) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle can be driven completely through the crossing without stopping.
(5) A person who violates this section is responsible for a civil infraction.
Mich. Comp. Laws Serv.§ 257.669a (2012)

§ 257.670. Operating or moving certain vehicles or equipment upon or across steam railroad tracks at grade level; notice of intended crossing; stopping, listening, and looking; warning; violation as civil infraction. (Slow and Low Vehicles)

(1) A person shall not operate or move a caterpillar tractor, shovel, derrick, roller, boiler, machinery, or other structure or object upon rollers, or other equipment or structure, which, because of its limited power, or weight, character, or load, has a normal operating speed of 4 miles per hour or less, or which has a vertical load or body clearance of less than 9 inches above the level surface of the roadway, upon or across the tracks of a railroad at grade level without first complying with this section, except this section shall not apply to the movement of electrically propelled cars on fixed rails or to their loads.
(2) Notice of the intended crossing described in subsection (1) shall be given to the nearest agent or officer of the railroad in time to afford protection to its locomotives, trains, or cars at the crossing.
(3) Before making the crossing, the person operating or moving the vehicle or equipment shall first stop not less than 15 feet or more than 50 feet from the nearest rail of the track 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 crossing can be made safely.
(4) A crossing shall not be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.
(5) A person who violates this section is responsible for a civil infraction.
Mich. Comp. Laws Serv. § 257.670 (2012)

§ 257.1857. Railroad track grade crossings; requirements; “abandoned railroad track” defined; violation as civil infraction; fine; processing.(Special Vehicles)
Sec. 57. (1) Except as provided in subsections (2), (3), and (4), the driver of a school bus, before crossing a railroad track at grade, shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail, 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. After

stopping as required in this subsection, and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of the vehicle that does not require changing gears while traversing the crossing. The driver shall not shift gears while crossing the track or tracks.

(2) A stop need not be made at a railroad track grade crossing where a uniformed police officer or a traffic-control signal directs traffic to proceed.

(3) A stop need not be made at an abandoned railroad track grade crossing. As used in this subsection, "abandoned railroad track" means a railroad track which meets both of the following requirements:

(a) The track has been completely paved over or removed.

(b) All signs, signals, and other warning devices are removed.

(4) A stop shall not be made at a railroad track grade crossing on a freeway or limited access highway where the crossing is protected by a clearly visible signal, crossing gate, or barrier at a time when the signal, crossing gate, or barrier is not activated.

(5) A person who violates this section is responsible for a civil infraction and may be ordered to pay a civil fine of not more than $100.00. A civil infraction under this subsection shall be processed in the same manner as a civil infraction under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923

Mich. Comp. Law Serv. § 257.1857 (2012)

<u>Minnesota</u>

169.28 CERTAIN VEHICLES TO STOP AT RAILROAD CROSSING (Special Vehicles and Exempt Crossings)

Subdivision 1. Requirements.

(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus whether carrying passengers or not, or of any Head Start bus whether carrying passengers or not, or of any vehicle that is required to stop at railroad grade crossings under Code of Federal Regulations, title 49, section 392.10, before crossing at grade any track or tracks of a railroad, shall stop the vehicle not less than 15 feet nor more than 50 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until safe to do so and until the roadway is clear of traffic so that the vehicle can proceed without stopping until the rear of the vehicle is at least ten feet past the farthest railroad track. The driver must not shift gears while crossing the railroad tracks.

(b) A school bus or Head Start bus shall not be flagged across railroad grade crossings except at those railroad grade crossings that the local school administrative officer may designate.

(c) A type III vehicle, as defined in section 169.011, is exempt from the requirement of school buses to stop at railroad grade crossings.

(d) The requirements of this subdivision do not apply to the crossing of light rail vehicle track or tracks that are located in a public street when:

(1) the crossing occurs within the intersection of two or more public streets;

(2) the intersection is controlled by a traffic-control signal; and

(3) the intersection is marked with signs indicating to drivers that the requirements of this subdivision do not apply. Notwithstanding any other provision of law, the owner or operator of the track or tracks is authorized to place, maintain, and display the signs upon and in the view of the public street or streets.

Subd. 2. Exempt crossing.

(a) The commissioner may designate a crossing as an exempt crossing:

(1) if the crossing is on a rail line on which service has been abandoned;

(2) if the crossing is on a rail line that carries fewer than five trains each year, traveling at speeds of ten miles per hour or less; or

(3) as agreed to by the operating railroad and the Department of Transportation, following a diagnostic review of the crossing.

(b) The commissioner shall direct the railroad to erect at the crossing signs bearing the word "Exempt" that conform to section 169.06. The installation or presence of an exempt sign does not relieve a driver of the duty to use due care. A train must not proceed across an exempt crossing unless a police officer is present to direct traffic or a railroad employee is on the ground to warn traffic until the train enters the crossing.

(c) A vehicle that must stop at grade crossings under subdivision 1 is not required to stop at a marked exempt crossing unless directed otherwise by a police officer or a railroad employee.
Minn. Stat. § 169.28 (2012)

169.29 CROSSING RAILROAD TRACKS WITH CERTAIN EQUIPMENT (Slow and Low Vehicles)

(a) No person shall operate or move any caterpillar tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Before making any crossing, the person operating or moving any vehicle or equipment set forth in this section shall first stop the same not less than ten, nor more than 50, feet from the nearest rail of the railway, and while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(c) No crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car.

(d) No stop need be made at a crossing on a rail line on which service has been abandoned and where a sign erected in conformance with section 169.06 and bearing the word "Exempt" has been installed, unless directed otherwise by a flagger. The installation or presence of an exempt sign shall not relieve any driver of the duty to use due care.
Minn. Stat. § 169.29 (2012)

<u>Mississippi</u>

§ 37-41-55. Duties of driver of school transportation vehicle used to transport pupils upon approaching railroad crossing or highway intersection (Special Vehicles)

(1) The driver of every school transportation vehicle used to transport pupils, on approaching any railroad crossing, shall bring the vehicle to a complete stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad. While stopped, the driver shall open the service door and driver's window, and look and listen for:

(a) Approaching trains or any other vehicle operated upon the rails for the purpose of maintenance of railroads, including, but not limited to, all hi-rail vehicles and on-track maintenance machines; and

(b) Signals indicating the approach of a train or other vehicle or machine operated upon the rails. The driver shall not proceed until the driver has determined that it is safe to proceed.

(2) The driver of every school transportation vehicle used to transport pupils, on approaching any highway intersection, shall bring the vehicle to a complete stop and shall not proceed until the driver has determined that it is safe to proceed.
(3) Any driver who fails to bring his vehicle to a complete stop and follow the procedures as herein required is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars ($ 100.00) nor more than Two Hundred Fifty Dollars ($ 250.00) for each offense.
Miss. Code Ann. § 37-41-55 (2012)

§ 63-3-1011. Stops at railroad grade crossings by vehicles carrying passengers for hire or explosive substances and school buses (Special Vehicles and Exempt Crossings)
(1) The driver of any motor vehicle carrying passengers for hire or of any vehicle carrying explosive substances of flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad. While stopped, the driver shall listen and look in both directions along the track for:
(a) Any approaching train or any other vehicle operated upon the rails for the purpose of maintenance of railroads, including, but not limited to, all hi-rail vehicles and on-track maintenance machines; and
(b) Signals indicating the approach of a train or any other vehicle or machine operated upon the rails. The driver shall not proceed until he can do so safely.
(2) No stop need be made at any crossing where a police officer or a traffic control signal directs traffic to proceed.
(3) The driver of every school transportation vehicle used to transport pupils, upon approaching any railroad crossing, shall comply with the provisions of Section 37-41-55.
Miss. Code Ann. § 63-3-1011 (2012)

§ 63-3-1013. Moving heavy equipment at railroad grade crossing (Slow and Low Vehicles)
No person shall operate or move any caterpillar tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six (6) or less miles per hour or a vertical body or load clearance of less than nine (9) inches above the level surface of a roadway upon or across any tracks at a railroad grade crossing without notice of any such intended crossing first being given to a superintendent of such railroad and a reasonable time being given to such railroad to provide proper protection at such crossing.
Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of such railway and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.
Miss. Code Ann. § 63-3-1013 (2012)

<u>Missouri</u>

§ 304.030. Certain buses and trucks to stop at railroad crossing, when -- exception, requirements (Special Vehicles and Exempt Crossings)
Every motor vehicle transporting passengers, for hire, every school bus, and every motor vehicle transporting high explosives, or poisonous or compressed inflammable gases, and every motor

vehicle used for the transportation of inflammable or corrosive liquids in bulk, whether loaded or empty, shall, upon approaching any railroad grade crossing, other than a crossing that is specifically exempted from the stopping requirement by order of the division of motor carrier and railroad safety of the department of economic development, be brought to a full stop within fifty feet, but not less than fifteen feet, from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear, except that such full stop shall not be required at a streetcar crossing within a business or residence district, nor at a railroad grade crossing protected by a watchman or traffic officer on duty or by a traffic control signal (not railroad flashing signal) giving positive indication to approaching vehicles to proceed, nor when the division of motor carrier and railroad safety has ordered the placement of an exempt sign at the crossing.
Mo. Rev. Stat. § 304.030 (2012)

§ 304.035. Stop required at railroad grade crossing, when -- commercial motor vehicles, speed at crossings -- penalty (Special Vehicles)
1. When any person driving a vehicle approaches a railroad grade crossing, the driver of the vehicle shall operate the vehicle in a manner so he will be able to stop, and he shall stop the vehicle not less than fifteen feet and not more than fifty feet from the nearest rail of the railroad track and shall not proceed until he can safely do so if:
(1) A clearly visible electric or mechanical signal device warns of the approach of a railroad train; or
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal or warning of the approach or passage of a railroad train; or
(3) An approaching railroad train is visible and is in hazardous proximity to such crossing; or
(4) Any other traffic sign, device or any other act, rule, regulation or statute requires a vehicle to stop at a railroad grade crossing.
2. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing when a train is approaching while such gate or barrier is closed or is being opened or closed.
3. No person shall drive a vehicle through a railroad crossing when there is not sufficient space to drive completely through the crossing.
4. No person shall drive a vehicle through a railroad crossing unless such vehicle has sufficient undercarriage clearance necessary to prevent the undercarriage of the vehicle from contacting the railroad crossing.
5. Every commercial motor vehicle as defined in section 302.700 shall, upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said commercial motor vehicle to be stopped before reaching the nearest rail of such crossing and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear. This section does not apply to vehicles which are required to stop at railroad crossings pursuant to section 304.030.
Mo. Rev. Stat. § 304.035 (2012)

Montana

61-8-349 Certain vehicles to stop at all railroad grade crossings. (Special Vehicles and Exempt Crossings)
(1) (a) Except as provided in subsection (1)(b), the driver of a motor vehicle carrying seven or more passengers for hire, a school bus with or without passengers, or a vehicle carrying

explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle as close as practicable but not less than 15 feet from the nearest rail of the railroad and while stopped shall open the door, in the case of a school bus, and shall listen and look in both directions along the track for an approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment and may not proceed until the driver can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the operator of a vehicle may cross only in a gear of the vehicle that requires no changing gears while traversing the crossing. The operator may not shift gears while crossing the track or tracks.
(b) A stop is not required at a crossing where a police officer, highway patrol officer, or official traffic control device directs traffic to proceed.
(2) As used in this section, "official traffic control device" does not include a railroad grade crossing signal.
Mont. Code Anno., § 61-8-349 (2012)

61-8-350 Moving heavy equipment at railroad grade crossings. (Slow and Low Vehicles)
(1) A person shall comply with the provisions of this section before operating or moving upon or across the tracks at a railroad grade crossing any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure that has:
(a) a normal operating speed of 10 or less miles an hour; or
(b) a vertical body or load clearance measured above the surface of the roadway of:
(i) less than one-half inch for each foot of the distance between any two adjacent axles; or
(ii) at least 9 inches.
(2) Notice of an intended crossing must be given to a representative of the railroad and reasonable time must be given to the railroad to provide proper protection at the crossing.
(3) Before making a crossing, the person operating or moving the vehicle or equipment shall first stop the vehicle or equipment as close as practicable but not less than 15 feet from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for any approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment. The person may not proceed until the crossing can be made safely.
(4) A crossing may not be made when warning is given by automatic signal, crossing gates, a flag person, or other official traffic control device of the immediate approach of a railroad train or car or other on-track equipment. If a flag person is provided by the railroad, movement over the crossing must be under the flag person's direction.
Mont. Code Anno., § 61-8-350 (2012)

<u>Nebraska</u>

§ 60-6,172. Buses and school buses required to stop at all railroad grade crossings; exceptions (Special Vehicles and Exempt Crossings)
(1) The driver of any bus carrying passengers for hire or of any school bus, before crossing at grade any track of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, except as otherwise provided in the Nebraska Rules of the Road. The driver shall not proceed until he or she can do so safely. After stopping as required by this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle

that there will be no necessity for changing gears while traversing such track and the driver shall not shift gears while crossing such track.
(2) No stop shall be made at any such crossing when a peace officer or a flagperson directs traffic to proceed or at an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of competent authority when such markings can be read from the driver's position.
Neb. Rev. Stat. Ann. § 60-6,172 (2012)

§ 60-6,173. Grade crossings; certain carriers; required to stop; exceptions (Special Vehicles and Exempt Crossings)
(1) The driver of any vehicle which is required to be placarded pursuant to section 75-364, before crossing at a grade any track of a railroad on streets and highways, shall stop such vehicle not more than fifty feet nor less than fifteen feet from the nearest rail or railroad and while stopped shall listen and look in both directions along the track for an approaching train. The driver shall not proceed until precaution has been taken to ascertain that the course is clear.
(2) The requirements of subsection (1) of this section shall not apply:
(a) When a peace officer or a flagperson directs traffic to proceed;
(b) At an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of competent authority when such markings can be read from the driver's position; or
(c) At railroad tracks used exclusively for industrial switching purposes within a business district.
(3) Nothing in this section shall be deemed to exempt the driver of any vehicle from compliance with the other requirements contained in the Nebraska Rules of the Road.
Neb. Rev. Stat. Ann. § 60-6,173 (2012)

§ 60-6,174. Moving heavy equipment at railroad grade crossings; required to stop (Slow and Low Vehicles)
(1) No person shall operate or move any crawler-type tractor, any steam shovel, any derrick, any roller, or 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 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 any track at a railroad grade crossing without first complying with this section.
(2) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train. The person shall not proceed until the crossing can be made safely.
(3) No such crossing shall be made while warning is given by an automatic signal, by crossing gates, by a flagperson, or otherwise of the immediate approach of a railroad train or car. If a flagperson is provided by the railroad, movement over the crossing shall be under his or her direction.
Neb. Rev. Stat. Ann. § 60-6,174 (2012)

Nevada

484B.560. Certain vehicles required to stop at all railroad grade crossings; exceptions. (Special Vehicles and Exempt Crossings)

1. Except as otherwise provided in this section, the driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying any explosive or flammable liquid as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop that vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely.
2. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in a gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.
3. When stopping is required at a railroad crossing the driver shall keep as far to the right of the highway as possible and shall not form two lanes of traffic unless the highway is marked for four or more lanes of traffic.
4. No such stop need be made at a railroad crossing:
(a) Where a police officer or official traffic-control device controls the movement of traffic.
(b) Which is marked with a device indicating that the crossing is abandoned.
(c) Which is a streetcar crossing or is used exclusively for industrial switching purposes within an area designated as a business district.
(d) Which is marked with a sign identifying it as an exempt crossing. Signs identifying a crossing as exempt may be erected only:
(1) If the tracks are an industrial or spur line;
(2) By or with the consent of the appropriate state or local authority which has jurisdiction over the road; and
(3) After the state or the local authority has held a public hearing to determine whether the crossingshould be designated an exempt crossing.
Nev. Rev. Stat. Ann. § 484B.560 (2012)

484B.563. Moving heavy equipment at railroad grade crossing (Slow and Low Vehicles)
1. It is unlawful for any person to operate or move any crawler-type tractor, power shovel, derrick, roller, or any vehicle, equipment or structure having a normal operating speed of 10 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 9 inches, measured above the level surface of a highway, upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
3. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be under the direction of the flagger.
Nev. Rev. Stat. Ann. § 484B.563 (2012)

New Hampshire

265:50 Certain Vehicles Must Stop at All Railroad Grade Crossings (Special Vehicles and Exempt Crossings)

I. The driver of any vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

II. No stop need be made at any such crossing when a police officer or a traffic control signal directs traffic to proceed, or by vehicles engaged in the common or contract carriage of passengers for hire, or school buses transporting school students, when such vehicles or buses are exempt by order of the commissioner of transportation.

III. Every vehicle used for the transportation of flammable liquids in cargo tanks, whether loaded or empty, or for the transportation of cylinders of liquified petroleum gas shall, upon approaching any railroad gradecrossing, be brought to a full stop not more than 50 feet and not less than 15 feet from the nearest rail of such grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear, except that a full stop need not be made at a railroad grade crossing where a police officer or a traffic-control signal (not a railroad flashing signal) directs traffic to proceed; nor at an abandoned or exempted grade crossing which is clearly marked as such by or with the consent of the proper state authority, when such marking can be read from the driver's position.

IV. The term “cylinders of liquefied petroleum gas” as used in this section, shall not be deemed to include the following:

(a) Portable jugs of the nature used by tradesmen such as steamfitters, painters, plumbers, etc.; or

(b) Bottled gas cylinders when attached to house trailers in transit.

N.H. Rev. Stat. Ann. § 265:50 (2012)

265:50-a Failure to Stop at Railroad Crossings; Fine.

The fine for a violation of the provisions of RSA 265:49 or RSA 265:50 shall be $100.

N.H. Rev. Stat. Ann. § 265:50-a (2012)

265:51 Moving Heavy Equipment at Railroad Grade Crossing (Slow and Low Vehicles)

I. No person shall drive or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal driving speed of 10 or less miles per hour or a vertical body or load clearance of less than 1/2 inch per foot of the distance between any 2 adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

II. Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

III. Before making any such crossing the person driving or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track

for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
IV. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
N.H. Rev. Stat. Ann. § 265:51 (2012)

265:52 Penalty for Violation of Railroad Crossing Provision.
If any person is convicted of an offense under any provision of RSA 265:50 or 265:51, such person shall be guilty of a violation for the first offense, and, for any subsequent offense committed during any calendar year, such person shall be guilty of a misdemeanor. The director may revoke such person's driver's license and no new license shall be issued to such person for at least 90 days after the date of such revocation.
N.H. Rev. Stat. Ann. § 265:52 (2012)

New Jersey

§ 39:4-128. Vehicles required to stop at grade crossings; method of crossing; exceptions; notice to railroad of intention to cross with certain vehicles or machinery; violations; penalties (Special Vehicles, Slow and Low Vehicles and Exempt Crossings)
(a) The driver of any omnibus, designed for carrying more than six passengers, or of any school bus carrying any school child or children, or of any vehicle carrying explosive substance or flammable liquids as a cargo or part of a cargo, or of any commercial motor vehicle specified in 49 C.F.R. § 392.10(a) (1) through (6), before crossing at grade any track or tracks of a railroad shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped listen and look in both directions along such track or tracks, for any approaching train, and for signals indicating the approach of a train. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks. This section shall not apply to grade crossings which are no longer used for railroad traffic and which have been abandoned by the railroad company provided that appropriate signs have been posted to indicate that such grade crossing has been abandoned or is no longer used for any railroad traffic. This section shall not apply to grade crossings where the railroad track has been removed or paved over and the warning signs erected by the railroad in accordance with R.S.48:12-58 have been removed, provided that in such case written notice is given to the Commissioner of Transportation and to the appropriate State or local authority having jurisdiction over the highway, road, or street prior to the undertaking of such removal or paving of railroad track. This section shall also not apply to grade crossings marked with a sign reading "Exempt Crossing."
The Commissioner of Transportation is hereby vested with the exclusive authority to designate and mark any railroad grade crossings across any street or highway in this State with a sign "Exempt Crossing." The commissioner shall hold a public hearing before designating any crossing as exempt with notice of such hearing to be served in accordance with regulations promulgated by the commissioner.
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, spurline and secondary crossings. The commissioner shall promulgate such regulations as are necessary to effectuate the purpose of the establishment of exempt crossings.
(b) No person shall operate or move any crawler-type tractor, wheel tractor, tractor engine with or without trailer or trailers attached, steam shovel, derrick, roller, self-propelled concrete mixer, or any self-propelled vehicle, commercial motor vehicle, equipment, machinery, apparatus or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than 1/2 inch per foot of the distance between any two adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any track or tracks at a railroad grade crossing without first complying with the following requirements.
Notice of any such intended crossing shall be given to the nearest superintendent or trainmaster of such railroad. Such notice shall specify the approximate time of crossing and a reasonable time shall be given to such railroad to provide proper protection at such crossing.
After concluding satisfactory arrangements with the proper officer of the railroad and before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along such track or tracks for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If the flagman is provided by the railroad, movement over the crossing shall be made under his jurisdiction.
(c) Any person violating the provisions of this section shall be punished by a fine of not more than $ 50.00 for the first offense and for the second offense a fine of not more than $ 100.00, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.
(d) This section shall not be construed as limiting the authority of any municipality to adopt police regulations governing the operation of omnibuses and to provide penalties for their violation, or to relieve the owner or operator of such omnibus subject to the jurisdiction of the Board of Public Utilities from any penalty prescribed by the laws of this State for violation of orders of such board.
N.J. Rev. Stat. Ann. § 39:4-128 (2012)

§ 39:4-128.11 Regulations relative to certain commercial vehicles stopping at railroad crossings

a. A driver of a commercial motor vehicle, other than a commercial motor vehicle that is required to stop at a railroad crossing in accordance with R.S.39:4-128, shall, upon approaching a railroad grade crossing,drive at a rate of speed that will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the crossing. A driver shall not drive a commercial motor vehicle upon or over a railroad crossing until he has exercised due caution to ascertain that a train is not approaching the crossing.
b. A driver of a commercial motor vehicle, other than a commercial motor vehicle that is required to stop at a railroad crossing in accordance with R.S.39:4-128, shall stop that commercial motor vehicle before reaching the nearest rail of the crossing, if the tracks of the crossing are not clear of other vehicles or if there is insufficient space to drive the commercial motor vehicle completely through the crossing without stopping the commercial motor vehicle.

c. An employer shall not knowingly allow, require, permit or authorize a driver to operate a commercial motor vehicle in violation of R.S.39:4-128, section 68 of P.L.1951, c.23 (C.39:4-127.1) or this section. An employer who is convicted of any such violation shall be fined not more than $ 10,000.
N.J. Rev. Stat. Ann. § 39:4-128.11 (2012)

New Mexico

§ 66-7-343. Railroad-highway grade crossing violations; certain vehicles required to always stop; exceptions (Special Vehicles and Exempt Crossings)
A. Except as set forth in Subsection D of this section, a driver of a vehicle carrying passengers for hire, a school bus carrying school children or a vehicle carrying hazardous materials, radioactive or explosive substances or flammable liquids as cargo or as part of its cargo, before entering a railroad-highway grade crossing, is required to stop no more than fifty feet and no less than fifteen feet from the nearest rail of the railroad.
B. While stopped, the driver shall:
(1) look and listen in both directions along the track for an approaching train and for signals indicating that a train is approaching;
(2) determine it is safe to proceed completely through the railroad-highway grade crossing before entering it; and
(3) set the vehicle in a gear sufficiently low that gears will not need to be shifted before exiting the railroad-highway grade crossing.
C. A driver shall not shift gears while in a railroad-highway grade crossing.
D. A driver of a vehicle carrying passengers for hire, a school bus carrying school children or a vehicle carrying hazardous materials, radioactive or explosive substances or flammable liquids as cargo or as part of its cargo is not required to stop at:
(1) a railroad-highway grade crossing where a police officer directs traffic to proceed;
(2) a railroad-highway grade crossing where a stop-and-go traffic light controls movement of traffic;
(3) a railroad-highway grade crossing used exclusively for industrial switching purposes, within a business district as defined in Section 66-1-4.2 NMSA 1978;
(4) a railroad-highway grade crossing where use of the railroad has been abandoned and there is a sign indicating that the railroad has been abandoned; or
(5) an industrial or spur line railroad-highway grade crossing marked with a sign reading "exempt crossing" that has been designated as exempt by appropriate state or local authorities.
E. Penalties for violation of this section are included in Section 66-8-116 NMSA 1978.
N.M. Stat. Ann. § 66-7-343 (2012)

§ 66-7-344. Moving heavy equipment at railroad grade crossings (Slow and Low Vehicles)
A. No person shall operate or move 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 any tracks at a railroad grade crossing without first complying with this section.
B. Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

C. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
D. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
E. This section shall not apply to the normal movement of farm equipment in the regular course of farm operation.
N.M. Stat. Ann. § 66-7-344 (2012)

New York

§ 1171. Certain vehicles must stop at all railroad grade crossings (Special Vehicles, Slow and Low Vehicles, and Exempt Crossings)
(a) The driver of any bus carrying passengers, of any school bus, of any motor vehicle with a gross vehicle weight rating of greater than ten thousand pounds that transports division 2.3 chlorine or is a cargo tank, whether loaded or empty, used to transport hazardous materials, as defined in section five hundred one-a of this chapter, of any motor vehicle required to be marked or placarded by either the United States department of transportation or the New York state department of transportation regulations or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, of any crawler-type tractor, steam shovel, derrick, roller, or of 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, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.
(b) No stop need be made at any such crossing where a police officer or a traffic-control signal or sign directs traffic to proceed.
(c) Every motor vehicle used in commerce with a gross vehicle weight rating of greater than ten thousand pounds not subject to the requirements of subdivision (a) of this section: (i) shall upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said motor vehicle to be stopped before reaching the nearest rail of such crossing, and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear; and (ii) shall stop at such crossing if the course is not clear.
(d) In addition to the requirements of subdivisions (a) and (c) of this section, the driver of a commercial vehicle must check street-railway grade crossings within a business or residence district.
(e) Notwithstanding any other provision of law, every operator of a commercial motor vehicle shall obey a traffic control device or the directions of a police officer at a railroad grade crossing.
N.Y. Veh. & Traf. Law § 1171 (Consol. 2012)

***§ 3636. Passage of school buses across railroad crossings (Special Vehicles)**
1. No school bus transporting pupils between home and school or between schools which such pupils regularly attend either within or outside the district which operates or contracts for the operation of such bus, or transporting pupils for any purpose within such district, shall cross railroad tracks at grade except at a guarded railroad crossing, unless the governing body of the school district which operates the bus or contracts for the operation of the bus shall have adopted, at a regular meeting after a public hearing thereon, a resolution by which it shall have determined that the use of a route which would avoid an unguarded railroad crossing by the school bus would be impracticable.
A copy of any resolution adopted pursuant to the provisions of this section shall be filed with the department of education and the department of transportation at their respective offices in the city of Albany.
2. For the purpose of this section, a guarded railroad crossing shall be defined as follows:
a. Any railroad crossing having automatic electrically operated gates that meet the specifications for such gates in the rules and regulations promulgated by the department of transportaion [transportation] . [n1]1
b. Any railroad crossing where a member of the approaching train's crew disembarks from the train which has stopped before the crossing and positions himself at the crossing to halt traffic while the train passes. Such procedure must be in accordance with the rules and regulations promulgated by the department of transportation.
c. Any railroad crossing protected by an automatic warning signal which meets the specifications in the rules and regulations as promulgated by the department of transportation.
d. Any railroad crossing protected by one or more persons serving as a railroad crossing guard.
3. Each school district shall prepare and maintain a map indicating the intersection with any unguarded railroad crossing of each route used by a school bus transporting students to and from school either within or outside the district, or for any purpose within the district, and shall make such map available for inspection by any resident of the district at a place designated by the governing body of the district.
4. The commissioner of education shall have the authority to promulgate such regulations as he shall deem appropriate to implement the provisions of this section.
N.Y. Educ. Law § 3636 (Consol. 2012)

<u>North Carolina</u>

§ 20-142.3. Certain vehicles must stop at railroad grade crossing (Special Vehicles and Exempt Crossings)
(a) Before crossing at grade any track or tracks of a railroad, the driver of any school bus, any activity bus, any motor vehicle carrying passengers for compensation, any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and look in both directions along the track for any approaching train and shall not proceed until the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross the track in a gear that allows the driver to cross the track without changing gears and the driver shall not change gears while crossing the track or tracks.
(b) Except for school buses and activity buses, the provisions of this section shall not require the driver of a vehicle to stop:
(1) At railroad tracks used exclusively for industrial switching purposes within a business district.

(2) At a railroad grade crossing which a police officer or crossing flagman directs traffic to proceed.
(3) At a railroad grade crossing protected by a gate or flashing signal designed to stop traffic upon the approach of a train, when the gate or flashing signal does not indicate the approach of a train.
(4) At an abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.
(5) At an industrial or spur line railroad grade crossing marked with a sign reading "Exempt" erected by or with the consent of the appropriate State or local authority.
(c) A person violating the provisions of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.
(d), (e) Repealed by Session Laws 2001-487, s. 50(g).
(f) An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21.
N.C. Gen. Stat. § 20-142.3 (2012)

§ 20-142.4. Moving heavy equipment at railroad grade crossing (Slow and Low Vehicles)
(a) No person shall operate or move any crawler-type tractor, crane, or roller or any equipment or structure having a normal operating speed of five or less miles per hour upon or across any tracks at a railroad crossing without first complying with this section.
(b) Notice of any intended crossing described in subsection (a) of this section shall be given to a superintendent of the railroad and a reasonable time be given to the railroad to provide protection at the crossing.
(c) Before making any crossing described in subsection (a) of this section, the person operating or moving the vehicle or equipment shall:
(1) Stop the vehicle or equipment not less than 15 feet nor more than 50 feet from the nearest rail of the railroad;
(2) While stopped, shall listen and look both directions along the track for any approaching train and for signals indicating the approach of a train; and
(3) Shall not proceed until the crossing can be made safely.
(d) No crossing described in subsection (a) of this section shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.
(e) Subsection (c) of this section shall not apply at any railroad crossing where 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".
(f) Any person who violates any provision of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.
(g) An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21.
N.C. Gen. Stat. § 20-142.4 (2012)

§ 20-176. Penalty for misdemeanor or infraction
(a) Violation of a provision of Part 9, 10, 10A, or 11 of this Article is an infraction unless the violation is specifically declared by law to be a misdemeanor or felony. Violation of the

remaining Parts of this Article is a misdemeanor unless the violation is specifically declared by law to be an infraction or a felony.
(b) Unless a specific penalty is otherwise provided by law, a person found responsible for an infraction contained in this Article may be ordered to pay a penalty of not more than one hundred dollars ($ 100.00).
(c) Unless a specific penalty is otherwise provided by law, a person convicted of a misdemeanor contained in this Article is guilty of a Class 2 misdemeanor. A punishment is specific for purposes of this subsection if it contains a quantitative limit on the term of imprisonment or the amount of fine a judge can impose.
(c)(1) Notwithstanding any other provision of law, no person convicted of a misdemeanor for the violation of any provision of this Chapter except G.S. 20-28(a) and (b), G.S. 20-141(j), G.S. 20-141.3(b) and (c), G.S. 20-141.4, or a second or subsequent conviction of G.S. 20-138.1 shall be imprisoned in the State prison system unless the person previously has been imprisoned in a local confinement facility, as defined by G.S. 153A-217(5), for a violation of this Chapter.
(d) For purposes of determining whether a violation of an offense contained in this Chapter constitutes negligence per se, crimes and infractions shall be treated identically.
N.C. Gen. Stat. § 20-176 (2012)

North Dakota

39-10-43. Certain vehicles must stop at all railroad grade crossings. (Special Vehicles and Exempt Crossings)
1. The driver of a bus carrying passengers, or of any schoolbus, or of any vehicle carrying any chlorine, empty or loaded cargo tank vehicles used to transport dangerous articles or any liquid having a flashpoint below two hundred degrees Fahrenheit [93.33 degrees Celsius], cargo tank vehicles transporting a commodity having a temperature above its flashpoint at the time of loading, certain cargo tank vehicles transporting commodities under special permits issued by the hazardous materials regulations board, and every motor vehicle which must have the following placards: “explosives”, “poison”, “flammable oxidizers”, “compressed gas”, “corrosives”, “flammable gas”, “radioactive”, or “dangerous”, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train and may not proceed until the driver can do so safely. After stopping as required herein and upon proceeding when it is safe to do so, the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossing and the driver may not manually shift gears while crossing the track or tracks.
2. No stop need be made at any such crossing at which traffic is controlled by a police officer. For the purposes of this section, a United States marshal must be considered a police officer.
3. No stop need be made at a crossing that the director has designated as an out-of-service crossing and which is clearly marked by signs bearing the words “Tracks out of service” or “Exempt” in conspicuous places on each side of the crossing.
4. The designation must be limited to use at crossings where track has been abandoned or its use discontinued.
5. The director shall notify the road authority and any railway company of a crossing under the jurisdiction of that railway company which the director has designated as an out-of-service crossing under this section and the road authority shall erect signs bearing the words “Tracks out of service” or “Exempt” in conspicuous places on each side of the crossing.

6. All signs must conform to the manual on uniform traffic-control devices as provided under section 39-13-06.
N.D. Cent. Code, § 39-10-43 (2012)

39-10-67. Moving heavy equipment at railroad grade crossing (Slow and Low Vehicles)
1. No person may operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles [16.09 or less kilometers] per hour or a vertical body or load clearance of less than one-half inch per foot [12.7 millimeters] of the distance between any two adjacent axles or in any event of less than nine inches [22.86 centimeters], measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet [4.57 meters] nor more than fifty feet [15.24 meters] from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and may not proceed until the crossing can be made safely.
3. No such crossing may be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing must be under the flagman's direction.
N.D. Cent. Code, § 39-10-67 (2012)

<u>Ohio</u>

§ 4511.63. Vehicles required to stop at grade crossings; exempt crossings (Special Vehicles and Exempt Crossing)
(A) Except as provided in division (B) of this section, the operator of any bus, any school vehicle, or any vehicle transporting a material or materials required to be placarded under 49 C.F.R. Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking, and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
(B) This section does not apply at grade crossings when the public utilities commission has authorized and approved an exempt crossing as provided in this division.
(1) Any local authority may file an application with the commission requesting the approval of an exempt crossing. Upon receipt of such a request, the commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the commission shall notify each railroad operating over the crossing of the comment period.
(2) After considering any comments or other information received, the commission may approve or reject the application. By order, the commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs

giving notice of the exempt designation are erected at the crossing as ordered by the commission and any other conditions ordered by the commission are satisfied.
(3) By order, the commission may rescind any exempt crossing designation made under this section if the commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
(C) As used in this section:
(1) "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
(2) "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
(3) "Exempt crossing" means a highway rail grade crossing authorized and approved by the public utilities commission under division (B) of this section at which vehicles may cross without making the stop otherwise required by this section.
(D) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or section 4511.76, 4511.761 [4511.76.1], 4511.762 [4511.76.2], 4511.764 [4511.76.4],4511.77, or 4511.79 of the Revised Code or a municipal ordinance that is substantially similar to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree.
Ohio Rev. Code Ann. § 4511.63 (2013)

§ 4511.64. Slow-moving vehicles or equipment crossing railroad tracks (Slow and Low Vehicles)
(A) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of six or less miles per hour or a vertical body or load clearance of less than nine inches above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with divisions (A)(1) and (2) of this section.
(1) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same, and while stopped the person shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall proceed only upon exercising due care.
(2) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagperson or otherwise of the immediate approach of a railroad train or car.
(B) If the normal sustained speed of such vehicle, equipment, or structure is not more than three miles per hour, the person owning, operating, or moving the same shall also give notice of such intended crossing to a station agent or superintendent of the railroad, and a reasonable time shall be given to such railroad to provide proper protection for such crossing. Where such vehicles or equipment are being used in constructing or repairing a section of highway lying on both sides of a railroad grade crossing, and in such construction or repair it is necessary to repeatedly move such vehicles or equipment over such crossing,one daily notice specifying when such work will start and stating the hours during which it will be prosecuted is sufficient.

(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
Ohio Rev. Code Ann. § 4511.64 (2013)

Oklahoma

§ 11-102. Required obedience to traffic laws
It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.
Okla. Stat. tit. 47, § 11-102 (2012)

§ 11-702. Commercial motor vehicles and buses--Railroad crossing (Special Vehicles)
A. The driver of a bus as defined in Section 1-105 of this title, whether the bus is occupied or unoccupied by passengers, shall not cross a railroad track or tracks at grade unless the driver stops the bus within fifty (50) feet of, and not closer than fifteen (15) feet to, the tracks, listens and looks in each direction along the tracks for an approaching train, and ascertains that no train is approaching. When it is safe to do so, the driver may drive the bus across the tracks in a gear that permits the bus to complete the crossingwithout a change of gears. The driver shall not shift gears while crossing the tracks.
B. Any commercial motor vehicle as defined in 49 C.F.R., Section 390.5, shall comply with the railroad crossing provisions as prescribed in 49 C.F.R., Section 392.10.
Okla. Stat. tit. 47,§ 11-702 (2012)

***§ 11-1115. Railroad-highway grade crossings--Class A, B or C commercial vehicles--When crossing prohibited (Special Vehicles)**
At a railroad-highway grade crossing, a person operating a Class A, B or C commercial motor vehicle shall not negotiate the crossing if there is:
1. Insufficient space to drive completely through the crossing without stopping; or
2. Insufficient clearance for the undercarriage of the vehicle.
Okla. Stat. tit. 47, § 11-1115 (2012)

Slow and Low

No applicable statute related to this topic

Oregon

811.460 Failure to follow rail crossing procedures for high-risk vehicles; application; penalty. (Special Vehicles)
(1) A person commits the offense of failure to follow rail crossing procedures for high-risk vehicles if the person takes any vehicle described in this section across any railroad or rail fixed guideway system tracks at grade without doing all of the following:
(a) Stopping the vehicle at a clearly marked stop line or, if there is not a clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the railroad or rail fixed guideway system.

(b) While so stopped, listening and looking in both directions along the tracks for approaching trains or rail fixed guideway system vehicles and for signals indicating approaching trains or rail fixed guideway system vehicles.
(c) Proceeding across the tracks after stopping only when such movement can be performed safely in the gear of the motor vehicle that does not require manually changing gears while proceeding.
(d) Proceeding across the tracks without manually changing gears.
(2) This section applies to the following vehicles when moved across railroad or rail fixed guideway system tracks:
(a) A school bus.
(b) A school activity vehicle with a loaded weight of 10,000 pounds or more.
(c) A worker transport bus.
(d) Any bus operated for transporting children to and from church or an activity or function authorized by a church.
(e) Any vehicle used in the transportation of persons for hire by a nonprofit entity as provided under ORS 825.017 (9).
(f) A commercial bus.
(g) A motor vehicle carrying as a cargo or part of a cargo any explosive substance, inflammable liquids, corrosives or similar substances or any cargo that the Department of Transportation determines to be hazardous. For purposes of this paragraph, the department may only determine a substance to be hazardous by rule. Any rules adopted by the department to determine hazardous substances must be consistent with substances classified as hazardous by the United States Secretary of Transportation.
(h) A tank vehicle, whether loaded or empty, used for the transportation of any hazardous material.
(3) Exemptions to this section are provided under ORS 811.465.
(4) The offense described in this section, failure to follow rail crossing procedures for high-risk vehicles, is a Class B traffic violation.
Or. Rev. Stat. § 811.460 (2011)

811.462 Failure of operator of commercial motor vehicle to slow down and check tracks; penalty.
(1) A person commits the offense of failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train if the person:
(a) Is operating a commercial motor vehicle that is not required by ORS 811.460 to stop before reaching a rail crossing;
(b) Is approaching a rail crossing at grade; and
(c) Fails to slow down and check that the tracks are clear of an approaching train before proceeding across the railroad tracks.
(2) The offense described in this section, failure of the operator of a commercial motor vehicle to slow down and check that tracks are clear of an approaching train, is a Class B traffic violation.
Or. Rev. Stat. § 811.462 (2011)

811.465 Exemptions from high-risk vehicle rail crossing procedures. (Exempt Crossings)
This section establishes exemptions from the special crossing procedures established for high-risk vehicles under ORS 811.460. The exemptions are partial or complete as described in the following:

(1) The vehicles are not required to comply with the procedures at a crossing of a street or highway and rail fixed guideway system tracks if:
(a) The rail fixed guideway system vehicles operate within and parallel to the right of way of a street or highway; and
(b) All vehicle movements are controlled by traffic control devices.
(2) The vehicles are not required to comply with the procedures when crossing any railway tracks upon which operation has been abandoned and for which the Department of Transportation has plainly marked that no stop need be made.
(3) The vehicles are not required to comply with the procedures when crossing industry track crossings across which train operations are required by law to be conducted under flag protection.
(4) The vehicles are not required to comply with the procedures when crossing industry track crossings within business districts.
(5) Vehicles are not required to comply with the procedures when crossing any crossing where an officer directs traffic to proceed or where an operating traffic control signal indicates that other traffic may proceed.
(6) Vehicles are not required to comply with the procedures when crossing any crossing protected by crossing gates. The exemption under this subsection does not apply to:
(a) School buses or school activity vehicles that are required to stop at crossings with crossing gates under ORS 811.460;
(b) Tank vehicles, whether loaded or empty, used to transport hazardous materials;
(c) Vehicles transporting any hazardous material requiring the vehicle to be placarded; or
(d) High-risk vehicles described in ORS 811.460 that are not otherwise described in this subsection, when operating in interstate commerce.
(7) Except when a train or rail fixed guideway system vehicle is approaching, the driver of a commercial bus is not required to stop at crossings where the Department of Transportation has determined and plainly marked that no stop need be made.
Or. Rev. Stat. § 811.465 (2011)

811.470 Improper movement of heavy equipment across rail crossing; application; penalty. (Slow and Low Vehicles)
(1) A person commits the offense of improper movement of heavy equipment across a rail crossing if the person operates or moves any equipment described in this section upon or across any tracks at a railroad or rail fixed guideway system grade crossing without complying with any of the following:
(a) Before moving across the tracks, the person must give notice of an intended crossing to a responsible officer of the railroad or rail fixed guideway system in time for protection to be given.
(b) Where the railroad or rail fixed guideway system has provided a flagger, the person operating or moving such equipment shall obey the direction of the flagger.
(c) The person operating or moving such equipment must do all of the following:
(A) The person must stop before making the crossing at a clearly marked line or, if there is no clearly marked line, not less than 15 feet nor more than 50 feet from the nearest rail.
(B) While so stopped, the person must look and listen in both directions along the tracks for approaching trains.
(C) The person shall not proceed across the tracks unless the crossing can be made safely.

(2) This section applies to the operation of movement across railroad or rail fixed guideway system tracks of any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 miles per hour or less 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.
(3) The offense described in this section, improper movement of heavy equipment across a rail crossing, is a Class B traffic violation.
Or. Rev. Stat. § 811.470 (2011)

Pennsylvania

§ 3342. Vehicles required to stop at railroad crossings. (Special Vehicles, Slow and Low Vehicles and Exempt Crossings)
(a) General rule. --Except as provided in subsection (c), the driver of any vehicle described in subsection (b), before crossing at grade any track or tracks of a railroad, shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad crossing and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train. When it is safe to do so, the driver of the vehicle shall drive the vehicle across the tracks only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing the crossing. The driver shall not manually shift gears while crossing the track or tracks.
(b) Vehicles subject to stopping requirement. --Subsection (a) shall apply to the following vehicles:
(1) Any vehicle designated by the department in accordance with the provisions of subsection (d).
(2) A school bus, whether or not carrying passengers.
(3) Every truck and tractor combination which carries gasoline, diesel fuel, fuel oil, explosives or radioactive materials.
(4) Every bus transporting passengers.
(5) Any vehicle specified in 49 CFR 392.10(a) (relating to railroad grade crossings; stopping required) or any current amendment or modification to that section published by the United States Department of Transportation.
(c) Exceptions. --Subsection (a) does not apply at any of the following:
(1) Any railroad grade crossing at which traffic is controlled by a police officer or flagman, who indicates that the vehicle is not required to stop.
(2) Any railroad grade crossing at which traffic is regulated by a functioning highway traffic-control signal transmitting a green indication for the direction of travel of the vehicle.
(3) Any railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.
(4) Any abandoned railroad grade crossing which is marked by the former rail operator with a sign prescribed by the department indicating that the rail line is abandoned.
(5) An industrial or spur line railroad grade crossing marked with a sign reading “exempt.” Such a sign shall be erected only by or with the consent of the Pennsylvania Public Utility Commission.
(d) Notice of vehicles subject to section. --The department shall publish in the Pennsylvania Bulletin a notice describing the vehicles which must comply with the stopping requirements of subsection (a). In developing the list of vehicles, the department shall give consideration to the hazardous nature of any substance carried by the vehicle as determined by the department and to

the number of passengers carried by the vehicle in determining whether the vehicle shall be required to stop. This list of vehicles shall correlate with and so far as possible conform to the regulations of the United States Department of Transportation as amended from time to time.
(e) Use of vehicle hazard lights. --The driver of any vehicle mentioned in subsection (b)(2) and (3) shall activate the vehicle hazard lights when stopping at the railroad crossing.
(f) Penalty. --A violation of this section constitutes a summary offense punishable by a fine of from $ 100 to $ 150, except that a violation of subsection (b) or (e) shall be punishable by a fine of from $ 200 to $ 500.
(g) Requirement upon approaching tracks. --Upon approaching any track of a railroad, the driver of every commercial motor vehicle as defined by § 1603 (relating to definitions) other than those listed in subsection (b) shall:
(1) reduce the rate of speed of the commercial motor vehicle and check that the tracks are free of approaching trains; and
(2) stop the vehicle if the tracks are not clear.
(h) Railroad grade crossing. --No commercial motor vehicle may proceed onto a railroad grade crossing unless:
(1) there is sufficient space to drive completely through the crossing without stopping; and
(2) the vehicle has sufficient undercarriage clearance to allow the vehicle to drive completely through the railroad grade crossing without stopping.
(i) Traffic control. --No driver of a commercial motor vehicle may fail to obey a traffic control device or direction of an enforcement officer at a railway grade crossing.
75 Pa. Cons. Stat. § 3342 (2012)

§ 3343. Moving heavy equipment at railroad grade crossings. (Slow and Low Vehicles)
(a) General rule. --No person shall operate or move any crawler-type tractor, power 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 any tracks at a railroad grade crossing without first complying with this section.
(b) Notice of intended crossing. --Notice of any intended crossing shall be given to an authorized representative of the railroad and a reasonable time be given to the railroad to provide proper protection at the crossing.
(c) Stopping at crossing. --Before making any crossing, the person operating or moving the vehicle or equipment shall first stop the vehicle or equipment not less than 15 feet nor more than 50 feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(d) Movement over crossing. --No crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. Movement over a crossing shall be under the direction of any flagman provided by the railroad.
75 Pa. Cons. Stat. § 3343 (2012)

Rhode Island

§ 31-20-4. Vehicles required to stop at all railroads -- Exceptions (Special Vehicles and Exempt Crossings)

(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as provided in this chapter, and shall not proceed until he or she can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of the vehicle that there will be no necessity for changing gears while traversing the crossing, and the driver shall not shift gears while crossing the track or tracks.
(b) No stop need be made at any crossing where a police officer or a traffic control signal directs traffic to proceed.
(c) This section shall not apply at railroad grade crossings within a business or residence district.
R.I. Gen. Laws § 31-20-4 (2012)

§ 31-20-5. Moving of heavy equipment over railroad crossings (Slow and Low Vehicles)
(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) 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 (9”), measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing, without first complying with this section.
(b) Notice of the intended crossing shall be given to a station agent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
(c) Before making the crossing, the person operating or moving the vehicle or equipment shall first stop the same not less than fifteen feet (15') nor more than fifty feet (50') from the nearest rail of the railroad and, while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(d) No crossing shall be made when warning is given by automatic signal or crossing gates or a flagperson or otherwise of the immediate approach of a railroad train or car. If a flagperson is provided by the railroad, movement over the crossing shall be under the flagperson's direction.
R.I. Gen. Laws § 31-20-5 (2012)

<u>South Carolina</u>

§ 56-5-2720. Certain vehicles shall stop at all railroad grade crossings; gears shall not be changed while crossing grade. (Special Vehicles and Exempt Crossings)
(A) Except as provided in subsection (B), the driver of a school bus or a motor vehicle with a capacity of sixteen or more persons, a vehicle permitted by the Department of Health and Environmental Control to carry hazardous waste and a vehicle described in regulations issued pursuant to subsection (C), before crossing at grade any tracks of a railroad, shall stop the vehicle within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad 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 he can do so safely. After stopping and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in the gear of the vehicle that there is no necessity for manually changing gears while traversing the crossing and the driver shall not manually shift gears while crossing the tracks.

(B) Except for school buses, the provisions of this section do not apply at:
(1) a railroad grade crossing where traffic is controlled by a police officer or human flagman;
(2) a railroad grade crossing where traffic is regulated by a traffic-control signal;
(3) a railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train when the gate or flashing signal does not indicate the approach of a train;
(4) a railroad grade crossing where an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.
S.C. Code Ann. § 56-5-2720 (2011)

§ 56-5-2725. Moving heavy equipment at railroad grade crossings. (Slow and Low Vehicles)
(a) No person shall operate or move 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 any tracks at a railroad grade crossing without first complying with this section.
(b) Notice of such intended crossing shall be given to a station agent of the railroad and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
(c) Before making any such crossing, the person operating or moving the vehicle or equipment shall first stop not less than fifteen feet nor more than fifty feet from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
S.C. Code Ann. § 56-5-2725 (2011)

***§ 59-67-230. Driver required to stop before crossing railroad track. (Special Vehicles)**
The operator of any school bus shall, before crossing at grade any tracks of any railroad, bring his vehicle to a full and complete stop within not less than fifteen feet nor more than fifty feet from the rail of the track nearest to the front of such vehicle and shall, after such stop, ascertain if it is safe to proceed before crossing such tracks.
S.C. Code Ann. § 59-67-230 (2011)

<u>South Dakota</u>

§ 32-29-5. Duty when approaching railroad grade crossing -- Vehicles carrying passengers for hire, explosive substances or certain vehicles owned by nonprofit organizations -- Complete stop -- Proceeding after stop -- Class 2 misdemeanor (Special Vehicles)
The driver of any motor vehicle carrying passengers for hire, any school bus carrying passengers, any vehicle carrying passengers owned or operated by a nonprofit organization that requires inspection pursuant to § 32-21-3.1, or any vehicle carrying explosive substances or combustible or flammable liquid as a cargo or part of a cargo, before crossing at grade any track of a railroad, except where a police officer or traffic control signal directs traffic to proceed or the track is nonoperational and is marked with a supplemental sign as provided in § 31-28-7, shall stop such vehicle within fifty feet from the nearest rail of such railroad and may not proceed until he has

ascertained that he can do so safely. After stopping and upon proceeding, the driver of the vehicle shall cross only in such gear of the vehicle that there will be no necessity of changing gears while traversing the crossing and may not shift gears while crossing the track or tracks. This section does not apply to a driver of a taxicab or limousine. Any person failing to comply with the provisions of this section is guilty of a Class 2 misdemeanor.
S.D. Codified Laws § 32-29-5 (2012)

§ 32-29-8. Compliance with Section 32-29-9 -- Slow-moving equipment -- Class 2 misdemeanor (Slow and Low Vehicles)
No person may operate or move 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 any tracks at a railroad grade crossing without first complying with § 32-29-9. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-29-8 (2012)

§ 32-29-9. Slow-moving equipment -- Notice of intent to cross tracks -- Class 2 misdemeanor making crossings -- Warning signal -- Flagman -- Violation as misdemeanor (Slow and Low Vehicles)
Before making any crossing the person operating or moving any vehicle or equipment described in § 32-29-8 shall give reasonable notice to the station agent of the railroad owning the tracks of the intended crossing to allow the railroad to provide proper protection at the crossing. Before making any crossing the person operating or moving the vehicle or equipment shall first stop the vehicle or equipment not less than fifteen feet nor more than fifty feet from the nearest rail of the railroad and while so stopping shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and may not proceed until the crossing can be made safely. No crossing may be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-29-9 (2012)

<u>Tennessee</u>

55-8-147. Certain vehicles must stop at all railroad grade crossings. (Special Vehicles and Exempt Crossings)
(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus whether or not the school bus is carrying any school child, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad, and while so stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as provided in this section, and shall not proceed until the driver can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the driver of any such vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing and the driver shall not shift gears while crossing the track or tracks.

(b) No stop need be made at any crossing where a police officer or a traffic-control signal directs traffic to proceed.
(c) A violation of subsection (a) is a Class B misdemeanor.
Tenn. Code Ann. § 55-8-147 (2012)

55-8-148. Moving heavy equipment at railroad grade crossings. (Slow and Low Vehicles)
(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half inch (1/2") per foot of the distance between any two (2) adjacent axles or in any event of less than nine inches (9"), measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
(b) Before making any such crossing, the person operating or moving the vehicle or equipment described in subsection (a) shall first stop the same not less than fifteen feet (15') nor more than fifty feet (50') from the nearest rail of such railroad, and while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until thecrossing can be made safely.
(c) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be made under the flagger's direction.
Tenn. Code Ann. § 55-8-148 (2012)

***55-50-412. Approaching and driving over a railroad highway grade crossing.**
(a) It is unlawful for the operator of a commercial motor vehicle to fail to:
(1) Slow down and check that the railroad highway grade crossing is clear of an approaching train, if the driver is not required by § 55-8-147 to always stop at the crossing;
(2) Stop before reaching the railroad highway grade crossing, if the tracks are not clear, if the driver is not required to always stop, pursuant to § 55-8-147;
(3) Have sufficient space to drive completely through the railroad highway grade crossing without stopping; or
(4) Negotiate a railroad highway grade crossing because of insufficient undercarriage clearance.
(b) A violation of this section is a Class C misdemeanor, punishable by a fine only.
Tenn. Code Ann. § 55-50-412 (2012)

<u>Texas</u>

***§ 545.253. Buses to Stop at All Railroad Grade Crossings (Special Vehicles and Exempt Crossings)**
(a) Except as provided by Subsection (c), the operator of a motor bus carrying passengers for hire, beforecrossing a railroad grade crossing:
(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad;
(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the approach of a train; and
(3) may not proceed until it is safe to do so.
(b) After stopping as required by Subsection (a), an operator described by Subsection (a) shall proceed without manually shifting gears while crossing the track.
(c) A vehicle is not required to stop at the crossing if a police officer or a traffic-control signal directs traffic to proceed.

(d) This section does not apply at a railway grade crossing in a business or residence district.
(e) An offense under this section is punishable by a fine of not less than $ 50 or more than $ 200.
Tex. Transp. Code Ann. § 545.253 (2012)

§ 545.2535. School Buses to Stop at All Railroad Grade Crossings (Special Vehicles and Exempt Crossings)

(a) Except as provided by Subsection (c), the operator of a school bus, before crossing a track at a railroad grade crossing:
(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the track;
(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the approach of a train; and
(3) may not proceed until it is safe to do so.
(b) After stopping as required by Subsection (a), the operator may proceed in a gear that permits the vehicle to complete the crossing without a change of gears. The operator may not shift gears while crossing the track.
(c)An operator is not required to stop at:
(1) an abandoned railroad grade crossing that is marked with a sign reading "tracks out of service"; or
(2) an industrial or spur line railroad grade crossing that is marked with a sign reading "exempt."
(d) A sign under Subsection (c) may be erected only by or with the consent of the appropriate state or local governmental official.
Tex. Transp. Code Ann. § 545.2535 (2012)

§ 545.254. Vehicles Carrying Explosive Substances or Flammable Liquids (Special Vehicles and Exempt Crossings)

(a) Before crossing a railroad grade crossing, an operator of a vehicle that has an explosive substance or flammable liquid as the vehicle's principal cargo and that is moving at a speed of more than 20 miles per hour:
(1) shall reduce the speed of the vehicle to 20 miles per hour or less before coming within 200 feet of the nearest rail of the railroad;
(2) shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train; and
(3) may not proceed until the operator determines that the course is clear.
(b) The operator of a vehicle that has an explosive substance or flammable liquid as the vehicle's principal cargo, before crossing a railroad grade crossing on a highway in a municipality:
(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad;
(2) 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
(3) may not proceed until the operator determines that the course is clear.
(c) Subsections (a) and (b) do not apply:
(1) if a police officer, crossing flagger, or traffic-control signal directs traffic to proceed;
(2) where a railroad flashing signal is installed and does not indicate an approaching train;
(3) to an abandoned or exempted grade crossing that is clearly marked by or with the consent of the state, if the markings can be read from the operator's location;
(4) at a streetcar crossing in a business or residential district of a municipality; or
(5) to a railroad track used exclusively for industrial switching purposes in a business district.
(d) This section does not exempt the operator from compliance with Section 545.251 or 545.252.

(e) An offense under this section is punishable by a fine of not less than $ 50 or more than $ 200.
Tex. Transp. Code Ann. § 545.254 (2012)

§ 545.255. Moving Heavy Equipment at Railroad Grade Crossings (Slow and Low Vehicles)

(a) This section applies only to:
(1) a crawler-type tractor, steam shovel, derrick, or roller; and
(2) any other equipment or structure with:
(A) a normal operating speed of 10 miles per hour or less; or
(B) a vertical body or load clearance of less than one-half inch per foot of the distance between two adjacent axles or less than nine inches measured above the level surface of a roadway.
(b) An operator of a vehicle or equipment may not move on or across a track at a railroad grade crossing unless the operator has given notice to a station agent of the railroad and given the railroad reasonable time to provide proper protection at the crossing.
(c) To move a vehicle or equipment on or across a track at a railroad grade crossing, the operator:
(1) shall stop the vehicle or equipment not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad;
(2) 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
(3) may not proceed until it is safe to cross the track.
(d) An operator of a vehicle or equipment may not cross a railroad grade crossing when warning of the immediate approach of a railroad car or train is given by automatic signal, crossing gates, a flagger, or otherwise. If a flagger is provided by the railroad, the operator shall move the vehicle or equipment over the crossing at the flagger's direction.
(e) An offense under this section is punishable by a fine of not less than $ 50 or more than $ 200.
Tex. Transp. Code Ann. § 545.255 (2012)

***§ 647.010. Required Stop at Railroad Crossing (Special Vehicles and Exempt Crossings)**

(a) An operator transporting migrant agricultural workers who approaches a railroad grade crossing:
(1) shall stop the motor vehicle not less than 15 feet or more than 50 feet from the nearest rail of the crossing; and
(2) may proceed only after the operator determines that the course is clear.
(b) An operator is not required to stop at:
(1) a streetcar crossing that is in a municipal business or residential district;
(2) a railroad grade crossing at which a police officer or traffic-control signal other than a railroad flashing signal directs traffic to proceed; or
(3) a grade crossing that the proper state authority has clearly marked as being abandoned or exempted if the marking can be read from the operator's position.
(c) The motor vehicle must display a sign on the rear of the vehicle that states: “This Vehicle Stops at Railroad Crossings.”
Tex. Transp. Code Ann.§ 647.010 (2012)

<u>Utah</u>

§ 41-6a-1205. Railroad grade crossings -- Certain vehicles must stop -- Exceptions – Rules (Special Vehicles and Exempt Crossings)

(1) An operator of a commercial motor vehicle, as defined under Section 53-3-102, shall upon approaching a railroad grade crossing:
(a) unless Subsection (2) applies, slow down and check that the tracks are clear of an approaching train;
(b) stop within 50 feet, but not closer than 15 feet, from the nearest rail of the railroad track before reaching the crossing if the tracks are not clear;
(c) obey all traffic control devices or the directions of a peace officer, or other crossing official at thecrossing; and
(d) before proceeding over a railroad grade crossing:
(i) ensure that the vehicle has sufficient space to drive completely through a railroad grade crossingwithout stopping; and
(ii) ensure that the vehicle has sufficient undercarriage clearance to safely and completely pass through the crossing.
(2) (a) Except as provided in Subsection (3), the operator of a vehicle described in 49 CFR 392.10 shall stop within 50 feet, but not closer than 15 feet, from the nearest rail of the railroad track before crossing, at grade, any track of a railroad.
(b) While stopped, the operator shall look in both directions along the track for any sign of an approaching train and look and listen for signals indicating the approach of any train.
(c) The operator may proceed across the railroad track only when the movement may be made with reasonable safety.
(d) After stopping as required and upon safely proceeding, the operator shall only cross the railroad track in a gear that ensures no necessity for manually changing gears while traversing the crossing.
(e) The operator may not manually shift gears while crossing the railroad track.
(3) This section does not apply at a:
(a) railroad grade crossing where traffic is controlled by a peace officer or other crossing official;
(b) railroad grade crossing where traffic is regulated by a traffic-control signal;
(c) railroad grade crossing where a traffic-control device gives notice that the stopping requirements of this section are not applicable; or
(d) other railroad grade crossings excluded under 49 CFR 392.10.
Utah Code Ann. § 41-6a-1205 (2012)

§ 41-6a-1206. Railroad crossing duties respecting crawler type tractor, power shovel, derrick, or other equipment or structure (Slow and Low Vehicles)
(1) A person may not operate or move the following on or across any tracks at a railroad grade crossing without first complying with this section:
(a) a crawler type tractor;
(b) a power shovel;
(c) a derrick;
(d) a roller; or
(e) any equipment or structure having:
(i) normal operating speed of 10 or less miles per hour; or
(ii) a vertical body or load clearance of less than:
(A) 1/2 inch per foot of the distance between any two adjacent axles; or
(B) in any event, nine inches measured above the level surface of a roadway.

(2) Notice of an intended crossing under this section shall be given to the railroad and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
(3) (a) Before making a crossing under this section the person operating or moving the vehicle or equipment shall first stop within 50 feet but not closer than 15 feet from the nearest rail of the railway.
(b) While stopped, the operator of the vehicle shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a railroad train.
(c) The operator may proceed across the track only when the crossing can be made safely.
(4) The operator of a vehicle shall obey all traffic control devices or the directions of a peace officer or other crossing official at the crossing.
Utah Code Ann. § 41-6a-1206 (2012)

Vermont

§ 1072. Certain vehicles must stop (Special Vehicles and Exempt Crossings)
(a) The driver of any motor vehicle carrying passengers for hire except for jitneys designed to carry not more than seven passengers including the driver, of any school bus or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop within 50 feet, but not less than 15 feet, from the nearest rail of the railroad and while so stopped shall look and listen in both directions along the track for any approaching train and for signals indicating the approach of a train and may not proceed until he or she can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross so that there will be no necessity for changing gears while traversing the crossing, and the driver may not shift gears while crossing the track or tracks.
(b) No stop need be made at any crossing where an attendant, an enforcement officer or a traffic-control signal directs traffic to proceed.
(c) The driver of a Type I school bus stopping as required under subsection (a) of this section shall open the door of the bus before crossing the railroad tracks. Drivers of Type II school buses shall open the left front window.
(d) Except when required by section 1071 of this title, stopping is not required at a crossing that has been signed as "exempt" in accordance with a designation of the transportation board.
Vt. Stat. Ann. tit. 23, § 1072 (2013)

§ 1073. Heavy equipment (Slow and Low Vehicles)
(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of 10 miles per hour or less upon or across any tracks at a railroad grade crossing except in accordance with this section.
(b) Before making any crossing the person operating or moving any such equipment shall first stop within 50 feet of, but not nearer than 15 feet from, the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and may not proceed until the crossing can be made safely.
(c) No crossing may be made when warning is given by automatic signal, crossing gates, flagman or otherwise of the immediate approach of a railroad train or car.
(d) If a flagman is provided by the railroad, movement over the crossing shall be under his or her direction.
Vt. Stat. Ann. tit. 23, § 1073 (2013)

***§ 1076. Commercial motor vehicles; railroad crossings**
(a) Persons operating a commercial vehicle who are not required to stop at railroad crossings shall slow to a speed sufficient to allow for a clear view of the tracks in both directions, and stop before reaching thecrossing if a train is approaching in either direction.
(b) Operators of commercial and noncommercial vehicles shall:
(1) allow sufficient space to drive completely through a railroad crossing without stopping;
(2) obey a traffic control device or the directions of an enforcement official at the crossing;
(3) not attempt to cross tracks if there is insufficient undercarriage clearance.
Vt. Stat. Ann. tit. 23, § 1076 (2013)

Virginia

§ 46.2-886. When drivers of certain vehicles to stop, look, and listen at railroad crossings; crossing tracks without shifting gears (Special Vehicles and Exempt Crossings)
Except in cities or towns, the driver of any motor vehicle carrying passengers for hire, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any railroad track, shall stop such vehicle within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while stopped shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, except as hereinafter provided in this section, and shall not proceed until he can do so safely. After stopping and upon proceeding when it is safe to do so, the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing.
Before crossing any railroad tracks at grade, the driver of any school bus shall stop the school bus within fifty feet but not less than fifteen feet from the nearest rail of such railroad and while stopped shall listen and look in both directions along the track for any approaching train, except as hereinafter provided in this section, and shall not proceed until he can do so safely. After stopping and upon proceeding when it is safe to do so, the driver of any school bus shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing the crossing.
Notwithstanding the foregoing provisions of this section, no stop need be made at any such crossing where a law-enforcement officer or a traffic-control signal directs traffic to proceed.
Va. Code Ann. § 46.2-886 (2012)

§ 46.2-887. Moving crawler-type tractors, steam shovels, derricks, rollers, etc., over railroad grade crossings (Slow and Low Vehicles)
Except in cities or towns, no person shall move 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, on or across any tracks at a railroad grade crossing without first complying with this section.
Notice of any intended crossing shall be given to a station agent of the railroad and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
Before making any such crossing, the person moving any such vehicle or equipment shall first stop it not less than fifteen feet nor more than fifty feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along such track for any approaching

train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
No such crossing shall be made when warning is given by automatic signal, crossing gates, a flagman, or otherwise of the immediate approach of a train. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
Va. Code Ann. § 46.2-887 (2012)

Washington

§ 46.61.350. Certain vehicles must stop at all railroad grade crossings -- Exceptions – Definition (Special Vehicles and Exempt Crossings)
(1) (a) The driver of any of the following vehicles must stop before the stop line, if present, and otherwise within fifty feet but not less than fifteen feet from the nearest rail at a railroad grade crossing unless exempt under subsection (3) of this section:
(i) A school bus or private carrier bus carrying any school child or other passenger;
(ii) A commercial motor vehicle transporting passengers;
(iii) A cargo tank, whether loaded or empty, used for transporting any hazardous material as defined in the hazardous materials regulations of the United States department of transportation in 49 C.F.R. Parts 107 through 180 as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section. For the purposes of this section, a cargo tank is any commercial motor vehicle designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis;
(iv) A cargo tank, whether loaded or empty, transporting a commodity under exemption in accordance with 49 C.F.R. Part 107, Subpart B as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section;
(v) A cargo tank transporting a commodity that at the time of loading has a temperature above its flashpoint as determined by the United States department of transportation in 49 C.F.R. Sec. 173.120 as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section; or
(vi) A commercial motor vehicle that is required to be marked or placarded with any one of the following classifications by the United States department of transportation in 49 C.F.R. Part 172 as it existed on June 10, 2010, or such subsequent date as may be provided by the state patrol by rule, consistent with the purposes of this section:
(A) Division 1.1, Division 1.2, Division 1.3, or Division 1.4;
(B) Division 2.1, Division 2.2, Division 2.2 oxygen, Division 2.3 poison gas, or Division 2.3 chlorine;
(C) Division 4.1 or Division 4.3;
(D) Division 5.1 or Division 5.2;
(E) Division 6.1 poison;
(F) Class 3 combustible liquid or Class 3 flammable;
(G) Class 7;
(H) Class 8.
(b) While stopped, the driver 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 not proceed until he or she can do so safely.

(2) After stopping at a railroad grade crossing and upon proceeding when it is safe to do so, the driver must cross only in a gear that permits the vehicle to traverse the crossing without changing gears. The driver may not shift gears while crossing the track or tracks.
(3) This section does not apply at any railroad grade crossing where:
(a) Traffic is controlled by a police officer or flagger.
(b) A functioning traffic control signal is transmitting a green light.
(c) The tracks are used exclusively for a streetcar or industrial switching purposes.
(d) The utilities and transportation commission has approved the installation of an "exempt" sign in accordance with the procedures and standards under RCW 81.53.060.
(e) The crossing is abandoned and is marked with a sign indicating it is out-of-service.
(f) The state patrol has, by rule, identified a crossing where stopping is not required.
(g) The superintendent of public instruction has, by rule, identified a circumstance under which a school bus or private carrier bus carrying any school child or other passenger is not required to stop.
(4) For the purpose of this section, "commercial motor vehicle" means: Any vehicle with a manufacturer's seating capacity for eight or more passengers, including the driver, that transports passengers for hire; any private carrier bus; any vehicle used to transport property that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight of 4,536 kg (10,001 pounds) or more; and any vehicle used in the transportation of hazardous materials as defined in RCW 46.25.010.
Wash. Rev. Code Ann. § 46.61.350 (2012)

§ 46.61.355. Moving heavy equipment at railroad grade crossings -- Notice of intended crossing (Slow and Low Vehicles)
(1) No person shall operate or move 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 any tracks at a railroad grade crossing without first complying with this section.
(2) Notice of any such intended crossing shall be given to the station agent of such railroad located nearest the intended crossing sufficiently in advance to allow such railroad a reasonable time to prescribe proper protection for such crossing.
(3) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(4) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagger or otherwise of the immediate approach of a railroad train or car. If a flagger is provided by the railroad, movement over the crossing shall be under the flagger's direction.
Wash. Rev. Code Ann. § 46.61.355 (2012)

<u>West Virginia</u>

§ 17C-12-3. Certain vehicles must stop at all railroad grade crossings. (Special Vehicles and Exempt Crossings)

(a) Except as provided in subsection (f) of this section, the driver of a commercial motor vehicle specified in subsection (b) of this section shall not cross a railroad track or tracks at grade unless he or she first: (1) Stops the commercial motor vehicle within fifty feet of, and not closer than fifteen feet to, the tracks; (2) thereafter, listens and looks in each direction along the tracks for an approaching train; and (3) ascertains that no train is approaching. When it is safe to do so, the driver may drive the commercial motor vehicle across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without a change of gears. The driver shall not shift gears while crossing the tracks.
(b) The following commercial vehicles are required to stop at railroad tracks or tracks at grade:
(1) Every bus transporting passenge
(2) Every commercial motor vehicle transporting any quantity of a United States department of transportation defined division 2.3 chlorine;
(3) Every commercial motor vehicle which, in accordance with United States department of transportation regulations, is marked or placarded and is required to stop in accordance with 49 C.F.R. part § 392.10(a) (3) (2001);
(4) Every cargo tank motor vehicle, loaded or empty, used for the transportation of any hazardous material, as defined in federal Department of Transportation Hazardous Materials Rules, 49 C.F.R. parts § 107 through § 180 (2001);
(5) Every cargo tank motor vehicle transporting a commodity which, at the time of loading, has a temperature above its flashpoint as determined by 49 C.F.R. § 173.120 (2001); and
(6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity exemption in accordance with 49 C.F.R. part § 107 subpart B (2001).
(c) Any vehicle owned by an employer which, in carrying on the employer's business or in carrying employees to and from work, carries more than six employees of the employer is required to stop at all railroad tracks or tracks at grade, in accordance with subsection (a) of this section.
(d) All drivers of commercial motor vehicles not required to stop at railroad tracks or tracks at grade as provided in subsection (a) of this section may not cross a railroad track or tracks at grade unless he or she first slows the commercial motor vehicle to a speed which will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the railroad crossing and permit exercise of due caution to ascertain that the tracks are clear of an approaching train.
(e) All drivers of commercial motor vehicles may not proceed to cross a railroad crossing unless there is sufficient space to drive completely through the crossing without stopping and the vehicle has sufficient undercarriage clearance to drive completely through the crossing without stopping.
(f) No stop need be made at:
(1) Any crossing where a police officer, crossing flagger or a traffic-control signal directs traffic to proceed;
(2) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes within a business district, as defined in 49 C.F.R. § 390.5 (2000);
(3) A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law permits the commercial motor vehicle to proceed across the track without slowing or stopping; or
(4) A railroad grade crossing which is marked with a sign indicating that the rail line is out of service.

(g) Any person driving a vehicle specified in this section or a vehicle that requires a commercial driver's license who fails to comply with the requirements of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined one hundred dollars or imprisoned for not more than ten days: Provided, That if the electric or mechanical signal device is malfunctioning, this subsection shall not apply.
W. Va. Code Ann. § 17C-12-3 (2012)

§ 17C-12-4. Moving heavy equipment at railroad grade crossings. (Slow and Low Vehicles)
(a) No person shall operate or move 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 any tracks at a railroad grade crossing without first complying with this section.
(b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
(c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
W. Va. Code Ann. § 17C-12-4 (2012)

<u>Wisconsin</u>

Slow and Low Vehicles
No applicable statute related to this topic

346.45. Certain vehicles to stop at railroad crossings. (Special Vehicles and Exempt Crossings)
(1) Except as provided in sub. (3), the operator of any of the following vehicles before crossing at grade any track of a railroad, shall stop such vehicle within 50 feet, but not less than 15 feet from the nearest rail of such railroad:
(a) Every motor bus transporting passengers.
(am) Every vehicle painted and displaying markings in accordance with s. 347.44 (1) (b) Every motor vehicle transporting any quantity of chlorine.
(c) Every motor vehicle which, in accordance with sub. (4), is required to be marked or placarded with one of the following markings:
1. Explosives A.
2. Explosives B.
3. Poison.
4. Flammable.
5. Oxidizers.
6. Compressed gas.
7. Corrosives.

8. Flammable gas.
9. Radioactive.
10. Dangerous.
(d) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any liquid having a flashpoint below 2005 Fahrenheit, as determined by the test method approved for that product by the American society for testing and materials.
(e) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by the same standard method of testing as prescribed in par. (d) (f) Every vehicle transporting a building, as defined in s. 348.27 (12m) (a) 1.
(2) The operator of every vehicle required to stop before crossing any track shall listen and look in both directions along the track for any approaching railroad train or railroad track equipment, and shall not proceed until such precautions have been taken and until the operator has ascertained that the course is clear. Wherever an auxiliary lane is provided for stopping at a railroad, operators of vehicles required to stop shall use such lane for stopping.
(3) A stop need not be made at:
(a) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed.
(b) A railroad grade crossing when an official traffic control signal permits traffic to proceed.
(c) An abandoned railroad grade crossing with a sign indicating the rail line is abandoned.
(d) A railroad grade crossing which is marked with a sign in accordance with s. 195.285 (3) Such signs shall be erected by the maintaining authority only upon order of the office of the commissioner of railroads as set forth in s. 195.285
(4) The department shall adopt rules for the marking and placarding of vehicles being used to transport hazardous materials which are potentially dangerous to life and property, which rules shall be in accordance with the regulations of the U.S. department of transportation.
Wis. Stat. § 346.45 (2012)

Wyoming

§ 31-5-511. Stopping requirements for certain vehicles at railroad crossings. (Special Vehicles and Exempt Crossings)
(a) The driver of any motor vehicle carrying passengers for hire, or of any school bus whether empty or carrying school children, or of any vehicle carrying a cargo or part of a cargo required to be placarded under United States department of transportation regulations, before crossing at grade any track or tracks of a railroad, shall:
(i) Actuate the vehicle's four-way hazard flashers prior to stopping at the grade crossing;
(ii) Stop the vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad;
(iii) While stopped, listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train and not proceed until he can do so safely;
(iv) Upon proceeding, cross the tracks without manually shifting gears and only in a gear of the vehicle which does not require manually changing gears while traversing the crossing; and
(v) After crossing the tracks, cancel the four-way hazard flashers.
(b) Except for school buses which will stop at all railroad crossings, this section shall not apply at:
(i) Any railroad grade crossing at which traffic is controlled by a police officer or flagman;
(ii) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;
(iii) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal

intended to give warning of the approach of a railroad train;
(iv) Any railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.
(c) The highway department may adopt such regulations as may be necessary describing additional vehicles which must comply with the stopping requirements of this section.
Wyo. Stat. Ann. § 31-5-511 (2012)

§ 31-18-602. Moving heavy equipment at railroad grade crossings. (Slow and Low Vehicles)
(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two (2) adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
(b) Notice of the intended crossing shall be given to a station agent of the railroad and a reasonable time shall be given to the railroad to provide proper protection at the crossing.
(c) Before making the crossing the person operating or moving the vehicle or equipment shall first stop the vehicle or equipment not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train. The vehicle shall not proceed until the crossing can be made safely.
(d) No crossing shall be made when warning is given by automatic signal, crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.
Wyo. Stat. Ann. § 31-18-602 (2012)

§ 31-18-605. Stopping requirements for certain vehicles at railroad crossings. (Special Vehicles and Exempt Crossings)
(a) The driver of any motor vehicle carrying passengers for hire or of any vehicle carrying a cargo or part of a cargo required to be placarded under United States department of transportation regulations, before crossing at grade any track or tracks of a railroad, shall:
(i) Actuate the vehicle's four-way hazard flashers prior to stopping at the grade crossing;
(ii) Stop the vehicle within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad;
(iii) While stopped, listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train and not proceed until he can do so safely;
(iv) Upon proceeding, cross the tracks without manually shifting gears and only in a gear of the vehicle which does not require manually changing gears while traversing the crossing;
(v) After crossing the tracks, cancel the four-way hazard flashers; and
(vi) Comply with all other federal, state or local laws or regulations pertaining to railroad-highway grade crossings.
(b) This section shall not apply at:
(i) Any railroad grade crossing at which traffic is controlled by a police officer or flagman;
(ii) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;
(iii) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train;

(iv) Any railroad grade crossing at which an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.
(c) The department may adopt such regulations as may be necessary describing additional vehicles which must comply with the stopping requirements of this section
(d) A driver or employer of a driver who is convicted of violating this section, or an employer who knowingly allows, requires, permits or authorizes a driver to violate this section, shall also be subject to the civil penalties provided by 49 C.F.R. 383.53, as amended as of March 1, 2007.
Wyo. Stat. Ann. § 31-18-605 (2012)

Chapter 8: Driver Action

CHAPTER OVERVIEW

This chapter presents a survey of the various laws and regulations concerning a motorist's responsibility with respect to highway-rail grade crossings.

The laws and regulations address motorist behavior when approaching and traveling through a highway-rail grade crossing, as well as prohibitions against standing, stopping, or parking in close proximity to tracks at highway-rail grade crossings.

Alabama

§32-5-54. Keep to the right in crossing intersections or railroads.
In crossing an intersection of highways or in the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right half is obstructed or impassable.
Ala. Code § 32-5-54 (2012)

§ 32-5A-61. Passing through intersections, crosswalks and railroad crossings.
No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed.
Ala. Code § 32-5A-61 (2012)

§ 32-5A-150. Railroad crossings; stop at signal.
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
Ala. Code § 32-5A-150(2012)

Alaska

13 AAC 02.240. Obedience to signal indicating approach of train

(a) When a person driving a vehicle approaches a railroad grade crossing under circumstances described in this section, the driver of the vehicle shall stop within 50 feet, but not less than 15 feet, from the nearest rail of the railroad, and may not proceed until he can do so safely. This stop is required when
(1) a clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) a crossing gate is lowered or is being lowered, or when a flagman gives either a signal to stop or a signal of the approach or passage of a railroad train;
(3) a railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from that distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard to crossing traffic; or
(4) an approaching railroad train is visible and is in hazardous proximity to a crossing.
(b) No person may drive a vehicle through, around or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.
Alaska Admin. Code tit. 13, § 02.240 (2012)

Arizona

§ 28-851. Approach of train; signal
A. When a person driving a vehicle approaches a railroad grade crossing, the driver of the vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall not proceed until the driver can do so safely under any of the following circumstances:
1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
2. A crossing gate is lowered or a human flagman gives or continues to give a signal of the approach or passage of a railroad train.
3. A railroad train approaching within approximately one thousand five hundred feet of the highway crossing emits a signal audible from such distance and the railroad train is an immediate hazard by reason of its speed or proximity to the crossing.
4. An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
B. A person shall not drive a vehicle through, around or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.
Ariz. Rev. Stat. § 28-851 (2012)

§ 28-852. Dangerous railroad grade crossing

The director, and local authorities with the approval of the director, may designate particularly dangerous highway grade crossings of railroads and may erect stop signs at the crossings. If the stop signs are erected, the driver of a vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall proceed only on exercising due care.
Ariz. Rev. Stat. § 28-852 (2012)

§ 28-873. Stopping, standing or parking prohibitions; exceptions; definition
A. Except if necessary to avoid conflict with other traffic or if in compliance with law or the directions of a police officer or traffic control device, a person shall not stop, stand or park a vehicle in any of the following places:

9. Within fifty feet of the nearest rail or a railroad crossing or within eight feet six inches of the center of any railroad track, except while a motor vehicle with motive power attached is loading or unloading railroad cars.
Ariz. Rev. Stat. § 28-873(A-9) (2012) Excerpt from applicable statute published.

Arkansas

***27-51-702. Obedience to signals at crossings required.**
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, then the driver of the vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed until he or she can do so safely. These requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard; and
(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(b) No person shall 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.
Ark. Code Ann. § 27-51-702 (2012)

27-51-706. Designation of particularly dangerous crossings.
(a) The State Highway Commission and local authorities, with the approval of the commission, are authorized to designate particularly dangerous state highway grade crossings of railroads and to erect stop signs there.
(b) When stop signs are erected, the driver of any vehicle shall stop within fifty feet (50') but not less than ten feet (10') from the nearest rail of the railroad and shall proceed only upon exercising due care.
(c) Any person, owner, or driver of any automobile, truck, motorcycle, or other motor-driven vehicle violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than five dollars ($5.00) nor more than twenty-five dollars ($25.00).
(d) This section shall be cumulative to the other laws of this state and shall not repeal any laws or parts of laws except where specifically in conflict with this section.
Ark. Code Ann. § 27-51-706 (2012)

***27-51-1302. Stopping, standing, or parking prohibited in specified places.**
(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, in any of the following places:
(9) Within fifty feet (50') of the nearest rail of a railroad crossing;
Ark. Code Ann. § 27-51-1302 (2012)

California

Veh Code § 21110. Railroad crossings

Local authorities may adopt rules and regulations by ordinance or resolution to require that all vehicles stop before entering or crossing the tracks at any highway railroad grade crossing when signs are in place giving notice thereof, but no such ordinance shall be effective unless approved by an order of the Public Utilities Commission.
Cal. Veh. Code § 21110 (Deering 2012)

Veh Code § 22352. Prima facie speed limits
(a) The prima facie limits are as follows and shall be applicable unless changed as authorized in this code and, if so changed, only when signs have been erected giving notice thereof:
(1) Fifteen miles per hour:
(A) When traversing a railway grade crossing, if during the last 100 feet of the approach to the crossing the driver does not have a clear and unobstructed view of the crossing and of any traffic on the railway for a distance of 400 feet in both directions along the railway. This subdivision does not apply in the case of any railway grade crossing where a human flagman is on duty or a clearly visible electrical or mechanical railway crossing signal device is installed but does not then indicate the immediate approach of a railway train or car.
Cal. Veh. Code § 22352(a)(1)(A) (2012) Excerpt from applicable statute published.

***Veh Code § 22450. Stop requirements; Local regulation**
(b) The driver of a vehicle approaching a stop sign at a railroad grade crossing shall stop at a limit line, if marked, otherwise before crossing the first track or entrance to the railroad grade crossing.
Cal Veh Code § 22450(b) (Deering 2012) Excerpt from applicable statute published.

Veh. Code. § 22451. Distance for stop at railroad crossing; Conditions for proceeding; Notice of violation
(a) The driver of any vehicle or pedestrian approaching a railroad or rail transit grade crossing shall stop not less than 15 feet from the nearest rail and shall not proceed until he or she can do so safely, whenever the following conditions exist:
(1) A clearly visible electric or mechanical signal device or a flagman gives warning of the approach or passage of a train or car.
(2) An approaching train or car is plainly visible or is emitting an audible signal and, by reason of its speed or nearness, is an immediate hazard.
(b) No driver or pedestrian shall proceed through, around, or under any railroad or rail transit crossing gate while the gate is closed.
Cal. Veh. Code § 22451(a-b) (Deering 2012) Excerpt from applicable statute published.

Veh Code § 22521. Parking up or near railroad track
No person shall park a vehicle upon any railroad track or within 71/2 feet of the nearest rail.
Cal. Veh. Code. § 22521(Deering 2012)

***Veh Code § 22526. Blocking intersection, crosswalk or railroad crossing**
(c) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient undercarriage clearance to cross the intersection without obstructing the through passage of a railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.
(d) A driver of a vehicle shall not enter a railroad or rail transit crossing, notwithstanding any official traffic control device or signal indication to proceed, unless there is sufficient space on

the other side of the railroad or rail transit crossing to accommodate the vehicle driven and any railway vehicle, including, but not limited to, a train, trolley, or city transit vehicle.
(e) A local authority may post appropriate signs at the entrance to intersections indicating the prohibition in subdivisions (a), (b), and (c).
(f) A violation of this section is not a violation of a law relating to the safe operation of vehicles and is the following:
(1) A stopping violation when a notice to appear has been issued by a peace officer described in Section 830.1, 830.2, or 830.33 of the Penal Code.
(2) A parking violation when a notice of parking violation is issued by a person, other than a peace officer described in paragraph (1), who is authorized to enforce parking statutes and regulations.
(g) This section shall be known and may be cited as the Anti-Gridlock Act of 1987.
Cal. Veh. Code § 22526(c)-(g) (Deering 2012) Excerpt from applicable statute published.

***Veh Code § 42001.1. Disregard of traffic signal given by school guard; Blocking intersection or crosswalk; Punishment**
(a) Every person convicted of an infraction for a violation of Section 2815 or a violation of subdivision (a) or (b) of Section 22526 at an intersection posted pursuant to subdivision (d) of Section 22526 shall be punished as follows:
(1) For a first conviction, a fine of not less than fifty dollars ($50) nor more than one hundred dollars ($100).
(2) For a second conviction within a period of one year, a fine of not less than one hundred dollars ($100) nor more than two hundred dollars ($200).
(3) For a third or any subsequent conviction within a period of two years, a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500).
(b) In addition to the fine specified in subdivision (a), the court may order the department to suspend the driver's license for up to 30 days of any person convicted of a third or any subsequent conviction of Section 2815 within a period of two years, and the department shall suspend the license for the period of time so ordered.
Cal. Veh. Code § 42001.1 (Deering 2012)

Colorado

42-4-706. Obedience to railroad signal

(1) Any driver of a motor vehicle approaching a railroad crossing sign shall slow down to a speed that is reasonable and safe for the existing conditions. If required to stop for a traffic control device, flagperson, or safety before crossing the railroad grade crossing, the driver shall stop at the marked stop line, if any. If no such stop line exists, the driver shall:
(a) Stop not less than fifteen feet nor more than fifty feet from the nearest rail of the railroad grade crossing and shall not proceed until the railroad grade can be crossed safely; or
(b) In the event the driver would not have a reasonable view of approaching trains when stopped pursuant to paragraph (a) of this subsection (1), stop before proceeding across the railroad grade crossing at the point nearest such crossingwhere the driver has a reasonable view of approaching trains and not proceed until the railroad grade can be crossed safely.
(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed, nor shall any pedestrian pass through, around, over, or under anycrossing gate or barrier at a railroad grade crossing while such gate or barrier is closed or is being opened or closed.

(3) Any person who violates any provision of this section commits a class A traffic infraction.
Colo. Rev. Stat. §42-4-706 (2012)

42-4-709. Stop when traffic obstructed
No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding the indication of any traffic control signal to proceed. Any person who violates any provision of this section commits a class A traffic infraction.
Colo. Rev. Stat. §42-4-709

42-4-1005. Limitations on overtaking on the left
(1) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this article and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completed without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and, in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle.
(5) Any person who violates any provision of this section commits a class A traffic infraction.
(2) No vehicle shall be driven on the left side of the roadway under the following conditions:
(b) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing
Colo. Rev. Stat. §42-4-1005 Excerpt from applicable statute published.

<u>Connecticut</u>

***Sec. 13b-344a. Person not to cross tracks when warned by signal, gates, flagmen or law enforcement officer of approach of railroad locomotive.**
No person shall cross railroad tracks at a designated railroad grade crossing when warned by an automatic signal, crossing gates, flagman or law enforcement officer of the approach of a railroad locomotive, railroad car or train or when otherwise warned of the approach of such a locomotive, car or train. Violation of this section shall be an infraction.
Conn. Gen. Stat. § 13b-344a (2012)

Sec. 14-235. Vehicle not to be driven on left side of highway on curve or upgrade.
No vehicle shall be driven to the left side of the highway (1) when approaching the crest of a grade or upon a curve or elsewhere in the highway where a free and unobstructed view of the highway ahead may not be had for a sufficient distance to insure driving with safety or (2) when approaching within one hundred feet of or crossing any intersection or railroad grade crossing. These limitations shall not apply on a one-way street or highway so designated by any traffic authority. Violation of any provision of this section shall be an infraction.
Conn. Gen. Stat. § 14-235 (2012)

Sec. 14-249. Stopping at grade crossings.
(a) An operator of a motor vehicle shall bring his or her motor vehicle to a full stop at a railroad grade crossing when warned of an approaching locomotive or a train by a law enforcement

officer or flashing lights erected at such grade crossing pursuant to an order of the Commissioner of Transportation and shall refrain from passing over such crossing until the approaching locomotive or train has passed such crossing.
(b) An operator of a commercial motor vehicle shall refrain from passing over such grade crossing, regardless of whether flashing lights are erected or are operable at such grade crossing, unless all tracks are clear.
(c) An operator of a commercial motor vehicle shall, upon approaching a railroad grade crossing, drive such motor vehicle at a rate of speed that will enable such motor vehicle to be stopped when required by the provisions of subsection (a) or (b) of this section or section 14-250.
(d) Violation of any provision of this section shall be an infraction.
Conn. Gen. Stat. § 14-249 (2012)

***Sec. 14-301. Through ways. Stop signs.**
(e) The driver of a vehicle shall stop in obedience to a stop sign at a railroad crossing erected and maintained on the highway by requirement of the Commissioner of Transportation or the State Traffic Commission.
Conn. Gen. Stat. § 14-301(e) (2012) Excerpt from applicable statute published.

Delaware

§ 4119. Further limitations on driving to left of center of roadway
(a) No vehicle shall be driven on the left side of the roadway under the following conditions:
(1) When approaching or upon a curve or the crest of a grade in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated by official traffic-control devices;
(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
(b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in § 4114(a)(2) of this title, nor to the driver of a vehicle turning left into or from an alley, private road, driveway or highway.
Del. Code Ann. tit. 21, § 4119 (2012)

§ 4130. Vehicle obstructing traffic
No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed.
Del. Code Ann. tit. 21, § 4130 (2012)

§ 4161. Obedience to signal indicating approach of train, drawbridge or automatic signal system controlling the flow of traffic
(a) Whenever any person driving a vehicle approaches a railroad grade crossing, drawbridge or automatic signal system controlling the flow of traffic under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until the driver can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
Del. Code Ann. tit. 21, § 4161 (2012)

§ 4168. General speed restrictions
(b) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.
Del. Code Ann. tit. 21, § 4168(b) (2012) Excerpt from applicable statute published.

<u>District of Columbia</u>

18-2200. SPEED RESTRICTIONS.
2200.11 Any individual violating any provision of this section, except where the offense constitutes reckless driving or a specific penalty is provided for the offense, shall, upon determination of liability therefor, be subject to a civil fine pursuant to the District of Columbia Traffic Adjudication Act.
D.C. Mun. Regs. tit. 18, § 2200 (2013)

18-2200. SPEED RESTRICTIONS.
2200.3 No person shall drive a vehicle on a street or highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.
2200.4 In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the street or highway in compliance with legal requirements and the duty of all persons to use due care.
2200.5 The driver of every vehicle shall, consistent with requirements of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing; when approaching and going around a curve; when approaching a hill crest; when traveling upon any narrow or winding roadway; and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.
D.C. Mun. Regs. tit. 18, § 2200 (2013)

18-2216. RAILROAD CROSSINGS.
2216.1 Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within fifty feet (50 ft.), but not less than fifteen feet (15 ft.), from the nearest rail of the railroad, and shall not proceed until it can be done safely.

D.C. Mun. Regs. tit. 18, § 2216 (2013)

18-2405. Stopping, Standing, or Parking Prohibited: No Sign Required.
2405.2 No person shall stand or park a motor vehicle or trailer, whether occupied or not, in any of the following places (including for the purpose of loading or unloading materials), except when necessary to avoid conflict with other traffic, or at the direction of a police officer, traffic control sign, or signal; provided, that a vehicle may stop momentarily to pick up or discharge a passenger or passengers:
(e) Within fifty feet (50 ft.) of a railroad crossing;
D.C. Mun. Regs. tit. 18, § 2405 (e) (2013) Excerpt from applicable regulation published.

Florida

§ 316.087. Further limitations on driving to left of center of roadway
(1)No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
(d) When approaching within 100 feet of or traversing any railroad grade crossing;
(2)A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.
Fla. Stat. Ann. § 316.087(1-d)(2) (2013) Excerpt from applicable statute published.

§ 316.183. Unlawful speed [Effective January 1, 2013]
(1) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance or object on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.
(4) The driver of every vehicle shall, consistent with the requirements of subsection (1), drive at an appropriately reduced speed when:
(a) Approaching and crossing an intersection or railway grade crossing;
(7) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.
Fla. Stat. Ann. § 316.183(4)(7) (2013)

§ 316.1575. Obedience to traffic control devices at railroad-highway grade crossings
(1) Any person walking or driving a vehicle and approaching a railroad-highway grade crossing under any of the circumstances stated in this section shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall not proceed until he or she can do so safely. The foregoing requirements apply when:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(b) A crossing gate is lowered or a law enforcement officer or a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
(c) An approaching railroad train emits an audible signal or the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard; or
(d) An approaching railroad train is plainly visible and is in hazardous proximity to the railroad-highway grade crossing, regardless of the type of traffic control devices installed at the crossing.
(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad-highway grade crossing while the gate or barrier is closed or is being opened or closed.

(3) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as either a pedestrian violation or, if the infraction resulted from the operation of a vehicle, as a moving violation.
Fla. Stat. Ann. § 316.1575 (2012)

§ 316.1576. Insufficient clearance at a railroad-highway grade crossing
(1) A person may not drive any vehicle through a railroad-highway grade crossing that does not have sufficient space to drive completely through the crossing without stopping.
(2) A person may not drive any vehicle through a railroad-highway grade crossing that does not have sufficient undercarriage clearance to drive completely through the crossing without stopping.
(3) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.
Fla. Stat. Ann. § 316.1576 (2012)

§ 316.1945. Stopping, standing, or parking prohibited in specified places
(1)Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:
(a) Stop, stand, or park a vehicle:
8. On any railroad tracks.
(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers:
1. Within 50 feet of the nearest rail of a railroad crossing unless the Department of Transportation establishes a different distance due to unusual circumstances.
2. At any place where official signs prohibit parking.
4) A violation of this section is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318.
Fla. Stat. Ann.§ 316.1945 (2013) Excerpt from applicable statute published.

Georgia

§ 40-6-45. Further limitations on driving on left of center of roadway
(a) No vehicle shall be driven on the left side of a roadway designed and authorized for traffic traveling in opposite directions under the following conditions:
(1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) When traversing any:
(A) Intersection which is clearly marked by a solid barrier line placed on the right-hand element of a combination stripe along the center or lane line or by a solid double yellow line; or
(B) Railroad grade crossing; or
(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.
(b) The foregoing limitations shall not apply upon a one-way roadway nor under the conditions described in paragraph (2) of subsection (a) of Code Section 40-6-40 nor to the driver of a vehicle turning left into or from an alley,private road, driveway, or roadway.
Ga. Code Ann. § 40-6-45 (2012)
§ 40-6-140. Obedience to signal indicating approach of train; reasonable and prudent standard for crossing railroad grade

(a) Whenever any person driving a vehicle approaches a railroad grade crossing, such driver shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall not proceed until he can do so safely, when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;
(2) A crossing gate is lowered or a human flagman gives or continues to give a signal of the approach of the passage of a train; or
(3) An approaching train is plainly visible and is in hazardous proximity to such crossing.
(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
(c) If no electric or mechanical signal device is giving warning of the immediate approach of a train, no crossing gate or barrier is closed, there is no stop sign at the crossing, and there is no human flagman giving warning, all drivers shall slow to a reasonable and prudent speed and verify that there is no approaching train prior to proceeding. For the purposes of this subsection, "a reasonable and prudent speed" means a speed slow enough to enable the driver to safely stop the vehicle prior to reaching the nearest rail of such crossing.
(d) No person shall drive a vehicle over a railroad grade crossing when a train is approaching.
(e) No person shall drive a vehicle over a railroad grade crossing if there is insufficient space to drive completely through the crossing without stopping.
(f) No person shall drive a vehicle over a railroad grade crossing if there is insufficient undercarriage clearance for the vehicle to negotiate the crossing.
Ga. Code Ann. § 40-6-140 (2012)

§ 40-6-180. Basic rules
No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. Consistently with the foregoing, every person shall drive at a reasonable and prudent speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching and traversing a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.
Ga. Code Ann. § 40-6-180 (2012)

Hawaii

§ 291C-46. Further limitation on driving on left of center of roadway.
(a) No vehicle shall be driven to the left side of the roadway under the following conditions:
(1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing;
(3) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.
(b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in section 291C-41(a)(2), nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.
Haw. Rev. Stat. Ann. § 291C-46 (2012)

§ 291C-91. Obedience to signal indicating approach of train.
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad, and shall not proceed until the train has passed. The foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or when a human flagperson gives or continues to give a signal of the approach or passage of a train;
(3) A railroad train approaching within approximately fifteen hundred feet of the highway crossing emits a signal audible from that distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard;
(4) An approaching railroad train is approximately within fifteen hundred feet of the crossing and is plainly visible and is in hazardous proximity to the crossing.
(b) No person shall 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.
Haw. Rev. Stat. Ann. § 291C-91 (2012)

§ 291C-92. All vehicles must stop at certain railroad grade crossings.
The director of transportation and the counties are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only if no train is approaching. If a train is approaching, and is approximately within fifteen hundred feet of the crossing, the driver must not proceed until after the train has passed.
Haw. Rev. Stat. Ann. § 291C-92 (2012)

§ 291C-101. Basic rule.
No person shall drive a vehicle at a speed greater than is reasonable and prudent and having regard to the actual and potential hazards and conditions then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic, or by reason of weather or highway conditions.
Haw. Rev. Stat. Ann. § 291C-101(2012)

§ 291C-161. Penalties.
(a) It is a violation for any person to violate any of the provisions of this chapter, except as otherwise specified in subsections (c) and (d) and unless the violation is by other law of this State declared to be a felony, misdemeanor, or petty misdemeanor.
(b) Except as provided in subsections (c) and (d), every person who is determined to have violated any provision of this chapter for which another penalty is not provided shall be fined:
(1) Not more than $200 for a first violation thereof;
(2) Not more than $300 for a second violation committed within one year after the date of the first violation; and
(3) Not more than $500 for a third or subsequent violation committed within one year after the date of the first violation.

(c) Every person convicted under or found in violation of section 291C-12, 291C-12.5, 291C-12.6, 291C-13, 291C-14, 291C-15, 291C-16, 291C-72, 291C-73, 291C-95, 291C-102, 291C-103, 291C-104, or 291C-105 shall be sentenced or fined in accordance with those sections.
(d) Every person who violates section 291C-13 or 291C-18 shall:
(1) Be fined not more than $200 or imprisoned not more than ten days for a first conviction thereof;
(2) Be fined not more than $300 or imprisoned not more than twenty days or both for conviction of a second offense committed within one year after the date of the first offense; and
(3) Be fined not more than $500 or imprisoned not more than six months or both for conviction of a third or subsequent offense committed within one year after the date of the first offense.
(e) The court may assess a sum not to exceed $50 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to the person for any traffic violation.
(f) The court may require a person who violates any of the provisions of this chapter to attend a course of instruction in driver retraining as deemed appropriate by the court, in addition to any other penalties imposed.
Haw. Rev. Stat. Ann. § 291C-161 (2012)

Idaho

***§ 49-614. Stop when traffic obstructed**

No driver shall enter an intersection, a marked crosswalk, or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, regardless of any traffic control signal indication to proceed.
Idaho Code Ann.§ 49-614 (2012)

§ 49-635. Further limitations on driving on left of center of highway
(1) No vehicle shall be driven on the left side of the highway under the following conditions:
(a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within a distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated by traffic control devices;
Idaho Code Ann.§ 49-635 (1)(a),(b) (2012) Excerpt from applicable statute published.

§ 49-648. Obedience to signal indicating approach of train

(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad, and shall not proceed until he can do so safely. These requirements shall apply when:
(a) A stop sign is in place and there is an absence of any mechanical warning signals;
(b) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(c) A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train;

(d) A railroad train approaching within approximately fifteen hundred (1,500) feet of the highway crossing emits a signal audible from that distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard;
(e) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(2) No person shall 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.
Idaho Code Ann.§ 49-648 (2012)

§ 49-649. Compliance with stopping requirement at all railroad grade crossings
(1) The driver of any vehicle stopped at a railroad grade crossing shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train and shall not proceed until he can do so safely. Upon proceeding when it is safe to do so the driver shall cross only in a gear of the vehicle in order that there will be no necessity for manually changing gears while traversing the crossing, and the driver shall not manually shift gears while crossing the tracks.
(2) This section shall not apply at:
(a) Any railroad grade crossing at which traffic is controlled by a peace officer or flagman;
(b) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;
(c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train; or
(d) Any railroad grade crossing at which a traffic-control device gives notice that the stopping requirement imposed by this section does not apply.
Idaho Code Ann.§ 49-649 (2012)

§ 49-654. Basic rule and maximum speed limits
(1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.
Idaho Code § 49-654(1) (2012) Excerpt from applicable statute published.

<u>Illinois</u>

§ 625 ILCS 5/11-706. Further limitations on driving to the left of center of roadway.

(a) No vehicle shall be driven on the left side of the roadway under the following conditions:
1. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
2. When approaching within 100 feet of or traversing any intersection or railroad grade crossing.
3. When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
(b) The limitations in sub-paragraphs 1, 2 and 3 do not apply upon a one-way roadway nor upon a roadway with unobstructed pavement of sufficient width for 2 or more lanes of moving traffic in each direction nor to the driver of a vehicle turning left into or from an alley, private road or driveway when such movements can be made with safety.

625 Ill. Comp. Stat. Ann. 5/11-706 (2012)

§ 625 ILCS 5/11-1201. Obedience to signal indicating approach of train or railroad track equipment

(a) Whenever any person driving a vehicle approaches a railroad grade crossing where the driver is not always required to stop, the person must exercise due care and caution as the existence of a railroad track across a highway is a warning of danger, and under any of the circumstances stated in this Section, the driver shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad and shall not proceed until the tracks are clear and he or she can do so safely. The foregoing requirements shall apply when:

1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or railroad track equipment;
2. A crossing gate is lowered or a human flagman gives or continues to give a signal of the approach or passage of a railroad train or railroad track equipment;
3. A railroad train or railroad track equipment approaching a highway crossing emits a warning signal and such railroad train or railroad track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard;
4. An approaching railroad train or railroad track equipment is plainly visible and is in hazardous proximity to such crossing;
5. A railroad train or railroad track equipment is approaching so closely that an immediate hazard is created.

(a-5) Whenever a person driving a vehicle approaches a railroad grade crossing where the driver is not always required to stop but must slow down, the person must exercise due care and caution as the existence of a railroad track across a highway is a warning of danger, and under any of the circumstances stated in this Section, the driver shall slow down within 50 feet but not less than 15 feet from the nearest rail of the railroad and shall not proceed until he or she checks that the tracks are clear of an approaching train or railroad track equipment.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(c) The Department, and local authorities with the approval of the Department, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.

(d) At any railroad grade crossing provided with railroad crossbuck signs, without automatic, electric, or mechanical signal devices, crossing gates, or a human flagman giving a signal of the approach or passage of a train or railroad track equipment, the driver of a vehicle shall in obedience to the railroad crossbuck sign, yield the right-of-way and slow down to a speed reasonable for the existing conditions and shall stop, if required for safety, at a clearly marked stopped line, or if no stop line, within 50 feet but not less than 15 feet from the nearest rail of the railroad and shall not proceed until he or she can do so safely. If a driver is involved in a collision at a railroad crossing or interferes with the movement of a train or railroad track equipment after driving past the railroad crossbuck sign, the collision or interference is prima facie evidence of the driver's failure to yield right-of-way.

(d-1) No person shall, while driving a commercial motor vehicle, fail to negotiate a railroad-highway grade railroad crossing because of insufficient undercarriage clearance.

(d-5) (Blank).

(e) It is unlawful to violate any part of this Section.
(1) A violation of this Section is a petty offense for which a fine of $ 250 shall be imposed for a first violation, and a fine of $ 500 shall be imposed for a second or subsequent violation. The court may impose 25 hours of community service in place of the $ 250 fine for the first violation.
(2) For a second or subsequent violation, the Secretary of State may suspend the driving privileges of the offender for a minimum of 6 months.
(f) Corporate authorities of municipal corporations regulating operators of vehicles that fail to obey signals indicating the presence, approach, passage, or departure of a train or railroad track equipment shall impose fines as established in subsection (e) of this Section.
625 Ill. Comp. Stat. Ann. 5/11-1201 (2012)

§ 625 ILCS 5/11-1425. Stop when traffic obstructed

(a) No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed
(b) No driver shall enter a highway rail grade crossing unless there is sufficient space on the other side of the highway rail grade crossing to accommodate the vehicle being operated without obstructing the passage of a train or other railroad equipment using the rails, notwithstanding any traffic-control signal indication to proceed.
(c) (Blank).
(d) Beginning with the effective date of this amendatory Act of the 95th General Assembly [P.A. 95-753], the Secretary of State shall suspend for a period of one month the driving privileges of any person convicted of a violation of subsection (b) of this Section or a similar provision of a local ordinance; the Secretary shall suspend for a period of 3 months the driving privileges of any person convicted of a second or subsequent violation of subsection (b) of this Section or a similar provision of a local ordinance if the second or subsequent violation occurs within 5 years of a prior conviction for the same offense. In addition to the suspensions authorized by this Section, any person convicted of violating subsection (b) of this Section or a similar provision of a local ordinance shall be subject to a mandatory fine of $ 500 or 50 hours of community service. Any person given a disposition of court supervision for violating subsection (b) of this Section or a similar provision of a local ordinance shall also be subject to a mandatory fine of $ 500 or 50 hours of community service. Upon a second or subsequent violation, in addition to the suspensions authorized by this Section, the person shall be subject to a mandatory fine of $ 500 and 50 hours community service. The Secretary may also grant, for the duration of any suspension issued under this subsection, a restricted driving permit granting the privilege of driving a motor vehicle between the driver's residence and place of employment or within other proper limits that the Secretary of State shall find necessary to avoid any undue hardship. A restricted driving permit issued hereunder shall be subject to cancellation, revocation and suspension by the Secretary of State in like manner and for like cause as a driver's license may be cancelled, revoked or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension or cancellation of the restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or rehabilitative program. Any conviction for a

violation of this subsection shall be included as an offense for the purposes of determining suspension action under any other provision of this Code, provided however, that the penalties provided under this subsection shall be imposed unless those penalties imposed under other applicable provisions are greater.
625 Ill Comp. Stat. Ann. 5/11-1425 (2012)

Indiana

9-21-4-16. Stopping distances by vehicle drivers at railroad crossing stop sign.
When a stop sign is erected at a railroad crossing, the driver of a vehicle shall stop within fifty (50) feet but not less than ten (10) feet from the nearest track of the grade crossing and shall proceed only upon exercising due care.
Ind. Code Ann. § 9-21-4-16 (2012)

9-21-8-39. Stopping distances upon approaching railroad grade crossing.
Whenever a person who drives a vehicle approaches a railroad grade crossing, the person shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest track of the railroad and may not proceed until the person can do so safely under the following circumstances:
(1) When a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train or other on-track equipment.
(2) When a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a train or other on-track equipment.
(3) When a railroad train or other on-track equipment approaching within one thousand five hundred (1,500) feet of a highway crossing emits an audible signal and because of speed or nearness to the crossing is an immediate hazard.
(4) When an approaching train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.
Ind. Code Ann. § 9-21-8-39 (2012)

Iowa

321.341. Obedience to signal of train.
1. When a person driving a vehicle approaches a railroad grade crossing and warning is given by automatic signal, crossing gates, a flag person, or otherwise of the immediate approach of a train, the driver of the vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail and shall not proceed until the driver can do so safely.
2. The driver of a vehicle shall stop and remain standing and not traverse such a grade crossing when a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a train.
Iowa Code § 321.341 (2012)

321.342. Stop at certain railroad crossings -- posting warning.
1. The driver of any vehicle approaching a railroad grade crossing across which traffic is regulated by a stop sign, a railroad sign directing traffic to stop or an official traffic control signal displaying a flashing red or steady circular red colored light shall stop prior to crossing the railroad at the first opportunity at either the clearly marked stop line or at a point near the crossing where the driver has a clear view of the approaching railroad traffic.
2. The department, city or county shall be required to post the standard sign as prescribed by the manual on uniform traffic-control devices adopted by the department pursuant to section 321.252 in advance of each railroad gradecrossing to warn the motorist that the motorist is approaching a

railroad grade crossing. Upon properly posting all railroad grade crossings within its jurisdiction and upon implementing the standards established in accordance with section 307.26, the department, city, or county shall not have any other affirmative duty to warn a motor vehicle operator approaching or at the railroad grade crossing.
Iowa Code § 321.342 (2012)

321.344A Reported violations for failure to stop at a railroad crossing -- citations.
1. The employee of a railroad who observes a violation of section 321.341, 321.342, 321.343, or 321.344 may prepare a written report on a form provided by the department of public safety indicating that a violation has occurred. The railroad employee may deliver the report not more than seventy-two hours after the violation occurred to a peace officer of the state or a peace officer of the county or municipality in which the violation occurred. The report shall state the time and the location at which the violation occurred and shall include the registration plate number and a description of the vehicle involved in the violation.
2. A peace officer may initiate an investigation not more than seven calendar days after receiving a report of a violation pursuant to this section. The peace officer may request that the owner of the vehicle supply information identifying the driver of the vehicle in accordance with section 321.484, or in the case of a commercial motor vehicle, the peace officer may request that the employer of the driver provide information identifying the driver of the vehicle.
a. If from the investigation, the peace officer is able to identify the driver of the vehicle and has reasonable cause to believe a violation has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall serve it personally or by certified mail on the driver of the vehicle.
b. If, from the investigation, the peace officer has reasonable cause to believe that a violation occurred but is unable to identify the driver, the peace officer shall serve a uniform traffic citation for the violation on the owner of the motor vehicle or, in the case of a commercial motor vehicle, on the employer of the driver. Notwithstanding section 321.484, in a proceeding where the peace officer who conducted the investigation was not able to identify the driver of the motor vehicle, proof that the motor vehicle described in the uniform traffic citation was used to commit the violation of section 321.341, 321.342, 321.343, or 321.344, together with proof that the defendant named in the citation was the owner of the motor vehicle or, in the case of a commercial motor vehicle, the employer of the driver, at the time the violation occurred, constitutes a permissible inference that the owner or employer was the person who committed the violation.
c. For purposes of this subsection, “owner” means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.
Iowa Code § 321.344A (2012)

321.358. Stopping, standing or parking.
No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
8. Within fifty feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
Iowa Code § 321.358(8) (2012) Excerpt from applicable statute published.

Kansas

8-1519. Driving on left side of roadway prohibited; exceptions.
(a) No vehicle shall be driven on the left side of the roadway under the following conditions:
(1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) when approaching within 100 feet of or traversing any intersection or railroad grade crossing, except that this section shall not apply to any intersection on a state or county maintained highway located outside city limits unless such intersection is marked by an official department of transportation or county road department traffic control device or pavement marking or both indicating that passing is prohibited and such marking is placed at least 100 feet before the intersection; or
(3) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
(b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in subsection (a)(2) of K.S.A. 8-1514 and amendments thereto, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.
Kan. Stat. Ann. § 8-1519 (2011)

8-1551. Obedience to signal indicating approach of train.
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he or she can do so safely. The foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to suchcrossing, is an immediate hazard; or
(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
K.S.A. § 8-1551 (2011)

8-1552. Designation of dangerous railroad grade crossings; vehicles required to stop, when.
The secretary of transportation and local authorities, with the approval of the secretary, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
Kan. Stat. Ann. § 8-1552 (2011)

8-1557. Basic rule governing speed of vehicles.
No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual hazards then existing. Consistent with the foregoing,

every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.
Kan. Stat. Ann. § 8-1557 (2011)

8-1584. Restrictions on driving into intersection or crosswalk or onto railroad grade crossing.
No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed.
Kan. Stat. Ann. § 8-1584 (2011)

8-2118. Uniform fine schedule for traffic infraction violations; payment by mail with plea, when; full payment required; ordinance traffic infractions; doubling of fine in road construction zone and school zone.
(a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.
(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made in any manner accepted by the court. The traffic citation shall not have been complied with if the payment is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.
(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.
(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).
(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.
(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon

conviction shall be fined 1 1/2 times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 2 1/2 times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).
(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under subsection (a)(4) of K.S.A. 8-1560, and amendments thereto.
Kan. Stat. Ann. § 8-2118 (2011) Excerpt from applicable statute published.

Kentucky

189.345. Prohibitions against driving on left side of roadway
(1) No vehicle shall be driven on the left side of the roadway under the following conditions:
(a) When approaching or upon the crest of a grade or a curve in the highway where the operator's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing;
(c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.
(2) The foregoing limitations shall not apply upon a one (1) way roadway, nor when an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard, nor to the operator of a vehicle turning left into or from an alley, private road or driveway.
Ky. Rev. Stat. Ann. § 189.345 (LexisNexis 2012)

189.560. Railroad crossings.
(1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when any of the following conditions exist:
(a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train;
(b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train;
(c) An approaching train is visible and in hazardous proximity; or
(d) A human flagman signals the approach or passage of a train.
Ky. Rev. Stat. Ann. § 189.560(1) (LexisNexis 2012) Excerpt from applicable statute published.

Louisiana

§ 32:76. Further limitations on passing on the left

A. No vehicle shall at any time be driven to the left side of the highway under the following conditions:
(1) when approaching the crest of a grade or upon a curve in the highway, where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) when approaching within one hundred feet of or traversing any intersection or railroad grade crossing;
(3) when the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.
La. Rev. Stat. Ann. § 32:76(A) (2012) Excerpt from applicable statute published.

§ 32:143. Stopping, standing or parking prohibited in specified places
A. No person shall stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:
(1) On a sidewalk;
(2) In front of a public or private driveway;
(3) Within an intersection;
(4) Within fifteen feet of a fire hydrant;
(5) On a crosswalk;
(6) Within twenty feet of a crosswalk at an intersection;
(7) Within twenty feet upon the approach to any flashing beacon stop sign, or traffic control signal located at the side of a roadway;
(8) Between a safety zone and the adjacent curb, or within twenty feet of points on the curb immediately opposite the ends of a safety zone;
(9) Within fifty feet of the nearest rail of a railroad crossing;
(10) Within twenty feet of the driveway entrance to any fire station, and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance, when properly posted;
(11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
(12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
(13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
(14) At any place where official signs prohibit such;
(15) Any place where parking will obscure or obstruct visibility of any traffic control device.
B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.
La. Rev. Stat. Ann. § 32:143 (2012)

§ 32:171. Obedience to signal indicating approach to train; reporting violations; penalties
A. Whenever any person driving a motor vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(3) A railroad train approaching within approximately nine hundred feet of the highway crossing emits a signal in accordance with R.S. 32:168, and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.
(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(5) A stop sign is erected at the approach to a railroad grade crossing.
B. No person shall stop a motor vehicle upon any railroad crossing.
C. No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed when an approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
D. No person shall drive any vehicle across any railroad crossing while the signal devices are flashing when an approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
E. At any railroad grade crossing provided with railroad cross buck signs, without automatic, electric, or mechanical signal devices, crossing gates, or a human flagman giving a signal of the approach or passage of a train, the driver of a vehicle shall in obedience to the railroad cross buck sign, yield the right of way and slow down to a speed reasonable for the existing conditions and shall stop, if required for safety, at a clearly marked stopped line or, if no line, within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall not proceed until he or she can do so safely. If a driver is involved in a collision at a railroad crossing or interferes with the movement of a train after driving past the railroad cross buck sign, the collision or interference is prima facie evidence of the driver's failure to yield the right of way.
F. Any person who violates any provision of this Section shall be fined as follows:
(1) On first offense the fine shall be not more than two hundred dollars or imprisonment for not more than thirty days, or both. In addition, the person in violation shall be required to attend an Operation Lifesaver Course to be given by a certified Operation Lifesaver presenter within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of the successful completion of the Operation Lifesaver Course. Twenty-five dollars of each fine imposed pursuant to the provisions of this Paragraph shall be collected by the court and shall immediately be forwarded to the state treasurer for deposit in the state treasury.
(2) On second and each subsequent offense, the fine shall not be more than five hundred dollars or imprisonment for not more than ninety days, or both. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of the successful completion of the Operation Lifesaver Course. Twenty-five dollars of each fine imposed pursuant to the provisions of this Paragraph shall be collected by the court and shall immediately be forwarded to the state treasurer for deposit in the state treasury.
(3) Any person who violates any provision of this Section by racing a train to a railroad crossing and thereby causes immediate danger to any railroad crew member, the general public, or damage to any property in the immediate vicinity of the crossing shall be fined not more than one thousand dollars. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after the adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of jurisdiction of the successful completion of the Operation Lifesaver Program.

(4) If a violator fails to attend any safe driving courses pursuant to this Subsection, the department shall suspend such violator's driving privileges for a period of thirty days.
G. The governing authority of a municipality may enter into a cooperative endeavor agreement authorizing certified railroad law enforcement officers to assist in the enforcement of state laws and local ordinances pertaining to railroad grade crossings within its municipal limits.
La. Rev. Stat. Ann. § 32:171(A)-(G) (2012)

§ 32:172. All vehicles must stop at certain railroad grade crossings
A. (1) The department shall determine highway grade crossings of railroads on state maintained highways or roads which are of particular danger to public safety and shall erect stop signs thereat.
La. Rev. Stat. Ann. § 32:172 (2012)

§ 32:175. Vehicles must yield at railroad grade crossings; exceptions; penalties for violations
A. The driver or operator of a vehicle approaching a rail-highway grade crossing identified by the presence of a railroad cross buck sign shall slow down to a speed reasonable for the existing conditions, or shall stop if necessary, before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, or if none, then at the point nearest the intersecting rail of such railroad where the driver or operator has a clear view of any approaching train. The driver or operator shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train. Having slowed or stopped in this manner, the driver or operator shall yield the right-of-way to any approaching train and then shall proceed only upon exercising due care and upon being sure that it is safe to proceed.
B. The driver or operator of a vehicle need not yield at any such rail-highway grade crossing where a police officer or traffic-control signal directs traffic to proceed.
C. Any person who violates any provision of this Section shall be fined as follows:
(1) On first offense, the fine shall be not more than two hundred dollars or imprisonment for not more than thirty days, or both. In addition, the person in violation shall be required to attend an Operation Lifesaver Course to be given by a certified Operation Lifesaver presenter within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the offender to notify the appropriate court of the successful completion of the Operation Lifesaver Course.
(2) On second and subsequent offenses, the fine shall be not more than five hundred dollars or imprisonment for not more than ninety days, or both. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the offender to notify the appropriate court of the successful completion of the Operation Lifesaver Course.
(3) If an offender fails to attend any safe driving course as required in this Subsection, the department shall suspend such offender's driving privileges for a period of thirty days.
(4) No less than twenty-five dollars of each fine imposed pursuant to the provisions of this Section shall be collected by the court and shall immediately be forwarded to the state treasurer for deposit in the state treasury.
D. The provisions of this Section do not relieve drivers or operators of the responsibility to comply with the provisions of R.S. 32:171 and 173.
La. Rev. Stat. Ann. § 32:175 (2012)

<u>Maine</u>

§ 1253-A. Stop signs at highway-railroad grade crossings
The Department of Transportation is authorized to designate any highway-railroad grade crossing as a stop intersection and to install and maintain stop signs thereat. The department is authorized to so designate such highway-railroad grade crossings on town ways, and local municipalities shall, when ordered by the department, erect and maintain stop signs on such town ways. When such stop signs are erected, the driver of any vehicle shall stop within 50 feet but not less than 10 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
Any person who shall operate a vehicle in violation of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $ 50 or by imprisonment for not more than 60 days, or by both.
The expense of the erection and maintenance of each stop sign installed by virtue of this section shall be borne by the railroad.
Me. Rev. Stat. Ann. tit. 23, § 1253-A (2012)

***§ 2070. Passing another vehicle**
5. LIMITATION. Except on a one-way road, an operator may not drive to the left side of the way under the following conditions:
B. When approaching within 100 feet of or traversing an intersection or railroad grade crossing, except when turning to the left to enter an intersecting way;
Me. Rev. Stat. Ann. tit. 29-A, § 2070(5)(B) (2012) Excerpt from applicable statute published.

***§ 2076. Railroad or grade crossings**
1. REDUCTION OF SPEED AT CROSSING. An operator of a motor vehicle passing a sign provided for in Title 23, sections 1251 and 1252 shall, at a distance of 100 feet from the nearest rail of the crossing reduce the vehicle speed to a reasonable and proper rate, observe in each direction and proceed cautiously over the crossing.
2. WARNING DEVICES. When a crossing is protected by gates that are lowered or being lowered, or a flagger or automatic signal is indicating that a train is approaching, an operator shall bring a vehicle to a full stop at a distance of not less than 10 feet from the nearest rail of the crossing.
A vehicle may proceed across the track when the gates have been raised, the flagger indicates that no train is approaching, or if there is an automatic signal, the operator has ascertained that no train is approaching. An operator proceeding by an automatic signal shall use extra caution.
5. PENALTY. The following penalties apply to violations of this section.
A. An operator failing to comply with the requirements of subsection 1 or 2 commits a traffic infraction.
Me. Rev. Stat. Ann. tit. 29-A, § 2076 (2012) Excerpt from applicable statute published.

***§ 7212. Precautions at crossings**
No team or vehicle may be driven over any temporary crossing unless the team or vehicle is first stopped within a reasonable distance from the nearest rail of the crossing, and the operator, by looking and listening, determines that nothing is approaching on the tracks of the railroad.
Nothing in this section may prevent the Department of Transportation from making further rules for safety at any crossing established under its direction as it deems expedient or necessary.
Me. Rev. Stat. Ann. tit. 23, § 7212 (2012)

<u>Maryland</u>

§ 21-305. Limitations on overtaking or driving to left
(a) Clear visibility required; return to authorized lane. --
(1) The driver of a vehicle may not drive to the left of the center of the roadway in overtaking and passing another vehicle going in the same direction unless:
(i) Authorized by this subtitle; and
(ii) The left side of the roadway is clearly visible and is free of approaching traffic for a sufficient distance ahead to permit the overtaking and passing to be completed without interfering with the operation of any other vehicle approaching from the opposite direction or any other vehicle overtaken.
(2) The overtaking vehicle shall return to an authorized lane of travel as soon as practicable and, if the passing movement uses a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.
(b) Grades, curves, intersections, crossings, bridges, etc. --
(1) This subsection does not apply on a one-way roadway.
(2) The driver of a vehicle may not drive on the left side of any roadway if:
(i) The vehicle is approaching the crest of a grade or is on a curve in the highway where the driver's view is obstructed for such a distance as to be dangerous should another vehicle approach from the opposite direction;
(ii) The vehicle is crossing or approaching within 100 feet of any intersection or railroad grade crossing; or
(iii) The driver's view is obstructed while approaching within 100 feet of any bridge, viaduct, or tunnel.
Md. Code Ann., Transp. § 21-305 (LexisNexis 2012)

§ 21-701. Obedience to signal indicating approach or passage of train
(a) Stop required on approach or passage of train. --
(1) If the driver of a vehicle approaches a railroad grade crossing under any of the circumstances stated in paragraph (2) of this subsection, the driver:
(i) Shall stop within 50 feet but not less than 15 feet from the nearest rail in the crossing; and
(ii) May not proceed until he can do so safely.
(2) The requirements of this subsection apply if:
(i) A clearly visible electric or mechanical signal device warns of the immediate approach or passage of a railroad train;
(ii) A crossing gate is lowered;
(iii) A flagman signals the approach or passage of a railroad train;
(iv) A railroad train approaching within 1,500 feet of the crossing gives a signal audible to traffic approaching the crossing and the railroad train, because of its speed or nearness to the crossing, is an immediate danger; or
(v) A railroad train is plainly visible and is in or is approaching dangerously near to the crossing.
(b) Passage through gate or barrier prohibited. -- A person may not drive any vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed.
Md. Code Ann., Transp. § 21-701 (LexisNexis 2012)

§ 21-702. Stop signals at railroad crossings
(b) Distance vehicle required to stop -- If the driver of a vehicle approaches the stop sign, the driver:
(1) Shall stop within 50 feet but not less than 15 feet from the nearest rail in the crossing; and

(2) May proceed only on exercising due care.
Md. Code Ann., Transp. § 21-702(b) (LexisNexis 2012)

§ 21-801. Basic rule
(a) Reasonable and prudent speed required. -- A person may not drive a vehicle on a highway 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.
(d) Approaching and crossing railroad grade crossings. -- Consistent with the requirements of this section, the driver of a vehicle shall drive at an appropriate, reduced speed when approaching and crossing a railroad grade crossing
Md. Code Ann., Transp. § 21-801 (LexisNexis 2012) Excerpt from applicable statute published.

§ 21-1003. Stopping, standing, or parking prohibited in specified places
(t) Parking within 50 feet of railroad grade crossings. -- A person may not park a vehicle within 50 feet of the nearest rail in a railroad grade crossing.
Md. Code Ann., Transp. § 21-1003(t) (LexisNexis 2012) Excerpt from applicable statute published

Massachusetts

§ 15. Precautions at Railroad Crossings.
Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by red lights which flash as a warning, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said lights stop flashing. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a lowered automatic gate, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said automatic gate is raised. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by a railroad employee waving a red flag or white lantern, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad and shall not proceed to cross until said railroad employee signals that it is safe to do so. A railroad train approaching within approximately one thousand five hundred feet of a highway crossing shall emit a warning signal audible from such distance. Whoever violates any provisions of this section and is operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than $500 or by being required to perform a total of 100 hours of community service which may include service in the operation lifesaver program. All other persons violating the provisions of this section not operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall be punished by a fine of not less than $100 nor more than $200 or by being required to perform a total of 50 hours of community service which may include service in the operation lifesaver program.
Mass. Gen. Laws Ann. ch. 90, § 15 (West 2012) Excerpt from applicable statute published.

Michigan

§ 257.667. Stopping at railroad grade crossing; driving through, around, or under crossing gate or barrier; violation as civil infraction.
(1) When a person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver shall stop the vehicle not more than 50 feet but not less than

15 feet from the nearest rail of the railroad, and shall not proceed until the driver can do so safely:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
(b) A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train.
(c) A railroad train approaching within approximately 1,500 feet of the highway crossing gives a signal audible from that distance, and the train by reason of its speed or nearness to the crossing is an immediate hazard.
(d) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(2) A person shall not drive a vehicle through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or against the direction of a police officer.
(3) A person who violates this section is responsible for a civil infraction.
Mich. Comp. Laws Serv. § 257.667 (LexisNexis 2012)

§ 257.674. Prohibited parking; exceptions; bus loading zone; violation as civil infraction.
Sec. 674. (1) A vehicle shall not be parked, except if necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic-control device, in any of the following places:
(i) Within 50 feet of the nearest rail of a railroad crossing.
Mich. Comp. Laws Serv. § 257.674(1)(i) (LexisNexis 2012) Excerpt from applicable statute published

Minnesota

169.14 SPEED LIMITS, ZONES; RADAR
Subdivision 1. Duty to drive with due care. --No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions. Every driver is responsible for becoming and remaining aware of the actual and potential hazards then existing on the highway and must use due care in operating a vehicle. In every event speed shall be so restricted as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.
Subdivision. 3. Reduced speed required.

(a) The driver of any vehicle shall, consistent with the requirements, drive at an appropriate reduced speed when approaching or passing an authorized emergency vehicle stopped with emergency lights flashing on any street or highway, when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(b) A person who fails to reduce speed appropriately when approaching or passing an authorized emergency vehicle stopped with emergency lights flashing on a street or highway shall be assessed an additional surcharge equal to the amount of the fine imposed for the speed violation, but not less than $25.

Minn. Stat. § 169.14 (2012) Excerpt from applicable statute published.

***169.18 DRIVING RULES**

Subd. 5. Driving left of roadway center; exception.

(a) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

(b) Except on a one-way roadway, no vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left half of the roadway under the following conditions:

(1) when approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of 700 feet;

(2) when approaching within 100 feet of any underpass or tunnel, railroad grade crossing, intersection within a city, or intersection outside of a city if the presence of the intersection is marked by warning signs;

Minn. Stat. § 169.18 (2012) Excerpt from applicable statute published.

169.26 SPECIAL STOPS AT RAILROAD CROSSING

(a) Except as provided in section 169.28, subdivision 1, when any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this paragraph, the driver shall stop the vehicle not less than ten feet from the nearest railroad track and shall not proceed until safe to do so and until the roadway is clear of traffic so that the vehicle can proceed without stopping until the rear of the vehicle is at least ten feet past the farthest railroad track. These requirements apply when:

(1) a clearly visible electric or mechanical signal device warns of the immediate approach of a railroad train; or

(2) an approaching railroad train is plainly visible and is in hazardous proximity.

(b) The fact that a moving train approaching a railroad grade crossing is visible from the crossing is prima facie evidence that it is not safe to proceed.

(c) The driver of a vehicle shall stop and remain stopped and not traverse the grade crossing when a human flagger signals the approach or passage of a train or when a crossing gate is lowered warning of the immediate approach or passage of a railroad train. No person may drive a vehicle past a flagger at a railroad crossing until the flagger signals that the way is clear to proceed or drive a vehicle past a lowered crossing gate.

Subd. 1a. Violation. --A police officer may arrest the driver of a motor vehicle if the police officer has probable cause to believe that the driver has operated the vehicle in violation of subdivision 1 within the past four hours.

Subd. 2. Misdemeanor.

(a) A driver who violates subdivision 1 is guilty of a misdemeanor.

(b) The owner or, in the case of a leased vehicle, the lessee of a motor vehicle is guilty of a petty misdemeanor if a motor vehicle owned or leased by that person is operated in violation of subdivision 1. This paragraph does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee. This paragraph does not apply if the motor vehicle operator is prosecuted for violating subdivision 1. A violation of this paragraph does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license.

Subd. 3. Driver training. --All driver education courses approved by the commissioner of public safety must include instruction on railroad-highway grade crossing safety. The commissioner of public safety shall by rule establish minimum standards of course content relating to operation of vehicles at railroad-highway grade crossings.
Minn. Stat. § 169.26 (2012) Excerpt from applicable statute published.

169.34 PROHIBITIONS; STOPPING, PARKING
(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:
(7) within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
(9) within 50 feet of the nearest rail of a railroad crossing;
Subd. 2. Violation; penalty for owner or lessee.
(a) If a motor vehicle is stopped, standing, or parked in violation of subdivision 1, the owner of the vehicle, or for a leased motor vehicle the lessee of the vehicle, is guilty of a petty misdemeanor.
(b) The owner or lessee may not be fined under paragraph (a) if (1) another person is convicted for, or pleads guilty to, that violation, or (2) the motor vehicle was stolen at the time of the violation.
(c) Paragraph (a) does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee.
(d) Paragraph (a) does not prohibit or limit the prosecution of a motor vehicle operator for violating subdivision 1.
(e) A violation under paragraph (a) does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license.
Minn. Stat. § 169.34 (2012) Excerpt from applicable statute published.

***219.20 STOP SIGN**
Subd. 2. Stopping distances. --When a stop sign has been erected at a railroad crossing, the driver of a vehicle approaching a railroad crossing shall stop within 50 feet, but not less than ten feet, from the nearest track of the crossing and shall proceed only upon exercising due care.
Minn. Stat. § 219.20 (2012) Excerpt from applicable statute published.

***219.22 STOP, LOOK, AND LISTEN**
Before proceeding across the railroad track at a crossing marked with a stop sign, drivers shall bring their vehicles to a full stop and ascertain whether or not trains are approaching the crossing.
Minn. Stat. § 219.22 (2012)

<u>Mississippi</u>

***§ 63-3-611. Overtaking and passing vehicles on left side of roadway**
(1) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking

vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.
(2) No vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left side of the roadway under the following conditions:
(c) When approaching within one hundred (100) feet of or traversing any marked or readily distinguishable intersection or railroad grade crossing;
Miss. Code Ann. § 63-3-611 (2012) Excerpt from applicable statute published.

***§ 63-3-901. Stopping, standing or parking prohibited in specified places**
(1) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:
i. Within fifteen feet of the nearest rail of a railroad crossing;
g. Within thirty feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
Miss. Code Ann. § 63-3-901 (2012) Excerpt from applicable statute published.

§ 63-3-1007. Stops at railroad grade crossings in obedience to signal indicating approach of train; effect of noncompliance upon right of recovery in civil action
(1) Whenever any person driving a vehicle approaches a railroad grade crossing and a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest track of such railroad and shall not proceed until he can do so safely.
(2) The driver of a vehicle shall stop and remain standing and not traverse such a grade crossing when a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a train. The violation of this section shall not of itself defeat recovery and the question of negligence or the violation aforesaid, shall be left to the jury and the comparative negligence statute and prima facie statute of this state shall apply in these cases as in other cases of negligence.
Miss. Code Ann. § 63-3-1007 (2012)

§ 63-3-1009. Stops at designated particularly dangerous railroad grade crossings
The Mississippi Transportation Commission is hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest track of such grade crossing and shall proceed only upon exercise of due care.
Miss. Code Ann. § 63-3-1009 (2012)

§ 77-9-249. Obedience to signal indicating approach of train; penalties
(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this subsection, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when one or more of the following circumstances exists:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train; or

(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train; or
(c) A railroad train approaching within approximately nine hundred (900) feet of the highway crossing emits a signal in accordance with Section 77-9-225, and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
(3) In the trial of all actions to recover personal injury or property damages, sustained by any driver of such vehicles for collision of said vehicle and train in which action it may appear that the said driver may have violated any of the provisions hereof, the question of whether or not the said violation was the sole or approximate cause of the accident and injury shall be for the jury to determine. The violation of this section shall not of itself defeat recovery, and the question of negligence or the violation aforesaid shall be left to the jury; and the comparative negligence statutes and prima facie statute of this state shall apply in these cases as in other cases of negligence.
(4) At any railroad grade crossing provided with visible railroad crossbuck signs without automatic electric or mechanical signal devices, crossing gates or a human flagman giving a signal of the approach or passage of a train, the driver of a vehicle shall, in obedience to such railroad crossbuck sign, yield the right-of-way and slow to a speed reasonable for the existing conditions, and shall stop if required for safety at a clearly marked stop line, or if no stop line, within fifty (50) feet, but not less than fifteen (15) feet, from the nearest rail of the railroad, and shall not proceed until he can do so safely.
(5) Every person, company or corporation violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Two Hundred Fifty Dollars ($ 250.00) nor more than Five Hundred Dollars ($ 500.00), or imprisoned not more than thirty (30) days, or both such fine and imprisonment, in the discretion of the court.
Miss. Code Ann. § 77-9-249 (2012)

<u>Missouri</u>

***§ 300.295. Obedience to signal indicating approach of train**
1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
(3) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
Mo. Rev. Stat. § 300.295 (2012)

§ 300.440. Stopping, standing or parking prohibited

1. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:
(1) Stop, stand or park a vehicle:
(h) On any railroad tracks;
(i) At any place where official signs prohibit stopping.
(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:
(a) Within fifty feet of the nearest rail of a railroad crossing;
(b) At any place where official signs prohibit parking
Mo. Rev. Stat. § 300.440 (2012) Excerpt from applicable statute published.

§ 304.016. Passing regulations--violations, penalties
4. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
(2) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, tunnel or when approaching within one hundred feet of or at any intersection or railroad grade crossing.
5. Violation of this section shall be deemed a class C misdemeanor.
Mo. Rev. Stat. § 304.016 (2012) Excerpt from applicable statute published

§ 304.035. Stop required at railroad grade crossing, when -- commercial motor vehicles, speed at crossings -- penalty
1. When any person driving a vehicle approaches a railroad grade crossing, the driver of the vehicle shall operate the vehicle in a manner so he will be able to stop, and he shall stop the vehicle not less than fifteen feet and not more than fifty feet from the nearest rail of the railroad track and shall not proceed until he can safely do so if:
(1) A clearly visible electric or mechanical signal device warns of the approach of a railroad train; or
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal or warning of the approach or passage of a railroad train; or
(3) An approaching railroad train is visible and is in hazardous proximity to such crossing; or
(4) Any other traffic sign, device or any other act, rule, regulation or statute requires a vehicle to stop at a railroad grade crossing.
2. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing when a train is approaching while such gate or barrier is closed or is being opened or closed.
3. No person shall drive a vehicle through a railroad crossing when there is not sufficient space to drive completely through the crossing.
4. No person shall drive a vehicle through a railroad crossing unless such vehicle has sufficient undercarriage clearance necessary to prevent the undercarriage of the vehicle from contacting the railroad crossing.
5. Every commercial motor vehicle as defined in section 302.700 shall, upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said commercial motor vehicle to be stopped before reaching the nearest rail of such crossing and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear. This section does not apply to vehicles which are required to stop at railroad crossings pursuant to section 304.030.
6. Any person violating the provisions of this section is guilty of a class C misdemeanor.

Mo. Rev. Stat. § 304.035 (2012)

Montana

61-8-325 Limitations on overtaking on the left.
(1) A vehicle may not be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.
(2) A vehicle may not be driven to the left side of the roadway under the following conditions:
(a) when approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within a distance that creates a hazard in the event that another vehicle might approach from the opposite direction;
(b) when approaching within 100 feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated by an official traffic control device; or
(c) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.
(3) The limitations provided in this section do not apply upon a one-way roadway.
Mont. Code Ann. § 61-8-325 (2012)

61-8-347 Obedience to signal indicating approach of train or other on-track equipment.
(1) When a person operating a vehicle approaches a railroad crossing under any of the circumstances stated in this section, the operator of the vehicle shall stop as close as practicable but not less than 15 feet from the nearest rail of the railroad and may not proceed until the operator can do so safely. These requirements apply when:
(a) a clearly visible electric or mechanical signal device gives warning of the presence or immediate approach of a railroad train or other on-track equipment;
(b) a crossing gate is lowered or when a flag person gives a signal of the approach or passage of a railroad train or other on-track equipment;
(c) a railroad train approaching within approximately 1,500 feet of the crossing emits a signal audible from that distance, except at crossings within quiet zones established under 69-14-620, indicating that the train is an immediate hazard because of its speed or nearness to the crossing; or
(d) an approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.
(2) A person may not operate a vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed.
Mont. Code Ann. § 61-8-347 (2012)

61-8-348 All vehicles to stop at certain railroad grade crossings.
(1) The department of transportation and local authorities in their respective jurisdictions may designate particularly dangerous highway grade crossings of railroads and erect stop signs at these crossings. Where these stop signs are erected, the operator of a vehicle shall stop as close as practicable but not less than 15 feet from the nearest rail of the railroad and may proceed only upon exercising due care.
(2) The operator of a vehicle upon a highway outside of the limits of an incorporated city or town who is approaching a highway grade crossing where a flag person or a mechanical device is not in place or maintained to warn the public of approaching trains or other on-track equipment

shall, before crossing the railroad tracks, stop the vehicle as close as practicable but not less than 15 feet from the nearest rail if:
(a) a curve in the tracks or vegetation or some other feature or characteristic obscures the view of approaching trains or other on-track equipment; or
(b) a moving train or other on-track equipment is within sight or hearing.
Mont. Code Ann. § 61-8-348 (2012)

61-8-354 Stopping, standing, or parking prohibited in specified places -- exceptions -- definition.
(1) A person may not stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer, highway patrol officer, or official traffic control device, in any of the following places:
(i) within 50 feet of the nearest rail of a railroad crossing;
(g) within 30 feet upon the approach to any flashing beacon, stop sign, or official traffic control device located at the side of a roadway;
Mont. Code Ann. § 61-8-354 (2012) Excerpt from applicable statute published.

Nebraska

§ 60-6,136. Limitations on overtaking, passing, or driving to the left of the center of roadway; when prohibited
(1) No driver shall overtake and pass another vehicle or drive to the left of the center of the roadway whenever:
(a) He or she approaches the crest of a grade or is upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(b) He or she approaches within one hundred feet of or traverses any intersection or railroad grade crossing;
(c) The view is obstructed when he or she approaches within one hundred feet of any bridge, viaduct, or tunnel; or
(d) The section of roadway is designated as a no-passing zone under section 60-6,137.
(2) The limitations imposed by subsection (1) of this section shall not apply (a) upon a one-way roadway, (b) under the conditions described in subdivision (1)(b) of section 60-6,131, or (c) to the driver of a vehicle turning left into or from an alley, private road, or driveway unless otherwise prohibited by signs.
Neb. Rev. Stat. Ann. § 60-6,136 (LexisNexis 2012)

§ 60-6,166. Stopping, standing, or parking prohibited; exceptions
(1) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:
(a) Stop, stand, or park any vehicle:
(viii) On any railroad track; or
(ix) At any place where official signs prohibit stopping;
(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:
(i) Within fifty feet of the nearest rail of a railroad crossing
Neb. Rev. Stat. Ann. § 60-6,166 (LexisNexis 2012) Excerpt from applicable statute published.

§ 60-6,170. Obedience to signal indicating approach of train; prohibited acts

(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances set forth in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall not proceed until he or she can do so safely. The requirements of this subsection shall apply when:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(b) A crossing gate is lowered or a flagperson gives or continues to give a signal of the approach or passage of a railroad train;
(c) A railroad train approaching within approximately one-quarter mile of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
Neb. Rev. Stat. Ann. § 60-6,170 (LexisNexis 2012)

§ 60-6,171. Railroad crossing stop signs; jurisdiction
The Department of Roads and local authorities on highways under their respective jurisdictions may designate particularly dangerous highway grade crossings of railroads and erect stop signs at the crossings. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care
Neb. Rev. Stat. Ann. § 60-6,171 (LexisNexis 2012)

§ 60-6,185. Basic rule; speed
No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. A person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.
Neb. Rev. Stat. Ann. § 60-6,185 (LexisNexis 2012)

Nevada

***484B.213. Limitations on overtaking on left side; additional penalty for violation committed in work zone.**
1. A vehicle must not be driven to the left side of the center of a two-lane, two-directional highway and overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.
2. A vehicle must not be driven to the left side of the highway at any time:
(a) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
(b) When approaching within 100 feet or traversing any intersection or railroad grade crossing.
Nev. Rev. Stat. Ann. § 484B.213 (LexisNexis 2012) Excerpt from applicable statute published.

***484B.553. Obedience to signal indicating approach of railroad train.**
1. Whenever any person driving a vehicle approaches a railroad grade crossing and a clearly visible official traffic-control or railroad device gives warning of the immediate approach of a train, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest track of such railroad and shall not proceed until the driver can do so safely. The foregoing requirements shall apply when:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
(b) A crossing gate is lowered or when a flagger gives or continues to give a signal of the approach or passage of a railroad train.
(c) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.
(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. A person shall not drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
Nev. Rev. Stat. Ann. § 484B.553 (LexisNexis 2012)

***484B.557. Stop required at certain railroad grade crossings.**
When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest track of such a grade crossing and afterward may proceed only upon exercising due care.
Nev. Rev. Stat. Ann. § 484B.557 (LexisNexis 2012) Excerpt from applicable statute published.

<u>New Hampshire</u>

265:21 Further Limitations on Driving to Left of Center of Roadway.
I. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
(a) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(b) When approaching within 100 feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated;
N.H. Rev. Stat. Ann. § 265:21 (LexisNexis 2012) Excerpt from applicable statute published.

265:48 Obedience to Signal Indicating Approach of Train.
I. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(b) A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately 1500 feet of the way crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
II. No person shall drive any vehicle through, around or under any crossing or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
N.H. Rev. Stat. Ann. § 265:48 (LexisNexis 2012)

265:49 All Vehicles Must Stop at Certain Railroad Grade Crossings.
The commissioner of transportation is hereby authorized to designate particularly dangerous highway gradecrossings of railroads and to order stop signs erected at such crossings. It shall be the duty of the commissioner to erect such stop signs at such designated crossings where said highways are under his jurisdiction. Local communities shall when ordered by the commissioner erect such stop signs on highways within their jurisdiction. When such stop signs are erected the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due care.
N.H. Rev. Stat. Ann. § 265:49 (LexisNexis 2012)

265:60 Basic Rule and Maximum Limits.
I. No person shall drive a vehicle on a way at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the way in compliance with legal requirements and the duty of all persons to use due care.
IV. The driver of every vehicle shall, consistent with requirements of paragraph I, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic by reason of weather or highway conditions.
N.H. Rev. Stat. Ann. § 265:60 (LexisNexis 2012) Excerpt from applicable statute published.

<u>New Jersey</u>

§ 39:4-83. Keeping to right at intersections; exception on one-way roadway
In crossing an intersection of highways or the intersection of a highway and a railroad right of way, the driver of a vehicle shall at all times cause the vehicle to travel on the right half of the roadway unless the right half is obstructed or impassable. The foregoing limitations shall not apply upon a one-way roadway.
N.J. Stat. Ann. § 39:4-83 (West 2012)

§ 39:4-98. Rates of speed
The driver of every vehicle shall, consistent with the requirements of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.
N.J. Stat. Ann. § 39:4-98 (West 2012) Excerpt from applicable statute published.

§ 39:4-127.1. Railroad crossings; stopping

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
3. A railroad train approaching within approximately one thousand five hundred feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
N.J. Stat. Ann. § 39:4-127.1 (West 2012)

§ 39:4-138. Places where parking prohibited; exceptions; moving vehicle not under one's control into prohibited area
Except when necessary to avoid conflict with other traffic or in compliance with the directions of a traffic or police officer or traffic sign or signal, no operator of a vehicle shall stand or park the vehicle in any of the following places:
j. Within 50 feet of the nearest rail of a railroad crossing;
N.J. Stat. Ann. § 39:4-138(j) (West 2012) Excerpt from applicable statute published.

New Mexico

§ 66-7-313. Further limitations on driving to left of center of roadway
A. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
(1) when approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) when approaching within one hundred feet of or traversing any intersection or railroad grade crossing; or
(3) when the view is obstructed upon approaching within one hundred feet of any bridge, viaduct or tunnel.
B. The foregoing limitations shall not apply upon a one-way roadway.
N.M. Stat. Ann. § 66-7-313 (LexisNexis 2012)

§ 66-7-341. Railroad-highway grade crossing violations; all drivers
A. A person driving a vehicle approaching a railroad-highway grade crossing shall:
(1) obey traffic control devices, crossing gates or barriers or the directions of an enforcement official at the crossing;
(2) stop not more than fifty feet and not less than fifteen feet from the nearest rail of a crossing if:
(a) a train is moving through or blocking the crossing;
(b) a train is plainly visible and approaching the crossing within hazardous proximity to the crossing;
(c) the sound of a train's warning signal can be heard; or

(d) a traffic control device, crossing gate, barrier or light or an enforcement official signals the driver to stop; and
(3) proceed through the railroad-highway grade crossing only if it is safe to completely pass through the entire railroad-highway grade crossing without stopping.
B. A person shall not:
(1) drive a vehicle through, around or under a crossing gate or barrier at a railroad-highway grade crossing while the gate or barrier is closed or being opened or closed;
(2) drive onto the railroad-highway grade crossing and stop; or
(3) enter a crossing if the vehicle being driven has insufficient undercarriage clearance to pass over the crossing.
C. The penalty assessment for violation of this section is included in Section 66-8-116 NMSA 1978.
N.M. Stat. Ann. § 66-7-341 (LexisNexis 2012)

§ 66-7-342. All vehicles must stop at certain railroad grade crossings
The state transportation commission and local authorities with the approval of the state transportation commission are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those crossings. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall proceed only upon exercising due care.
N.M. Stat. Ann. § 66-7-342 (LexisNexis 2012)

§ 66-7-351. Stopping, standing or parking prohibited in specified places
A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:
(7) within thirty feet upon the approach to any flashing beacon, stop sign or traffic-control signal located at the side of a roadway;
(9) within fifty feet of the nearest rail of a railroad crossing;
N.M. Stat. Ann. § 66-7-351 (LexisNexis 2012) Excerpt from applicable statute published.

New York

§ 1125. Further limitations on driving to left of center of roadway
(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
2. When approaching within one hundred feet of or traversing any railroad grade crossing;
3. When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.
(b) The foregoing limitations shall not apply upon a one-way roadway nor to a vehicle in any lane which is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is marked to give notice of such allocation.
N.Y. Veh. & Traf. Law § 1125 (Consol. 2012)

§ 1170. Obedience to signal indicating approach of train

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
1. An audible or clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
3. A railroad train approaching within approximately one thousand five hundred feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. Every person convicted of a violation of this subdivision shall for a first conviction thereof be punished by a fine of not less than [fig 1] two hundred fifty dollars nor more than [fig 2] four hundred [fig 3] dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than three hundred fifty dollars nor more than five hundred dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than six hundred dollars nor more than seven hundred fifty dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment.
(c) 1. Any person convicted of a violation of this section while driving any vehicle carrying passengers under eighteen years of age, any bus carrying passengers, any school bus or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall, upon conviction of a first offense, be guilty of a class A misdemeanor, and shall, upon conviction of a second or subsequent offense committed within five years of the prior offense, be guilty of a class E felony.
2. Any person convicted of a violation of this section resulting in an accident which causes physical injury, as that term is defined pursuant to subdivision nine of section 10.00 of the penal law, serious physical injury, as that term is defined pursuant to subdivision ten of section 10.00 of the penal law, or death to another person, shall be guilty of a class E felony.
(d) Nothing contained in this section shall be construed to prohibit or limit the prosecution of any violation, crime or other offense otherwise required or permitted by law.
N.Y. Veh. & Traf. Law § 1170 (Consol. 2012)

***§ 1176 Obstructing highway-railroad grade crossings**
No person shall drive a vehicle onto the railroad tracks at a highway-railroad grade crossing unless there is sufficient undercarriage clearance to traverse the crossing and adequate space on the opposite side of the crossing to accommodate the vehicle he and/or she is driving, notwithstanding the indication of any traffic control device which would permit him and/or her to proceed.
N.Y. Veh. & Traf. Law § 1176 (Consol. 2012)

§ 1180. Basic rule and maximum limits

(e) The driver of every vehicle shall, consistent with the requirements of subdivision (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when approaching and passing by an emergency situation involving any authorized emergency vehicle which is parked, stopped or standing on a highway and which is displaying one or more red or combination red [fig 1] , white, and/or blue lights pursuant to the provisions of paragraph two and subparagraph b of paragraph four of subdivision forty-one of section three hundred seventy-five of this chapter, when traveling upon any narrow or winding roadway, and when any special hazard exists with respect to pedestrians, or other traffic by reason of weather or highway conditions, including, but not limited to a highway construction or maintenance work area.
(f) Except as provided in subdivision (g) of this section and except when a special hazard exists that requires lower speed for compliance with subdivision (a) or (e) of this section or when a lower maximum speed limit has been established, no person shall drive a vehicle through a highway construction or maintenance work area [fig 1] at a speed in excess of the posted work area speed limit. The agency having jurisdiction over the affected street or highway may establish work area speed limits which are less than the normally posted speed limits; provided, however, that such normally posted speed limit may exceed the work area speed limit by no more than twenty miles per hour; and provided further that no such work area speed limit may be established at less than twenty-five miles per hour.
N.Y. Veh. & Traf. Law § 1180 (Consol. 2012) Excerpt from applicable statute published.

§ 1202. Stopping, standing or parking prohibited in specified places
(a) Except when necessary to avoid conflict with other traffic, or when in compliance with law or the directions of a police officer or official traffic-control device, no person shall:
1. Stop, stand or park a vehicle:
h. On any railroad tracks;
NY Veh. & Traf. Law § 1202 (Consol. 2012) Excerpt from applicable statute published.

***§ 1685. All vehicles must stop or yield at certain railroad grade crossings where a stop or yield sign is erected**
Whenever any such crossing is so designated and a stop or yield sign is installed, it shall be unlawful for the driver of any vehicle to fail to stop or yield within fifty feet but not less than fifteen feet from such railroad tracks before traversing such crossing. The failure to erect, or the erection of, or failure to replace or maintain such signs shall not be a basis for any action of negligence against a municipality or the state nor a basis of a defense by a railroad in an action based on negligence against a railroad.
NY Veh. & Traf. Law § 1685 (Consol. 2012) Excerpt from applicable statute published.

<u>North Carolina</u>

§ 20-142.1. Obedience to railroad signal
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within 50 feet, but not less than 15 feet from the nearest rail of the railroad and shall not proceed until he can do so safely. These requirements apply when:
(1) A clearly visible electrical or mechanical signal device gives warning of the immediate approach of a railroad train;

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within approximately 1500 feet of the highway crossing emits a signal audible from that distance, and the railroad train is an immediate hazard because of its speed or nearness to the crossing; or
(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroadcrossing while the gate or barrier is closed or is being opened or closed, nor shall any pedestrian pass through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.
(c) When stopping as required at a railroad crossing, the driver shall keep as far to the right of the highway as possible and shall not form two lanes of traffic unless the roadway is marked for four or more lanes of traffic.
(d) Any person who violates any provisions of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.
(e) An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21.
N.C. Gen. Stat. § 20-142.1 (2012)

***§ 20-142.2. Vehicles stop at certain grade crossing**
The Department of Transportation may designate particularly dangerous highway crossings of railroads and erect stop signs at those crossings. When a stop sign is erected at a highway crossing of a railroad, the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such grade crossing and shall proceed only upon exercising due care. Any person who violates this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se. An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21.
N.C. Gen. Stat. § 20-142.2 (2012)

§ 20-142.5. Stop when traffic obstructed
No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding the indication of any traffic control signal to proceed. Any person who violates any provision of this section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.
An employer who knowingly allows, requires, permits, or otherwise authorizes a driver of a commercial motor vehicle to violate this section shall be guilty of an infraction. Such employer will also be subject to a civil penalty under G.S. 20-37.21.
N.C. Gen. Stat. § 20-142.5 (2012)

§ 20-147. Keep to the right in crossing intersections or railroads

In crossing an intersection of highways or the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the highway unless such right side is obstructed or impassable.
N.C. Gen. Stat. § 20-147 (2012)

§ 20-150. Limitations on privilege of overtaking and passing
(a) The driver of a vehicle shall not drive to the left side of the center of a highway, in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety.
(b) The driver of a vehicle shall not overtake and pass another vehicle proceeding in the same direction upon the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of 500 feet.
(c) The driver of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction at any railway grade crossing nor at any intersection of highway unless permitted so to do by a traffic or police officer. For the purposes of this section the words "intersection of highway" shall be defined and limited to intersections designated and marked by the Department of Transportation by appropriate signs, and street intersections in cities and towns.
(d) The driver of a vehicle shall not drive to the left side of the centerline of a highway upon the crest of a grade or upon a curve in the highway where such centerline has been placed upon such highway by the Department of Transportation, and is visible.
(e) The driver of a vehicle shall not overtake and pass another on any portion of the highway which is marked by signs, markers or markings placed by the Department of Transportation stating or clearly indicating that passing should not be attempted.
(f) The foregoing limitations shall not apply upon a one-way street nor to the driver of a vehicle turning left in or from an alley, private road, or driveway.
N.C. Gen. Stat. § 20-150 (2012)

North Dakota

39-09-01. Basic rule -- Penalty for violation.
No person may drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. Any person who drives a vehicle upon a highway or private or public property open to the public for the operation of motor vehicles without heed to the requirements or restrictions of this section has committed careless driving and must be assessed a fee of thirty dollars.
Any person who, by reason of careless driving as herein defined, causes and inflicts injury upon the person of an operator of snow removal equipment engaged in snow removal operations or causes damage in excess of one thousand dollars to snow removal equipment engaged in snow removal is guilty of an infraction.
As used in this section, "snow removal equipment" means a vehicle that is operated by a person employed by or on behalf of an authority in charge of the maintenance of the highway to perform

winter maintenance snow and ice removal, including plowing, hauling away, salting, and sanding.
N.D. Cent. Code § 39-09-01 (2012)

39-09-02. Speed limitations.
1. Subject to the provisions of section 39-09-01 and except in those instances when a lower speed is specified in this chapter, it presumably is lawful for the driver of a vehicle to drive the same at a speed not exceeding:
a. Twenty miles [32.19 kilometers] an hour when approaching within fifty feet [15.24 meters] of a grade crossing of any steam, electric, or street railway when the driver's view is obstructed. A driver's view is deemed to be obstructed when at any time during the last two hundred feet [60.96 meters] of the driver's approach to such crossing, the driver does not have a clear and uninterrupted view of such railway crossing and of any traffic on such railway for a distance of four hundred feet [121.92 meters] in each direction from such crossing
3. Except as provided by law, it is unlawful for any person to drive a vehicle upon a highway at a speed that is unsafe or at a speed exceeding the speed limit prescribed by law or established pursuant to law.
4. In charging a violation of the provisions of this section, the complaint must specify the speed at which the defendant is alleged to have driven and the speed which this section prescribes is prima facie lawful at the time and place of the alleged offense.
N.D. Cent. Code § 39-09-02 (2012) Excerpt from applicable statute published.

39-10-14. Further limitations on driving on left of center of roadway.
1. No vehicle may be driven to the left side of the roadway under any of the following conditions:
a. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
b. When approaching within one hundred feet [30.48 meters] of or traversing any intersection or railroad grade crossing.
c. When the view is obstructed upon approaching within one hundred feet [30.48 meters] of any bridge, viaduct, or tunnel.
2. The foregoing limitations do not apply upon a one-way roadway, nor under the conditions described insection 39-10-08, nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.
N.D. Cent. Code § 39-10-14 (2012)

39-10-41. Obedience to signal indicating approach of train.
1. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad, and may not proceed until the driver can do so safely. The foregoing requirements apply when:
a. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
b. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

c. A railroad train approaching within approximately one thousand three hundred twenty feet [402.34 meters] of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or
d. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
2. No person may drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. No person may drive any vehicle past any human flagman at a railroad crossing until the flagman signals that the way is clear to proceed.
N.D. Cent. Code § 39-10-41 (2012)

39-10-42. All vehicles must stop at certain railroad grade crossings.
The department of transportation and local authorities, with respect to highways under their respective jurisdiction, are hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet [15.24 meters] but not less than fifteen feet [4.57 meters] from the nearest rail of such railroad and shall proceed only upon exercising due care.
N.D. Cent. Code § 39-10-42 (2012)

39-10-49. Stopping, standing, or parking prohibited in specified places
No person may stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:
7. Within fifteen feet [4.57 meters] upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway.
9. Within fifteen feet [4.57 meters] of the nearest rail of a railroad crossing.
N.D. Cent. Code § 39-10-49 (2012) Excerpt from applicable statute published.

***39-10-68. Stop when traffic obstructed.**
No driver may enter any intersection or a marked crosswalk or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.
N.D. Cent. Code § 39-10-68 (2012)

<u>Ohio</u>

§ 4511.30. Prohibition against driving upon left side of roadway
(A) No vehicle or trackless trolley shall be driven upon the left side of the roadway under the following conditions:
(1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
(2) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel;
(3) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing.

(B) This section does not apply to vehicles or trackless trolleys upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side, or under the conditions described in division (A)(2) of section 4511.25 of the Revised Code.
(C) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
Ohio Rev. Code Ann. § 4511.30 (LexisNexis 2013)

§ 4511.61. Stop signs at grade crossings
(A) The department of transportation and local authorities in their respective jurisdictions, with the approval of the department, may designate dangerous highway crossings over railroad tracks whether on state, county, or township highways or on streets or ways within municipal corporations, and erect stop signs thereat. When such stop signs are erected, the operator of any vehicle, streetcar, or trackless trolley shall stop within fifty, but not less than fifteen, feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
Ohio Rev. Code Ann. § 4511.61 (LexisNexis 2013)

§ 4511.62. Driver's duties relating to railroad grade crossings
(A) (1) Whenever any person driving a vehicle or trackless trolley approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad if any of the following circumstances exist at the crossing:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
(b) A crossing gate is lowered.
(c) A flagperson gives or continues to give a signal of the approach or passage of a train.
(d) There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle or trackless trolley the person is operating without obstructing the passage of other vehicles, trackless trolleys, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
(e) An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
(f) There is insufficient undercarriage clearance to safely negotiate the crossing.
(2) A person who is driving a vehicle or trackless trolley and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (A)(1)(a) to (f) of this section exist at the crossing.
(B) No person shall 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 unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
Ohio Rev. Code Ann. § 4511.62 (LexisNexis 2013)

§ 4511.68. Parking prohibitions
(A) No person shall stand or park a trackless trolley or vehicle, except when necessary to avoid conflict with other traffic or to comply with sections 4511.01 to 4511.78, 4511.99, and 4513.01 to 4513.37 of the Revised Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:
(7) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign, or traffic control device;
(9) Within fifty feet of the nearest rail of a railroad crossing;
(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
Ohio Rev. Code Ann. § 4511.68 (LexisNexis 2013) Excerpt from applicable statute published.

§ 4511.99. Penalties
Whoever violates any provision of sections 4511.01 to 4511.76 of the Revised Code for which no penalty otherwise is provided in the section violated is guilty of one of the following:
(A) Except as otherwise provided in division (B) or (C) of this section, a minor misdemeanor;
(B) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, a misdemeanor of the fourth degree;
(C) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two or more predicate motor vehicle or traffic offenses, a misdemeanor of the third degree.
Ohio Rev. Code Ann. § 4511.99 (LexisNexis 2013)

§ 4511.712. Obstructing passage of other vehicles
(A) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or grade crossing to accommodate the vehicle, streetcar, or trackless trolley the driver is operating without obstructing the passage of other vehicles, streetcars, trackless trolleys, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
(B) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
Ohio Rev. Code Ann. § 4511.712 (LexisNexis 2013)

Oklahoma

§ 11-306. Further limitations on driving to left of center of roadway
(a) No vehicle shall be driven on the left side of the roadway under the following conditions:

2. When approaching within one hundred (100) feet of or traversing any intersection or railroad gradecrossing unless otherwise indicated by official traffic-control devices;
Okla. Stat. tit. 47, § 11-306(a)(2) (2012) Excerpt from applicable statute published.

§ 11-701. Obedience to signal indicating approach of train
A. Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
3. A railroad train approaching within approximately one thousand five (1,500) hundred feet of the highwaycrossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing; or
5. The tracks at the crossing are not clear.
B. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroadcrossing while such gate or barrier is closed or is being opened or closed or fail to obey the directions of a law enforcement officer at the crossing.
C. The operator of any Class A, B, or C commercial vehicle not required to stop at all railroad crossings, as prescribed in Section 11-702 of this title, shall slow down and check that the tracks are clear of an approaching train.
Okla. Stat. tit. 47, § 11-701 (2012)

§ 11-801. Basic rule--Maximum and minimum limits--Fines and penalties
A. Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and any other conditions then existing. No person shall drive any vehicle upon a highway at a speed greater than will permit the driver to bring it to a stop within the assured clear distance ahead.
E. The driver of every vehicle shall, consistent with the requirements of subsection A of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when driving upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.
Okla. Stat. tit. 47, § 11-801 (2012) Excerpt from applicable statute published.

§ 11-1003. Stopping, standing or parking prohibited in specified places
A. Except as otherwise provided in subsection B of this section, no person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:
9. Within fifty (50) feet of the nearest rail of a railroad crossing;
Okla. Stat. tit. 47, § 11-1003(A)(9) (2012) Excerpt from applicable statute published.

<u>Oregon</u>

811.305 Driving on left on curve or grade or at intersection or rail crossing; exceptions; penalty.
(1) A person commits the offense of driving on the left on a curve or grade or at an intersection or rail crossing if the person is operating a vehicle upon any two-way roadway where traffic is permitted to move in both directions simultaneously and the person drives on the left side of the center of the roadway:
(a) Upon any part of a grade or upon a curve in the roadway where the driver's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(b) When approaching an intersection or railroad grade crossing where the driver's view is obstructed for such a distance as to create a hazard in the event another vehicle might approach from the opposite direction; or
(c) At any intersection or railroad grade crossing.
(2) This section does not prohibit a person from driving on the left side of the center of a roadway under the following circumstances:
(a) When the right half of the roadway is obstructed or closed to traffic while under construction or repair; or
(b) When a driver makes a lawful left turn.
(3) The offense described in this section, driving on the left on a curve or grade or at an intersection or rail crossing, is a Class B traffic violation.
Or. Rev. Stat. § 811.305 (2011)

811.455 Failure to stop for railroad signal; penalty.
(1) A person commits the offense of failure to stop for a railroad signal if the person fails to comply with any of the following requirements
(a) A person who is driving a vehicle must stop the vehicle at a clearly marked stop line on the near side of a railroad crossing or, if there is no clearly marked stop line, not less than 15 feet nor more than 50 feet from the nearest rail of the crossing under any of the following circumstances:
(A) When a clearly visible electric or mechanical signal is given by a device that warns of the immediate approach of a railroad train.
(B) Upon the lowering of a crossing gate.
(C) When a signal given by a flagger or police officer indicates the approach or passage of a railroad train.
(D) When an approaching train is clearly visible and because of its nearness to the crossing is an immediate hazard.
(E) When an audible signal is given by an approaching railroad train because its speed or nearness to the crossing is an immediate hazard.
(b) A driver who has stopped for the passing of a train at a railroad grade crossing in accordance with the provisions of this section shall not proceed across the railroad tracks until the driver can do so safely.
(c) A person shall not drive any vehicle through, around or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.
(2) The offense described in this section, failure to stop for a railroad signal, is a Class B traffic violation.
Or. Rev. Stat. § 811.455 (2011)

811.475 Obstructing rail crossing; penalty.

(1) A person commits the offense of obstructing a rail crossing if the person is operating a vehicle and the person does either of the following:
(a) Drives onto any railroad or rail fixed guideway system grade crossing when there is not sufficient space on the other side of the railroad or rail fixed guideway system grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, railroad trains or rail fixed guideway system vehicles; or
(b) While driving a commercial motor vehicle, fails to negotiate the rail crossing because of insufficient undercarriage clearance.
(2) The offense described in this section is applicable whether or not a traffic control device indicates to proceed.
(3) The offense described in this section, obstructing rail crossings, is a Class B traffic violation.
Or. Rev. Stat. § 811.475 (2011)

Pennsylvania

§ 3306. Limitations on driving on left side of roadway.
(a) General rule. --No vehicle shall be driven on the left side of the roadway under any of the following conditions:
(1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
(2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated by official traffic-control devices.
(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
(b) Application of section. --This section does not apply under the conditions described in section 3301(a)(2),(3),(4) and (5) (relating to driving on right side of roadway).
75 Pa. Cons. Stat. § 3306 (2012)

§ 3341. Obedience to signal indicating approach of train.
(a) General rule. --Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad and shall not proceed until it can be done safely. The foregoing requirements shall apply upon the occurrence of any of the following circumstances:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
(2) A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train.
(3) A railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible from that distance and the railroad train, by reason of its speed or nearness to the crossing, is a hazard.
(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(b) Compliance with crossing gate or barrier.
(1) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroadcrossing while the gate or barrier is closed.
(2) No person shall start to drive a vehicle through, around or under a gate or barrier at the entrance to a railroad crossing while the gate or barrier is being opened or closed.

(c) Penalties. --A violation of subsection (a) constitutes a summary offense punishable by a fine of from $ 50 to $ 200. A violation of subsection (b) constitutes a summary offense punishable by a fine of from $ 200 to $ 500.
75 Pa. Cons. Stat. § 3341 (2012)

§ 3353. Prohibitions in specified places.
(a) General rule. --Except when necessary to avoid conflict with other traffic or to protect the safety of any person or vehicle or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:
(B) Standing or parking for the purpose of loading or unloading persons or property may be authorized by local ordinance, but the ordinance shall not authorize standing or parking on State designated highways except during off-peak traffic- flow hours as determined by department regulations.
(viii) On any railroad tracks.
(2) Stand or park a vehicle
(iv) Within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the site of a roadway.
(3) Park a vehicle:
(i) Within 50 feet of the nearest rail of a railroad crossing.
(e) Penalty. --Any person violating any provision of this section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than $ 50.
75 Pa. Cons. Stat. § 3353 (2012) Excerpt from applicable statute published.

§ 3361. Driving vehicle at safe speed.
No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing, 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 foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions
75 Pa. Cons. Stat. § 3361 (2012)

***§ 3710. Stopping at intersection or crossing to prevent obstruction.**
No driver shall enter an intersection or a crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle operated without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed.
75 Pa. Cons. Stat. § 3710 (2012)

<u>Rhode Island</u>

§ 31-14-3. Conditions requiring reduced speed
(a) The driver of every vehicle shall, consistent with the requirements of § 31-14-1, drive at an appropriate reduced speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions and in the presence of

emergency vehicles displaying flashing lights as provided in § 31-24-31, tow trucks, transporter trucks, and roadside assistance vehicles displaying flashing amber lights while assisting a disabled motor vehicle. Violations of this section are subject to fines enumerated in § 31-41.1-4.
R.I. Gen. Laws § 31-14-3(a) (2012) Excerpt from applicable statute published.

§ 31-15-7. Places where overtaking prohibited
(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
(1) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) When approaching within one hundred feet (100') of or traversing any intersection or railroad gradecrossing;
(3) When the view is obstructed upon approaching within one hundred feet (100') of any bridge, viaduct, or tunnel.
(b) The limitations in subsection (a) of this section shall not apply upon a one-way roadway.
(c) Violations of this section are subject to fines enumerated in § 31-41.1-4.
R.I. Gen. Laws § 31-15-7 (2012)

§ 31-20-1. When railroad crossing stops required of all vehicles
Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section the driver of the vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad, and shall not proceed until he or she can do so safely. These foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from that distance, and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard;
(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(5) Violations of this section are subject to fines enumerated in § 31-41.1-4.
R.I. Gen. Laws § 31-20-1 (2012)

§ 31-20-2. Driving through railroad gate or barrier
(a) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed.
(b) Violations of this section are subject to fines enumerated in § 31-41.1-4.
R.I. Gen. Laws § 31-20-2 (2012)

§ 31-20-3. Stop signs at dangerous railroad crossings

When the stop signs are erected, the driver of any vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad and shall proceed only upon exercising due care.
R.I. Gen. Laws § 31-20-3 (2012) Excerpt from applicable statute published.

<u>South Carolina</u>

§ 56-5-1520. General rules as to maximum speed limits; lower speeds may be required.
(A) A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be so controlled to avoid colliding with a person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of a person to use care.
(F) The driver of a vehicle shall drive, consistent with the requirements of subsection (A), at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, approaching a hillcrest, when traveling upon any narrow bridge, narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.
(G) A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows:
(1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;
(2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars;
(3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars; and
(4) in excess of twenty-five miles an hour above the posted limit by a fine of not less than seventy-five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.
(H) A citation for violating the speed limits issued by any authorized officer must note on it the rate of speed for which the citation is issued.
(I) In expending the funds credited to the state general fund from fines generated under subsection (G), the Department of Public Safety first shall consider the need for additional highway patrolmen.
S.C. Code Ann. § 56-5-1520 (2011) Excerpt from applicable statute published.

§ 56-5-2530. Stopping, standing or parking prohibited in specified places; exceptions.
(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:
(1) Stop, stand or park a vehicle:
(h) On any railroad tracks.
(k) At any place where official traffic-control devices prohibit stopping.
(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:
(a) Within fifty feet of the nearest rail of a railroad crossing.
(B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.
(C) This section does not prohibit a federal postal service carrier from stopping, standing, or parking along a rural roadway for frequent short intervals during delivery of mail, parcels, or packages. As used in this section, “rural” means an area outside the incorporated areas of the county.
S.C. Code Ann. § 56-5-2530(A-1-H,K)(A-3-a)(B)(C) (2011) Excerpt from applicable statute published.

§ 56-5-2710. Obedience to signal indicating approach of train.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section the driver of the vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
(2) A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train.
(3) A railroad train approaching within approximately one thousand, five hundred feet of the highway crossing emits a signal audible from such distance and the train, by reason of its speed or nearness to the crossing, is an immediate hazard.
(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(b) No person shall 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.
S.C. Code Ann. § 56-5-2710 (2011)

§ 56-5-2715. Stop required at designated railroad grade crossings.
The Department of Transportation, and local authorities with the approval of the Department of Transportation, may designate particularly dangerous highway grade crossings of railroads and erect stop signs thereat. When such signs are erected, the driver of any vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad and shall proceed only upon exercising due care.
S.C. Code Ann. § 56-5-2715 (2011)

***§ 56-5-2735. Obstructing intersection or grade crossing; passing near grade crossing; traffic lines when stopped at railroad crossing; vehicles in tow.**
(A) Notwithstanding the indication of a traffic signal to proceed, no driver shall enter an intersection or a marked crosswalk or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains.
S.C. Code Ann. § 56-5-2735 (2011)

<u>South Dakota</u>

***§ 32-25-13. Approaching railway grade crossing -- Obstructed view -- Maximum speed -- Class 2 misdemeanor**
When approaching within fifty feet of a grade crossing of any railway when the driver's view is obstructed, the maximum speed shall be fifteen miles per hour. A driver's view is obstructed if at any time during the last two hundred feet of his approach to such crossing he does not have a clear and uninterrupted view of any traffic on such railway for a distance of four hundred feet in each direction. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-25-13 (2012)

§ 32-26-2. Drive upon the right half of the highway -- Crossing intersection -- Class 2 misdemeanor
In crossing an intersection of highways or the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall at all times cause such vehicle to travel on the right half of the

highway unless such right half is obstructed or impassable. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-26-2 (2012)

§ 32-26-36. Additional limitations on driving on left side of roadway -- Class 2 misdemeanor
No vehicle may be driven on the left side of the roadway when approaching within one hundred feet of or traversing any intersection or railroad grade crossing or when the view is obstructed upon approaching within one hundred feet of any bridge, viaduct or tunnel. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-26-36 (2012)

***§ 32-29-4. Duty when approaching railroad grade crossing -- Warning signal -- Complete stop -- Proceeding after stop -- Class 2 misdemeanor**
If any person driving a vehicle approaches a railroad grade crossing and a clearly visible or audible signal gives warning of the immediate approach of a railway train or car, he shall bring such vehicle to a complete stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and may not proceed until he can do so safely. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-29-4 (2012)

§ 32-29-7. Designation of particular dangerous railroad highway grade crossings -- Erection of stop signs -- Duty to obey -- Class 2 misdemeanor
The Department of Transportation and local authorities with the approval of the transportation commission may designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. If such signs are erected, the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care. A violation of this section is a Class 2 misdemeanor.
S.D. Codified Laws § 32-29-7 (2012)

§ 32-30-6.1. Certain locations where stopping, standing or parking vehicle prohibited -- Petty offense.
Unless necessary to avoid conflict with other traffic, or unless a police officer or official traffic control device has so directed, no person may stop, stand or park a vehicle:
(8) On any railroad tracks;
A violation of this section is a petty offense.
S.D. Codified Laws § 32-30-6.1(8) (2012) Excerpt from applicable statute published.

§ 32-30-6.2. Certain places where parking vehicle prohibited -- Loading or unloading merchandise or passengers exception -- Petty offense
Unless necessary to avoid conflict with other traffic, or unless a police officer or official traffic control device has so directed, no person may park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:
(1) Within fifty feet of the nearest rail of a railroad crossing;
(2) At any place where official signs prohibit parking.
A violation of this section is a petty offense.
S.D. Codified Laws § 32-30-6.2 (2012)

<u>Tennessee</u>

***55-8-119. Limitations on overtaking on the left.**
No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction, unless the left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction.
Tenn. Code Ann. § 55-8-119 (2012)

55-8-120. Further limitations on driving to left of center of roadway.
(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
(2) When approaching within one hundred feet (100') of or traversing any intersection or railroad grade crossing;
b) The limitations of subsection (a) shall not apply upon a one-way roadway.
Tenn. Code Ann. § 55-8-120 (a-2)(b)(2012) Excerpt from applicable statute published.

55-8-145. Obedience to signal indicating approach of train or other on-track equipment -- Penalty.
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad, and shall not proceed until that driver can do so safely. These requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment, which shall mean any self-propelled machinery or vehicle traveling on a railroad track;
(2) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;
(3) A railroad train or other on-track equipment approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and the railroad train or other on-track equipment, by reason of its speed or nearness to the crossing, is an immediate hazard; or
(4) An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.
(b) No person shall 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.
(c) A violation of this section is a Class C misdemeanor.
Tenn. Code Ann. § 55-8-145 (2012)

55-8-146. All vehicles must stop at certain railroad grade crossings -- Statutes not to affect common law right of recovery -- Penalty.

(a) The department of transportation, and local authorities, with the approval of the department, are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those locations. When stop signs are erected, the driver of any vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of the railroad and shall proceed only upon exercising due care.

(b) None of the provisions of §§ 55-8-145 -- 55-8-147 shall be construed as abridging or in any way affecting the common law right of recovery of litigants in damage suits that may be pending or brought against any railroad company or other common carrier.
(c) A violation of this section is a Class C misdemeanor.
Tenn. Code Ann. § 55-8-146 (2012)

55-8-160. Stopping, standing or parking prohibited in specific places -- Penalty -- Exceptions for disabled veterans and persons with physical disabilities.
(a) No person shall stop, stand or park a vehicle outside of the limits of an incorporated municipality, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:
(9) Within fifty feet (50') of the nearest rail of a railroad crossing;
(d)(1) This section shall not apply to the driver of any vehicle that is disabled while on the paved or improved or main traveled portion of a road, street or highway in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position.
(2) This section shall not apply to the driver of any vehicle operating as a carrier of passengers for hire who is authorized to operate such vehicle upon the roads, streets or highways in Tennessee, while taking passengers on the vehicle, or discharging passengers from that vehicle; provided, that the vehicle is stopped so that a clear view of the vehicle shall be obtained from a distance of two hundred feet (200') in each direction, upon the roads, streets or highways.
(3) This section does not apply to a solid waste vehicle while on the paved or improved main traveled portion of a road, street or highway in a manner and to an extent as is necessary for the sole purpose of collecting municipal solid waste, as defined by § 68-211-802; provided, that the vehicle shall maintain flashing hazard lights at all times while it is stopping or standing; provided further, that the vehicle is stopped so that a clear view of the stopped vehicle shall be available from a distance of two hundred feet (200') in either direction upon the highway. This subdivision (d)(3) does not preclude any claimant from pursuing a common law claim for recovery pursuant to common law negligence.
(e) A violation of this section is a Class C misdemeanor.
Tenn. Code Ann. § 55-8-160 (2012) Excerpt from applicable statute published.

<u>Texas</u>

§ 545.056. Driving to Left of Center of Roadway: Limitations Other Than Passing
(a) An operator may not drive to the left side of the roadway if the operator is:
(1) approaching within 100 feet of an intersection or railroad grade crossing in a municipality;
(2) approaching within 100 feet of an intersection or railroad grade crossing outside a municipality and the intersection or crossing is shown by a sign or marking in accordance with Section 545.055;
(3) approaching within 100 feet of a bridge, viaduct, or tunnel; or
(4) awaiting access to a ferry operated by the Texas Transportation Commission.
(b) The limitations in Subsection (a) do not apply:
(1) on a one-way roadway; or
(2) to an operator turning left into or from an alley or private road or driveway.
(c) The Texas Transportation Commission shall post signs along the approach to a ferry operated by the commission notifying operators that passing is prohibited if there is a standing line of vehicles awaiting access to the ferry.
Tex. Transp. Code § 545.056 (2012)

§ 545.251. Obedience to Signal Indicating Approach of Train
(a) An operator approaching a railroad grade crossing shall stop not closer than 15 feet or farther than 50 feet from the nearest rail if:
(1) a clearly visible railroad signal warns of the approach of a railroad train;
(2) a crossing gate is lowered, or a flagger warns of the approach or passage of a train;
(3) a railroad engine approaching within approximately 1,500 feet of the highway crossing emits a signal audible from that distance and the engine is an immediate hazard because of its speed or proximity to the crossing;
(4) an approaching railroad train is plainly visible to the operator and is in hazardous proximity to the crossing; or
(5) the operator is required to stop by:
(A) other law;
(B) a rule adopted under a statute;
(C) an official traffic-control device; or
(D) a traffic-control signal.
(b) An operator of a vehicle required by Subsection (a) to stop shall remain stopped until permitted to proceed and it is safe to proceed.
(c) An operator of a vehicle who approaches a railroad grade crossing equipped with railroad crossbuck signs without automatic, electric, or mechanical signal devices, crossing gates, or a flagger warning of the approach or passage of a train shall yield the right-of-way to a train in hazardous proximity to the crossing, and proceed at a speed that is reasonable for the existing conditions. If required for safety, the operator shall stop at a clearly marked stop line before the grade crossing or, if no stop line exists, not closer than 15 feet or farther than 50 feet from the nearest rail.
(d) An operator commits an offense if the operator drives around, under, or through a crossing gate or a barrier at a railroad crossing while the gate or barrier is closed, being closed, or being opened.
(e) In a prosecution under this section, proof that at the time of the offense a train was in hazardous proximity to the crossing and that the train was plainly visible to the operator is prima facie evidence that it was not safe for the operator to proceed.
(f) An offense under this section is punishable by a fine of not less than $ 50 or more than $ 200.
Tex. Transp. Code § 545.251(2012)

§ 545.302. Stopping, Standing, or Parking Prohibited in Certain Places
(c) An operator may not, except temporarily to load or unload merchandise or passengers, park an occupied or unoccupied vehicle:
(1) within 50 feet of the nearest rail of a railroad crossing;
Tex. Transp. Code § 545.302 (2012) Excerpt from applicable statute published.

§ 545.351. Maximum Speed Requirement
(a) An operator may not drive at a speed greater than is reasonable and prudent under the circumstances then existing.
(b) An operator:
(1) may not drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for actual and potential hazards then existing; and
(2) shall control the speed of the vehicle as necessary to avoid colliding with another person or vehicle that is on or entering the highway in compliance with law and the duty of each person to use due care.

(c) An operator shall, consistent with Subsections (a) and (b), drive at an appropriate reduced speed if:
(1) the operator is approaching and crossing an intersection or railroad grade crossing;
(2) the operator is approaching and going around a curve;
(3) the operator is approaching a hill crest;
(4) the operator is traveling on a narrow or winding roadway; and
(5) a special hazard exists with regard to traffic, including pedestrians, or weather or highway conditions.
Tex. Transp. Code § 545.351 (2012)

Utah

§ 41-6a-601. Speed regulations -- Safe and appropriate speeds at certain locations -- Prima facie speed limits -- Emergency power of the governor
(1) A person may not operate a vehicle at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing, including when:
(a) approaching and crossing an intersection or railroad grade crossing;
(2) Subject to Subsections (1) and (4) and Sections 41-6a-602 and 41-6a-603, the following speeds are lawful:
(a) 20 miles per hour in a reduced speed school zone as defined in Section 41-6a-303;
(b) 25 miles per hour in any urban district; and
(c) 55 miles per hour in other locations.
(3) Except as provided in Section 41-6a-604, any speed in excess of the limits provided in this section or established under Sections 41-6a-602 and 41-6a-603 is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.
Utah Code Ann. § 41-6a-601(1a)(2)(3) (2012) Excerpt from applicable statute published.

§ 41-6a-707. Limitations on driving on left side of road -- Exceptions
(1) A person may not operate a vehicle on the left side of the roadway:
(a) when approaching or on a crest of a grade or a curve on the highway where the person's view is obstructed within a distance which creates a hazard if another vehicle approached from the opposite direction;
(b) when approaching within 100 feet of or traversing any intersection or railroad grade crossing unless otherwise indicated by a traffic-control device or a peace officer
Utah Code Ann. § 41-6a-707(1a-b) (2012) Excerpt from applicable statute published.

***§ 41-6a-802. Turning around -- Where prohibited -- Visibility**
(1) As used in this section, “railroad grade crossing” means the area between the passive or active warning signs where a railroad track and roadway intersect.
(2) The operator of a vehicle may not make a U-turn or turn the vehicle to proceed in the opposite direction:
(c) on a railroad track or railroad grade crossing.
Utah Code Ann. § 41-6a-802(1)(2c) (2012) Excerpt from applicable statute published.

§ 41-6a-1203. Railroad grade crossing -- Duty to stop -- Malfunctions and school buses -- Driving through, around, or under gate or barrier prohibited
(1) As used in this section, “active railroad grade crossing” has the same meaning as defined in Section 41-6a-1005.

(2) Whenever a person operating a vehicle approaches a railroad grade crossing, the operator of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad track and may not proceed if:
(a) a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;
(b) a crossing gate is lowered, or when a human flagman gives or continues to give a signal of the approach or passage of a train;
(c) a railroad train approaching within approximately 1,500 feet of the highway crossing emits a signal audible and the train by reason of its speed or nearness to the crossing is an immediate hazard;
(d) an approaching train is plainly visible and is in hazardous proximity to the crossing; or
(e) there is any other condition that makes it unsafe to proceed through the crossing.
(3)(a) An operator of a vehicle who suspects a false activation or malfunction of a railroad grade crossing signal device where there is no gate or barrier may drive a vehicle through the railroad grade crossing after stopping if:
(i) the operator of a vehicle has a clear line of sight of at least one mile of the railroad tracks in all directions;
(ii) there is no evidence of an approaching train;
(iii) the vehicle can cross over the tracks safely; and
(iv) the operator of a school bus is compliant with written district policy.
(b) As soon as is reasonably possible, the operator of a school bus shall notify the driver's dispatcher and the dispatcher shall notify the owner of the railroad track where the grade crossing signal device is located of the false activation or malfunction.
(4)(a) A person may not drive a vehicle through, around, or under a crossing gate or barrier at a railroad grade crossing if the railroad grade crossing is active.
(b) A person may not cause a non-rail vehicle, whether or not occupied, to pass through, around, over, or under or remain on a gate or barrier at a railroad grade crossing if the railroad grade crossing is active.
(c) A person may not cause a non-rail vehicle, whether or not occupied, to pass around, through, over, or under or remain in a rail or fixed guideway right-of-way in a manner that would cause a railroad train or other rail vehicle to make contact with the non-rail vehicle.
Utah Code Ann. § 41-6a-1203 (2012)

§ 41-6a-1707. Entering intersection, crosswalk, or railroad grade -- Sufficient space required
The operator of a vehicle may not enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic-control signal indication to proceed.
Utah Code Ann. § 41-6a-1707 (2012)

<u>Vermont</u>

§ 1035. Limitations
(a) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this chapter and unless the left side is clearly visible and free of oncoming traffic for a sufficient

distance ahead to permit overtaking and passing to be completed without interfering with the operation of any vehicle approaching from the opposite direction or of any vehicle overtaken. In every event the overtaking vehicle shall return to an authorized lane of travel as soon as practicable and, if the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle.
(b) A vehicle shall not pass another from the rear under any of the following conditions:
(1) When approaching or upon the crest of a grade or upon a curve in the highway where the driver's view is in any way obstructed;
(2) When approaching within 100 feet of, or traversing, any intersection or railroad grade crossing unless otherwise indicated by official traffic control devices; or
(3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
(c) The foregoing limitations do not apply upon a one-way roadway, or when subdivision 1031(a)(2) of this title applies, or where a vehicle is turning left into an alley, private road or driveway.
Vt. Stat. Ann. tit. 23, § 1035 (2013)

§ 1071. Railroad grade crossings
(a) A driver approaching a railroad grade crossing shall stop within 50 feet of, but not nearer than 15 feet from, the nearest rail of the railroad, and may not proceed until he can do so safely, when
(1) An electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or a human flagman gives a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within 80 rods (1320 feet) of the highway crossing emits a signal audible from that distance, and the train, by reason of its speed or nearness, is an immediate hazard;
(4) A railroad train is plainly visible and is in hazardous proximity to or is at the crossing; or
(5) A stop sign has been erected at the crossing pursuant to section 1006 of this title.
(b) No person shall 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.
(c) 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 or she first brings the vehicle to a full stop and reasonably ascertains that the tracks can be crossed safely.
Vt. Stat. Ann. tit. 23, § 1071 (2013)

§ 1081. Basic rule and maximum limits
(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions, having regard for the actual and potential hazards then existing. In every event speed shall be controlled as necessary to avoid colliding with any person, vehicle or other object on or adjacent to the highway.
(b) Except when there exists a special hazard that requires lower speed in accordance with subsection (a) of this section, the limits specified in this section or established as hereinafter authorized are maximum lawful speeds, and no person shall drive a vehicle on a highway at a speed in excess of 50 miles per hour.
(c) The maximum speed limits set forth in this section may be altered in accordance with sections 1003, 1004, 1007, and 1010 of this title.

(d) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate, reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching the crest of a hill, when traveling upon any narrow or winding roadway, and when special hazard exists.
Vt. Stat. Ann. tit. 23, § 1081 (2013)

Virginia

***§ 46.2-803. Keep to the right in crossing intersections or railroads**
Except as otherwise provided by law, when crossing an intersection of highways or the intersection of a highway by a railroad right-of-way, the driver of a vehicle shall drive on the right half of the roadway unless it is obstructed or impassable. When crossing an intersection of highways, however, the driver of a vehicle may overtake or pass another vehicle in the intersection if such intersection is designated and marked as a passing zone.
Va. Code Ann. § 46.2-803 (2012)

§ 46.2-858. Passing at a railroad grade crossing
A person shall be guilty of reckless driving who overtakes or passes any other vehicle proceeding in the same direction at any railroad grade crossing or at any intersection of highways unless such vehicles are being operated on a highway having two or more designated lanes of roadway for each direction of travel or unless such intersection is designated and marked as a passing zone or on a designated one-way street or highway, or while pedestrians are passing or about to pass in front of either of such vehicles, unless permitted so to do by a traffic light or law-enforcement officer.
Va. Code Ann. § 46.2-858 (2012)

§ 46.2-884. Railroad warning signals must be obeyed
No person driving a vehicle shall disobey a clearly visible or audible crossing signal which gives warning of the immediate approach of a train at a railroad grade crossing.
Va. Code Ann. § 46.2-884 (2012)

§ 46.2-885. When vehicles to stop at railroad grade crossings
A. Except in cities or towns, whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
1. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train;
2. A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a train;
3. A train approaching such crossing gives the signals required by § 56-414;
4. An approaching train or any self-propelled machinery or automobile type vehicle traveling on a railroad track is plainly visible and is in hazardous proximity to such crossing, regardless of whether a clearly visible electric or mechanical signal device or flagman gives warning.
B. No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroadcrossing while such gate or barrier is closed or is being opened or closed.
Va. Code Ann. § 46.2-885 (2012)

Washington

***§ 46.61.202. Stopping when traffic obstructed**
No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains notwithstanding any traffic control signal indications to proceed.
Wash. Rev. Code Ann. § 46.61.202 (2012)

§ 46.61.340. Approaching train signal
(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until the crossing can be made safely. The foregoing requirements shall apply when:
(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;
(c) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
Wash. Rev. Code Ann. § 46.61.340 (2012)

§ 46.61.345. All vehicles must stop at certain railroad grade crossings
The state department of transportation and local authorities within their respective jurisdictions are authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs at those crossings. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of the railroad and shall proceed only upon exercising due care.
Wash. Rev. Code Ann. § 46.61.345 (2012)

§ 46.61.400. Basic rule and maximum limits
(1) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.
(3) The driver of every vehicle shall, consistent with the requirements of subsection (1) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway gradecrossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.
Wash. Rev. Code Ann. § 46.61.400(1)(3) (2012) Excerpt from applicable statute published.

§ 46.61.570. Stopping, standing, or parking prohibited in specified places -- Reserving portion of highway prohibited
(1) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:
(a) Stop, stand, or park a vehicle:

(viii) On any railroad tracks;
(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:
(i) Within fifty feet of the nearest rail of a railroad crossing
Wash. Rev. Code Ann. § 46.61.570 (2012) Excerpt from applicable statute published.

West Virginia

§ 17C-12-1. Obedience to signal indicating approach of train.
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
(3) A railroad train approaching within approximately one thousand five hundred feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
(4) Any approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
(c) Any person failing to comply with the requirements of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined one hundred dollars or imprisoned for not more than ten days. The commissioner shall promulgate rules to further penalize those convicted of violating this section by levying three points against the violator's driver's license record: Provided, That if the electric or mechanical signal device is malfunctioning, this subsection shall not apply.
W. Va. Code Ann. § 17C-12-1 (2012)

§ 17C-13-3. Stopping, standing or parking prohibited in specified places; penalty.
(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:
(10) Within fifty feet of the nearest rail of a railroad crossing;
(b) No person shall move a vehicle not lawfully under his or her control into any prohibited area or away from a curb such distance as is unlawful.
(c) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.
W. Va. Code Ann. § 17C-13-3(a-10)(b-c) (2012) Excerpt from applicable statute published.

§ 17C-6-1. Speed limitations generally; penalty.
(a) No person may drive a vehicle on a highway at a speed greater than is reasonable and prudent under the existing conditions and the actual and potential hazards. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other

conveyance on or entering the highways in compliance with legal requirements and the duty of all persons to use due care.
(c) The driver of every vehicle shall, consistent with the requirements of subsection (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.
W. Va. Code Ann. § 17C-6-1(a),(c) (2012) Excerpt from applicable statute published.

§ 17C-7-6. Same -- Further limitations on driving to left of center of roadway; penalty.
(a) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:
(1) When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
(2) When approaching within one hundred feet of or traversing any intersection or railroad grade crossing;
(b) The foregoing limitations shall not apply upon a one-way roadway.
(c)Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars; upon a second conviction within one year thereafter, shall be fined not more than two hundred dollars; and upon a third or subsequent conviction, shall be fined not more than five hundred dollars.
W. Va. Code Ann. § 17C-7-6 (2012) Excerpt from applicable statute published.

Wisconsin

346.10. When passing at a railroad crossing, intersection, bridge, viaduct or tunnel prohibited.
(1) The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction when approaching within 100 feet of or traversing any railroad crossing unless the roadway is of sufficient width for 2 or more lines of vehicles to lawfully proceed simultaneously in the direction in which such vehicle is proceeding or unless permitted or directed by a traffic officer to pass at such crossing.
(2) Subject to the exception stated in sub. (3), the operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction when approaching within 100 feet of or traversing any intersection unless the roadway is marked or posted for 2 or more lines of vehicles moving simultaneously in the direction in which such vehicle is proceeding or unless permitted or directed by a traffic officer to pass at such intersection.
(3) Outside of a business or residence district, the restrictions which sub. (2) places upon passing at an intersection apply only if such intersection is designated in the direction of travel by a traffic control signal, stop sign, yield sign or sign that warns traffic of existing or potentially hazardous conditions on or adjacent to the roadway.
Wis. Stat. § 346.10(1-3) (2012) Excerpt from applicable statute published.

346.44. All vehicles to stop at signal indicating approach of train.
(1) The operator of a vehicle shall not drive on or across a railroad crossing under any of the following circumstances:

(a) While any traffic officer or railroad employee signals to stop;(b) While any warning device signals to stop, except that if the operator of the vehicle after stopping and investigating finds that no railroad train or railroad track equipment is approaching the operator may proceed.
(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while any railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.
(2) The operator of a vehicle shall not drive through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.
Wis. Stat. § 346.44 (2012)

346.52. Stopping prohibited in certain specified places.
(1) No person may stop or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, in any of the following places:
(i) Within 25 feet of the nearest rail at a railroad crossing.
Wis. Stat. § 346.52(1)(i) (2012) Excerpt from applicable statute published.

346.57. Speed restrictions.
(3) CONDITIONS REQUIRING REDUCED SPEED.
The operator of every vehicle shall, consistent with the requirements of sub. (2), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, when passing school children, highway construction or maintenance workers or other pedestrians, and when special hazard exists with regard to other traffic or by reason of weather or highway conditions.
Wis. Stat. § 346.57(3) (2012) Excerpt from applicable statute published.

***346.177. Railroad crossing improvement surcharge for vehicles illegally passing at railroad crossings.**
(1) Whenever a court imposes a forfeiture under s. 346.17 (2m) for a violation of s. 346.10 (1), the court shall also impose a railroad crossing improvement surcharge under ch. 814 equal to 50% of the amount of the forfeiture.
(2) If a forfeiture is suspended in whole or in part, the railroad crossing improvement surcharge shall be reduced in proportion to the suspension.
(3) If any deposit is made for an offense to which this section applies, the person making the deposit shall also deposit a sufficient amount to include the railroad crossing improvement surcharge under this section. If the deposit is forfeited, the amount of the railroad crossing improvement surcharge shall be transmitted to the secretary of administration under sub. (4) If the deposit is returned, the amount of the railroad crossing improvement surcharge shall also be returned.
(4) The clerk of the circuit court shall collect and transmit to the county treasurer the railroad crossing improvement surcharge as required under s. 59.40 (2) (m) The county treasurer shall then pay the secretary of administration as provided in s. 59.25 (3) (f) 2. The secretary of administration shall deposit all amounts received under this subsection in the transportation fund to be appropriated under s. 20.395 (2) (gj)
Wis. Stat. § 346.177 (2012)

<u>Wyoming</u>

§ 31-5-205. Additional limitations on driving on the left; exceptions.

(a) No vehicle shall be driven on the left side of the roadway under the following conditions:
(ii) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing unless otherwise indicated by official traffic-control devices;
Wyo. Stat. Ann. § 31-5-205(a-ii) (2012) Excerpt from applicable statute published.

§ 31-5-301. Maximum speed limits.
(a) No person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.
Wyo. Stat. Ann. § 31-5-301(a) (2012) Excerpt from applicable statute published.

§31-5-504. Specific places where prohibited.
(a) Except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, no person shall:
(iii) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:
(A) Within fifty (50) feet of the nearest rail of a railroad crossing;
Wyo. Stat. Ann. § 31-5-504(a)(iii)(A) (2012) Excerpt from applicable statute published.

§ 31-5-510. Railroad crossings generally.
(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of the vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad, and shall not proceed until he can do so safely. The foregoing requirements apply when:
(i) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
(ii) A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train;
(iii) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the highway crossing emits a signal audible from such distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard;
(iv) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.
(b) No person shall 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.
Wyo. Stat. Ann. § 31-5-510 (2012)

Chapter 9: Trespassing

CHAPTER OVERVIEW

In all of the states, it is a violation of the law to trespass on any private property without permission of the owner or without having an official reason.

This chapter gives a state-by-state listing of trespassing laws as they pertain to railroad property and equipment. In the majority of states, trespassing laws have been placed in sections of the codes that address property crimes and general offenses. A number of states specifically forbid trespassing on railroad property and facilities. As in other chapters, the relevant code sections are listed.

Alabama

§ 13A-7-3. Criminal trespass; second degree.
(a) A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in a building or upon real property which is fenced or enclosed in a manner designed to exclude intruders.
(b) Criminal trespass in the second degree is a Class C misdemeanor.
Ala. Code § 13A-7-3 (2012)

§ 13A-7-4. Criminal trespass; third degree.
(a) A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises.
(b) Criminal trespass in the third degree is a violation.
Ala. Code § 13A-7-4 (2012)

***§ 37-8-91. Jumping on or off trains in motion.**
Any person not a passenger or intended passenger, employee or agent of a railroad, or an officer of any city or town, or sheriff or his deputy, or such persons as may go upon the train to act as escort to assist some person who has taken passage, who jumps on or off any train while in motion, shall be guilty of a misdemeanor, and, on conviction, shall be punished by fine and imprisonment, either or both, at the discretion of the court, not to exceed $25.00 fine and 30 days in the county jail.
Ala. Code § 37-8-91 (2012)

Alaska

Sec. 11.46.330. Criminal trespass in the second degree
(a) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully
(1) in or upon premises; or
(2) in a propelled vehicle.
(b) Criminal trespass in the second degree is a class B misdemeanor.
Alaska Stat. § 11.46.330 (2012)

Arizona

§ 13-1502. Criminal trespass in the third degree; classification
A. A person commits criminal trespass in the third degree by:
2. Knowingly entering or remaining unlawfully on the right-of-way for tracks, or the storage or switching yards or rolling stock of a railroad company.
B. Criminal trespass in the third degree is a class 3 misdemeanor.
Ariz. Rev. Stat. § 13-1502 (LexisNexis 2012) Excerpt from applicable statute published.

Arkansas

23-12-802. Trespassers boarding trains.
Any person who shall board any passenger, freight, or other railway train, whether moving or standing still, for any purpose and without good faith intending to become a passenger thereon and with no lawful business thereon and with intent to obtain a free ride on the train, however short the distance, without the consent of the person or persons in charge thereof shall be deemed guilty of a misdemeanor. Upon conviction thereof that person shall be punished by a fine of not less than one dollar ($1.00) nor more than ten dollars ($10.00). However, no person shall be so arrested except at the request of an agent or employee of the railroad company.
Ark. Code. Ann. § 23-12-802 (2012)

California

Pen Code § 369i. Unauthorized entry upon railroad property
(a) Any person who enters or remains upon the property of any railroad without the permission of the owner of the land, the owner's agent, or the person in lawful possession and whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders, or which, if allowed to continue, would interfere with, interrupt, or hinder the safe and efficient operation of any locomotive, railway car, or train is guilty of a misdemeanor.
As used in this subdivision, “property of any railroad” means any land owned, leased, or possessed by a railroad upon which is placed a railroad track and the land immediately adjacent thereto, to the distance of 20 feet on either side of the track, which is owned, leased, or possessed by a railroad.
(b) Any person who enters or remains upon any transit-related property without permission or whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders the safe and efficient operation of the transit-related facility is guilty of a misdemeanor.
As used in this subdivision, “transit-related property” means any land, facilities, or vehicles owned, leased, or possessed by a county transportation commission, transportation authority, or transit district, as defined in Section 99170 of the Public Utilities Code, that are used to provide public transportation by rail or passenger bus or are directly related to that use.
(c) This section does not prohibit picketing in the immediately adjacent area of the property of any railroad or transit-related property or any lawful activity by which the public is informed of the existence of an alleged labor dispute.
Cal. Pen. Code § 369i (Deering 2012)

Pen Code § 554 Property that may be posted
Any property, except that portion of such property to which the general public is accorded access, may be posted against trespassing and loitering in the manner provided in Section 554.1, and thereby become posted property subject to the provisions of this article applicable to posted property, if such property consists of, or is used, or is designed to be used, for any one or more of the following:

(g) A railroad right-of-way, railroad bridge, railroad tunnel, railroad shop, railroad yard, or other railroad facility.
Cal. Pen. Code § 554(g) (Deering 2012) Excerpt from applicable statute published.

***Pen Code § 587b Trespassing on railroad trains structures**
Every person, who shall, without being thereunto authorized by the owner, lessee, person or corporation operating any railroad, enter into, climb upon, hold to, or in any manner attach himself to any locomotive, locomotive-engine tender, freight or passenger car upon such railroad, or any portion of any train thereon, shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine not exceeding fifty dollars ($50), or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.
Cal. Pen. Code § 587b (Deering 2012)

Colorado

18-9-118. Firearms, explosives, or incendiary devices in facilities of public transportation
A person commits a class 6 felony if, without legal authority, he has any loaded firearm or explosive or incendiary device, as defined in section 9-7-103, C.R.S., in his possession in, or carries, brings, or causes to be carried or brought any of such items into, any facility of public transportation, as defined in section 18-9-115 (4).
Colo. Rev. Stat. 18-9-118 (2012)

Connecticut

Sec. 53a-107. Criminal trespass in the first degree: Class A misdemeanor.
(a) A person is guilty of criminal trespass in the first degree when: (1) Knowing that such person is not licensed or privileged to do so, such person enters or remains in a building or any other premises after an order to leave or not to enter personally communicated to such person by the owner of the premises or other authorized person; or (2) such person enters or remains in a building or any other premises in violation of a restraining order issued pursuant to section 46b-15 or a protective order issued pursuant to section 46b-38c, 54-1k or 54-82r by the Superior Court; or (3) such person enters or remains in a building or any other premises in violation of a foreign order of protection, as defined in section 46b-15a, that has been issued against such person in a case involving the use, attempted use or threatened use of physical force against another person; or (4) knowing that such person is not licensed or privileged to do so, such person enters or remains on public land after an order to leave or not to enter personally communicated to such person by an authorized official of the state or a municipality, as the case may be.
(b) Criminal trespass in the first degree is a class A misdemeanor.
Conn. Gen. Stat. § 53a-107 (2012)

Sec. 53a-108. Criminal trespass in the second degree: Class B misdemeanor.
(a) A person is guilty of criminal trespass in the second degree when, knowing that such person is not licensed or privileged to do so, (1) such person enters or remains in a building, or (2) such person enters or remains on public land.
(b) Criminal trespass in the second degree is a class B misdemeanor.
Conn. Gen. Stat. § 53a-108 (2012)

Sec. 53a-109. Criminal trespass in the third degree: Class C misdemeanor.

(a) A person is guilty of criminal trespass in the third degree when, knowing that such person is not licensed or privileged to do so: (1) Such person enters or remains in premises which are posted in a manner prescribed by law or reasonably likely to come to the attention of intruders or are fenced or otherwise enclosed in a manner designed to exclude intruders, or which belong to the state and are appurtenant to any state institution; or (2) such person enters or remains in any premises for the purpose of hunting, trapping or fishing; or (3) such person enters or remains on public land which is posted in a manner prescribed by law or reasonably likely to come to the attention of intruders or is fenced or otherwise enclosed in a manner designed to exclude intruders.
(b) Criminal trespass in the third degree is a class C misdemeanor.
Conn. Gen. Stat. § 53a-109 (2012)

Sec. 53a-110d. Simple trespass of railroad property: Infraction.
(a) A person is guilty of simple trespass of railroad property when, knowing that such person is not licensed or privileged to do so, such person enters or remains on railroad property without lawful authority or the consent of the railroad carrier.
Conn. Gen. Stat. § 53a-110d (2012)

Delaware

§ 1811. Fences and cattle guards; liability for damages; trespass with animals; walking on tracks; penalties
No person other than those connected with or employed upon the railroad shall walk along the tracks of any such railroad, except when the same are laid along public roads or streets.
Del. Code Ann. tit. 2, § 1811 (2012) Excerpt from applicable statute published.

District of Columbia

24-120. Railroads and Railroad Crossings.
120.1 No unauthorized person shall loiter, walk, ride, drive, or otherwise trespass upon any of the following:
(a) Railroad tracks;
(b) The bridges or elevated or depressed structures carrying tracks;
(c) Locomotives or cars operated on tracks; or
(d) In tunnels or underpasses designed or used solely for the accommodation of tracks of any steam, diesel, or electric railroad company operating in the District of Columbia.
D.C. Mun. Regs. tit. 24, §120 (2013)

Florida

§ 860.04. Riding or attempting to ride on a railroad train with intent to ride free
Any person who, without permission of those having authority, with the intention of being transported free, rides or attempts to ride on any railroad train in this state shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
Fla. Stat. Ann. § 860.04 (2013)

§ 860.05. Unauthorized person interfering with railroad train, cars, or engines
Any person, other than an employee or authorized agent of the railroad company acting within the line of duty, who shall knowingly or willfully detach or uncouple any train; put on, apply, or tamper with any brake, bell cord, or emergency valve; or otherwise interfere with any train,

engine, car, or part thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
Fla. Stat. Ann. § 860.05 (2013)

Georgia

§ 16-7-21. Criminal trespass
(a) A person commits the offense of criminal trespass when he or she intentionally damages any property of another without consent of that other person and the damage thereto is $500.00 or less or knowingly and maliciously interferes with the possession or use of the property of another person without consent of that person.
(b) A person commits the offense of criminal trespass when he or she knowingly and without authority:
(1) Enters upon the land or premises of another person or into any part of any vehicle, railroad car, aircraft, or watercraft of another person for an unlawful purpose;
(2) Enters upon the land or premises of another person or into any part of any vehicle, railroad car, aircraft, or watercraft of another person after receiving, prior to such entry, notice from the owner, rightful occupant, or, upon proper identification, an authorized representative of the owner or rightful occupant that such entry is forbidden; or
(3) Remains upon the land or premises of another person or within the vehicle, railroad car, aircraft, or watercraft of another person after receiving notice from the owner, rightful occupant, or, upon proper identification, an authorized representative of the owner or rightful occupant to depart.
(c) For the purposes of subsection (b) of this Code section, permission to enter or invitation to enter given by a minor who is or is not present on or in the property of the minor's parent or guardian is not sufficient to allow lawful entry of another person upon the land, premises, vehicle, railroad car, aircraft, or watercraft owned or rightfully occupied by such minor's parent or guardian if such parent or guardian has previously given notice that such entry is forbidden or notice to depart.
(d) A person who commits the offense of criminal trespass shall be guilty of a misdemeanor.
(e) A person commits the offense of criminal trespass when he or she intentionally defaces, mutilates, or defiles any grave marker, monument, or memorial to one or more deceased persons who served in the military service of this state, the United States of America or any of the states thereof, or the Confederate States of America or any of the states thereof, or a monument, plaque, marker, or memorial which is dedicated to, honors, or recounts the military service of any past or present military personnel of this state, the United States of America or any of the states thereof, or the Confederate States of America or any of the states thereof if such grave marker, monument, memorial, plaque, or marker is privately owned or located on land which is privately owned.
Ga. Code Ann. § 16-7-21 (2012)

§ 46-8-381. Hiding on train for purpose of stealing a ride
Any person who rides or attempts to ride on a railroad train of any character and conceals himself from the conductor or train authorities by hiding under the train, or on top of the train, or in box cars, on tenders, or elsewhere, for the purpose of avoiding the payment of fare or of stealing a ride thereon, shall be guilty of a misdemeanor.
Ga. Code Ann. § 46-8-381 (2012)

§ 46-8-380. Intruding on railroad tracks

Any person intruding unlawfully upon the constructed track of a railroad company, contrary to the will of the company, shall be guilty of a misdemeanor.
Ga. Code Ann. § 46-8-380 (2012)

Hawaii

§ 708-814. Criminal trespass in the second degree.
(1) A person commits the offense of criminal trespass in the second degree if:
(a) The person knowingly enters or remains unlawfully in or upon premises that are enclosed in a manner designed to exclude intruders or are fenced;
(b) The person enters or remains unlawfully in or upon commercial premises after a reasonable warning or request to leave by the owner or lessee of the commercial premises, the owner's or lessee's authorized agent, or a police officer; provided that this paragraph shall not apply to any conduct or activity subject to regulation by the National Labor Relations Act.
For the purposes of this paragraph, "reasonable warning or request" means a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may contain but is not limited to the following information:
(i) A warning statement advising the person that the person's presence is no longer desired on the property for a period of one year from the date of the notice, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to section 708-814(1)(b), and that criminal trespass in the second degree is a petty misdemeanor;
(ii) The legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, racial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics of the person warned;
(iii) The name of the person giving the warning along with the date and time the warning was given; and
(iv) The signature of the person giving the warning, the signature of a witness or police officer who was present when the warning was given and, if possible, the signature of the violator;
(c) The person enters or remains unlawfully on agricultural lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the agricultural lands:
(i) Are fenced, enclosed, or secured in a manner designed to exclude intruders;
(ii) Have a sign or signs displayed on the unenclosed cultivated or uncultivated agricultural land sufficient to give notice and reading as follows: "Private Property". The sign or signs, containing letters not less than two inches in height, shall be placed along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line; or
(iii) At the time of entry, are fallow or have a visible presence of livestock or a crop:
(A) Under cultivation;
(B) In the process of being harvested; or
(C) That has been harvested;or
(d) The person enters or remains unlawfully on unimproved or unused lands without the permission of the owner of the land, the owner's agent, or the person in lawful possession of the land, and the lands:
(i) Are fenced, enclosed, or secured in a manner designed to exclude the general public; or
(ii) Have a sign or signs displayed on the unenclosed, unimproved, or unused land sufficient to give reasonable notice and reads as follows: "Private Property - No Trespassing", "Government Property - No Trespassing", or a substantially similar message; provided that the sign or signs

shall contain letters not less than two inches in height and shall be placed at reasonable intervals along the boundary line of the land and at roads and trails entering the land in a manner and position as to be clearly noticeable from outside the boundary line.
For the purposes of this paragraph, “unimproved or unused lands” means any land upon which there is no improvement; construction of any structure, building, or facility; or alteration of the land by grading, dredging, or mining that would cause a permanent change in the land or that would change the basic natural condition of the land. Land remains “unimproved or unused land” under this paragraph notwithstanding minor improvements, including the installation or maintenance of utility poles, signage, and irrigation facilities or systems; minor alterations undertaken for the preservation or prudent management of the unimproved or unused land, including the installation or maintenance of fences, trails, or pathways; maintenance activities, including forest plantings and the removal of weeds, brush, rocks, boulders, or trees; and the removal or securing of rocks or boulders undertaken to reduce risk to downslope properties.
(2) Criminal trespass in the second degree is a petty misdemeanor.
Haw. Rev. Stat. Ann. § 708-814(2012)

Idaho

§ 18-4618. Stealing rides on trains -- Authority of conductors and engineers to arrest
Authority is hereby given to and conferred upon railroad conductors and engineers of railroad trains, to immediately arrest, without warrant or other process, any person or persons violating the preceding section, and deliver such persons to any peace officer: provided, that nothing in this section contained shall be construed to restrict the authority or duty of the regular officer within the state of making arrests for said offense.
Idaho Code Ann. § 18-4618 (2012)

§ 18-6012. Offenses against railroads
Any person disturbing the peace of any traveler on any railway train, or breaking the seal or forcibly entering any car, or disturbing the contents of any car, or breaking any package therein, or breaking any package left at any depot for transportation or delivery, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars ($ 1,000), or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.
Idaho Code Ann.§ 18-6012 (2012)

Illinois

§ 625 ILCS 5/18c-7503. Trespassing on railroad property; terminal security
(1) Trespassing on railroad property prohibited.
(a) General prohibition. Except as otherwise provided in paragraph (b) of this subsection, no person may:
(i) walk, ride, drive or be upon or along the right of way or rail yard of a rail carrier within the State, at a place other than a public crossing;
(ii) enter or be upon any railroad property;
(iii) without lawful authority or the railroad carrier's consent, ride on the outside of a train or inside a passenger car, locomotive, or freight car, including a box car, flatbed, or container;
(iv) willfully lead or contrive any animal to go upon the railroad's rights of way for any reason other than to pass over such rights of way at a marked public crossing; or

(v) throw or cause to be thrown on to the railroad's rights of way any waste paper, ashes, household waste, glass, metal, tires, refuse, or rubbish.
(b) Exceptions. This subsection shall not apply to:
(i) fare paying passengers on trains or employees of a rail carrier;
(ii) railroad employees and an authorized representative of rail carrier employees, while performing required duties in accordance with reasonable rail carrier company guidelines;
(iii) a person going upon the right of way or into the rail yard to save human life or to remove an object that a reasonable person would believe poses an imminent threat to human life or limb;
(iv) a person being on the station grounds or in the depot of the rail carrier for the purpose of transacting business;
(v) a person, his family, or his employees or agents going across a farm crossing, as defined in this Chapter, for the purpose of crossing from one part to another part of a farm he owns or leases, where the farm lies on both sides of the right of way;
(vi) a person having written permission from the rail carrier to go upon the right of way or into the rail yard;
(vii) representatives of local, State, and federal governmental agencies in performance of their official duties; and
(viii) a person having written permission from the rail carrier to go in or be upon railroad property.
(2) Penalties.
(a) Any person found in violation of item (i), (ii), (iii) or (iv) of paragraph (a) of subsection (1) shall be guilty of a Class C misdemeanor for a first offense. In addition to such other sanctions as may be deemed appropriate by the court, the person shall be subject to a mandatory fine of not less than $ 150 or more than $ 500, or to imprisonment for not less than 5 days nor more than 30 days, or both. For each subsequent offense, the person shall be guilty of a Class A misdemeanor. In addition to such sanctions as may be deemed appropriate by the court, the person shall be subject to a mandatory fine of not less than $ 500 nor more than $ 1,000, or to imprisonment for not less than 10 days or more than one year, or both.
(b) Any person found in violation of item (v) of paragraph (a) of subsection (1) shall be guilty of an offense and in addition to such sanctions as may be deemed appropriate by the court shall be subject to a fine of not less than $ 100 nor more than $ 500, or community service of not less than 8 hours nor more than 50 hours, or both. If damage to any railroad property or bodily injury occurs to another as a result of a violation of item (v) of paragraph (a) of subsection (1), that person shall be charged with the offense of Malicious Removal of or Damage to Railroad Property or Freight pursuant to Section 18c-7502 [625 ILCS 5/18c-7502].
(c) Local authorities shall impose fines as established in paragraphs (a) and (b) of this subsection (2) for persons found in violation of this Section or any similar local ordinance.
(2.5) Terminal security. The owner of a terminal is expressly authorized, within the terminal property, to construct and operate berms, commercially constructed electric fences, and monitoring equipment as security measures for reducing the economic impact of theft, enhancing homeland security, and improving the protection of the general public welfare. The terminal owner shall properly operate and maintain these security measures. Any electric fence installed pursuant to this subsection shall: (i) be marked with appropriate signs; (ii) be entirely surrounded at a distance of at least 36 inches by properly maintained non-electric perimeter fences at least 8 feet tall; (iii) operate at a level of current that is not lethal to a human being upon contact; (iv) be covered at all times by an insurance policy maintained by the operator of the terminal for liability

from claims arising out of the operation of the fence in an amount not less than $ 10,000,000 per occurrence; and (v) be regularly monitored and inspected by a qualified electrician. The use of any of these security measures in accordance with this subsection is not a violation of this Sub-chapter.
625 Ill. Comp. Stat. Ann. 5/18c-7503 (1)(2) (2012) Excerpt from applicable statute published.

Indiana

8-3-15-3. Penalty for unauthorized use of railroad right-of-way -- Exceptions.
(a) A person who rides, drives, or walks on or along the right-of-way or yard of a railroad company at a place other than a public crossing commits a Class B misdemeanor.
(b) "Right-of-way" means the track or roadbed owned or leased by a railroad which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.
(c) "Yard" means a system of parallel tracks, cross-overs, and switches where cars are switched and made up into trains, and where cars, locomotives, and other rolling stock are kept when not in use or awaiting repairs.
(d) This section does not apply to:
(1) passengers on trains or employees of a railroad company while engaged in the performance of their duties;
(2) picketing by railroad employees in the vicinity of entrances to railroad company property;
(3) an authorized representative of the railroad employees;
(4) a person going upon the right-of-way or into the yard to save human life or to protect property;
(5) a person being on the station grounds or in the depot of the railroad company as a passenger or for the purpose of transacting business;
(6) a person, or the person's family or employees going upon the right-of-way for the purpose of crossing from one (1) part to another part of a farm the person owns or leases, where the farm lies on both sides of the right-of-way;
(7) a person having written permission from the railroad company to go upon the right-of-way;
(8) representatives of the Indiana department of transportation;
(9) representatives of the federal Surface Transportation Board; or
(10) a registered land surveyor or a land surveyor's employees who are on the right-of-way or in the yard for the purpose of making land surveys.
Ind. Code Ann. § 8-3-15-3 (2012)

***9-21-17-23. Breaching crossing gate at railroad by pedestrian prohibited.**
A pedestrian may not pass through, around, over, or under a crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.
Ind. Code Ann. § 9-21-17-23 (2012)

Iowa

716.7. Trespass defined.
1. The term "property" shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.
2. The term "trespass" shall mean one or more of the following acts:
e. Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This

paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering on to the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.
f. Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.
5. a. For purposes of this section, “railway property” means all tangible real and personal property owned, leased, or operated by a railway corporation with the exception of any administrative building or offices of the railway corporation.
b. For purposes of this section, “railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this state.
6. For purposes of this section, “public utility property” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind. For the purposes of this section, a “public utility” is a public utility as defined in section 476.1 or an electric transmission line as provided in chapter 478.
7. This section shall not apply to the following persons:
a. Representatives of the state department of transportation, the federal railroad administration, or the national transportation safety board who enter or remain upon or in railway property while engaged in the performance of official duties.
b. Employees of a railway corporation who enter or remain upon or in railway property while acting in the course of employment.
c. Any person who is engaged in the operation of a lawful business on railway station grounds or in the railway depot.
d. Representatives of the Iowa utilities board, the federal energy regulatory commission, or the federal communications commission who enter or remain upon or in public utility property while engaged in the performance of official duties.
e. Employees of a public utility who enter or remain upon or in public utility property while acting in the course of employment.
Iowa Code § 716.7(1)(2e-f)(4-7) (2012).

Kansas

***21-5809. Trespassing on railroad property.**
(a) Trespassing on railroad property is:
(1) Entering or remaining on railroad property, without consent of the owner or the owner's agent, knowing that it is railroad property; or
(2) recklessly causing in any manner the derailment of a train, railroad car or rail-mounted work equipment.
(b) Trespassing on railroad property is a:
(1) Class A nonperson misdemeanor, except as provided in subsection (b)(2);
(2) severity level 8, nonperson felony if such trespassing results in a demonstrable monetary loss, damage or destruction of railroad property valued at more than $ 1,500.

(c) Subsection (a) shall not be construed to interfere with the lawful use of a public or private crossing.
(d) Nothing in this section shall be construed as limiting a representative or member of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the railway labor act (45 U.S.C. 151, et seq.) and other federal labor laws.
(e) As used in this section "railroad property" includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad company.
Kan. Stat. Ann. § 21-5809 (2011)

Kentucky

277.350. Criminal trespass on railroad property.
(1) It shall be unlawful for any person without the consent of the railroad:
(a) To go upon the track, property, or right-of-way of a railroad, other than to pass over the track, property, or right-of-way at a public or private crossing; or
(b) To willfully ride, drive, or lead any animal or otherwise contrive for any animal to go over the track, property, or right-of-way at a public or private crossing.
(2) The provisions of this section shall not apply to any section of railroad track that has been legally abandoned and is not being used for railroad purposes.
(3) Any person violating this section shall be guilty of criminal trespass in the second degree.
Ky. Rev. Stat. Ann. § 277.350 (2012)

Louisiana

§ 14:63.3. Entry on or remaining in places or on land after being forbidden
A. No person shall without authority go into or upon or remain in or upon or attempt to go into or upon or remain in or upon any structure, watercraft, or any other movable, or immovable property, which belongs to another, including public buildings and structures, ferries, and bridges, or any part, portion, or area thereof, after having been forbidden to do so, either orally or in writing, including by means of any sign hereinafter described, by any owner, lessee, or custodian of the property or by any other authorized person. For the purposes of this Section, the above mentioned sign means a sign or signs posted on or in the structure, watercraft, or any other movable, or immovable property, including public buildings and structures, ferries and bridges, or part, portion or area thereof, at a place or places where such sign or signs may be reasonably expected to be seen.
B. Whoever violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned in the parish jail for not more than six months, or both.
La. Rev. Stat. Ann. § 14:63.3 (2012)

Maine

§ 7007. Penalty for being on track or bridge or entering track with team or vehicle
1. WALKING OR STANDING ON TRACK OR BRIDGE. A person may not, without right, stand or walk on a railroad track or railroad bridge or pass over a railroad bridge except by railroad conveyance.

2. ENTERING TRACK. A person may not, without right, enter upon a railroad track with a team or a vehicle however propelled or drive any team or propel a vehicle upon a railroad track.
3. PENALTIES. The following penalties apply to violations of this section.
A. A person who violates subsection 1 commits a civil violation for which a fine of not less than $ 5 and not more than $ 100 may be adjudged.
B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not less than $ 100 and not more than $ 500 may be adjudged.
C. A person who violates subsection 1 after having previously violated subsection 1 2 or more times commits a civil violation for which a fine of not less than $ 500 and not more than $ 1000 may be adjudged.
D. A person who violates subsection 2 commits a Class E crime.
Violation of subsection 2 is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.
Me. Rev. Stat. Ann. tit. 23, § 7007 (2012)

§ 7008. Posting of law
A printed copy of section 7007 shall be kept posted in a conspicuous place in every railroad passenger station; for failure to post, the corporation forfeits not more than $ 100 for every offense.
Me. Rev. Stat. Ann. tit. 23, § 7008 (2012)

Maryland

***§ 6-503. Unauthorized access to railroad vehicle**
(c) Prohibited -- Unauthorized riding; penalty. --
(1) Without the consent of the railroad carrier or other lawful authorization, a person may not ride on the outside or inside of a railroad vehicle, including a flatbed or container.
(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $ 1,000 or both.
(d) Prohibited -- Unauthorized entry; penalty. --
(1) Without the consent of the railroad carrier or other lawful authorization, and except to cross the property at a public highway or other authorized crossing, a person may not knowingly enter or remain on railroad property.
(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding $ 100 or both.
Md. Code Ann., Crim. Law § 6-503(c)(d) (2012) Excerpt from applicable statute published.

Massachusetts

§ 19. Breaking/Entering Railroad Car.
Whoever breaks and enters, or enters in the night time without breaking, a railroad car, with intent to commit a felony, shall be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than five hundred dollars and imprisonment in the house of correction for not more than two years.
Mass. Gen. Laws ch. 266, § 19 (2012)

***§ 218. Offenses and Penalties -- Standing, Walking or Riding Vehicle on Railroad Property.**
Whoever knowingly, without right is present, stands, walks, or rides a bicycle, snow vehicle, recreational or other vehicle on the right-of-way, bridge, or other property of, or used or

controlled by any railroad corporation, except at a highway or other authorized grade crossing and except on rights-of-way formally abandoned pursuant to state or federal law and no longer owned by said railroad corporation or rights-of-way owned by said railroad corporation but which have been converted or leased specifically for use as a bicycle or walking path in accordance with state or federal laws, shall be fined $100 or shall be required to perform a total of 50 hours of community service which may include service in the operation lifesaver program, so-called. Any person violating this section may be arrested without a warrant by any police officer, including railroad police, and proceeded against according to law.
Mass. Gen. Laws ch. 160, § 218 (2012)

Michigan

§ 462.273. Walking, riding, driving, or being upon or along right-of-way or yard; permission required; "right-of-way" defined; being upon, entering, or damaging buildings, rolling stock, or equipment; applicability of section; violation as misdemeanor; penalty.
Sec. 273. (1) Except in the case of a right-of-way designated as a demonstration snowmobile trail in section 82126 of part 821 (snowmobiles) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.82126 of the Michigan Compiled Laws, a person shall not walk, ride, drive, or be upon or along the right-of-way or yard of a railroad company operating its lines within this state, or go upon or cross the right-of-way or yard at a place other than a public or private crossing, unless having first obtained written permission from the owner or occupant railroad, its agent or servant.
(2) For purposes of this section, "right-of-way" means the track or roadbed owned by a railroad and that property owned by a railroad which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing, the existence of railroad tracks, or appropriate signs.
(3) A person shall not be upon, enter, or damage any buildings, rolling stock, or equipment of any railway company operating its lines within this state.
(4) This section shall not apply to any of the following:
(a) Passengers on trains or employees of a railroad company while engaged in the performance of the duties of their employment.
(b) An authorized representative of the railroad employees.
(c) A person going upon the right-of-way or tracks to save human life or to protect property.
(d) A person going or being upon or in the station grounds or depot of the railroad company as a passenger or for the purpose of transacting business with the railroad company.
(e) A person, members of his or her family, or his or her employees going upon the right-of-way or tracks for the purpose of crossing from 1 part to another of a farm he or she may own or lease, where the farm lies on both sides of the right-of-way.
(f) A person having written permission to go upon the right-of-way or tracks granted by the railroad company, a person using officially abandoned rights-of-way for recreational purposes, the Michigan public service commission, the state transportation department, the interstate commerce commission, or the federal railroad administration.
(g) A registered land surveyor or his or her employees for the purpose of making land surveys.
(5) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 30 days, or by a fine of not more than $100.00, or both.
Mich. Comp.Laws Serv. § 462.273 (2012)

Minnesota

609.85 CRIMES AGAINST RAILROAD EMPLOYEES AND PROPERTY; PENALTY
Subd. 6. Trespass; allowing animals on track; exception. --Whoever intentionally trespasses, or who permits animals under the person's control to trespass on a railroad track, yard, or bridge is guilty of a misdemeanor. This subdivision does not apply to an elected union official's access to those facilities when acting in an official capacity, to an employee acting within the scope of employment, or to a person with written permission from the railroad company to enter upon the railroad facility.
Minn. Stat. § 609.85(Subd. 6) (2012) Excerpt from applicable statute published.

Mississippi

§ 97-25-7. Railroads; driving vehicle or livestock on track
Any person who shall ride, drive any vehicle, drive any cattle, horses, mules or other livestock along or on any railroad track open and operated for traffic, unless by permission of the owners of said track, or their agent, shall be guilty of a misdemeanor and be fined not less than twenty-five dollars ($ 25.00) nor more than two hundred fifty dollars ($ 250.00). The penalty hereof shall not be incurred by operating a street railroad or by crossing a track.
Miss. Code Ann. § 97-25-7 (2012)

§ 97-25-15. Railroads; jumping on or off cars in motion
If any person, other than passengers or employees engaged in operating the railroad, shall wilfully climb, jump or step upon, or in any way attach himself to, or shall jump off a locomotive, tender or car while in motion on a railroad track or siding, he shall, upon conviction, be fined not less than fifty dollars ($ 50.00) nor more than two hundred dollars ($ 200.00), or be imprisoned in the county jail not less than five (5) days nor more than twenty-five (25) days, or both.
Miss. Code Ann. § 97-25-15 (2012)

Missouri

§ 389.650. Lawful fences, gates, who may build--trespassers
1. Every railroad corporation formed or to be formed in this state, and every corporation to be formed under this chapter, or any railroad corporation running or operating any railroad in this state, shall erect and maintain lawful fences on the side of the road where the same passes through, along or adjoining enclosed or cultivated fields or unenclosed lands, with openings and gates therein, to be hung and have latches or hooks, so that they may be easily opened and shut, at all necessary farm crossings of the road, for the use of the proprietors or owners of the land adjoining such railroad, and also to construct and maintain cattle guards, where fences are required, sufficient to prevent horses, cattle, mules and all other animals from getting on the railroad; and until fences, openings, gates and farm crossings and cattle guards as aforesaid shall be made and maintained, such corporation shall be liable in double the amount of all damages which shall be done by its agents, engines or cars to horses, cattle, mules or other animals on said road, or by reason of any horses, cattle, mules or other animals escaping from or coming upon said lands, fields or enclosures, occasioned in either case by the failure to construct or maintain such fences or cattle guards.
2. After such fences, gates, farm crossings and cattle guards shall be duly made and maintained, said corporation shall not be liable for any such damage, unless negligently or willfully done.
3. If any corporation aforesaid shall, after three months from the time of the completion of its road through or along the lands, fields or enclosures herein named, fail, neglect or refuse to erect

or maintain in good condition any fence, openings or farm crossings or cattle guards as herein required, then the owners or proprietors of said lands, fields or enclosures may erect or repair such fences, openings, gates or farm crossings or cattle guards, and shall thereupon have a right to sue and recover from such corporation in any court of competent jurisdiction the cost of such fences, openings, gates, cattle guards or repairs, together with a reasonable compensation for his time, trouble and labor in and about the construction of such fences, openings, gates or cattle guards, or the making of such repairs, together with ten percent interest per annum thereon, from the time of the service of process upon such corporation in such suit; provided, that before such repairs are commenced, such owner shall give five days' notice, in writing, to the railroad company, by delivering a copy thereof to the nearest section foreman or station agent of such railroad company, that the railroad fence needs repairs at a place or point named in the notice, on the lands of such owner.
4. And in every such action, if the plaintiff recover judgment, there shall be taxed as costs against the defendant an attorney's fee, to be fixed by the court or associate circuit judge before which or whom the cause may be pending, at such sum as may be a reasonable compensation for all legal services rendered for plaintiff in the case, without regard to any agreement between plaintiff and his counsel as to fees; but such fee shall not be taxed so long as any appeal taken in such case shall remain undisposed of.
5. And if any person shall ride, lead or drive any horses or other animals upon such road within such fences and guards other than a farm crossing, without the consent of the corporation, he shall, for every such offense, forfeit and pay a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party injured.
6. If any person not connected with or employed upon the railroad shall walk upon the track or tracks thereof, except where the same shall be laid across or along a publicly traveled road or street, or at any crossing, as herein provided, and shall receive harm on account thereof, such person shall be deemed to have committed a trespass in so walking upon said track in any action brought by him on account of such harm against the corporation owning such railroad, but not otherwise.
Mo. Rev. Stat. § 389.650 (2012)

§ 389.653. Trespass to railroad property, penalties
1. Any person who commits the following acts shall be deemed guilty of a "trespass to railroad property":
(1) Throwing an object at a railroad train or rail-mounted work equipment; or
(2) Maliciously or wantonly causing in any manner the derailment of a railroad train, railroad car or rail-mounted work equipment.
2. Any person committing a trespass to railroad property pursuant to this section shall be deemed guilty of a class A misdemeanor.
3. Notwithstanding subsection 2 of this section, any person committing a trespass to railroad property pursuant to this section resulting in the damage or destruction of railroad property in an amount exceeding one thousand five hundred dollars or resulting in the injury or death of any person shall be deemed guilty of a class D felony.
4. Notwithstanding subsection 2 of this section, any person committing a trespass to railroad property pursuant to this section who discharges a firearm or a weapon at a railroad train or rail-mounted work equipment shall be deemed guilty of a class D felony.
5. Nothing in this section shall be construed to interfere with either the lawful use of a public or private railroad crossing, or as limiting a representative of a labor organization which represents

or is seeking to represent the employees of the railroad, from conducting such business as provided by the Railway Labor Act.
6. As used in this section, "railroad property" includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or any other property owned, leased, operated or possessed by a railroad.
Mo. Rev. Stat. § 389.653 (2012)

Montana

***69-14-1204 Stowing away on railroad property.**
(1) A person commits the offense of stowing away on railroad property if the person knowingly and without lawful authority or consent is on, occupies, or rides on the outside of a train or on the inside of a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container car.
(2) A person convicted of the offense of stowing away on railroad property shall be fined an amount not to exceed $ 1,000 or be incarcerated in the county jail for a term not to exceed 6 months, or both.
Mont. Code Ann., § 69-14-1204 (2012)

Nebraska

No applicable statute related to this topic

Nevada

No applicable statute related to this topic

New Hampshire

§ 381:14. Criminal Trespass on Railroad Property.
Any person who enters or remains in a railroad station, upon the platform or grounds adjacent to a station, or upon any property of a railroad knowingly without license or privilege to do so, or a person who enters or remains upon or returns to said property in defiance of an order of a station agent or any police officer shall be guilty of criminal trespass as provided in RSA 635:2.
N.H. Rev. Stat. Ann §.381:14 (2012)

New Jersey

§ 39:3C-19. Unlawful acts
It shall be unlawful for:
f. Any person to operate a snowmobile or all-terrain vehicle upon railroad or right-of-way of an operating railroad, except railroad personnel in the performance of their duties.
N.J. Rev. Stat. Ann. § 39:3C-19 (2013) Excerpt from applicable statute published.

§ 48:12-152. Trespassing on tracks prohibited; contributory negligence; injury on tracks or moving car, crossings
a. No person other than those connected with or employed upon the railroad who are acting within the scope of their employment shall enter upon the right of way of any railroad or come into contact with any equipment, machinery, wires or rolling stock of any railroad. This section

shall not prohibit a passenger for hire from utilizing those parts of a railroad particularly intended for passenger use nor shall it prohibit a person from using a crossing established by the railroad.
N.J. Rev. Stat. Ann. § 48:12-152 (2013) Excerpt from applicable statute published.

New Mexico

No applicable statute related to this topic

New York

§ 140.10. Criminal trespass in the third degree
A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property
(g) where the property consists of a right-of-way or yard of a railroad or rapid transit railroad which has been designated and conspicuously posted as a no-trespass railroad zone
Criminal trespass in the third degree is a class B misdemeanor.
N.Y. Penal Law § 140.10(g) (Consol. 2012) Excerpt from applicable statute published.

§ 83. Riding on platform; walking along track
No railroad corporation shall be liable for any injury to any passenger while on the platform of a car, or in any baggage, wood or freight car, in violation of the printed regulations of the corporation, posted up at the time in a conspicuous place inside of the passenger cars, then in the train, if there shall be at the time sufficient room for the proper accommodation of the passenger inside such passenger cars. No person other than those connected with or employed upon the railroad shall walk upon or along its track or tracks, except where the same shall be laid across or along streets or highways, in which case he shall not walk upon the track unless necessary to cross the same. Any person riding, leading or driving any horse or other animal upon any railroad, or within the fences and guards thereof, other than at a farm or street or forest crossing, without the consent of the corporation, shall forfeit to the people of the state the sum of ten dollars, and pay all damages sustained thereby to the party aggrieved.
N.Y. R.R. Law § 83 (Consol. 2012)

§ 83-a. Operation of motor vehicles, snowmobiles, recreational vehicles, and riding of animals on railroad property
Except in the case of a railroad employee, contractor of the railroad corporation or public official acting in the performance of his [fig 1] or her duties, no person shall knowingly operate a motor vehicle, snowmobile, or other recreational vehicle, including all terrain vehicles and motorcycles, or ride, lead or drive any horse or other animal upon abandoned railroad property which is posted to prohibit the operation of [fig 2] any such vehicles or animals thereupon, or upon or along the track or tracks of an operating railroad or within the fences or guards thereof, except across or along streets or highways or at farm or forest crossings where necessary to cross [fig 3] such tracks or property. [fig 4] A violation of the provisions of this section shall constitute a violation punishable by a fine of not less than one hundred dollars nor more than two hundred fifty dollars. Conviction for a second or subsequent violation of the provisions of this section shall be punishable by a fine of not less than two hundred fifty nor more than five hundred dollars.
NY R. R. Law § 83-a (Consol. 2012)

§ 83-b. Trespass upon railroad premises

1. Any city with a population of one million or more and the counties of Monroe, Nassau, and Suffolk are authorized and empowered to adopt or amend a local law or ordinance designating any portion or portions of property consisting of a right-of-way or yard of a railroad or rapid transit railroad as a no-trespass railroad zone and providing for the conspicuous posting thereof for purposes of establishing criminal liability for trespass upon such property pursuant to subdivision (g) of section 140.10 of the penal law.
2. The provisions of sections eighty-three and eighty-three-a of this article shall not be construed to prohibit or limit the prosecution of any person for a violation of the provisions of subdivision (g) of section 140.10 of the penal law.
NY R. R. Law § 83-b (Consol.2012)

North Carolina

§ 14-280.1. Trespassing on railroad right-of-way
(a) Offense. -- A person commits the offense of trespassing on railroad right-of-way if the person enters and remains on the railroad right-of-way without the consent of the railroad company or the person operating the railroad or without authority granted pursuant to State or federal law.
(b) Crossings. -- Nothing in this section shall apply to a person crossing the railroad right-of-way at a public or private crossing.
(c) Legally Abandoned Rights-of-Way. -- This section shall not apply to any right-of-way that has been legally abandoned pursuant to an order of a federal or State agency having jurisdiction over the right-of-way and is not being used for railroad services.
(d) Classification. -- Trespassing on railroad right-of-way is a Class 3 misdemeanor.
N.C. Gen. Stat. § 14-280.1 (2012)

§ 14-56. Breaking or entering into or breaking out of railroad cars, motor vehicles, trailers, aircraft, boats, or other watercraft
If any person, with intent to commit any felony or larceny therein, breaks or enters any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind, containing any goods, wares, freight, or other thing of value, or, after having committed any felony or larceny therein, breaks out of any railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft of any kind containing any goods, wares, freight, or other thing of value, that person is guilty of a Class I felony. It is prima facie evidence that a person entered in violation of this section if he is found unlawfully in such a railroad car, motor vehicle, trailer, aircraft, boat, or other watercraft.
N.C. Gen. Stat. § 14-56 (2012)

North Dakota

***49-10.1-12. Trespassing and stealing rides on cars, engines, and trains -- Penalty.**
No person shall:
1. Enter, ride, or secure passage upon a railroad car or engine of any description other than a car commonly used exclusively for the carriage of passengers with intent thereby to obtain a ride without payment therefor or fraudulently to obtain carriage upon any such engine or car.
2. Take passage, ride, or enter for the purpose of taking passage or riding, upon the tracks, rods, brakebeams, or any part of any car, locomotive engine, or tender, not ordinarily and customarily used or intended for the resting place of a person riding upon or operating the same, unless the one taking such passage is a railway employee in the performance of the employee's duty.

Any person violating any of the provisions of this section shall be guilty of a class B misdemeanor.
N.D. Cent. Code § 49-10.1-12 (2012)

Ohio

***§ 2909.10. Railroad vandalism or criminal trespass; interference with operation of train**
(A) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.
(B) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.
(C) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.
(D) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.
(E) Whoever violates division (A) of this section is guilty of railroad vandalism. Whoever violates division (B) of this section is guilty of criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle. Whoever violates division (C) of this section is guilty of interference with the operation of a train.
Except as otherwise provided in this division, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. Except as otherwise provided in this division, if the violation of division (A), (B), or (C) of this section causes serious physical harm to property or creates a substantial risk of physical harm to any person, the violation is a felony of the fourth degree. Except as otherwise provided in this division, if the violation of division (A), (B), or (C) of this section causes physical harm to any person, the violation is a felony of the third degree. If the violation of division (A), (B), or (C) of this section causes serious physical harm to any person, the violation is a felony of the second degree.
(F) Whoever violates division (D) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.
Ohio Rev. Code Ann. § 2909.10 (LexisNexis 2013)

§ 4999.01. Drawing, driving, or moving vehicle on railroad track
No person shall draw, drive, or cause to be moved any vehicle on or between the rails or tracks or on or along the graded roadway of a railroad without the knowledge and consent of the owner or controller of such railroad, unless compelled by necessity to do so. Whoever violates this section is guilty of a minor misdemeanor.
Ohio Rev. Code Ann. § 4999.01 (LexisNexis 2013)

§ 4999.02. Climbing upon railroad cars
No person shall climb, jump, step, or stand upon, or cling or attach himself to, a locomotive, engine, or car upon the track of a railroad, unless in compliance with law or by permission under the rules of the corporation managing such railroad. Whoever violates this section is guilty of a minor misdemeanor.
Ohio Rev. Code Ann. § 4999.02 (LexisNexis 2013)

Oklahoma

§ 1365. Trespassing on railway trains a misdemeanor

Any person, other than a railway employee in the discharge of his duty, who, without authority from the conductor of the train, rides, or attempts to ride, on top of any car, coach, engine or tender, on any railroad in this state, or on the drawheads between the cars, or under cars or truss rods or trucks, or in any freight car, or on the platform of any baggage car, express car, or mail car, or any train in this state, shall be guilty of a misdemeanor.
Okla. Stat. tit. 21, § 1365 (2012)

***§ 1752.1. Trespass upon or interference with railroad property**
A. Any person shall be guilty of a misdemeanor if the person:
1. Without consent of the owner or the owner's agent, enters or remains on railroad property, knowing that it is railroad property;
2. Throws an object at a train, or rail-mounted work equipment; or
3. Maliciously or wantonly causes in any manner the derailment of a train, railroad car or rail-mounted work equipment.
B. Any person shall be guilty of a felony if the person commits an offense specified in subsection A of this section which results in a demonstrable monetary loss, damage or destruction of railroad property when said loss is valued at more than One Thousand Five Hundred Dollars ($ 1,500.00) or results in bodily injury to a person. Any person shall be guilty of a felony if the person discharges a firearm or weapon at a train, or rail-mounted work equipment.
C. Any person violating the misdemeanor provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding One Thousand Dollars ($ 1,000.00), or both such fine and imprisonment. Any person violating the felony provisions of this section shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the State Penitentiary not exceeding four (4) years. If personal injury results, such person shall be punished by imprisonment in the State Penitentiary.
D. Subsection A of this section shall not be construed to interfere with the lawful use of a public or private crossing.
E. Nothing in this section shall be construed as limiting a representative of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the Railway Labor Act, 45 U.S.C., Section 151 et seq.
F. As used in this section “railroad property” includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad.
Okla. Stat. tit. 21, § 1752.1 (2012)

Oregon

No applicable statute related to this topic

Pennsylvania

***§ 3504. Railroad protection, railroad vandalism and interference with transportation facilities.**
(a) Damage to railroad or delay of railroad operations.
(1) A person commits an offense if, without lawful authority or the railroad carrier's consent, he causes damage to property that he knows or reasonably should have known to be railroad

property, including the railroad right-of-way or yard, or causes a delay in railroad operations by an act including, but not limited to:
(i) Knowingly, purposefully or recklessly disrupting, delaying or preventing the operation of any train, jitney, trolley or any other facility of transportation.
(ii) Driving or operating a recreational vehicle or nonrecreational vehicle, including, but not limited to, a bicycle, motorcycle, snowmobile, all-terrain vehicle, car or truck.
(iii) Knowingly, purposefully or recklessly damaging railroad property, railroad infrastructure or railroad equipment or using railroad property to access adjoining property to commit acts of vandalism, theft or other criminal acts.
(2) An offense under this subsection constitutes a misdemeanor of the third degree.
(b) Stowaways prohibited.
(1) A person commits an offense if, without lawful authority or the railroad carrier's consent, he rides on the outside of a train or inside a passenger car, locomotive or freight car, including a box car, flatbed or container.
(2) An offense under this subsection constitutes a misdemeanor of the third degree.
(c) Definitions. --As used in this section, the following words and phrases shall have the meanings given to them in this subsection:
"Railroad." --Any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including, but not limited to:
(1) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area.
(2) High-speed ground transportation systems that connect metropolitan areas, but not rapid transit operations in an urban area that are not connected to the general railroad system of transportation.
"Railroad carrier." --A person, including, but not limited to, an owner or operator, providing railroad transportation.
"Railroad carrier's consent." --Written or other affirmative communication of permission to be on railroad property. Consent shall not be implied.
"Railroad property." --All tangible property owned, leased or operated by a railroad carrier, including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal or any other structure, appurtenance or equipment owned, leased or used in the operation of any railroad carrier, including a train, locomotive, engine, railroad car, work equipment, rolling stock or safety device. The term does not include a railroad carrier's administrative building or offices, office equipment or intangible property such as computer software or other information.
"Right-of-way." --The track or roadbed owned, leased or operated by a railroad carrier which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.
"Yard." --A system of parallel tracks, crossovers and switches where railroad cars are switched and made up into trains and where railroad cars, locomotives and other rolling stock are kept when not in use or when awaiting repairs.
18 Pa. Cons. Stat. § 3504 (2012)

***§ 3551. Compliance with bridge and railroad warning signals.**
(b) Railroad crossings. --No pedestrian shall pass 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 is being opened or closed.

(c) Penalty. --A violation of this section constitutes a summary offense punishable by a fine of not less than $ 50 nor more than $ 150.
75 Pa. Cons. Stat. § 3551 (2012) Excerpt from applicable statute published.

Rhode Island

§ 11-36-6. Trespassing on railroad right-of-way
Every person who without right knowingly stands or walks, or rides a bicycle or other vehicle on the private right-of-way of any railroad or railway operated by steam or other power, except for the purpose of crossing it at a highway or other authorized crossing, shall be fined not more than one thousand dollars ($ 1,000) or be imprisoned not more than one year, or both. Any person violating this section may be arrested without a warrant by any police officer or any special railroad police officer and proceeded against according to law.
R.I. Gen. Laws § 11-36-6 (2012)

***§ 11-36-11. Unauthorized presence on locomotive or freight train**
Every person who shall without right attach himself or herself to or shall be in or upon any locomotive, locomotive tender, freight car, or freight train upon any railroad track shall be fined not more than twenty dollars ($ 20.00), or be imprisoned not more than ten (10) days, or both. Any person violating this section may be arrested without a warrant by any police officer, or any railroad police officer, and proceeded against according to law.
R.I. Gen. Laws § 11-36-11 (2012)

***§ 11-44-11. Injury to boundary or line markers**
Every person who shall willfully break down, remove, injure, obscure, or destroy any monument erected for the purpose of designating the boundaries of any town or city or any tract or lot of land, or any tree marked for that purpose, or any stake set up to mark the line or grade of any railroad, or any marker erected for the purpose of designating a public right-of-way to water areas of the state, shall be imprisoned not exceeding one year or be fined not exceeding five hundred dollars ($ 500).
R.I. Gen. Laws § 11-44-11 (2012)

South Carolina

***§ 56-5-3280 Bridge and railroad signals.**
(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.
S.C. Code Ann. § 56-5-3280(b) (2011) Excerpt from applicable statute published.

§ 58-15-850. Breaking and entering or shooting into cars.
Whoever breaks and enters, in the night, any railroad or electric railway car or enters in the night without breaking, breaks and enters in the daytime or shoots with any firearm into any railroad or electric railway car, with intent to commit the crime of larceny or any other crime, shall, in addition to any other punishment prescribed by law for such offense, be punished by imprisonment in the State Penitentiary not exceeding ten years or by fine not exceeding five hundred dollars.
S.C. Code Ann. § 58-15-850 (2011)

***§ 58-17-4096. Trespassing upon railroad tracks.**
(A) It is unlawful, without proper authority, for a person to trespass upon railroad tracks.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.
S.C. Code Ann. § 58-17-4096 (2011)

South Dakota

***§ 22-35-5. Entering or surreptitiously remaining in building -- Penalty**
Any person who, knowing that he or she is not privileged to do so, enters or remains in any building or structure surreptitiously, is guilty of criminal trespass. Criminal trespass is a Class 1 misdemeanor.
S.D. Codified Laws § 22-35-5 (2012)

§ 49-16A-105. Entry upon railroad equipment while armed a felony.
No person, either individually or as a member of any mob, band, or assembly, shall enter upon, occupy, or appropriate any part of a railway train or of railway equipment used or useful in the transportation of passengers or property, or in the maintenance or operation of any road in this state, armed with any instrument or weapon of any kind, for the purpose of committing any offense, or shall ride in any other than the usual, proper, and lawful manner at the legal rate of fare prescribed in the tariffs of the railroad, and in the proper coaches or cabooses provided for the purpose. A violation of this section is a Class 5 felony.
S.D. Codified Laws § 49-16A-105 (2012)

Tennessee

***39-14-406. Aggravated criminal trespass.**
(d) (1) A person also commits aggravated criminal trespass who enters or remains on the real property, including the right-of-way, of a railroad:
(A) With the intent to do harm to the property or to railroad property located on the property
(2) Aggravated criminal trespass on railroad property is a Class A misdemeanor.
Tenn. Code Ann. § 39-14-406 (2012) Excerpt from applicable statute published.

Texas

§ 28.07. Interference with Railroad Property
(a) In this section:
(1) "Railroad property" means:
(A) a train, locomotive, railroad car, caboose, work equipment, rolling stock, safety device, switch, or connection that is owned, leased, operated, or possessed by a railroad; or
(B) a railroad track, rail, bridge, trestle, or right-of-way owned or used by a railroad.
(2) "Tamper" means to move, alter, or interfere with railroad property.
(b) A person commits an offense if the person:
(1) throws an object or discharges a firearm or weapon at a train or rail-mounted work equipment; or
(2) without the effective consent of the owner:
(A) enters or remains on railroad property, knowing that it is railroad property;
(B) tampers with railroad property;
(C) places an obstruction on a railroad track or right-of-way; or
(D) causes in any manner the derailment of a train, railroad car, or other railroad property that moves on tracks.

(c) An offense under Subsection (b)(1) is a Class B misdemeanor unless the person causes bodily injury to another, in which event the offense is a felony of the third degree.
(d) An offense under Subsection (b)(2)(A) is a Class C misdemeanor.
(e) An offense under Subsection (b)(2)(B), (b)(2)(C), or (b)(2)(D) is a Class C misdemeanor unless the person causes pecuniary loss, in which event the offense is:
(1) a Class B misdemeanor if the amount of pecuniary loss is $ 20 or more but less than $ 500;
(2) a Class A misdemeanor if the amount of pecuniary loss is $ 500 or more but less than $ 1,500;
(3) a state jail felony if the amount of pecuniary loss is $ 1,500 or more but less than $ 20,000;
(4) a felony of the third degree if the amount of the pecuniary loss is $ 20,000 or more but less than $ 100,000;
(5) a felony of the second degree if the amount of pecuniary loss is $ 100,000 or more but less than $ 200,000; or
(6) a felony of the first degree if the amount of the pecuniary loss is $ 200,000 or more.
(f) The conduct described in Subsection (b)(2)(A) is not an offense under this section if it is undertaken by an employee of the railroad or by a representative of a labor organization which represents or is seeking to represent the employees of the railroad as long as the employee or representative has a right to engage in such conduct under the Railway Labor Act (45 U.S.C. Section 151 et seq.).
Tex. Penal Code Ann. § 28.07 (2012)

Utah

§ 56-1-18.5. Railroad property -- Duty of care
(1) A person may not ride or climb or attempt to ride or climb on, off, under, over, or across a railroad locomotive, car, or train.
(2) A person may not walk, ride, or travel across, along, or upon railroad yards, tracks, bridges, or active rights-of-way at any location other than public crossings.
(3) A person may not intentionally obstruct or interfere with train operations or use railroad property for recreational purposes.
(4) (a) Except as provided under Subsection (4)(b), an owner or operator of a railroad, including its officers, agents, and employees, owes no duty of care to keep railroad yards, tracks, bridges, or active rights-of-way safe for entry for any person violating this section.
(b) The owner or operator of a railroad may not intentionally, willfully, or maliciously injure a person if the owner or operator has actual knowledge of the person's presence on the property.
(5) This section does not apply to a railroad employee, business invitee, or other person with express written or oral authorization to enter upon railroad property by the owner or operator of the railroad.
(6) This section does not modify any rights or duties of federal, state, county, or municipal officials in the performance of their duties.
Utah Code Ann. § 56-1-18.5 (2012)

Vermont

§ 3734. Trespass on railroad property; penalty
A person who, without right, loiters or remains in a depot, or upon the platform, approaches, or grounds adjacent thereto, after being requested to leave by a railroad policeman, sheriff, deputy sheriff, constable, or policeman, shall be fined not more than $ 20.00 nor less than $ 2.00.
Vt. Stat. Ann. tit. 5, § 3734 (2013)

§ 3735. Boarding train or loitering about railroad property; penalty
A person boarding or riding without permission on a train, car, or locomotive, other than a passenger train, or a person boarding or riding on a passenger train without paying fare, or a person loitering in or about a railroad yard, station or car without permission, shall be imprisoned not more than 90 days, or fined not more than $ 25.00, or both.
Vt. Stat. Ann. tit. 5, § 3735 (2013)

Virginia

§ 18.2-159. Trespassing on railroad track
Any person who goes upon the track of a railroad other than to pass over such road at a public or private crossing, or who willfully rides, drives or leads any animal or contrives for any animal to go on such track except to cross as aforesaid, without the consent of the railroad company or person operating such road, shall be guilty of a Class 4 misdemeanor. A second violation of the provisions of this section occurring within two years of the first violation shall be punishable as a Class 3 misdemeanor. A third or subsequent violation of the provisions of this section occurring within two years of a second or a subsequent violation shall be punishable as a Class 1 misdemeanor. This section shall not apply to any section of track which has been legally abandoned pursuant to an order of a federal or state agency having jurisdiction over the track and is not being used for railroad service.
For purposes of this section, track shall mean the rail, ties, and ballast of the railroad.
Va. Code Ann. § 18.2-159 (2012)

Washington

No applicable statute related to this topic

West Virginia

§ 61-3-43. Jumping on or off car or train in motion; driving vehicle upon track or bridge except at crossings; penalty.
If any person, not a passenger or employee, shall be found trespassing upon any railroad or traction car or train of any railroad in this State, by jumping on or off any car or train in motion, on its arrival at or departure from any station or depot of such railroad, or on the passage of any such car or train over any part of such railroad; or shall drive any horse or any horse-drawn or motor-driven vehicle across or upon any railroad track or bridge, except at public, private or farm crossings, such person so offending shall be deemed a disorderly person and guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine not exceeding twenty-five dollars, or by imprisonment in the county jail not exceeding thirty days, or both. Justices of the peace [magistrates] shall have concurrent jurisdiction to try all offenders under this section.
W. Va. Code Ann. § 61-3-43 (LexisNexis 2012)

Wisconsin

192.32. Trespassing on railroad.
(1) No person, other than a licensee, authorized newspaper reporter or person connected with or employed upon the railroad, may walk, loiter or be upon or along the track of any railroad. The provisions of this subsection shall not be construed to do any of the following:

(a) To interfere with the lawful use of a public highway by any person.

(b) To prevent any person from driving across any railroad from one part of that persons land to another part thereof.
(d) To interfere with the use of the right-of-way or track by any person in connection with, either directly or indirectly, the shipping, loading or unloading of freight, seeking employment, the investigation or securing of evidence with respect to any accident or wreck or in conducting or transacting any other business for or with the railroad.
(e) To interfere with the entry of any employee during or on account of labor disputes by employees.
(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.
Wis. Stat. § 192.32 (2012)

192.321. Getting on and off cars.
Any person who shall get upon, attempt to get upon, cling to, jump or step from any railroad car or train while the same is in motion shall forfeit not less than 100 nor more than 200, provided that this section shall not apply to the employees of any railroad company.
Wis. Stat. § 192.321 (2012)

Wyoming

No applicable statute related to this topic

Chapter 10: Vandalism

CHAPTER OVERVIEW

Although every state has laws against the defacing and destruction of private property, not all states have laws that are specific to railroad property. In recent years, penalties at the state government level have increased, due to recognition of the potential for catastrophic results associated with vandalism to trains, tunnels, bridges, viaducts, trestles, tracks, or signals.

This chapter presents a state-by-state listing of laws that cover vandalism of railroad property, warning devices and equipment, along with the prescribed punishment, if any. Each state entry is accompanied by citations.

Alabama

***§ 13A-11-61. Discharging firearm into building, train, etc.**
(a) No person shall shoot or discharge a firearm, explosive or other weapon which discharges a dangerous projectile into any occupied or unoccupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft in this state.
(b) Any person who commits an act prohibited by subsection (a) with respect to an occupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft shall be deemed guilty of a Class B felony as defined by the state criminal code, and upon conviction, shall be punished as prescribed by law.
(c) Any person who commits any act prohibited by subsection (a) hereof with respect to an unoccupied dwelling or building or railroad locomotive or railroad car, aircraft, automobile, truck or watercraft shall be deemed guilty of a Class C felony as defined by the state criminal code, and upon conviction, shall be punished as prescribed by law.
Ala. Code § 13A-11-61 (2012)

Alaska

Sec. 11.46.484. Criminal mischief in the fourth degree
(a) A person commits the crime of criminal mischief in the fourth degree if, having no right to do so or any reasonable ground to believe the person has such a right
(1) with intent to damage property of another, the person damages property of another in an amount of $ 50 or more but less than $ 500;
(5) the person knowingly removes, relocates, defaces, alters, obscures, shoots at, destroys, or otherwise tampers with an official traffic control device or damages the work upon a highway under construction.
(b) Criminal mischief in the fourth degree is a class A misdemeanor.
Alaska Stat. § 11.46.484 (2012) Excerpt from applicable statute published.

Arizona

§ 28-649. Interference with official traffic control device or railroad sign or signal; possession of traffic preemption emitter; classification; definition

A. A person shall not attempt without lawful authority to or in fact alter, deface, injure, knock down or remove an official traffic control device, a railroad sign or signal or an inscription, shield or insignia on any device, sign or signal or any part of the device, sign or signal.
Ariz. Rev. Stat. § 28-649(A) (LexisNexis 2012) Excerpt from applicable statute published.

Arkansas

23-12-804. Discharge of firearms or throwing objects at railroad or street car.
If any person wantonly, maliciously, or mischievously discharges firearms or throws stones, sticks, clubs, or other missiles at, into, or against any locomotive, railroad car, or street car on any railroad, he or she shall be guilty of a misdemeanor. On conviction the person shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than two hundred fifty dollars ($250) or by imprisonment in the county jail for not more than three (3) months, or by both a fine and imprisonment.
Ark. Code Ann. § 23-12-804 (2012)

23-12-805. Willful interference with railroads -- Damages.
(a) If any person shall willfully do or cause to be done any act whatever, whereby any building, construction, or work of any railroad corporation in this state, or any engine, machine, structure, or any matter or thing appertaining to the corporation shall be stopped, obstructed, injured, impaired, weakened, or destroyed, the persons so offending shall be guilty of a misdemeanor and shall forfeit and pay to the corporation so injured, etc., treble the amount of damages sustained by means of such an offense.
Ark. Code Ann. § 23-12-805(a) (2012) Excerpt from applicable statute published.

California

***Penal Code § 219.2 Throwing object at passenger or freight carrier**
Every person who willfully throws, hurls, or projects a stone or other hard substance, or shoots a missile, at a train, locomotive, railway car, caboose, cable railway car, street railway car, or bus or at a steam vessel or watercraft used for carrying passengers or freight on any of the waters within or bordering on this state, is punishable by imprisonment in the county jail not exceeding one year, or in a state prison, or by fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment.
Cal. Penal Code § 219.2 (Deering 2012)

Penal Code § 587 Injuries to railroads and railroad structures
Every person who maliciously does either of the following is punishable by imprisonment pursuant to subdivision (h) of Section 1170, or imprisonment in a county jail not exceeding one year:
(a) Removes, displaces, injures, or destroys any part of any railroad, whether for steam or horse cars, or any track of any railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached to or connected with any railroad.
(b) Places any obstruction upon the rails or track of any railroad, or of any switch, branch, branchway, or turnout connected with any railroad.
Cal. Penal Code § 587 (Deering 2012)

Colorado

18-9-107. Obstructing highway or other passageway

(1) An individual or corporation commits an offense if without legal privilege such individual or corporation intentionally, knowingly, or recklessly:
(a) Obstructs a highway, street, sidewalk, railway, waterway, building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group of the public has access or any other place used for the passage of persons, vehicles, or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or
(3) An offense under this section is a class 3 misdemeanor; except that knowingly obstructing the entrance into, or exit from, a funeral or funeral site, or knowingly obstructing a highway or other passageway where a funeral procession is taking place is a class 2 misdemeanor.
Colo. Rev. Stat. § 18-9-107 (2012) Excerpt from applicable statute published.

18-9-115. Endangering public transportation
(1) A person commits endangering public transportation if such person:
(a) Tampers with a facility of public transportation with intent to cause any damage, malfunction, or nonfunction which would result in the creation of a substantial risk of death or serious bodily injury to anyone
(3) "Public conveyance" includes a train, airplane, bus, truck, car, boat, tramway, gondola, lift, elevator, escalator, or other device intended, designed, adapted, and used for the public carriage of persons or property.
(5) Endangering public transportation is a class 3 felony.
Colo. Rev. Stat. § 18-9-115 (2012) Excerpt from applicable statute published.

42-4-607. Interference with official devices
(1)(a) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, remove, or interfere with the effective operation of any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia thereon or any other part thereof. Except as otherwise provided in subsection (2) of this section, any person who violates any provision of this paragraph (a) commits a class B traffic infraction.
Colo. Rev. Stat. § 42-4-607 (2012) Excerpt from applicable statute published.

<u>Connecticut</u>

***Sec. 53a-117k. Damage to railroad property in the first degree: Class D felony.**
(a) A person is guilty of damage to railroad property in the first degree when: (1) With intent to cause damage to railroad property and having no reasonable ground to believe that such person has a right to do so, such person damages such property in an amount exceeding one thousand five hundred dollars, or (2) with intent to cause an interruption or impairment of railroad service rendered to the public and having no reasonable ground to believe that such person has a right to do so, such person damages or tampers with railroad property and thereby causes an interruption or impairment of railroad service rendered to the public.
(b) Damage to railroad property in the first degree is a class D felony.
Conn. Gen. Stat. § 53a-117k (2012)

***Sec. 53a-117l. Damage to railroad property in the second degree: Class A misdemeanor.**
(a) A person is guilty of damage to railroad property in the second degree when: (1) With intent to cause damage to railroad property and having no reasonable ground to believe that such person has a right to do so, such person damages such property in an amount exceeding two hundred fifty dollars, or (2) with intent to cause an interruption or impairment of railroad service rendered to the public and having no reasonable ground to believe that such person has a right to

do so, such person damages or tampers with railroad property and thereby causes a risk of interruption or impairment of railroad service rendered to the public.
(b) Damage to railroad property in the second degree is a class A misdemeanor.
Conn. Gen. Stat. § 53a-117l (2012)

***Sec. 53a-117m. Damage to railroad property in the third degree: Class B misdemeanor.**
(a) A person is guilty of damage to railroad property in the third degree when, having no reasonable ground to believe that such person has a right to do so, such person: (1) Intentionally or recklessly (A) damages railroad property, or (B) tampers with railroad property and thereby causes such property to be placed in danger of damage, or (2) damages railroad property by negligence involving the use of any potentially harmful or destructive force or substance including, but not limited to, fire, explosives, flood, avalanche, collapse of building, poison gas or radioactive material.
(b) Damage to railroad property in the third degree is a class B misdemeanor.
Conn. Gen. Stat. § 53a-117m (2012)

Delaware

§ 1812. Liability of those damaging railroad property
Any person who wilfully impairs, injures, destroys or obstructs the use of any railroad enjoyed under this title or any of its necessary works, wharves, bridges, carriages, engines, cars, machines or other property shall forfeit and pay to the corporation the sum of $ 50, to be by it recovered in any court having competent jurisdiction in any civil action and shall be liable for all damages sustained.
Del. Code Ann. tit. 2, § 1812 (2012)

§ 1821. Liability for trashing railroad right-of-ways; penalty; jurisdiction
A person shall be guilty of an offense if the person throws, or causes to be thrown, any waste paper, sweepings, ashes, household waste, glass, metal, tires, refuse or rubbish, or any dangerous or detrimental substance to be deposited into or upon any railroad right-of-way of this State. Whoever violates this section shall be fined not less than $ 50 nor more than $ 300. For each subsequent offense occurring within 3 years of a former offense, the person shall be fined not less than $ 300 nor more than $ 500. The minimum fines for a violation of this section shall not be subject to suspension. The Justice of the Peace Court system shall have exclusive jurisdiction over any violations of this section.
Del. Code Ann. tit. 2, § 1821 (2012)

§ 4112. Interference with official traffic-control devices or railroad signs or signals or other street signs
No person shall, without lawful authority, attempt to or, in fact alter, damage, deface, injure, twist, knock down, interfere with the operation of or remove any public roadway, bridge, drain, light, gate or traffic-control device, railroad sign or signal or other appurtenance or any inscription, shield or insignia thereon or any other part thereof or other type of highway signs erected by the State regardless of whether such sign is classified as regulatory or informational. Whoever violates this section shall, for the first offense, be fined not less than $ 57.50 nor more than $ 230, or imprisoned for not more than 10 days, or both. For each subsequent like offense committed within 2 years, the person shall be fined not less than $ 115 nor more than $ 460, or imprisoned for not more than 30 days, or both. Whoever violates this section shall in addition to

any fine or incarceration make restitution to the State for actual costs incurred to replace the traffic-control device.
Del. Code Ann. tit. 21, § 4112 (2012)

District of Columbia

§ 22-3319. Placing obstructions on or displacement of railway tracks [Formerly § 22-3119]
Whoever maliciously places an obstruction on or near the track of any steam or street railway, or displaces or injures anything appertaining to such track, with intent to endanger the passage of any locomotive or car, shall be imprisoned for not more than 10 years.
D.C. Code Ann. § 22-3319 (LexisNexis 2012)

Florida

§ 316.0775. Interference with official traffic control devices or railroad signs or signals
(1) A person may not, 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. A violation of this subsection is a criminal violation pursuant to s. 318.17 and shall be punishable as set forth in s. 806.13 related to criminal mischief and graffiti, beginning on or after July 1, 2000.
Fla. Stat. Ann. § 316.0775 (LexisNexis 2013) Excerpt from applicable statute published.

§ 860.05. Unauthorized person interfering with railroad train, cars, or engines
Any person, other than an employee or authorized agent of the railroad company acting within the line of duty, who shall knowingly or willfully detach or uncouple any train; put on, apply, or tamper with any brake, bell cord, or emergency valve; or otherwise interfere with any train, engine, car, or part thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
Fla. Stat. Ann. § 860.05 (LexisNexis 2013)

§ 860.07. Unauthorized persons giving signals to railroad trains or engines
Any person who wrongfully, recklessly, or wantonly and without authority, signals any train or engine in this state with a red light or with a red flag, or gives any signal calculated to affect the movement or operation of any train, engine, or cars on any railroad in this state shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. This section shall not apply to any person giving signals to stop a train for the purpose of preventing an accident to such train, or at a regular station or flag station when the train is flagged for the purpose of taking passage on said train.
Fla. Stat. Ann. § 860.07 (LexisNexis 2013)

§ 860.08. Interference with railroad signals prohibited; penalty
Any person, other than an employee or authorized agent of a railroad company acting within the line of duty, who knowingly or willfully interferes with or removes any railroad signal 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 is guilty of a felony of the third degree, punishable as provided in s. 775.082,s. 775.083, or s. 775.084.
Fla. Stat. Ann. § 860.08 (LexisNexis 2013)

§ 860.09. Interference with railroad track and other equipment prohibited; penalties

Any person, other than an employee or authorized agent of a railroad company acting within the line of duty, who knowingly or willfully moves, interferes with, removes, or obstructs any railroad switch, bridge, track, crossties, or other equipment located on the right-of-way or property of a railroad and used in railroad operations is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
Fla. Stat. Ann. § 860.09 (LexisNexis 2013)

§ 860.11. Injuring railroad structures; driving cattle on tracks
Whoever otherwise wantonly or maliciously injures any bridge, trestle, culvert, cattle guard, or other superstructure of any railroad company or salts the track of any railroad company for the purpose of attracting cattle thereto, or who shall drive cattle thereon, shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
Fla. Stat. Ann. § 860.11 (LexisNexis 2013)

§ 860.121. Crimes against railroad vehicles; penalties
(1) It shall be unlawful for any person to shoot at, throw any object capable of causing death or great bodily harm at, 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.
(2) (a) Any person who violates subsection (1) with respect to an unoccupied railroad vehicle is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Any person who violates subsection (1) with respect to an occupied railroad vehicle or a railroad vehicle connected thereto is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(c) Any person who violates subsection (1), if such violation results in great bodily harm, is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(d) Any person who violates subsection (1), if such violation results in death, is guilty of homicide as defined in chapter 782, punishable as provided ins. 775.082.
Fla. Stat. Ann. § 860.121 (LexisNexis 2013)

Georgia

§ 46-8-196. Use of standard signs for highway crossings and for advertising or other purposes; mutilation, destruction, and defacement of standard signs; removal of unauthorized signs by county authorities
(a) It shall be the duty of the Public Service Commission to designate a standard sign or signs and to require the use of same by railroad companies to indicate crossings of public highways across railroads. It shall be unlawful for any person to use a sign similar thereto for advertising or for any other purpose; and it shall be unlawful to mutilate, destroy, or deface any crossing sign. The county authorities in charge of the roads of any county where a sign is erected contrary to this law shall have the duty of removing and destroying that sign.
(b) Any person who violates this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $50.00 or by imprisonment for a period not to exceed 12 months, or both.
Ga. Code Ann. § 46-8-196 (2012)

Hawaii

§ 291C-37. Interference with official traffic-control devices or railroad signs or signals.

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.
Haw. Rev. Stat. Ann. § 291C-37 (LexisNexis 2012)

§ 291C-161. Penalties.
(b) Except as provided in subsections (c) and (d), every person who is determined to have violated any provision of this chapter for which another penalty is not provided shall be fined:
(1) Not more than $200 for a first violation thereof;
(2) Not more than $300 for a second violation committed within one year after the date of the first violation; and
(3) Not more than $500 for a third or subsequent violation committed within one year after the date of the first violation.
Haw. Rev. Stat. Ann. § 291C-161 (LexisNexis 2012) Excerpt from applicable statute published.

Idaho

§ 18-3313. False reports of explosives in public or private places a felony -- Penalty
Any person who reports to any police officer, sheriff, employee of a police department or sheriff's office, employee of a 911 emergency communications system or emergency vehicle dispatch center, employee of a fire department or fire service, prosecuting attorney, newspaper, radio station, television station, deputy sheriff, deputy prosecuting attorney, member of the state police, employee of an airline, employee of an airport, employee of a railroad or bus line, an employee of a telephone company, occupants of a building, employee of a school district, or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been placed or secreted in a public or private place knowing that such report is false, is guilty of a felony, and upon conviction thereof, shall be sentenced to a term of not to exceed five (5) years in the state penitentiary.
Idaho Code Ann. § 18-3313 (2012)

§ 18-6006 Injuring railroad property
Every person who maliciously removes, displaces, injures, or in any way interferes with, or changes, or destroys, any part of any railroad property, whether for cars propelled by steam or any other motive power, or any track of any railroad, or any branch or branchway, switch, block or other signal or signaling device, turnout, bridge, viaduct, culvert, embankment, station house or other structure or fixture, or any part thereof attached to or connected with any railroad, is punishable by imprisonment in the state prison not exceeding ten (10) years, or by fine not exceeding fifty thousand dollars ($ 50,000), or by both fine and imprisonment, in the discretion of the court.
Idaho Code Ann. § 18-6006 (2012)

§ 18-6009. Placing obstructions on tracks
Every person who maliciously places any obstruction upon the rails or track of any railroad, or of any switch, branch, branchway, or turnout connected with any railroad, is punishable by imprisonment in the state prison not exceeding five years, or in the county jail not less than six (6) months.
Idaho Code Ann. § 18-6009 (2012)

§ 18-6010. Obstruction or interference with railroad
Any person or persons who shall wilfully or maliciously place any obstruction on any railroad track or roadbed, or street car track in this state, or who shall loosen, tear up, remove or misplace any rail, switch, frog, guard rail, cattle guard, or any part of such railroad track or roadbed or street car track, or who shall tamper with or molest any such road, roadbed or track, or who shall destroy or damage any locomotive, motor or car on said track, or who shall otherwise interfere with the maintenance or operation of such road so as to endanger the safety of any train, car, motor or engine, or so as to endanger or injure any passenger or person riding thereon, or being about the same, shall, upon conviction thereof, be punished by imprisonment in the penitentiary for any term not exceeding twenty (20) years nor less than five (5) years.
Idaho Code Ann. § 18-6010 (2012)

§ 18-6011. Obstruction or interference with railroad -- Act causing death
Any person or persons who shall, within this state, wilfully or maliciously place any obstruction upon any railroad track or roadbed or street car track, or shall misplace, remove, obstruct, detach, damage or destroy any rail, switch, frog, guard rail, cattle guard, or any other part of such railroad track or roadbed or street car track, or who shall otherwise interfere with the maintenance and operation of such road, thereby causing the death of any person, whether passenger or employee of such railroad, or street railway, or otherwise, shall, upon conviction thereof, be deemed guilty of a felony and be punished by imprisonment in the penitentiary for a term not less than five (5) years and which may extend to the natural life of such person so found guilty, or may be tried and punished for murder. But this section shall not in any way lessen the liability of the railroad company where a wreck may hereafter occur in the state of Idaho.
Idaho Code Ann. § 18-6011 (2012)

§ 49-1420. Interference with official traffic control devices or railroad signs or signals
No person shall, without lawful authority, attempt to or in fact alter, twist, deface, injure, knock down, remove or interfere with the effective operation of any traffic control device or any railroad sign or signal or any inscription, shield or insignia, or any other part.
Idaho Code Ann. § 49-1420 (2012)

Illinois

§ 625 ILCS 5/11-311. Interference with official traffic-control devices or railroad signs or signals
Sec. 11-311. Interference with official traffic-control devices or railroad signs or signals. 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.
Every person who is convicted of a violation of this Section shall be guilty of a Class A misdemeanor, punishable by a fine of at least $ 250 in addition to any other penalties which may be imposed.
625 Ill. Comp. Stat. Ann. 5/11-311 (2012)

§ 625 ILCS 5/18c-7401. Safety Requirements for Track, Facilities, and Equipment
Sec. 18c-7401. Safety Requirements for Track, Facilities, and Equipment.
(3) Railroad Crossings.
Any person who unlawfully or maliciously removes, throws down, damages or defaces any sign, signal, gate or other protective device, located at or near any public grade crossing, shall be

guilty of a petty offense and fined not less than $ 50 nor more than $ 200 for each offense. In addition to fines levied under the provisions of this Section a person adjudged guilty hereunder may also be directed to make restitution for the costs of repair or replacement, or both, necessitated by his misconduct.
625 ILCS 5/18c-7401(3) (2012) Excerpt from applicable statute published.

§ 625 ILCS 5/18c-7502. Malicious removal of or damage to railroad property or freight

Sec. 18c-7502. Malicious removal of or damage to railroad property or freight. (a) Malicious removal of or damage to railroad property or freight.
A person is guilty of an offense if he or she is found to have:
(i) removed, taken, stolen, changed, added to, taken from, or in any manner changed, defaced, or interfered with any of the parts or attachments of any locomotive or car, or any plant or property used in or in connection with the operation of any railroad carrier, locomotive, car, or train, or shoots, throws, or drops any object onto or at any train, locomotive, or car;
(ii) willfully and with intent to permanently deprive the owner thereof, taken or removed railroad freight from any freight car, including a boxcar, container, or flatbed;
(iii) bought or received any of the railroad freight described in item (ii), having reason to know that such freight was stolen; or
(iv) willfully placed upon an active railroad track or railroad right of way any object or objects that would adversely affect safe railroad operations.
(b) Penalties.
(1) If the railroad property damage does not exceed $ 500 and no bodily injury occurs to another as a result of a violation of this Section, the person shall be guilty of a Class A misdemeanor. Upon being found in violation of item (i) of subsection (a), the person shall, in addition to such other sanctions as may be deemed appropriate by the court, be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and to perform community service for not less than 30 hours or more than 120 hours. If community service is not available in the jurisdiction where the offense was committed, that person shall be subject to pay a fine of not less than $ 150 or more than $ 1,000, or imprisonment for not less than 5 days or more than 1 year, or both. If railroad property damage exceeds $ 500 or bodily injury occurs to another as a result of a violation of this Section, the person shall be guilty of a Class 4 felony. Upon being found in violation of item (i) of subsection (a), the person shall, in addition to such other sanctions as may be deemed appropriate by the court, be subject to pay the railroad carrier involved for the cost to repair any railroad property damaged, and shall be fined not less than $ 1,000, nor more than $ 25,000, or imprisonment for not less than 1 year, or more than 3 years, or both. If serious bodily injury or death occurs to another as a result of a violation of item (i) of subsection (a), the person shall be guilty of a Class 2 felony and shall, in addition to such sanctions as may be deemed appropriate by the court, be subject to pay the railroad carrier involved the cost to repair any railroad property damaged, and shall be fined not less than $ 5,000 nor more than $ 25,000, or imprisonment for not less than 3 years nor more than 7 years, or both. If any such action is malicious and is the cause of wrecking any train, locomotive, or car in this State whereby the life of any person is lost, the person found guilty thereof shall be liable for first degree murder and the person shall be subject to pay the railroad carrier involved the cost to repair any railroad property damaged.
(2) Upon being found in violation of item (ii), (iii), or (iv) the person shall be guilty of a Class 4 felony. In addition to such other sanctions as may be deemed appropriate by the court, the person shall be subject to pay the railroad carrier involved for the cost to repair any railroad property

damaged, and shall be fined not less than $ 1,000, nor more than $ 25,000, or imprisoned for not less than 1 year nor more than 3 years.
(3) Local authorities shall impose fines as established in this subsection (b) for persons found in violation of this Section or any similar local ordinance.
(c) Definitions. As used in this Section:
“Bodily injury” means:
(i) a cut, abrasion, bruise, bump, or disfigurement;
(ii) physical pain;
(iii) illness;
(iv) impairment of the function of a bodily member, organ, or mental faculty; or
(v) any other injury to the body, no matter how temporary.
“Railroad” means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including:
(i) commuter or other short-haul railroad passenger service in a metropolitan or urban area; and
(ii) high-speed ground transportation systems that connect metropolitan areas, but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.
“Railroad carrier” means a person providing railroad transportation.
“Railroad property” means all tangible property owned, leased, or operated by a railroad carrier including a right of way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal, or any other structure, appurtenance, or equipment owned, leased, or used in the operation of any railroad carrier including trains, locomotives, engines, railroad cars, work equipment, rolling stock, or safety devices. “Railroad property” does not include a railroad carrier's administrative buildings or offices, office equipment, or intangible property such as software or other information.
“Right of way” means the track or roadbed owned, leased, or operated by a rail carrier that is located on either side of its tracks and that is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.
"Yard" means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives, and other rolling stock is kept when not in use or when awaiting repair.
"Serious bodily injury" means bodily injury that involves:
(i) a substantial risk of death;
(ii) extreme physical pain;
(iii) protracted and obvious disfigurement; or
(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
625 Ill. Comp. Stat. Ann. 5/18c-7502 (2012)

<u>Indiana</u>

9-21-4-4. Installation, maintenance, or display of unauthorized signs, signals, markings, or other devices prohibited.
A person may not place, maintain, or display upon or in view of a highway an unauthorized sign, signal, marking, or device that:
(1) Purports to be, is an imitation of, or resembles an official traffic control device or a railroad sign or signal;
(2) Attempts to direct the movement of traffic; or

(3) Hides from view or interferes with the effectiveness of an official traffic control device or a railroad sign or signal.
Ind. Code Ann. § 9-21-4-4 (2012)

Iowa

321.260. Interference with devices, signs, or signals -- unlawful possession -- traffic signal preemption devices.
1. a. A person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes an official traffic-control device, an authorized warning sign or signal or barricade, whether temporary or permanent, a railroad sign or signal, an inscription, shield, or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be guilty of a simple misdemeanor and shall be required to make restitution to the affected jurisdiction. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.
b. A person who is convicted under paragraph "a" of an act relating to a stop sign or a yield sign may be required to complete community service in addition to making restitution to the affected jurisdiction.
2. It shall be unlawful for any person to have in the person's possession any official traffic-control device except by legal right or authority. Any person convicted of unauthorized possession of any official traffic-control device shall upon conviction be guilty of a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars.
3. a. A person shall not sell, own, possess, or use a traffic signal preemption device except as permitted in connection with the lawful operation of an authorized emergency vehicle as defined in section 321.1 or as otherwise authorized by the jurisdiction owning and operating an official traffic control signal. A person who is convicted of the unauthorized sale, ownership, possession, or use of a traffic signal preemption device is guilty of a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation under this subsection shall include assessment of a fine of not less than two hundred fifty dollars, and if the violation involves the unauthorized use of a traffic signal preemption device, the person may also be required to complete community service.
b. For purposes of this subsection, "traffic signal preemption device" means a device that, when activated, is capable of changing an official traffic control signal to green out of sequence.
Iowa Code § 321.260 (2012)

***716.10. Railroad vandalism.**
1. A person commits railroad vandalism when the person does any of the following:
a. Shoots, fires, or otherwise discharges a firearm or other device at a train or train component.
b. Launches, releases, propels, casts, or directs a projectile, missile, or other device at a train or train component.
c. Intentionally throws or drops an object on or onto a train or train component.
d. Intentionally places or drops an object on or onto a railroad track.
e. Without the consent of the railway corporation, takes, removes, defaces, alters, or obscures any of the following:
(1) A railroad signal.
(2) A train control system.

(3) A train dispatching system.
(4) A warning signal.
(5) A highway-railroad grade crossing signal or gate.
(6) A railroad sign, placard, or marker.
f. Without the consent of the railway corporation, removes parts or appurtenances from, damages, impairs, disables, interferes with the operation of, or renders inoperable any of the following:
(1) A railroad signal.
(2) A train control system.
(3) A train dispatching system.
(4) A warning signal.
(5) A highway-railroad grade crossing signal or gate.
(6) A railroad sign, placard, or marker.
g. Without the consent of the railway corporation, taking, removing, disabling, tampering, changing, or altering a part or component of any operating mechanism or safety device of any train or train component.
h. Without the consent of the railway corporation, takes, removes, tampers, changes, alters, or interferes with any of the following:
(1) A railroad roadbed.
(2) A railroad rail.
(3) A railroad tie.
(4) A railroad frog.
(5) A railroad sleeper.
(6) A railroad switch.
(7) A railroad viaduct.
(8) A railroad bridge.
(9) A railroad trestle.
(10) A railroad culvert.
(11) A railroad embankment.
(12) Any other structure or appliance which pertains or is appurtenant to a railroad.
2. a. A person commits railroad vandalism in the first degree if the person intentionally commits railroad vandalism which results in the death of any person. Railroad vandalism in the first degree is a class “B” felony. However, notwithstanding section 902.9, subsection 2, the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.
b. A person commits railroad vandalism in the second degree if the person intentionally commits railroad vandalism which results in serious injury to any person. Railroad vandalism in the second degree is a class “B” felony.
c. A person commits railroad vandalism in the third degree if the person intentionally commits railroad vandalism which results in bodily injury to any person or results in property damage which costs more than ten thousand dollars to replace, repair, or restore. Railroad vandalism in the third degree is a class “C” felony.
d. A person commits railroad vandalism in the fourth degree if the person intentionally commits railroad vandalism which results in property damage which costs ten thousand dollars or less but more than one thousand dollars to replace, repair, or restore. Railroad vandalism in the fourth degree is a class “D” felony.

e. A person commits railroad vandalism in the fifth degree if the person intentionally commits railroad vandalism which results in property damage which costs more than five hundred dollars but does not exceed one thousand dollars to replace, repair, or restore. Railroad vandalism in the fifth degree is an aggravated misdemeanor.
f. A person commits railroad vandalism in the sixth degree if the person intentionally commits railroad vandalism which results in property damage which costs more than one hundred dollars but does not exceed five hundred dollars to replace, repair, or restore. Railroad vandalism in the sixth degree is a serious misdemeanor.
g. A person commits railroad vandalism in the seventh degree if the person intentionally commits railroad vandalism which results in property damage which costs one hundred dollars or less to replace, repair, or restore. Railroad vandalism in the seventh degree is a simple misdemeanor.
3. For purposes of this section, "railway corporation" means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within the state.
For purposes of this section, "train component" means any locomotive, engine, tender, railroad car, passenger car, freight car, box car, tank car, hopper car, flatbed, container, work equipment, rail-mounted equipment, or any other railroad rolling stock.
For purposes of this section, "train" means a series of two or more train components which are coupled together in a line.
Iowa Code § 716.10 (2012)

Kansas

***8-1513. Interference with official traffic-control devices or railroad signs or signals; misdemeanor.**
No person, without lawful authority, shall 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.
Violation of this section is a misdemeanor.
Kan. Stat. Ann. § 8-1513 (2011)

***21-5817. Tampering with a traffic signal; aggravated tampering with a traffic signal.**
(a) Tampering with a traffic signal is knowingly manipulating, altering, destroying or removing any light, sign, marker, railroad switching device or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft.
(b) Aggravated tampering with a traffic signal is tampering with a traffic signal as defined in subsection (a) which creates an unreasonable risk of an accident causing the death or great bodily injury of any person.
(c) (1) Tampering with a traffic signal is a class C misdemeanor.
(2) Aggravated tampering with a traffic signal is a severity level 7, nonperson felony.
(d) It shall not be necessary that an accident occurs for a person to be charged and convicted pursuant to subsection (b).
(e) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for violating K.S.A. 2011 Supp. 21-5801 or 21-5802, and amendments thereto.
Kan. Stat. Ann. § 21-5817 (2011)

***21-5819. Throwing or otherwise casting objects onto street, highway or railroad right-of-way or railroad property.**

(a) It is unlawful for any person to:
(1) Recklessly throw, push, pitch or otherwise cast any rock, stone or other object, matter or thing onto a street, road, highway, railroad right-of-way, or upon any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock thereon;
(2) violate subsection (a) and damage any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock lawfully on the street, highway or railroad right-of-way by the thrown or cast rock, stone or other object;
(3) violate subsection (a) and injure another person on the street, road, highway or railroad right-of-way; or
(4) violate subsection (a), damage a vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock and a person is injured as a result of the cast or thrown object or from injuries incurred as a result of damage to the vehicle in which a person was a passenger when struck by such object.
(b) (1) Violation of subsection (a)(1) is a class B nonperson misdemeanor.
(2) Violation of subsection (a)(2) is a class A nonperson misdemeanor.
(3) Violation of subsection (a)(3) is a severity level 7, person felony.
(4) Violation of subsection (a)(4) is a severity level 6, person felony.
(c) In any case where a vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock is damaged as a result of a violation of subsection (a), the provisions of this section shall not bar conviction of the accused under any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto. An accused may be convicted for a violation of any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or this section, but not under both.
(d) In any case where a person dies or sustains bodily injury as a result of a violation of subsection (a), the provisions of this section shall not bar conviction of the accused under any other offense in article 54 of chapter 21 of the Kansas Statutes Annotated and K.S.A. 2011 Supp. 21-6418, and amendments thereto. An accused may be convicted for a violation of any other offense in article 54 of chapter 21 of the Kansas Statutes Annotated and K.S.A. 2011 Supp. 21-6418, and amendments thereto, or this section, but not under both.
Kan. Stat. Ann. § 21-5819 (2011)

Kentucky

277.355. Prohibition against damage, disturbance, or disruption of railroads, trains, or tracks -- Penalties.
(1) A person shall not knowingly drop or throw any object at, onto, or in the path of any railroad rail or track, locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.
(2) An unauthorized person shall not climb upon or into any locomotive, railroad car, or other vehicle of a railroad company when it is on a railroad track.
(3) An unauthorized person shall not disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company when it is on a railroad track.
(4) A person shall not knowingly deface, damage, obstruct, remove, or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including but not limited to any gate, bell, light, cross buck, stop sign, yield sign, advance warning sign, or advance pavement marking.

(5) Except as provided in subsection (6) of this section, a person who violates any of the provisions of this section shall be guilty of a Class A misdemeanor.
(6)(a) If a violation of this section causes damage to property in excess of one thousand dollars ($1,000) or creates a substantial risk of serious physical injury to a person, as defined in KRS 500.080, the violator shall be guilty of a Class D felony.
(b) If a violation of this section causes physical injury to a person, as defined in KRS 500.080, the violator shall be guilty of a Class C felony.
(c) If a violation of this section causes serious physical injury to a person, as defined in KRS 500.080, the violator shall be guilty of a Class B felony.
Ky. Rev. Stat. Ann. § 277.355 (2012)

Louisiana

§ 14:59. Criminal mischief
A. Criminal mischief is the intentional performance of any of the following acts:
(1) Tampering with any property of another, without the consent of the owner, with the intent to interfere with the free enjoyment of any rights of anyone thereto, or with the intent to deprive anyone entitled thereto of the full use of the property.
(6) Throwing any stone or any other missile in any street, avenue, alley, road, highway, open space, public square, or enclosure, or throwing any stone, missile, or other object from any place into any street, avenue, road, highway, alley, open space, public square, enclosure, or at any train, railway car, or locomotive.
(7) Taking temporary possession of any part or parts of a place of business, or remaining in a place of business after the person in charge of such business or portion of such business has directed such person to leave the premises and to desist from the temporary possession of any part or parts of such business.
(9) The discharging of any firearm at a train, locomotive, or railway car.
B. Whoever commits the crime of criminal mischief shall be fined not more than five hundred dollars, or be imprisoned for not more than six months in the parish jail, or both.
La. Rev. Stat. Ann. § 14:59 (2012) Excerpt from applicable statute published.

§ 14:321. Unauthorized signals to persons in charge of locomotives, etc., prohibited; penalty
No person without authority and in the absence of apparent danger shall, out of the spirit of mischief, or with any purpose other than to prevent or give information of an accident, make or cause to be made any signal to persons in charge of a locomotive, railroad train, or railroad cars, or to any of these persons or in their sight, with intent to cause the stopping of the locomotive, train, or cars.
Whoever violates this Section shall be fined not less than ten dollars nor more than two hundred dollars or imprisoned for not more than three months.
La. Rev. Stat. Ann. § 14:321 (2012)

Maine

***§ 1254. Penalties; jurisdiction**

Whoever unlawfully removes, injures or tampers with any warning, caution or directional sign, described in sections 59, 1251, 1252 and 1253-A, shall be punished by a fine of not less than $ 10 nor more than $ 50.
Me. Rev. Stat. Ann. tit. 23, § 1254 (2012)

***§ 2401. Tampering with railroad car**
Whoever willfully, mischievously or maliciously breaks the seal upon any freight car, or breaks and enters any railroad car, locomotive or work equipment on any railroad in the State, or destroys, injures, defiles or defaces any railroad car, locomotive or work equipment on any railroad in the State, or mischievously or maliciously releases the brakes upon, moves or sets in motion any railroad car, locomotive or work equipment on the track or sidetrack of any railroad in the State, shall be punished by a fine of not more than $ 500 or by imprisonment for not more than 2 years, and shall be liable to the corporation injured in a civil action for the amount of injury so done.
Me. Rev. Stat. Ann. tit. 17, § 2401 (2012)

§ 7010. Changing switch or lights
Whoever, without authority, alters, changes or in any manner interferes with any safety switch or switch lights on any railroad commits a Class E crime.
Me. Rev. Stat. Ann. tit. 23, § 7010 (2012)

§ 7011. Injuring or tampering with signals
Whoever intentionally and without right injures, destroys or molests 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 or destroys, or in any manner interferes with the proper working of, any signal on a railroad, shall be punished by a fine of not more than $ 500 or by imprisonment for not more than 2 years.
Me. Rev. Stat. Ann. tit. 23, § 7011 (2012)

<u>Maryland</u>

***§ 6-502. Interference with railroad**
(a) "Railroad" defined. -- In this section, "railroad" includes a switch, frog, rail, roadbed, tie, viaduct, bridge, trestle, culvert, embankment, structure, or appliance that pertains to or connects with a railroad.
(b) Prohibited. -- A person may not, with the intent to obstruct or derail a railroad vehicle in the State:
(1) break or damage a railroad; or
(2) place or cause anything to be placed on a railroad.
(c) Penalty. -- A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $ 5,000 or both.
Md. Code Ann., Crim. Law § 6-502 (2012)

***§ 6-504. Giving a false train signal**
(a) Prohibited. -- A person may not give a train signal to start a stopped train or to stop a moving train unless the person is an authorized employee of a railroad company.
(b) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months.
Md. Code Ann. Crim. Law § 6-504 (2012)

***§ 6-505. Striking railroad vehicle with object**
(a) "Railroad" defined. -- In this section, "railroad" has the meaning stated in § 1-101 of the Public Utilities Article.

(b) Prohibited. -- A person may not willfully and maliciously strike a railroad vehicle on a railroad or on an electric railway in the State by:
(1) shooting or throwing an object at the railroad vehicle; or
(2) causing an object to fall on the railroad vehicle.
(c) Penalty. -- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $ 1,000 or both.
Md. Code Ann., Crim. Law § 6-505 (2012)

§ 21-206. Interference with traffic control devices or railroad signs and signals
(a) Alteration or interference. -- A person without lawful authority may not willfully alter, or interfere with the operation of, any traffic control device or any railroad sign or signal, including any inscription, shield, or insignia on it.
(b) Defacing. -- A person without lawful authority may not willfully deface any traffic control device or any railroad sign or signal, including any inscription, shield, or insignia on it.
(c) Injuring. -- A person without lawful authority may not willfully injure any traffic control device or any railroad sign or signal, including any inscription, shield, or insignia on it.
(d) Knocking down. -- A person without lawful authority may not willfully knock down any traffic control device or any railroad sign or signal, including any inscription, shield, or insignia on it.
(e) Changing directions. -- A person without lawful authority may not willfully change the direction of any traffic control device or any railroad sign or signal, including any inscription, shield, or insignia on it.
(f) Twisting. -- A person without lawful authority may not willfully twist any traffic control device or any railroad sign or signal, including any inscription, shield, or insignia on it.
(g) Removing any part of it. -- A person without lawful authority may not willfully remove any part of any traffic control device or any railroad sign or signal, including any inscription, shield, or insignia on it.
(h) Possession or use of device to alter or interfere with operation of signal prohibited. -- A person without lawful authority may not possess, with an intent to use, any device capable of transmitting an infrared, electronic, or other signal to a traffic control device or a railroad sign or signal for the purpose of altering or otherwise interfering with the operation of the traffic control device or a railroad sign or signal.
Md. Code Ann., Transp. § 21-206 (2012)

<u>Massachusetts</u>

§ 103. Injury to Signals, Tracks, Cars, etc.
Whoever unlawfully and intentionally injures, molests or destroys any signal of a railroad corporation or railway company, or any line, wire, post or other structure or mechanism used in connection with such signal, or prevents or in any way interferes with the proper working of such signal, or whoever unlawfully and intentionally injures, molests, meddles or tampers with or destroys a track, car, motor bus or trackless trolley vehicle or any part, appliance or appurtenance thereof, of a railroad corporation or railway company, or the mechanism or apparatus used in the operation of any such car, or motor bus or trackless trolley vehicle, or whoever without right operates any such car, or motor bus or trackless trolley vehicle or any mechanism or appliance thereof, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than two years, or both.
Mass. Gen. Laws. ch. 159, § 103 (2012)

§ 146. Signals at Crossings -- Penalty for Removing Sign.
Any person who unlawfully removes, throws down, injures or defaces any such sign shall be punished by a fine of not more than ten dollars, to the use of the county, city or town placing and maintaining the sign, or of the commonwealth, if the sign is placed and maintained by the department of highways.
Mass. Gen. Laws. ch. 160, § 146 (2012)

Michigan

§ 462.257. Conduct as felony or misdemeanor; penalties.
(1) A person who causes or attempts to cause the derailment of an engine, cars, or track vehicle used on railroad tracks by the placing of an impediment upon the track of a railroad, whether the engine, cars, or track vehicle are thrown from the track or not, or who by any other means whatsoever shall willfully endanger or attempt to endanger the lives of persons engaged in the work of the railroad, or persons traveling on the engine or cars of the railroad, is guilty of a felony and subject to imprisonment for life, or any number of years, in the discretion of the court. It shall not be necessary for the people to allege or prove that the person intended to injure or endanger the life of any particular person or persons.
(2) A person who throws a stone, brick, or other missile at a train or track vehicle is guilty of a misdemeanor punishable by a fine of not less than $100.00 or more than $500.00, or imprisonment for not less than 10 or more than 90 days, or both.
Mich. Comp. Laws Serv. § 462.257 (2012)

§ 750.394. Train, car, or vehicle, throwing, propelling, or dropping stone or object; violation; penalty; "serious impairment" defined.
(1) A person shall not throw , propel, or drop a stone, brick , or other dangerous object at a passenger train, sleeping car, passenger coach, express car, mail car, baggage car, locomotive, caboose, or freight train or at a street car, trolley car , or motor vehicle .
(2) A person who violates this section is guilty of a crime as follows:
(a) Except as provided in subdivisions (b), (c), and (d), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.
(b) Except as provided in subdivision (c), (d), or €, if the violation causes property damage, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $500.00, or both.
(c) If the violation causes injury to any person, other than serious impairment or death, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.
(d) If the violation causes serious impairment to any person, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.
(e) If the violation causes death to any person, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.
(3) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.
(4) As used in this section, "serious impairment" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

Mich. Comp. Laws Serv. § 750.394 (2012)

§ 750.511. Attempt to wreck or endanger safety of passengers.
Attempt to wreck railroad trains or endanger safety of passengers--Any person who shall place upon any railroad any timber, stone, iron or other obstruction, or who shall change any switch or track, or who shall loosen or displace any rail of the track of such railroad, or who shall change the brakes upon any car or cars standing on any railroad track in this state or who shall break down or displace, destroy or injure any bridge, culvert or embankment of any railroad, or do any other act with intent to endanger the safety of any person traveling or being upon such railroad, or to throw from such railroad any locomotive, tender, or car moving along the track of such railroad, on which shall be any person or property liable to be injured thereby, shall be guilty of a felony, punishable by imprisonment in the state prison for life or for any term of years.
Mich. Comp. Laws Serv. § 750.511 (2012)

Minnesota

169.08 UNLAWFUL TO POSSESS, ALTER, DEFACE, OR REMOVE SIGN
No person shall, without lawful authority, possess, or 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. A person who voluntarily notifies a law enforcement agency that the person is in possession of such an article, and who returns the article within ten days after gaining possession thereof, shall not be subject to prosecution for such possession.
Minn. Stat. § 169.08 (2012)

169.073 PROHIBITED LIGHT OR SIGNAL
(a) No person or corporation shall place, maintain or display any red light or red sign, signal, or lighting device or maintain it in view of any highway or any line of railroad on or over which trains are operated in such a way as to interfere with the effectiveness or efficiency of any highway traffic-control device or signals or devices used in the operation of a railroad. Upon written notice from the commissioner of transportation, a person or corporation maintaining or owning or displaying a prohibited light shall promptly remove it, or change the color of it to some other color than red. Where a prohibited light or sign interferes with the effectiveness or efficiency of the signals or devices used in the operation of a railroad, the Department of Transportation may cause the removal of it and the department may issue notices and orders for its removal. The department shall proceed as provided in sections 216.13, 216.14, 216.15, 216.16, and 216.17, with a right of appeal to the aggrieved party in accordance with chapter 14.
(b) No person or corporation shall maintain or display any light after written notice from the commissioner of transportation that the light constitutes a traffic hazard and that the commissioner has ordered the removal thereof.
Minn. Stat. § 169.073 (2012)

219.30 INJURING, DESTROYING SIGN
It is unlawful for a person to maliciously injure, remove, displace, deface, or destroy the signs or signals provided for in sections 219.16 to 219.30.
Minn. Stat. § 219.30 (2012)

609.85 CRIMES AGAINST RAILROAD EMPLOYEES AND PROPERTY; PENALTY
Subdivision 1. Intent to cause derailment. --Whoever throws or deposits any type of debris, waste material, or other obstruction on any railroad track or whoever causes damage or causes

another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel, signal or moving equipment used in providing rail services, with intention to cause injury, accident or derailment, is guilty of a felony.
Subd. 2. Foreseeable risk. --Whoever intentionally throws or deposits any type of debris, waste material, or other obstruction on any railroad track or whoever intentionally causes damage or causes another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel, signal or moving equipment used in providing rail services, which creates a reasonably foreseeable risk of any injury, accident or derailment, is guilty of a gross misdemeanor.
Subd. 3. Shooting at train. --Whoever intentionally shoots a firearm at any portion of a railroad train, car, caboose, engine or moving equipment so as to endanger the safety of another is guilty of a gross misdemeanor.
Subd. 4. Throwing objects at train. --Whoever intentionally throws, shoots or propels any stone, brick or other missile at any railroad train, car, caboose, engine or moving equipment, so as to endanger the safety of another is guilty of a gross misdemeanor.
Subd. 5. Placing obstruction on track. --Whoever places an obstruction on a railroad track is guilty of a misdemeanor.
Minn. Stat. § 609.85(Subd.1-5) (2012) Excerpt from applicable statute published.

Mississippi

§ 65-7-23. Defacing, removing or destroying signs or traffic control devices prohibited; penalties; liability for cost of repair; liability of parents of minor
(1) Any person willfully defacing, removing, marring, damaging or destroying any sign or guide board, including any railroad crossing sign or flasher signal, or other traffic control device erected as provided shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable for the actual cost of replacing or repairing such sign and shall be fined not less than Two Hundred Dollars ($ 200.00) nor more than Five Hundred Dollars ($ 500.00), or be imprisoned in the county jail not more than six (6) months, or be punished by both such fine and imprisonment. If the offender is a minor, the parents of such minor shall be civilly liable in accordance with Section 93-13-2 for the actual cost of replacing or repairing the sign, signal or device.
(2) The penalties prescribed in subsection (1) of this section shall also be applicable to any person, and to the parents of any minor, who willfully defaces, mars or damages any bridge, underpass or overpass.
(3) Any person who violates subsection (1) of this section regarding a memorial, other historical or cultural marker or sign, the value of which is Five Hundred Dollars ($ 500.00) or more, shall be guilty of a misdemeanor, and, upon conviction, shall be imprisoned in the county jail for up to six (6) months or fined up to One Thousand Dollars ($ 1,000.00), or both. Such person shall also be ordered to make full restitution.
Miss. Code Ann. § 65-7-23 (2012)

§ 97-15-1. Destroying, defacing, etc., milepost, signboard, etc., or bridge, underpass or overpass prohibited; penalties; liability for cost of repair; liability of parents of minor
(1) Any person who shall willfully destroy, deface, mar, damage, pull down or remove any milepost, signboard, or index board, or road number, or railroad crossing sign or flasher signal, or other traffic control device shall, on conviction thereof, be liable for the actual cost of replacing or repairing such sign and shall be fined not less than Two Hundred Dollars ($ 200.00) nor more than Five Hundred Dollars ($ 500.00), or be imprisoned in the county jail not more

than six (6) months, or be punished by both such fine and imprisonment. If the offender is a minor, the parents of such minor shall be civilly liable in accordance with Section 93-13-2 for the actual cost of replacing or repairing the sign, signal or device.
(2) The penalties prescribed in subsection (1) of this section shall also be applicable to any person, and to the parents of any minor, who willfully defaces, mars or damages any bridge, underpass or overpass.
Miss. Code Ann. § 97-15-1 (2012)

§ 97-25-5. Railroads; destroying crossing-sign, gate or warning-signals
If any person shall willfully obliterate, injure or destroy any railroad-gate, warning-signals, cattle-gap or any board or sign erected or maintained by a railroad company in pursuance of law, he shall be fined not less than One Hundred Dollars ($ 100.00) nor more than Five Hundred Dollars ($ 500.00), or be imprisoned in the county jail not exceeding three (3) months, or both. In addition, any person who is convicted for a violation of this section shall be ordered by the court to make restitution to the owners or operators of the railroad line or property in an amount determined by the court to compensate for all damages caused by such person and all costs related to cleanup necessitated as a result of such person's unlawful conduct.
Miss. Code Ann. § 97-25-5 (2012)

§ 97-25-21. Railroads; obstructing or injuring
If any person shall wantonly or negligently obstruct or injure any railroad, on conviction, he shall be fined not less than five hundred dollars ($ 500.00) nor more than two thousand dollars ($ 2,000.00), or imprisoned not longer than twelve (12) months in the county jail, or both.
Miss. Code Ann. § 97-25-21 (2012)

§ 97-25-23. Railroads; obstructing or injuring; derailing cars
If any person shall wantonly or maliciously injure, or place any impediment or obstruction on any railroad, or do any other act by means of which any car or vehicle might be caused to diverge, or be derailed, or thrown from the track, such person, on conviction, shall be committed to the custody of the department of corrections for a term of not less than one (1) year nor more than ten (10) years, and the penalty provided in this section shall apply to any engineer, conductor, switchman, brakeman, train dispatcher or telegraph operator who shall wilfully or negligently cause the derailment or collision of a passenger train.
Miss. Code Ann. § 97-25-23 (2012)

§ 97-25-25. Railroads; seizing and running locomotive
If any person shall unlawfully seize upon any locomotive and run it away, or shall aid, abet or procure the doing of the same, he shall, upon conviction, be fined not less than five hundred dollars ($ 500.00) nor more than one thousand dollars ($ 1,000.00), or imprisoned in the county jail not exceeding six (6) months, or both.
Miss. Code Ann. § 97-25-25 (2012)

§ 97-25-27. Railroads; signaling or unlawfully interfering with train
If any person, without authority and in the absence of apparent danger warranting such act, shall, out of a spirit of mischief, or with any purpose other than to prevent or give information of an accident, make, or cause to be made, any sign or signal to persons in charge of any locomotive, or railroad train or cars, or to any of such persons, or in sight of any of them, with intent to cause the stopping or starting of such locomotive, train, or cars; or if any person unlawfully interfere with the management or running of such locomotive, train, or cars on any railroad, the person so

offending shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than one hundred dollars ($ 100.00) nor more than five hundred dollars ($ 500.00), or shall be imprisoned in the county jail not exceeding three (3) months.
Miss. Code Ann. § 97-25-27 (2012)

§ 97-25-35. Railroads; stealing or interfering with communications or signaling equipment
If any person shall maliciously remove, take, steal, change or in any manner interfere with any railroad transmission line, signaling device, microwave tower or any of the parts or attachments belonging to any communication or signaling device owned, leased or used by any railroad or transportation company, he shall, on conviction, be fined not more than Three Thousand Dollars ($ 3,000.00), or shall be imprisoned not more than five (5) years, or both. In addition, any person who is convicted for a violation of this section shall be ordered by the court to make restitution to the owners or operators of the railroad line or property in an amount determined by the court to compensate for all damages caused by such person and all costs related to cleanup necessitated as a result of such person's unlawful conduct.
Miss. Code Ann. § 97-25-35 (2012)

§ 97-25-47. Railroad trains, buses, trucks, motor vehicles, depots, stations, and other transportation facilities; wilfully shooting or throwing at
If any person or persons shall wilfully shoot any firearms or hurl any missile at, or into, any train, bus, truck, motor vehicle, depot, station, or any other transportation facility, such person shall, upon conviction, be punished by a fine of not less than one hundred dollars ($ 100.00) nor more than two hundred fifty dollars ($ 250.00), or be committed to the custody of the department of corrections not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment.
Miss. Code Ann. § 97-25-47 (2012)

§ 97-35-39. Vagrants; penalty for vagrancy; bond
Whenever any person shall have been convicted of being a vagrant, the justice of the peace or mayor or police justice by whom such person was tried shall commit the person to jail for not less than ten nor more than thirty days, or shall require such person to give bond, with sufficient security, to be approved by said justice or mayor or police justice, in any sum not less than two hundred and one dollars, for the future industry and good conduct of such person for one year from the date of giving of such bond.
Miss. Code Ann. § 97-35-39 (2012)

Missouri

§ 571.030. Unlawful use of weapons -- exceptions -- penalties
1. A person commits the crime of unlawful use of weapons if he or she knowingly:
(3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, or any building or structure used for the assembling of people
Mo. Rev. Stat. § 571.030 (2012) Excerpt from applicable statute published

Montana

***61-8-706 Removal of unauthorized sign.**
(1) An unauthorized sign, emblem, marker, or traffic control device or portion thereof encroaching into, over, or upon a right-of-way of a state highway or controlled-access highway is

a public nuisance, and the department may remove it or cause it to be removed without notice and without liability for the removal.
(2) Every sign, signal, or marking prohibited by 61-8-210 is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.
Mont. Code Ann., § 61-8-706 (2012)

***61-8-712 Penalty for erection of unauthorized sign.**

The erection of a sign, emblem, marker, or traffic control device in violation of 61-8-203 is a misdemeanor, punishable by a fine of not less than $ 25 or more than $ 300.
Mont. Code Ann., § 61-8-712 (2012)

61-8-713 Injury to or removal of sign or marker as misdemeanor -- penalty.
(1) A person who maliciously injures, defaces, damages, or removes any sign, signal, or marker, either temporarily or permanently erected on the right-of-way of any secondary, state, or interstate highway for warning, instruction, or information of the public, is guilty of a misdemeanor and upon conviction shall be punished by a fine of $ 250, by imprisonment in the county jail for a period not exceeding 60 days, or both. This section applies to secondary, state, or interstate highways that are completed and to secondary, state, or interstate highways that are under construction or repair.
(2) A person may not, 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 on or part of the sign or device.
(3) As used in this section, “railroad sign or signal” means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train or other on-track equipment.
Mont. Code Ann., § 61-8-713 (2012)

69-14-1205 Intentional vandalism to railroad property.
(1) A person commits the offense of intentional vandalism to railroad property if the person knowingly or purposely vandalizes railroad property.
(2) A person convicted of intentional vandalism to railroad property must be ordered to make restitution to the railroad carrier in the amount of the cost to repair any railroad property damaged, the cost of any train or shipment delay, and the cost of any accident or damage resulting from the vandalism.
(3) (a) A person convicted of the offense of intentional vandalism to railroad property in which the damage to railroad property does not exceed $ 1,000 and in which there is no bodily injury to another person as a result of the offender's actions shall be fined an amount not to exceed $ 1,000 or be incarcerated in the county jail for a term not to exceed 6 months, or both.
(b) A person convicted of the offense of intentional vandalism to railroad property in which the damage to railroad property exceeds $ 1,000 or in which there is bodily injury to another person as a result of the offender's actions shall be fined an amount not to exceed $ 10,000 or be incarcerated for a term not to exceed 10 years, or both.
(c) A person convicted of the offense of intentional vandalism to railroad property that results in serious bodily injury to another person as a result of the offender's actions shall be fined an amount not to exceed $ 20,000 or be incarcerated in a state prison for a term not to exceed 20 years, or both.

(d) A person convicted of the offense of intentional vandalism to railroad property that results in the death of another person as a result of the offender's actions shall be fined an amount not to exceed $ 50,000 or be incarcerated in a state prison for a term not to exceed 40 years, or both.
Mont. Code Ann., § 69-14-1205 (2012)

Nebraska

§ 60-6,129. Interference with official traffic control devices or railroad signs or signals; prohibited; liability in civil action
(1) No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any traffic control device, any railroad sign or signal, or any part of such a device, sign, or signal.
(2) Any person who moves, alters, damages, or destroys warning devices placed upon roads which the Department of Roads or any local authority or its representative has closed in whole or in part for the protection of the public or for the protection of the highway from damage during construction, improvement, or maintenance operation and thereby causes injury or death to any person or damage to any property, equipment, or material thereon shall be liable, subject to sections 25-21,185 and 25-21,185.07 to 25-21,185.12, for the full or allocated amount of such death, injury, or damage, and such amount may be recovered by the injured or damaged party or his or her legal representative in a civil action brought in any court of competent jurisdiction.
Neb. Rev. Stat. Ann. § 60-6,129 (2012)

Nevada

202.285. Discharging firearm at or into structure, vehicle, aircraft or watercraft; penalties.
1. A person who willfully and maliciously discharges a firearm at or into any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, aircraft, vehicle, vehicle trailer, semitrailer or house trailer, railroad locomotive, car or tender:
(a) If it has been abandoned, is guilty of a misdemeanor unless a greater penalty is provided in NRS 202.287.
(b) If it is occupied, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.
2. Whenever a firearm is so discharged at or into any vessel, aircraft, vehicle, vehicle trailer, semitrailer or house trailer, railroad locomotive, car or tender, in motion or at rest, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, aircraft, vehicle, vehicle trailer, semitrailer or house trailer, locomotive or railroad car may have run on the trip during which the firearm was discharged at or into it.
Nev. Rev. Stat. Ann. § 202.285 (2012)

***206.300. False signals endangering cars, vessels or motors.**
A person who, in such a manner as might, if not discovered, endanger a vessel, railway engine, motor, train or car, shows, masks, extinguishes, alters or removes any light or signal, or exhibits any false light or signal, shall be punished:
1. Where physical injury or property damage results therefrom, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

2. Otherwise, for a gross misdemeanor.
Nev. Rev. Stat. Ann. § 206.300 (2012)

484B.317. Interference with official device for control of traffic or sign or signal for railroad prohibited; additional penalty for violation committed in work zone.
1. A person shall not, without lawful authority, attempt to or alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insigne thereon, or any other part thereof.
2. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484B.130.
Nev. Rev. Stat. Ann. § 484B.317 (2012)

705.450. Penalty for willful obstruction or delay of train.
Every person who shall willfully obstruct, hinder or delay the passage of any car lawfully operated upon any railway shall be guilty of a misdemeanor.
Nev. Rev. Stat. Ann. § 705.450 (2012)

705.460. Penalty for unlawful obstruction or destruction of track, equipment or devices.
A person who willfully and maliciously places any obstruction on the track of any railroad in this state, or tears up or removes any part or portion of a railroad, or destroys, deranges, misplaces or injures any rail, switch, block or other signaling device, culvert, viaduct, bridge, car, tender or engine, or willfully and maliciously does or attempts to do any of those things, or any other act or thing, whereby the life and limb of a person may be endangered, is guilty of a category C felony and shall be punished as provided in NRS 193.130.
Nev. Rev. Stat. Ann. § 705.460 (2012)

705.480. Tampering with railroad property; penalty.
1. It is unlawful for any person without authority to:
(a) Willfully uncouple or detach any locomotive, tender or any car of any railroad train, either when standing or in motion on any track of any railroad.
(b) Take off the brake of any railroad car, tender or train.
(c) Put in motion any locomotive, tender, car or train.
2. It is unlawful for any person to:
(a) Throw any stone, rock, missile, or any substance at any railroad train, car, locomotive or tender, or any part of any train.
(b) Wrongfully injure, deface or damage the same or any part thereof.
3. Any person violating any provision of this section is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of the property damaged, and in no event less than a misdemeanor.
Nev. Rev. Stat. Ann. § 705.480 (2012) Excerpt from applicable statute published.

<u>New Hampshire</u>

265:15 Interference With Traffic Devices, Signs, or Signals.
I. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down other than accidentally, remove, or possess any of the following items, or any part thereof, which have been previously installed by lawful authority:
(a) Any official control device; or
(b) Any railroad sign or signal; or

(c) Any inscription, shield or insignia found on any of the above.
II. (a) No person shall use or attempt to use any device designed or intended to change, disrupt, or interfere with the operation of a traffic signal.
(b) A person shall be guilty of a misdemeanor if convicted under this paragraph.
(c) This paragraph shall not apply to:
(1) Federal, state, or local law enforcement personnel while in the course of their official duties.
(2) Firefighters while in the course of their official duties.
(3) Emergency medical services personnel while in the course of their official duties.
(4) State or municipal department of transportation or highway personnel while in the course of their official duties.
(d) The exemptions set forth in subparagraphs (c)(1)-(c)(4) shall only apply to such personnel when they are operating licensed ambulances, licensed fire apparatus, or government-owned vehicles.
III. The fine for a violation of this section shall be $150.
N.H. Rev. Stat. Ann. § 265:15 (2012)

New Jersey

§ 2C:33-14. Interference with transportation
a. Interference with Transportation. A person is guilty of interference with transportation if the person purposely or knowingly:
(1) casts, shoots or throws anything at, against or into any vehicle, including, but not limited to, a bus, light rail vehicle, railroad locomotive, railroad car, jitney, trolley car, subway car, ferry, airplane, or other facility of transportation; or
(2) casts, shoots, throws or otherwise places any stick, stone, object or other substance upon any street railway track, trolley track or railroad track; or
(3) endangers or obstructs the safe operation of motor vehicles by casting, shooting, throwing or otherwise placing any stick, stone, object or other substance upon any highway or roadway; or
(4) unlawfully climbs into or upon any light rail vehicle, railroad locomotive or railroad car, either in motion or standing on the track of any railroad company in this State; or
(5) unlawfully disrupts, delays or prevents the operation of any vehicle, including, but not limited to, a bus, light rail vehicle, railroad locomotive, train, bus, jitney, trolley, subway, airplane or any other facility of transportation. The term "unlawfully disrupts, delays or prevents the operation of" does not include non-violent conduct growing out of a labor dispute as defined in N.J.S.2A:15-58; or
(6) endangers or obstructs the safe operation of motor vehicles by using a traffic control preemption device to interfere with or impair the operation of a traffic control signal as defined in R.S.39:1-1; or
(7) shines, points or focuses a laser lighting device beam, directly or indirectly, upon a person operating any vehicle, including, but not limited to, a bus, light rail vehicle, railroad locomotive, railroad car, jitney, trolley car, subway car, ferry, airplane, or other facility of transportation. As used in this paragraph, "laser lighting device" means a device which emits a laser beam that is designed to be used by the operator as a pointer or highlighter to indicate, mark or identify a specific position, place, item or object.
As used in this subsection, "traffic control preemption device" means an infrared transmitter or other device which transmits an infrared beam, radio wave or other signal designed to change, alter, or disrupt in any manner the normal operation of a traffic control signal.
b. Interference with transportation is a disorderly persons offense.

c. Interference with transportation is a crime of the fourth degree if the person purposely, knowingly or recklessly causes bodily injury to another person or causes pecuniary loss in excess of $ 500 but less than $ 2,000.
d. Interference with transportation is a crime of the third degree if the person purposely, knowingly or recklessly causes significant bodily injury to another person or causes pecuniary loss of $ 2,000 or more, or if the person purposely or knowingly creates a risk of significant bodily injury to another person.
e. Interference with transportation is a crime of the second degree if the person purposely, knowingly or recklessly causes serious bodily injury to another person.
N.J. Rev Stat. Ann. § 2C:33-14 (2012)

§ 2C:33-14.1. Vandalizing railroad crossing devices, property; grading of offenses; graffiti
a. Any person who purposely, knowingly or recklessly defaces, damages, obstructs, removes or otherwise impairs the operation of any railroad crossing warning signal or protection device, including, but not limited to safety gates, electric bell, electric sign or any other alarm or protection system authorized by the Commissioner of Transportation, which is required under the provisions of R.S. 48:12-54 or R.S. 48:2-29, or any other railroad property or equipment, other than administrative buildings, offices or equipment, shall, for a first offense, be guilty of a crime of the fourth degree; however, if the defacement, damage, obstruction, removal or impediment of the crossing warning signal or protection device, property or equipment recklessly causes bodily injury or pecuniary loss of $ 2000 or more, the actor is guilty of a crime of the third degree, or if it recklessly causes a death or serious bodily injury, the actor is guilty of a crime of the second degree.
b. A person convicted of a violation of this section that involves an act of graffiti may, in addition to any other penalty imposed by the court, be required to pay to the owner of the damaged property monetary restitution in the amount of the pecuniary damage caused by the act of graffiti and to perform community service, which shall include removing the graffiti from the property, if appropriate. If community service is ordered, it shall be for either not less than 20 days or not less than the number of days necessary to remove the graffiti from the property. As used in this section, “act of graffiti” means the drawing, painting or making of any mark or inscription on public or private real or personal property without the permission of the owner.
N.J. Rev. Stat. Ann. § 2C:33-14.1 (2012)

New Mexico

No applicable statute related to this topic

New York

§ 145.50. Penalties for littering on railroad tracks and rights-of-way
1. No person shall throw, dump, or cause to be thrown, dumped, deposited or placed upon any railroad tracks, or within the limits of the right-of-way of any railroad, any refuse, trash, garbage, rubbish, litter or any nauseous or offensive matter.
2. Where a highway or road lies in whole or part within a railroad rights-of-way, nothing in this section shall be construed as prohibiting the use in a reasonable manner of ashes, sand, salt or other material for the purpose of reducing the hazard of, or providing traction on snow, ice or sleet situated on such highway or road.
3. A violation of the provisions of subdivision one of this section shall be punishable by a fine not to exceed two hundred fifty dollars and/or a requirement to perform services for a public or

not-for-profit corporation, association, institution or agency not to exceed eight hours and for any second or subsequent violation by a fine not to exceed five hundred dollars and/or a requirement to perform services for a public or not-for-profit corporation, association, institution or agency not to exceed eight hours.
4. Nothing in this section shall be deemed to apply to a railroad or its employees when matter deposited by them on the railroad tracks or rights-of-way is done pursuant to railroad rules, regulations or procedures.
N.Y. Penal. Law § 145.50 (Consol. 2012)

§ 53-d. Unlawful propulsion of a missile at railroad trains
A person is guilty of unlawful propulsion of a missile at a railroad train where he willfully with intent to cause personal injury or property damage throws, shoots or propels 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. Unlawful propulsion of a missile at a railroad train is a violation; provided, however, that such classification shall not apply in any case where an offense having a higher classification for the purpose of sentence, is charged under any other provision of law.
N.Y. R.R. Law § 53-d (Consol. 2012)

§ 53-e. Unlawful interference with a railroad train

A person is guilty of unlawful interference with a railroad train when he wilfully with intent to disrupt, delay, or disturb service, places, causes to be placed, drops, or positions an 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 physical injury to passengers or both.
Unlawful interference with a railroad train is a class D felony; provided, however, that such classification shall not apply in any case in which an offense having a higher classification for the purpose of sentence is charged under any other provision of law.
N.Y. R. R. Law § 53-e (Consol. 2012)

<u>North Carolina</u>

§ 14-278. Willful injury to property of railroads
It shall be unlawful for any person to willfully, with intent to cause injury to any person passing over the railroad or damage to the equipment traveling on such road, put or place any matter or thing upon, over or near any railroad track, or destroy, injure, tamper with, or remove the roadbed, or any part thereof, or any rail, sill or other part of the fixtures appurtenant to or constituting or supporting any portion of the track of such railroad, and the person so offending shall be punished as a Class I felon.
N.C. Gen. Stat. § 14-278 (2012)

§ 14-279. Unlawful injury to property of railroads
Any person who, without intent to cause injury to any person or damage to equipment, commits any of the acts referred to in G.S. 14-278 shall be guilty of a Class 2 misdemeanor
N.C. Gen. Stat. § 14-279 (2012)

§ 14-279.1. Unlawful impairment of operation of railroads
Any person who, without authorization of the affected railroad company, shall willfully do or cause to be done any act to railroad engines, equipment, or rolling stock so as to impede or

prevent movement of railroad trains or so as to impair the operation of railroad equipment shall be guilty of a Class 2 misdemeanor.
N.C. Gen. Stat. § 14-279.1 (2012)

§ 14-280. Shooting or throwing at trains or passengers
If any person shall willfully cast, throw or shoot any stone, rock, bullet, shot, pellet or other missile at, against, or into any railroad car, locomotive or train, or any person thereon, while such car or locomotive shall be in progress from one station to another, or while such car, locomotive or train shall be stopped for any purpose, the person so offending shall be guilty of a Class I felony.
N.C. Gen. Stat. § 14-280 (2012)

North Dakota

12.1-21-06. Tampering with or damaging a public service.
1. A person is guilty of an offense if he causes a substantial interruption or impairment of a public communication, transportation, supply of water, gas, power, or other public service by:
a. Tampering with or damaging the tangible property of another;
b. Incapacitating an operator of such service; or
c. Negligently damaging the tangible property of another by fire, explosive, or other dangerous means.
2. The offense is a class C felony if the actor engages in the conduct intentionally and a class A misdemeanor if the actor engages in the conduct knowingly or recklessly. Otherwise it is a class B misdemeanor.
N.D. Cent. Code, § 12.1-21-06 (2012)

***24-01-12. Regulation of advertising signs on highways.**
No person, firm, corporation, or limited liability company may place, put, or maintain any sign, billboard, or advertisement within the limits of a public highway, or in any manner paint, print, place, put, or affix, or cause to be painted, printed, placed, or affixed, any advertisement on or to any stone, tree, fence, stump, pole, mileboard, milestone, danger sign, danger signal, guide sign, guidepost, billboard, building, or other object within the limits of a public highway, or place, put or maintain any sign or billboard upon private property within one thousand feet [304.8 meters] of any highway grade crossing in such place or manner as to obstruct or interfere with a free and clear view of such crossing from any highway or railroad intersecting thereat. None of the provisions of this section prohibit the placing of public notices on billboards erected for that purpose by authority of the governing body of a municipality. Any advertisement in or upon a public highway or private property which, in the judgment of the director, may be deemed to be a hazard to traffic, or in the future may tend to create a hazard to traffic, may be taken down, removed, or destroyed by direction or authority of the department in the case of the state highway system, by the board of county commissioners in the case of the county road system, and by the board of township supervisors in the case of township roads.
N.D. Cent. Code, § 24-01-12 (2012)

49-10.1-08. Tampering, altering, or damaging railroad property -- Penalty.
Every unauthorized person who unlawfully tampers with, alters, or damages any railroad track, track mechanism, or signal, semaphore, or sign, or masks any light or signal, or exhibits any false light or signal with intent to endanger any person or damage property, shall be guilty of a class C felony.

N.D. Cent. Code, § 49-10.1-08 (2012)

Ohio

§ 2909.07. Criminal mischief

(A) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with the property of another;

(2) With purpose to interfere with the use or enjoyment of property of another, employ a tear gas device, stink bomb, smoke generator, or other device releasing a substance that is harmful or offensive to persons exposed or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with a bench mark, triangulation station, boundary marker, or other survey station, monument, or marker;

(4) Without privilege to do so, knowingly move, deface, damage, destroy, or otherwise improperly tamper with any safety device, the property of another, or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;

(5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure, or personal property that is on that land;

(6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, knowingly do any of the following:

(a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;

(b) Introduce a computer contaminant into a computer, computer system, computer network, computer software, or computer program.

(B) As used in this section, “safety device” means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

(C)(1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in division (C)(2) or (3) of this section.

(2) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of division (A)(1), (2), (3), (4), or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of division (A)(1), (2), (3), (4), or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an

aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is one of the following:
(a) If the violation creates a risk of physical harm to any person, except as otherwise provided in division (C)(2)(b) of this section, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a felony of the fifth degree.
(b) If the violation creates a substantial risk of physical harm to any person or if the property involved in a violation of this section is an occupied aircraft, criminal mischief committed in violation of division (A)(1), (2), (3), (4), or (5) of this section is a felony of the fourth degree.
(3) Except as otherwise provided in this division, criminal mischief committed in violation of division (A)(6) of this section is a misdemeanor of the first degree. Except as otherwise provided in this division, if the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars or more and less than ten thousand dollars, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in violation of division (A)(6) of this section is a felony of the fifth degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section or the loss to the victim resulting from the violation is ten thousand dollars or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of division (A)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a substantial risk of physical harm to any person or the aircraft in question is an occupied aircraft, criminal mischief committed in violation of division (A)(6) of this section is a felony of the fourth degree.
Ohio Rev. Code Ann. § 2909.07 (2013)

§ 2909.10. Railroad vandalism or criminal trespass; interference with operation of train
(A) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.
(B) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.
(C) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.
(D) No person, without privilege to do so, shall knowingly enter or remain on the land or premises of a railroad company.
(E) Whoever violates division (A) of this section is guilty of railroad vandalism. Whoever violates division (B) of this section is guilty of criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle. Whoever violates division (C) of this section is guilty of interference with the operation of a train.
Except as otherwise provided in this division, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. Except as otherwise provided in this division, if the violation of division (A), (B), or (C) of this section causes serious physical harm to property or creates a substantial risk of physical harm to any person, the violation is a felony of the fourth

degree. Except as otherwise provided in this division, if the violation of division (A), (B), or (C) of this section causes physical harm to any person, the violation is a felony of the third degree. If the violation of division (A), (B), or (C) of this section causes serious physical harm to any person, the violation is a felony of the second degree.
(F) Whoever violates division (D) of this section is guilty of criminal trespass on the land or premises of a railroad company, a misdemeanor of the fourth degree.
Ohio Rev. Code Ann. § 2909.10 (2013)

§ 2909.101. Railroad grade crossing device vandalism
(A) No person shall knowingly deface, damage, obstruct, remove, or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.
(B) Whoever violates this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this division, railroad grade crossing device vandalism is a misdemeanor of the first degree. Except as otherwise provided in this division, if the violation of this section causes serious physical harm to property or creates a substantial risk of physical harm to any person, railroad grade crossing device vandalism is a felony of the fourth degree. Except as otherwise provided in this division, if the violation of this section causes physical harm to any person, railroad grade crossing device vandalism is a felony of the third degree. If the violation of this section causes serious physical harm to any person, railroad gradecrossing device vandalism is a felony of the second degree.
Ohio Rev Code Ann. § 2909.101 (2013)

<u>Oklahoma</u>

§ 1751. Railroads, injuries to
Any person who maliciously, wantonly or negligently either:
1. Removes, displaces, injures or destroys any part of any railroad, or railroad equipment, whether for steam or horse cars, or any track of any railroad, or of any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached to or connected with any railroad; or
2. Places any obstruction upon the rails or tracks of any railroad, or any branch, branchway, or turnout connected with any railroad,
shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding four (4) years or in a county jail not less than six (6) months.
Okla. Stat. tit. 21, § 1751 (2012)

***§ 1752.1. Trespass upon or interference with railroad property**
A. Any person shall be guilty of a misdemeanor if the person:
1. Without consent of the owner or the owner's agent, enters or remains on railroad property, knowing that it is railroad property;
2. Throws an object at a train, or rail-mounted work equipment; or
3. Maliciously or wantonly causes in any manner the derailment of a train, railroad car or rail-mounted work equipment.
B. Any person shall be guilty of a felony if the person commits an offense specified in subsection A of this section which results in a demonstrable monetary loss, damage or destruction of railroad property when said loss is valued at more than One Thousand Five Hundred Dollars ($

1,500.00) or results in bodily injury to a person. Any person shall be guilty of a felony if the person discharges a firearm or weapon at a train, or rail-mounted work equipment.
C. Any person violating the misdemeanor provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding One Thousand Dollars ($ 1,000.00), or both such fine and imprisonment. Any person violating the felony provisions of this section shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the State Penitentiary not exceeding four (4) years. If personal injury results, such person shall be punished by imprisonment in the State Penitentiary.
D. Subsection A of this section shall not be construed to interfere with the lawful use of a public or private crossing.
E. Nothing in this section shall be construed as limiting a representative of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the Railway Labor Act, 45 U.S.C., Section 151 et seq.
F. As used in this section "railroad property" includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad.
Okla. Stat. tit. 21, § 1752.1 (2012)

***§ 1767.1. Use or threat to use explosive, incendiary device, or simulated bomb to damage or injure persons or property**

A. Any person who shall willfully or maliciously commit any of the following acts shall be deemed guilty of a felony:
1. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive or incendiary device with unlawful intent to destroy, throw down, or injure, in whole or in part, such property, or conspire, aid, counsel or procure the destruction of any building, public or private, or any car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure; or
2. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any explosive or incendiary device with intent to destroy, throw down, or injure in whole or in part, under circumstances that, if such intent were accomplished, human life or safety would be endangered thereby; or
3. By the explosion of any explosive or the igniting of any incendiary device destroy, throw down, or injure any property of another person, or cause injury to another person; or
4. Manufacture, sell, transport, or possess any explosive, the component parts of an explosive, an incendiary device, or simulated bomb with knowledge or intent that it or they will be used to unlawfully kill, injure or intimidate any person, or unlawfully damage any real or personal property; or
5. Place in, upon, under, against or near to any building, car, truck, aircraft, motor or other vehicle, vessel, railroad, railway car, or locomotive or structure, any foul, poisonous, offensive or injurious substance or compound, explosive, incendiary device, or simulated bomb with intent to wrongfully injure, molest or coerce another person or to injure or damage the property of another person; or
6. Injure, damage or attempt to damage by an explosive or incendiary device any person, persons, or property, whether real or personal; or

7. Make any threat or convey information known to be false, concerning an attempt or alleged attempt to kill, injure or intimidate any person or unlawfully damage any real or personal property by means of an explosive, incendiary device, or simulated bomb; or
8. Manufacture, sell, deliver, mail or send an explosive, incendiary device, or simulated bomb to another person; or
9. While committing or attempting to commit any felony, possess, display, or threaten to use any explosive, incendiary device, or simulated bomb.
B. Nothing contained herein shall be construed to apply to, or repeal any laws pertaining to, the acts of mischief of juveniles involving no injurious firecrackers or devices commonly called "stink bombs".
Okla. Stat. tit. 21, § 1767.1 (2012)

***§ 1778. Train signal light, removing or masking--False light or signal**
Any person who unlawfully masks, alters or removes any light or signal, or willfully exhibits any false light or signal, with intent to bring any locomotive or any railway car or train of cars into danger, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding ten (10) years and not less than three (3) years.
Okla. Stat. tit. 21, § 1778 (2012)

Oregon

164.365 Criminal mischief in the first degree.
(1) A person commits the crime of criminal mischief in the first degree who, with intent to damage property, and having no right to do so nor reasonable ground to believe that the person has such right:

(a) Damages or destroys property of another:
(A) In an amount exceeding $ 1,000;
(B) By means of an explosive;
(C) By starting a fire in an institution while the person is committed to and confined in the institution;
(D) Which is a livestock animal as defined in ORS 164.055;
(E) Which is the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public; or
(F) By intentionally interfering with, obstructing or adulterating in any manner the service of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility; or
(b) Intentionally uses, manipulates, arranges or rearranges the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public so as to interfere with its efficiency.
(2) As used in subsection (1) of this section:
(a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile detention facilities and state training schools.
(b) "Medical facility" means a health care facility as defined in ORS 442.015, a licensed physician's office or anywhere a licensed medical practitioner provides health care services.
(c) "Public utility" has the meaning provided for that term in ORS 757.005 and includes any cooperative, people's utility district or other municipal corporation providing an electric, gas, water or other utility service.

(d) “Railroad” has the meaning provided for that term in ORS 824.020.
(e) “Public transportation facility” means any property, structure or equipment used for or in connection with the transportation of persons for hire by rail, air or bus, including any railroad cars, buses or airplanes used to carry out such transportation.
(f) “Telecommunications carrier” has the meaning given that term in ORS 133.721.
(3) Criminal mischief in the first degree is a Class C felony.
Or. Rev. Stat.§ 164.365 (2011)

Pennsylvania

§ 3304. Criminal mischief.
(a) Offense defined. --A person is guilty of criminal mischief if he:
(1) damages tangible property of another intentionally, recklessly, or by negligence in the employment of fire, explosives, or other dangerous means listed in section 3302(a) of this title (relating to causing or risking catastrophe);
(2) intentionally or recklessly tampers with tangible property of another so as to endanger person or property;
(3) intentionally or recklessly causes another to suffer pecuniary loss by deception or threat;
(4) intentionally defaces or otherwise damages tangible public property or tangible property of another with graffiti by use of any aerosol spray-paint can, broad-tipped indelible marker or similar marking device;
(5) intentionally damages real or personal property of another; or
(6) intentionally defaces personal, private or public property by discharging a paintball gun or paintball marker at that property.
(b) Grading. --Criminal mischief is a felony of the third degree if the actor intentionally causes pecuniary loss in excess of $ 5,000, or a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service. It is a misdemeanor of the second degree if the actor intentionally causes pecuniary loss in excess of $ 1,000, or a misdemeanor of the third degree if he intentionally or recklessly causes pecuniary loss in excess of $ 500 or causes a loss in excess of $ 150 for a violation of subsection (a)(4). Otherwise criminal mischief is a summary offense.
(c) Definition. --As used in this section, the term “graffiti” means an unauthorized inscription, word, figure, mark or design which is written, marked, etched, scratched, drawn or painted.
18 Pa. Cons. Stat. § 3304 (2012)

Rhode Island

***§ 11-36-1. Hindering passage of trains -- Placing explosives near highways, buildings, or tracks**
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 on it, 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 the highway, building, monument, bridge, railroad track, car, or vessel, or any person or property, in, on or near the highway, building, monument, highway, bridge, railroad track, car, or vessel, shall be imprisoned

not less than two (2) years nor more than twenty (20) years, or be fined not exceeding ten thousand dollars ($ 10,000), or both.
R.I. Gen. Laws § 11-36-1 (2012)

***§ 11-36-3. Throwing missiles at train**
Whoever willfully throws or shoots a missile at a locomotive engine, railroad, or street railway car, or other means of public conveyance, or at a person on the engine or car or conveyance, or in any way assaults or interferes with a conductor, engineer, brake operator, driver, or motor operator while in discharge of his or her duty on or near a railroad engine, car, or train, or on or near a street railway car or other means of public conveyance, shall be fined not more than five hundred dollars ($ 500) or be imprisoned not more than one year. Any violation of the provisions of this section which results in a personal injury to an employee or passenger shall be considered a felony, punishable by a fine of not less than five hundred dollars ($ 500) nor more than one thousand dollars ($ 1,000), or imprisonment in the state prison not exceeding three (3) years, or both.
R.I. Gen. Laws § 11-36-3 (2012)

***§ 11-36-4. Injuring railroad signals or signal lines**
Whoever unlawfully and intentionally injures, molests, or destroys any electric or other signal of a railroad corporation, or any line, wire, post, or other structure or mechanism used in connection with a signal on a railroad, or destroys, or in any way interferes with, the proper working of the signal, shall be punished by a fine not exceeding five hundred dollars ($ 500) or by imprisonment not exceeding two (2) years.
R.I. Gen. Laws § 11-36-4 (2012)

***§ 11-36-13. Tampering with railroad switches**
Whoever unlawfully removes, turns, destroys, or tampers with any railroad switch or in any way interferes with the proper working of a switch shall be punished by a fine not exceeding one thousand dollars ($ 1,000), or by imprisonment not exceeding three (3) years, or both.
R.I. Gen. Laws § 11-36-13 (2012)

<u>South Carolina</u>

***§ 56-5-1030. Interference with traffic-control devices or railroad signs or signals prohibited.**
(A) No person shall wilfully without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove an official traffic-control device or a railroad sign or signal or its inscriptions, shields, or insignia.
(B) A person violating the provisions of this section is guilty of a felony and, upon conviction, must be:
(1) fined not less than one thousand dollars or imprisoned not more than five years, or both. The driver's license of a person convicted under this section must be revoked for not less than five years. In any case where a license has not been issued, the person is not eligible to obtain a license for five years from the date of conviction;
(2) fined not less than one thousand dollars or imprisoned not more than ten years if injury results;
(3) imprisoned not more than thirty years if death results.
S.C. Code Ann. § 56-5-1030 (2011)

§ 58-15-820. Wilful obstruction of railroad or electric railway.
A person who wilfully does or causes an action, or aids or assists an action with intent to obstruct any engine, carriage, or car passing upon a railroad or with intent to endanger the safety of persons within these vehicles is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five hundred dollars. For each offense he shall forfeit to the corporation treble the amount of damages proved to have been sustained, to be recovered in an action in a court of competent jurisdiction.
S.C. Code Ann. § 58-15-820 (2011)

§ 58-15-830. Placing explosives on railroad rails.
It shall be unlawful for any unauthorized person to place any explosive substance whatever upon the rail of any railroad, whether operated by steam, electricity or otherwise, in this State and any person who violates the provisions of this section or aids or assists therein shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars or to imprisonment not exceeding thirty days, in the discretion of the court or magistrate.
S.C. Code Ann. § 58-15-830 (2011)

§ 58-15-840. Taking or removing brasses, bearings, waste or packing from railroad cars.
Any person who shall wilfully and maliciously or with intent to steal or to injure, take or remove the brasses, bearings, waste or packing from out any journal box or boxes of any locomotive, engine, tender, carriage, coach, car, caboose or truck used or operated upon any railroad, whether the same be operated by steam or electricity, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the Penitentiary or labor on the chain gang for a period of not less than six months nor more than two years or fined not less than fifty dollars nor more than two hundred dollars.
S.C. Code Ann. § 58-15-840 (2011)

***§ 58-15-850. Breaking and entering or shooting into cars.**
Whoever breaks and enters, in the night, any railroad or electric railway car or enters in the night without breaking, breaks and enters in the daytime or shoots with any firearm into any railroad or electric railway car, with intent to commit the crime of larceny or any other crime, shall, in addition to any other punishment prescribed by law for such offense, be punished by imprisonment in the State Penitentiary not exceeding ten years or by fine not exceeding five hundred dollars.
S.C. Code Ann. § 58-15-850 (2011)

§ 58-15-860. Injuring or destroying electric signals or other structures or mechanisms.
Whoever unlawfully and intentionally injures, molests or destroys any of the electric signals of a railroad or electric railway corporation or any of the lines, wires, posts, or any other structure or mechanism used in connection with such signals on any railroad or electric railway or destroys or in any way interferes with the proper working of such signals shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding two years, or both.
S.C. Code Ann. § 58-15-860 (2011)

§ 58-15-870. Injuring railroad or electric railway generally.
Whoever wilfully and maliciously injures in any way any railroad or electric railway or anything appertaining thereto or any material or instrument for the construction or use thereof, or aids or

abets in such trespass, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding one year and, except in the case of an electric railway, shall forfeit to the use of the corporation for each offense treble the amount of damages proved to have been sustained thereby to be recovered in an action of tort in the name of the corporation. Whoever commits any of the acts mentioned in this section in such manner as thereby to endanger life shall be punished as herein provided or by imprisonment in the Penitentiary not exceeding twenty years.
S.C. Code Ann. § 58-15-870 (2011)

***§ 58-15-890. Use in advertisement of cross usually used as crossing sign by railroads.**
It shall be unlawful for any person to use for advertising purposes the kind of a cross usually used as a crossing sign by steam and electric railroads. Any violation of the provisions of this section shall be punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.
S.C. Code Ann. § 58-15-890 (2011)

***§ 58-17-4100. Penalty for shooting or throwing at trains.**
A person who wilfully discharges any kind of firearms or throws any kind of missile at or into the engine or any car of a train is guilty of a felony and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than five years.
S.C. Code Ann. § 58-17-4100 (2011)

<u>South Dakota</u>

§ 22-34-27. Throwing object on roadway or at vehicle -- Penalty
Any person who, with intent to cause damage, deposits, throws, or propels any substance upon any highway, roadway, runway, or railroad tracks, or at any vehicle while such vehicle is either in motion or stationary, is guilty of a Class 1 misdemeanor.
S.D. Codified Laws § 22-34-27 (2012)

§ 49-16A-90. Tampering with light or signal--False light or signal--Felony.
Any person who unlawfully masks, alters or removes a light or signal, or intentionally exhibits a false light or signal with intent to bring a locomotive, railroad car or train of cars into danger is guilty of a Class 4 felony.
S.D. Codified Laws § 49-16A-90 (2012)

§ 49-16A-106 Tampering with journal boxes a felony.
Any person who intentionally takes or removes the waste or packing or brass from any journal box of any locomotive, engine, tender, carriage, coach, caboose, or truck used or operated or capable of being used or operated on a railroad, is guilty of a Class 5 felony.
S.D. Codified Laws § 49-16A-106 (2012)

§ 49-16A-107. Malicious destruction of railroad property a felony.
Any person who maliciously removes, displaces, injures or destroys any part of a railroad, any track of a railroad, any branch, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached to or connected with a railroad, is guilty of a Class 6 felony.
S.D. Codified Laws § 49-16A-107 (2012)

§ 49-16A-108. Malicious obstruction of tracks a felony.

Any person who maliciously places an obstruction on the rails or track of a railroad, or any branch, or turnout connected with a railroad, is guilty of a Class 6 felony.
S.D. Codified Laws § 49-16A-108 (2012)

§ 49-16A-109. Punishment for malicious interference with railroad where death results.
If death results from any violation of § 49-16A-107 or § 49-16A-108 the offender is guilty of a Class 5 felony.
S.D. Codified Laws § 49-16A-109 (2012)

Tennessee

39-14-408. Vandalism.
(a) Any person who knowingly causes damage to or the destruction of any real or personal property of another or of the state, the United States, any county, city, or town knowing that the person does not have the owner's effective consent is guilty of an offense under this section.
(b) For the purposes of this section:
(1) "Damage" includes, but is not limited to:
(A) Destroying, polluting or contaminating property; or
(B) Tampering with property and causing pecuniary loss or substantial inconvenience to the owner or a third person; and
(2) "Polluting" is the contamination by manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of the atmosphere, water, or soil to the material injury of the right of another. Pollutants include dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste.
(c) Acts of vandalism are to be valued according to the provisions of § 39-11-106(a)(36) and punished as theft under § 39-14-105.
Tenn. Code Ann. § 39-14-408 (2012)

39-14-411. Destruction or interference with utility lines, fixtures or appliances, or property utilized by railroads.
(b) It is unlawful for a person to knowingly destroy or interfere with any property utilized by a railroad company to furnish service to the general public. Should the destruction or interference place a person in imminent danger of death or serious bodily injury, then it shall be reckless endangerment and punished according to § 39-13-103. In all other cases, it shall be punished according to the provisions of § 39-14-408.
(c) A violation of this section is a Class E felony.
Tenn. Code Ann. § 39-14-411 (2012) Excerpt from applicable statute published.

39-14-413. Throwing, shooting, etc., object, missile, etc., at trains, buses, motorcycles, vessels, etc.
(a) It is an offense for a person to intentionally throw, hurl or project a stone or other hard substance, or shoot a missile, at a train, locomotive, railway car, caboose, street railway car, bus, motorcycle, steam vessel or other watercraft used for carrying passengers or freight on any of the waters within or bordering on this state.
(b) A violation of subsection (a) is a Class B misdemeanor.
Tenn. Code Ann. § 39-14-413 (2012)

Texas

§ 28.07. Interference with Railroad Property
(a) In this section:
(1) "Railroad property" means:
(A) a train, locomotive, railroad car, caboose, work equipment, rolling stock, safety device, switch, or connection that is owned, leased, operated, or possessed by a railroad; or
(B) a railroad track, rail, bridge, trestle, or right-of-way owned or used by a railroad.
(2) "Tamper" means to move, alter, or interfere with railroad property.
(b) A person commits an offense if the person:
(1) throws an object or discharges a firearm or weapon at a train or rail-mounted work equipment; or
(2) without the effective consent of the owner:
(A) enters or remains on railroad property, knowing that it is railroad property;
(B) tampers with railroad property;
(C) places an obstruction on a railroad track or right-of-way; or
(D) causes in any manner the derailment of a train, railroad car, or other railroad property that moves on tracks.
(c) An offense under Subsection (b)(1) is a Class B misdemeanor unless the person causes bodily injury to another, in which event the offense is a felony of the third degree.
(d) An offense under Subsection (b)(2)(A) is a Class C misdemeanor.
(e) An offense under Subsection (b)(2)(B), (b)(2)(C), or (b)(2)(D) is a Class C misdemeanor unless the person causes pecuniary loss, in which event the offense is:
(1) a Class B misdemeanor if the amount of pecuniary loss is $ 20 or more but less than $ 500;
(2) a Class A misdemeanor if the amount of pecuniary loss is $ 500 or more but less than $ 1,500;
(3) a state jail felony if the amount of pecuniary loss is $ 1,500 or more but less than $ 20,000;
(4) a felony of the third degree if the amount of the pecuniary loss is $ 20,000 or more but less than $ 100,000;
(5) a felony of the second degree if the amount of pecuniary loss is $ 100,000 or more but less than $ 200,000; or
(6) a felony of the first degree if the amount of the pecuniary loss is $ 200,000 or more.
(f) The conduct described in Subsection (b)(2)(A) is not an offense under this section if it is undertaken by an employee of the railroad or by a representative of a labor organization which represents or is seeking to represent the employees of the railroad as long as the employee or representative has a right to engage in such conduct under the Railway Labor Act (45 U.S.C. Section 151 et seq.).
Tex. Penal Code Ann. § 28.07 (2012)

§ 28.08. Graffiti
(a) A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner with:
(1) paint;
(2) an indelible marker; or
(3) an etching or engraving device.
(b) Except as provided by Subsection (d), an offense under this section is:
(1) a Class B misdemeanor if the amount of pecuniary loss is less than $ 500;

(2) a Class A misdemeanor if the amount of pecuniary loss is $ 500 or more but less than $ 1,500;
(3) a state jail felony if the amount of pecuniary loss is $ 1,500 or more but less than $ 20,000;
(4) a felony of the third degree if the amount of pecuniary loss is $ 20,000 or more but less than $ 100,000;
(5) a felony of the second degree if the amount of pecuniary loss is $ 100,000 or more but less than $ 200,000; or
(6) a felony of the first degree if the amount of pecuniary loss is $ 200,000 or more.
(c) When more than one item of tangible property, belonging to one or more owners, is marked in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the marking of the property may be aggregated in determining the grade of the offense.
(d) An offense under this section is a state jail felony if:
(1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs; and
(2) the amount of the pecuniary loss to real property or to tangible personal property is less than $ 20,000.
(e) In this section:
(1) “Aerosol paint” means an aerosolized paint product.
(2) “Etching or engraving device” means a device that makes a delineation or impression on tangible property, regardless of the manufacturer's intended use for that device.
(3) “Indelible marker” means a device that makes a mark with a paint or ink product that is specifically formulated to be more difficult to erase, wash out, or remove than ordinary paint or ink products.
(4) “Institution of higher education” has the meaning assigned by Section 481.134, Health and Safety Code.
(5) “School” means a private or public elementary or secondary school.
Tex. Penal Code Ann. § 28.08 (Vernon 2012)

§ 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.
Tex. Transp. Code Ann. § 471.005 (2012)

***§ 544.005. Interference with Traffic-Control Device or Railroad Sign or Signal**
A person may not, without lawful authority, alter, injure, knock down, or remove or attempt to alter, injure, knock down, or remove:

(1) an official traffic-control device or railroad sign or signal;
(2) an inscription, shield, or insignia on an official traffic-control device or railroad sign or signal; or
(3) another part of an official traffic-control device or railroad sign or signal.
Tex. Transp. Code Ann. § 544.005 (2012)

***§ 544.006. Display of Unauthorized Signs, Signals, or Markings**
(a) A person may not place, maintain, or display on or in view of a highway an unauthorized sign, signal, marking, or device that:
(1) imitates or resembles an official traffic-control device or railroad sign or signal;
(2) attempts to direct the movement of traffic; or
(3) hides from view or hinders the effectiveness of an official traffic-control device or railroad sign or signal.
(b) A person may not place or maintain on a highway, and a public authority may not permit on a highway, a traffic sign or signal bearing commercial advertising.
(c) A person may not place or maintain a flashing light or flashing electric sign within 1,000 feet of an intersection except under a permit issued by the Texas Transportation Commission.
(d) This section does not prohibit a person from placing on private property adjacent to a highway a sign that gives useful directional information and that cannot be mistaken for an official sign.
(e) A sign, signal, light, or marking prohibited under this section is a public nuisance. The authority with jurisdiction over the highway may remove that sign, signal, light, or marking without notice.
Tex. Transp. Code Ann. § 544.006 (2012)

<u>Utah</u>

§ 41-6a-311. Interference with traffic-control devices prohibited -- Traffic signal preemption device prohibited -- Exceptions -- Defense
(1) Except as provided in Subsection (3), a person may not alter, deface, damage, knock down, or remove any:
(a) traffic-control device;
(b) traffic-monitoring device; or
(c) railroad traffic-control device.
(2) Except as provided in Subsection (3), a person may not:
(a) knowingly use a traffic signal preemption device to interfere with the authorized operation or the authorized cycle of a traffic-control signal; or

(b) operate a motor vehicle on a highway while in possession of a traffic signal preemption device.
(3) The provisions of Subsections (1) and (2) do not apply to a person authorized by the highway authority or railroad authority with jurisdiction over the device.
(4) It is an affirmative defense to a charge under Subsection (2)(b) that the traffic signal preemption device was inoperative and could not be readily used at the time of the citation or arrest.
Utah Code Ann. § 41-6a-311 (2012)

Vermont

§ 3110. Railroad vandalism
(a) Purpose. -- The purpose of this section is to prevent acts of vandalism to railroad property which affect the health, safety, and welfare of the traveling public, the neighboring community, and railroad employees; to protect railroad property and freight in transportation by railroad; and otherwise to enhance the safety of transportation by railroad.
(b) Definitions. -- For purposes of this section:
(1) "Bodily injury" shall have the same meaning as in subdivision 1021(1) of this title.
(2) "Railroad" means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including:
(A) commuter or other short-haul railroad passenger service in a metropolitan or suburban area; and
(B) high-speed ground transportation systems that connect metropolitan areas, but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.
(3) "Railroad carrier" means a person providing railroad transportation.
(4) "Railroad property" means all property owned, leased, or operated by a railroad carrier, including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal, railroad signal system, train control system, centralized dispatching system, or any other structure, appurtenance, or equipment owned, leased, or used in the operation of any railroad carrier, including a train, locomotive, engine, rail car, work equipment, rolling stock, or safety device. "Railroad property" does not include administrative buildings, administrative offices, or administrative office equipment.
(5) "Right-of-way" means the track or roadbed owned, leased, or operated by a railroad carrier which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.
(6) "Serious bodily injury" shall have the same meaning as in subdivision 1021(2) of this title.
(c) Vandalism of railroad property. -- No person shall, with reckless disregard for railroad property or the safety of another, commit an act which causes damage to railroad property.
(d) Penalty for vandalism of railroad property.
(1) A person who violates subsection (c) of this section shall be fined not more than $ 500.00 or imprisoned for not more than six months, or both, if the violation results in property damage of $ 900.00 or less.
(2) A person who violates subsection (c) of this section shall be fined not more than $ 1,000.00 or imprisoned for not more than one year, or both, if the violation results in bodily injury to another person or property damage of greater than $ 900.00.

(3) A person who violates subsection (c) of this section shall be fined not more than $ 20,000.00 or imprisoned for not more than 15 years, or both, if the violation results in death or serious bodily injury to another person.
(e) Aggravated railroad vandalism. -- A person who intentionally causes damage to railroad property which results in death or serious bodily injury to another person shall be guilty of aggravated railroad vandalism.
(f) Penalty for aggravated railroad vandalism. -- A person who violates subsection (e) of this section shall be fined not more than $ 25,000.00 or imprisoned for not more than 15 years, or both.
(g) If serious bodily injury or death results to more than one person other than the defendant as a result of a violation of this section, the defendant may be convicted of a separate violation of this section for each decedent or person injured.
Vt. Stat. Ann. tit. 13, § 3110 (2013)

§ 3590. Obstructing sight of cars at crossing; penalty
A person who leaves wood, lumber, or other material on the line of a railroad or highway, at or near the crossing of a highway, so as to prevent or obstruct the sight of cars when approaching the crossing, shall be fined not more than $ 50.00 nor less than $ 5.00.
Vt. Stat. Ann. tit. 5, § 3590 (2013)

Virginia

§ 18.2-147. Entering or setting in motion, vehicle, aircraft, boat, locomotive or rolling stock of railroad; exceptions
Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or who, while a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set into motion such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with the intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a Class 1 misdemeanor, except that the foregoing provision shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.
Va. Code Ann. § 18.2-147 (2012)

***§ 18.2-155. Injuring, etc., signal used by railroad**
If any person maliciously injure, destroy, molest, or remove any switchlamp, flag or other signal used by any railroad, or any line, wire, post, lamp or any other structure or mechanism used in connection with any signal on a railroad, or destroys or in any manner interferes with the proper working of any signal on a railroad, whereby the life of any person is or may be put in peril he shall be guilty of a Class 4 felony; and in the event of the death of such person resulting from such malicious injuring, destroying or removing, the person so offending shall be deemed guilty of murder, the degree to be determined by the jury or the court trying the case without a jury. If such act be done unlawfully but not maliciously the offender shall be guilty of a Class 1 misdemeanor, provided that in the event of the death of any such person resulting from such unlawful injuring, destroying or removing, the person so offending shall be deemed guilty of involuntary manslaughter.

Va. Code Ann. § 18.2-155 (2012)

Washington

***§ 46.61.080. Interference with official traffic-control devices or railroad signs or signals**
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.
Wash. Rev. Code Ann.§ 46.61.080 (2012)

§ 81.60.070. Malicious injury to railroad property.
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, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not more than ten years.
Wash. Rev. Code Ann. § 81.60.070 (2012)

West Virginia

§ 17C-3-9. Interference with official traffic-control devices or railroad signs or signals.
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.
W. Va. Code Ann. § 17C-3-9 (2012)

***§ 61-3-28. Offenses against railroad property and persons on railroad property; definitions.**
(a) As used in this section:
(1) "Bodily injury" means substantial physical pain, illness or any impairment of physical injury.
(2) "Railroad" means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including:
(i) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area; and
(ii) High-speed ground transportation systems that connect metropolitan areas but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation;
(3) "Railroad carrier" means a person providing railroad transportation; railroad carrier including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal, railroad signal system, train control system, centralized dispatching system, or any other structure, appurtenance, or equipment owned, leased, or used in the operation of any railroad carrier including a train, locomotive, engine, railroad car, work equipment, rolling stock, or safety device. "Railroad property" does not include administrative buildings, administrative offices, or administrative office equipment;
(4) "Right-of-way" means the track or roadbed owned, leased, or operated by a railroad carrier which is located on either side of its tracks and which is readily recognizable to a reasonable

person as being railroad property or is reasonably identified as such by fencing or appropriate signs;
(5) "Yard" means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives and other rolling stock are kept when not in use or when awaiting repairs.
(b) Whoever willfully damages or attempts to damage railroad property or willfully endangers or attempts to endanger the safety of another, by:
(1) Taking, removing, altering, or otherwise vandalizing a railroad sign, placard or marker;
(2) Throwing or dropping an object capable of causing significant damage to railroad property at or on a locomotive, railroad car or train;
(3) Shooting a firearm or other dangerous weapon at a locomotive, railroad car or train;
(4) Removing appurtenances from, damaging, or otherwise impairing the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossingwarning signal, on a railroad owned, leased, or operated by any railroad carrier, and without consent of the railroad carrier involved;
(5) Interfering or tampering with, or obstructing in any way, or threatening to interfere with, tamper with or obstruct in any way any railcar or locomotive, switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railroad carrier without consent of the railroad carrier involved; or
(6) Taking, stealing, removing, changing, adding to, altering, or in any manner interfering with any part of the operating mechanism of any locomotive, engine, tender, coach, car, caboose, or motor car used or capable of being used by any railroad carrier in this state without consent of the railroad carrier is guilty of a felony.
If railroad property damage does not exceed $1,000 and no bodily injury occurs to another as a result of any of the aforesaid acts, upon conviction thereof, the person shall be fined not less than $500 nor more than $5,000, confined in a regional jail for not more than one year, or both. If bodily injury occurs to another not acting with or in connection with the perpetrator as a result of any of the aforesaid acts or if railroad property damage exceeds $1,000, upon conviction thereof, the person shall be fined not less $1,000 nor more than $10,000, committed to the custody of the Commission of Corrections for not less than one nor more than ten years, or both.
(d) The provisions of this section do not apply to any person employed by a railroad who is performing the duties assigned by the railroad or who is otherwise performing within the scope of his or her employment.
W. Va. Code § 61-3-28 (2012)

Wisconsin

***195.286. Highway crossings, advance warning signs.**
(6) PENALTIES RELATING TO INTERFERENCE WITH SIGNS. Any person who removes, throws down, injures or defaces any sign required by this section shall, upon conviction, be fined not more than 25.
(7) PENALTIES GENERALLY. Any person or corporation upon conviction for the violation of any of the provisions of this section, except sub. (6), shall forfeit not less than 100 nor more than 200 for each violation.
(8) PROSECUTIONS. The district attorney shall prosecute any person violating this section, or begin and maintain any civil action necessary for its enforcement upon the demand of any county highway commissioner, the department, or the office.
Wis. Stat. § 195.286(6-8) (2012) Excerpt from applicable statute published.

943.07. Criminal damage to railroads.
(1) Whoever intentionally causes damage or who causes another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel or signal or any railroad property used in providing rail services, which could cause an injury, accident or derailment is guilty of a Class I felony.
(2) Whoever intentionally shoots a firearm at any portion of a railroad train, car, caboose or engine is guilty of a Class I felony.
(3) Whoever intentionally throws, shoots or propels any stone, brick or other missile at any railroad train, car, caboose or engine is guilty of a Class B misdemeanor.
(4) Whoever intentionally throws or deposits any type of debris or waste material on or along any railroad track or right-of-way which could cause an injury or accident is guilty of a Class B misdemeanor.
Wis. Stat. § 943.07 (2012)

Wyoming

§ 37-12-101. Stealing railroad equipment.
If any person shall willfully and wrongfully take or remove the waste or packing or brass or brasses from any journal or boxes, of any locomotive, engine, tender, carriage, coach, car, caboose, or truck, used or operated, or capable of being used or operated upon any railroad, whether the same be operated by steam or electricity, the person so offending shall be guilty of a felony, and on conviction shall be sentenced to pay a fine of five hundred dollars ($500.00), or imprisonment in the penitentiary for not more than five (5) years, or both.
Wyo. Stat. § 37-12-101 (2012)

§ 37-12-103. Destruction, obstruction or removal of railroad track or fixtures generally; penalty if death results.
Whoever shall willfully and maliciously remove, break, displace, throw down, destroy or in any manner injure any rail or rails or any part of the tracks or any bridge, viaduct, culvert, trestle-work, embankment, parapet or other fixture or any part thereof, attached to or connected with such tracks of any railroad in this state, in operation, or shall willfully and maliciously place any obstructions upon the rail or rails, track or tracks of any such railroad, or shall willfully and maliciously meddle, tamper, or interfere with the signals or mechanism controlling the signal devices of any such railroad, shall be punished by imprisonment in the penitentiary not less than one (1) year nor more than twenty (20) years; provided, however, if any person shall, by commission of either of the aforesaid offenses occasion the death of any person, or persons, the person or persons so offending shall be deemed guilty of murder in the first or second degree, or manslaughter, according to the nature of the offense, and, on conviction thereof, shall be punished as by law provided.
Wyo. Stat. § 37-12-103 (2012)

Chapter 11: Private Crossings

CHAPTER OVERVIEW

Private highway-rail grade crossings are those that are on roadways that are not open to public use or maintained by the public authority.

Typical types of private crossings are as follows:

- Farm crossings that provide access between tracts of land on both sides of the railroad tracks.
- Industrial plant crossings that provide access between plant facilities on both sides of the railroad tracks.
- 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.

There are an estimated 80,390[3] private highway-rail grade crossings on the U.S. rail system. Casualties and property loss resulting from accidents at these crossings remain a continual concern. Presently, authority for closure or treatment of private crossings does not exist in all states. State laws that grant specific authority to close or treat private crossings are listed in this chapter. Usually, there is some kind of an agreement between the landowner and the railroad that governs the use of the private crossing.

Alabama

No applicable statute related to this topic

Alaska

No applicable statute related to this topic

Arizona

§ 3-1702. Stock crossings required in fences enclosing rights of way; violation; classification
A. A railroad fencing its right of way shall leave an opening at least once every three miles in an accessible place for stock to pass through. The opening shall be at least sixty feet wide, with cattleguards at each end, and fences shall be run to the guards. Cattleguards and wing fences shall be placed on either side of the openings, sufficient to prevent cattle entering upon the right of way enclosed. Places where the railroad runs over trestles or bridges sufficiently high for cattle to go under shall be left unfenced.
B. A railroad violating any provision of this section is guilty of a class 2 misdemeanor.

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[3] United States Department of Transportation, Federal Railroad Administration Grade Crossing Inventory Record www.fra.dot.gov as of 9/30/13.

Ariz. Rev. Stat. § 3-1702 (2012)

Arkansas

***23-12-304. Inspection of road crossings by commission -- Hearings and orders.**
(a)(1) It shall be the duty of the State Highway Commission, or any representative of it, to inspect any road or street crossing in this state, either on its own initiative or when its attention is called to it by any citizen.
(2) Upon a hearing the commission may make an order requiring the railroad company to protect the crossing in any manner which it considers just and reasonable, whether the crossings are at grade or over or under crossing and whether a public or private crossing.
(b)(1) It shall further be the duty of the commission, or any representative thereof, to make a personal inspection of any designated place where it is desired that a road or street, either public or private, cross any railroad in this state.
(2) Upon ten (10) days' notice as required by law and after a public hearing, the commission may make such order as in its judgment shall be just and proper. The order may provide for a crossing at grade, over or under the railroad, and shall be enforced as other orders made by the commission.
Ark. Code Ann. § 23-12-304(a)(b) (2012) Excerpt from applicable statute published.

California

Pub Util Code § 7537. Person entitled to farm and private crossings; Maintenance; Determination of necessity of crossings
The owner of any lands along or through which any railroad is constructed or maintained, may have such farm or private crossings over the railroad and railroad right of way as are reasonably necessary or convenient for ingress to or egress from such lands, or in order to connect such lands with other adjacent lands of the owner. The owner or operator of the railroad shall construct and at all times maintain such farm or private crossing in a good, safe, and passable condition. The commission shall have the authority to determine the necessity for any crossing and the place, manner, and conditions under which the crossing shall be constructed and maintained, and shall fix and assess the cost and expense thereof.
Cal. Pub. Util. Code § 7537 (Deering 2012)

***Pub Util Code § 7538. Stop signs for farm and private crossings; Stopping of vehicles; Misdemeanors**
At every farm or private grade crossing of a railroad where no automatic grade crossing protective device is in place there shall be installed, as a means of protecting the crossing, one or more stop signs of the type described in Section 21400 of the Vehicle Code or of such other design as the commission may prescribe unless, after a hearing, the commission shall find that the installation of such sign or signs at a particular crossing would create a hazard or dangerous condition that would not otherwise exist. At any grade crossing where stop signs are installed or in place, before traversing such crossing the driver of any vehicle shall stop such vehicle not less than 10 nor more than 50 feet from the nearest rail of the track and while so stopped shall listen, and look in both directions along the track, for any approaching train or other equipment using such rails. The vehicle shall remain standing while any train or other equipment using such rails is approaching the crossing and is close enough to constitute a hazard. A driver of any vehicle who fails to keep his vehicle standing while any train or equipment using such rails is

approaching the crossing and which is so close as to constitute a hazard is guilty of a misdemeanor.
Cal. Pub. Util. Code § 7538 (Deering 2012)

Colorado

40-27-102. Fence right-of-way - cattle guards
(1) Every railway company or corporation whose lines or roads, or any part thereof, are open for use, within six months after the lines of such railways or any part thereof are open, except at the crossings of public roads and highways and within the limits of incorporated towns and cities or the yard limits of established stations, shall erect and thereafter maintain fences on the sides of their roads, or the part thereof open to use, where the same pass through, along, or adjoining enclosed or cultivated fields or unenclosed lands, with openings and gates therein to be hung and have latches and hinges, so that they may be opened and shut at all necessary farm crossings of the road, for the use of the proprietors or owners of the land adjoining such railroad, and shall construct and maintain at all public road crossings good and sufficient cattle guards.
(2) Such fences, gates, and cattle guards for the protection of livestock shall be constructed as defined in section 35-46-101 (1), C.R.S., and shall be amply sufficient to prevent horses, mules, asses, and cattle from getting on said railroads; and, so long as such fences and guards, or any part thereof, are not sufficient or not in sufficiently good repair to accomplish the objective for which they are intended, such railroad corporation shall be liable for any and all damages which are done by the agent, employees, engines, trains, or cars of any other corporation permitted and running over and upon their said railroad to any such cattle, horses, asses, or mules thereon. When such fences, gates, and guards have been built and duly made and are kept in good and sufficient repair, such railroad corporation shall not be liable for any such damages unless the same were occasioned by the negligence or carelessness of such railway company or corporation or the assignee or lessee thereof.
(3) Where gates are constructed and maintained at farm crossings, opening into enclosed pastures or cultivated fields, it is the duty of the owner or occupant of such fields or pastures so provided with gates to see that such gates are kept closed at all times when not actually in use, and where it is shown that any such gate has been left open, the owner or occupant of such lands shall be held responsible for any stock killed or damaged because of such open gate.
Colo. Rev. Stat. § 40-27-102 (2012)

Connecticut

***Sec. 13b-289. (Formerly Sec. 16-117). Easements and private crossings may be condemned.**
The owner of any private crossing at grade of the tracks of a railroad company, or of any right, title, interest, easement or privilege in land used by a company for railroad purposes, or any such company whose land is encumbered by any such private rights, may bring a written petition to the Commissioner of Transportation for the condemnation of such rights, alleging that public safety requires the elimination of such encumbrance. The commissioner shall thereupon appoint a time and place for hearing the petition, and shall give such notice thereof as he judges reasonable to the owner of such rights, to the company and to the owners of land adjoining the highway to be laid out as a substitute for such private crossing, as hereinafter provided, if any such highway is to be laid out. Upon the hearing of such petition, if public safety so requires, the commissioner shall authorize the company to condemn such private rights, and thereupon the company may proceed to condemn the same in the manner provided by law for the taking of

lands by such companies. Upon the hearing of such petition, if the commissioner is of the opinion that public convenience and necessity require a highway on account of the elimination of such private rights in the land of the railroad company, he may lay out a highway sufficient to satisfy public convenience; but such highway shall not be laid out if the land of a private owner, with which the encumbrance is associated, is already connected with a public highway. If the commissioner orders a new highway, he shall assess the expense of making the same, including the damages to any person whose land is taken, proportionately, upon the person and parties especially benefited thereby, but at least one-half of such expense shall be paid by the company. The commissioner may order the elimination of any private crossing at grade by the substitution of an overhead or underneath crossing, in which case the expense of making such change, including land damages, shall be paid by the company.
Conn. Gen. Stat. § 13b-289 (2012)

Sec. 13b-291. (Formerly Sec. 16-119). Private crossing to be restored.
When a private crossing has been removed by a railroad company without the consent of the owner or owners, the company from whose tracks such crossing has been removed shall restore the same in good order upon the written request of the owner or owners, and, for failure so to do, such company shall forfeit five dollars per day to the person or persons owning or having a right to use such crossing, such forfeiture to begin thirty days from the date of such notice.
Conn. Gen. Stat. § 13b-291 (2012)

Sec. 13b-292. (Formerly Sec. 16-119a). Private crossings; protection requirements.
(a) For the purposes of this section, private crossing means any private way, private drive or any facility other than a public highway for the use of pedestrians, motor vehicles or other types of conveyances, which crosses at grade any railroad track. No private crossing shall be established, except that the Commissioner of Transportation may authorize the establishment of a private crossing if it is deemed necessary for the economic welfare of the community but only after imposing specific requirements for the protection of persons using the crossing. The cost of meeting such protection requirements shall be borne by the party requesting such private crossing or the town, city or borough in which such crossing is located may, in its discretion, assume all or part of such cost. The provisions of this section shall not apply to a private crossing used by a railroad company in connection with its operation or for access to its facilities.
(b) Each town, city or borough shall erect and maintain traffic control devices within the limits of the railroad right-of-way at each private crossing, or each town, city or borough shall require the person, association or corporation that owns or has the right to use such crossing to erect and maintain such traffic control devices at each private crossing. Such order shall specify the time within which such protective measures shall be installed. Upon failure of a person, association or corporation to comply with an order issued pursuant to this subsection, the required installation shall be made by the authority issuing such order and the expense of such installation shall be a lien on premises owned by such person, association or corporation. If under the provisions of subsection (d) of this section the Commissioner of Transportation and the State Traffic Commission order the erection of traffic control devices at a private crossing and the town, city or borough within which such crossing is located fails to erect or have erected such devices within one hundred eighty days of such order, the Commissioner of Transportation and the State Traffic Commission shall order the railroad to erect such devices and the expense of such erection shall be a lien on premises owned by the person, association or corporation that owns or has the right to use such crossing. If the Commissioner of Transportation and the State Traffic Commission prescribe traffic control measures in addition to traffic control devices, the town,

city or borough shall invoke the provisions of this subsection for the purpose of complying with such order, and the cost of such compliance, if one thousand dollars or less, shall be borne one-half by the town, city or borough and one-half by the property owner and, if over one thousand dollars, shall be borne one-sixth by the town, city or borough, one-sixth by the state, one-third by the property owner, and one-third by the railroad.
(c) The town, city or borough within which any private way leads to a private crossing from a town, city or borough highway, and the Commissioner of Transportation, in the case of any private way which leads to a private crossing from a state highway, shall erect and maintain at the entrance to such private way a suitable sign warning of the railroad grade crossing.
(d) The State Traffic Commission and the Commissioner of Transportation shall prescribe the nature of traffic control devices and traffic control measures to be erected at each private crossing and at approaches to such private crossings.
(e) The Commissioner of Transportation shall make all necessary orders for the closing of any private crossing if the commissioner finds that the necessity for such crossing has ceased or that such private crossing constitutes a hazard to public safety. The commissioner may order the consolidation into one crossing of two or more private crossings located in close proximity to each other.
(f) The provisions of section 13b-281 shall apply to private crossings.
(g) Representatives of towns, cities, boroughs, railroads and state agencies may enter private ways, drives or other facilities to the extent required to perform their duties pursuant to this section.
(h) Any person who fails to comply with traffic control measures installed pursuant to this section shall be fined not more than one hundred dollars.
Conn. Gen. Stat. § 13b-292 (2012)

***Sec. 13b-298. (Formerly Sec. 16-125). Cattle guards.**
Each railroad company shall construct suitable cattle guards and fences at all railroad crossings of passways or highways to prevent cattle from passing upon its railroad, except when the Commissioner of Transportation deems it unnecessary
Conn. Gen. Stat. § 13b-298 (2012)

Delaware

§ 1811. Fences and cattle guards; liability for damages; trespass with animals; walking on tracks; penalties
Every railroad corporation shall erect and maintain fences on both sides of its road, of the height and strength of a fence required by law, with openings, gates or bars therein at farm crossings or the roads for the use of proprietors of lands adjoining such railroad. Every such corporation shall also construct and maintain cattle guards at all the road crossings suitable and sufficient to prevent cattle and other animals from getting on the railroad. Until such fences and cattle guards have been duly made the corporation shall be liable for all damages which are done by their engines and cars to cattle, horses or other animals thereon.
After such fences and guards are duly made and maintained the corporation shall not be liable for any such damages, unless negligently or wilfully done. If any person rides, leads or drives any horse or other animal upon such railroad and within such fences and guards other than at farm crossings without the consent of the corporation, such person shall for every such offense forfeit not more than $ 10 and shall also pay all damages which are sustained thereby to the party aggrieved.

Del. Code Ann. tit. 2, § 1811 (2012) Only applicable section of statute published.

District of Columbia

No applicable statute related to this topic

Florida

§ 351.03. Railroad-highway grade-crossing warning signs and signals; audible warnings; exercise of reasonable care; blocking highways, roads, and streets during darkness

(1) Every railroad company shall exercise reasonable care for the safety of motorists whenever its track crosses a highway and shall be responsible for erecting and maintaining crossbuck grade-crossing warning signs in accordance with the uniform system of traffic control devices adopted pursuant to s.316.0745. Such crossbuck signs shall be erected and maintained at all public or private railroad-highway grade crossings.

Fla. Stat. Ann. § 351.03(1) (2013) Excerpt from applicable statute published.

Georgia

No applicable statute related to this topic

Hawaii

No applicable statute related to this topic

Idaho

§ 62-406. Erection and maintenance of fences -- Liability for damages

Every railroad company or corporation operating any steam or electric railroad in this state shall erect and maintain lawful fences, not less than four feet (4') high, on each side of its road, where the same passes through or along inclosed or adjoining cultivated fields or inclosed lands, with proper and necessary openings and gates therein and farm crossings; and also construct and maintain cattle guards suitable and sufficient to prevent horses, cattle, mules or other animals from getting on such railroads, at all highway crossingswhere such railroad is fenced up to such highway crossing: provided, however, that in lieu of the necessary openings and gates therein at farm crossings, cattle guards suitable and sufficient to prevent horses, cattle, mules or other animals from getting on such railroads may be installed at the expense of the adjoining landowner or landowners.

Until such fences, openings, gates, farm crossings and cattle guards shall be duly and properly made, installed and maintained, such railroad company or corporation shall be liable in a civil action to any and all person or persons who may sustain any loss, injury or damage by the wounding, maiming or killing of any horse, mare, gelding, filly, jack, jenny or mule, or any cow, heifer, bull, ox, steer or calf, or any other domestic animal which shall be done by such railroad company or corporation, or its agents or servants, in the operation and management of engines, cars, or other rolling stock, upon or over such railroad, whether such person or persons operating or in charge of such engine, cars or other rolling stock were guilty of negligence or not; and such railroad company or corporation shall also be liable in a civil action to any and all persons who may sustain any loss, injury or damage by the wounding, maiming or killing of any horse, mare, gelding, filly, jack, jenny or mule, or any cow, heifer, bull, ox, steer or calf, or any other domestic animal which shall be done by such railroad company or corporation, or its agents or servants in the operation or management of engines, cars, or other rolling stock upon or over

such railroad, if any such animal or animals escape from adjoining lands and come upon the right of way or railroad tracks of such railroad company or corporation, occasioned by the failure of such railroad company or corporation to construct and maintain such fences, gates, farm crossings or cattle guards, whether the person or persons operating or in charge of such engine, cars or other rolling stock were guilty of negligence or not; but after such fences, gates, farm crossings and cattle guards shall have been duly made, installed and maintained, such railroad company or corporation shall not be liable for any such damages, unless negligently or wilfully done, and in all actions for the recovery of damages under this section, proof of the wounding, maiming or killing of such animal or animals by such railroad company or corporation, shall be prima facie evidence of negligence or wilfullness on the part of such railroad company or corporation.
If any railroad company or corporation, aforesaid, fail, neglect or refuse for and during a period of three (3) months after the completion of its road through or along the fields or enclosures hereinbefore mentioned, to erect, install and maintain any fences, openings, gates, farm crossings, or cattle guards as herein required, after having received not less than thirty (30) days' notice requiring them to erect, install and maintain such fences, openings, gates, farm crossings or cattle guards, then the owner of such field or enclosure may erect and maintain such fences, openings, gates, farm crossings and cattle guards, and shall thereupon have a right to recover from such railroad or corporation, the full value of the work so done, by a civil action in any court of competent jurisdiction.
Idaho Code Ann. § 62-406 (2012)

***§ 62-407. Crossings and cattle guards**
It shall be the duty of every railroad company whose line runs through or across any desert or other unoccupied territory, to keep and maintain suitable crossings and cattle guards, wherever any public highway or publicly traveled road crosses the same, and to place gates at convenient intervals not exceeding four (4) miles apart, for the crossing of the same wherever there are no roads within such distances.
Idaho Code Ann. § 62-407 (2012)

<u>Illinois</u>

§ 625 ILCS 5/18c-7504. Construction of Fences, Farm Crossings, and Damages
Construction of Fences, Farm Crossings, and Damages. (1) Fencing. Every rail carrier shall, within 6 months after any part of its line is open for use, erect and thereafter maintain fences on both sides of its road or so much thereof as is open for use, suitable and sufficient to prevent cattle, horses, sheep, hogs or other livestock from getting on such railroad, provided that the other 3 sides of the property are enclosed, except at the crossings of public roads and highways, and within such portion of cities and incorporated towns and villages as are or may be hereafter laid out and platted into lots and blocks, with gates at the farm crossings of such railroad, which farm crossings shall be constructed by such rail carrier when and where the same may become necessary, for the use of the proprietors of the lands adjoining such railroad; and when such fences are not made as aforesaid, or when such fences are not kept in good repair, such rail carrier shall be liable for all damages which may be done by the agents, engines or cars of such rail carrier, to such cattle, horses, sheep, hogs or other livestock thereof, and reasonable attorney's fees in any court wherein suit is brought for such damages, or to which the same may be appealed; but where such fences have been duly made and kept in good repair, such rail carrier shall not be liable for any such damages, unless negligently or willfully done.

(2) Enforcement. If the rail carrier, after being notified, shall refuse to build or repair such fence, gates, or farm crossings, in accordance with the provisions of this, Section, the owner or occupant of the land required to be fenced shall be entitled to an order from any court of competent jurisdiction requiring the rail carrier to build or repair such fence, gates, or farm crossing and may recover interest at one percent per month of the cost of such building or repair, from the time the crossing or repair was requested, as damage in the circuit court, together with costs to be taxed by the court.
625 Ill. Comp. Stat. Ann. 5/18c-7504 (2012)

Indiana

***8-6-14-1. Lands separated by right of way -- Crossings.**
Owners of tracts of land separated by the right of way of a railway company, or owner of a tract or tracts of land separated by the right of way of a railway company from a public highway or road, lying and situated immediately contiguous to and adjoining said right of way, may, if such right of way has been or shall hereafter be acquired by condemnation and appropriation, or by purchase or donation, construct and maintain wagon and driveways over and across such right of way leading from one of such tracts to another on the opposite side of such right of way, or leading from such tract or tracts of land on one (1) side to the highway on the other side of the right of way, at any point most convenient to such owner. For this purpose, such owner may enter upon such right of way and construct such embankment, or make such excavation, on one (1) or both sides of the track of such railway as may be necessary to establish easy grades from one (1) tract of land to the opposite tract or highway, and may spike planks on the ties of such railway on the line of such way for the space of the width of such way, of such thickness as not to be elevated above the top of the rails of such railway, and may also bridge the gutters at the sides of such railway track in such manner as not to obstruct the flow of water therein: Provided, the railroad company shall make the crossing.
Ind. Code Ann. § 8-6-14-1 (LexisNexis 2012)

Iowa

***313A.9 Consent to cross state property.**
The right-of-way is hereby given, dedicated, and set apart upon which to locate, construct, and maintain toll bridges or approaches thereto or other highway crossings, and transportation facilities thereof or thereto, through, over or across any of the lands which are now or may be the property of this state, including highways; and through, over, or across the streets, alleys, lanes, and roads within any city, county, or other political subdivision of the state. If any property belonging to any city, county or other political subdivision of the state is required to be taken for the construction of any such bridge or approach thereto or should any such property be injured or damaged by such construction, such compensation therefor as may be proper or necessary and as shall be agreed upon may be paid by the department to the particular county, city or other political subdivision of the state owning such property, or condemnation proceedings may be brought for the determination of such compensation.
Iowa Code § 313A.9 (2012)

327G.3. Railway fences required.
All railway corporations owning or operating a line of railway within the state shall construct, maintain, and keep in repair a fence on each side of the right-of-way, to prevent livestock getting upon the tracks.

Iowa Code § 327G.3 (2012)

***327G.6. Failure to fence**
Any corporation operating a railway and failing to fence its right-of-way shall be liable to the owner of any stock killed or injured by reason of the want of such fence for the full amount of the damages sustained by the owner, unless it was occasioned by the willful act of such owner or the owner's agent; and to recover the same it shall only be necessary for the owner to prove the loss of or injury to the owner's property.
Iowa Code § 327G.6 (2012)

***327G.7. Double damages.**
If such corporation fails or neglects to pay such damages within ninety days after notice in writing that a loss or injury has occurred, accompanied by an affidavit thereof, served upon any officer or station or ticket agent employed by said corporation in the county where such loss or injury occurred, such owner shall be entitled to recover from the corporation double the amount of damages actually sustained by the owner.
Iowa Code § 327G.7 (2012)

***327G.9. Failure to fence -- general penalty.**
If the railroad corporation refuses or neglects to comply with any provision of this chapter relating to the fencing of the tracks, such railroad corporation shall, upon conviction, be subject to a schedule "two" penalty and every thirty days' continuance of such refusal or neglect shall constitute a separate and distinct offense.
Iowa Code § 327G.9 (2012)

***327G.10. Killing of stock -- interpretative clause.**
Nothing herein contained shall be construed to relieve the corporation from liability arising from the killing or maiming of livestock on said track or right-of-way by its negligence or that of its employees, nor shall anything in this chapter interfere with the right of open or private crossings, or with the right of persons to such crossings, nor in any way limit or qualify the liability of any corporation or person owning or operating a railway that fails to fence the same against livestock running at large for any stock injured or killed by reason of the want of such fence.
Iowa Code § 327G.10 (2012)

327G.11. Private farm crossings.
When a person owns farmland on both sides of a railway, or when a railway runs parallel with a public highway thereby separating a farm from such highway, the corporation owning or operating the railway, on request of the owner of the farmland, shall construct and maintain a safe and adequate farm crossing or roadway across the railway and right-of-way at such reasonable place as the owner of the farmland may designate. A private farmcrossing established or installed pursuant to this section shall be used solely for farming or agricultural purposes.
Iowa Code § 327G.11 (2012)

***327G.12. Overhead, underground, or more than one crossing.**
The owner of land may serve upon the railroad corporation a request in writing for more than one private crossing, or for an overhead or underground crossing, accompanied by a plat of the owner's land designating the location and character of crossing desired. If the railroad corporation refuses or neglects to comply within thirty days of a written request, the owner of the land may make written application to the department to determine the owner's rights. The department of inspections and appeals, after notice to the railroad corporation, shall hear the

application and all objections to the application, and make an order which is reasonable and just, and if it requires the railroad company to construct any crossing or roadway, fix the time for compliance with the order and apportion the costs as appropriate. The order of the department of inspections and appeals is subject to review by the state department of transportation. The decision of the state department of transportation is the final agency action.
Iowa Code § 327G.12 (2012)

Kansas

***66-230. Cattle guards at crossings; duties as to gates.**
When any railroad runs through any improved and fenced farm lands and between an occupied dwelling and other main farm buildings; or wherever at the time of the passage of this act, any railroad right of way lies alongside of and contiguous to a public highway through any improved and fenced farm land upon which is a dwelling actually occupied as a farm residence, and it is necessary for the occupants of such dwelling to pass across the right of way of the railroad in order to reach the main public highway or get to their farm lands to cross the railroad, then and in either case the railroad company shall, at the request in writing of the owner of such farm, make and maintain proper cattle guards on such railroad on both sides of the crossing so used for farm purposes. It shall not be necessary for the occupants of such land to keep the gates in the fences at such farm crossings closed where such cattle guards are installed except that the railroad company shall not be responsible for damage done to stock at such crossing described under this act when the gates at such crossing are open.
Kan. Stat. Ann. § 66-230 (2011)

66-301. Construction of farm crossings.
Whenever any railroad, either steam or electric, shall run through any farm so as to divide it, such railroad at the request of the owner of such farm, shall construct, keep and maintain, a crossing either on, over or under such railroad track, at some convenient place, which crossing shall be so constructed as to permit ready and free crossing thereon, by animals, farm implements and vehicles.
Kan. Stat. Ann. § 66-301 (2011)

***66-302. Gates at crossings.**
Through the fences on either side of the right-of-way of such railroad, at such crossing, such railroad shall construct, keep and maintain gates so as to permit the passage of animals, farm implements and vehicles.
Kan. Stat. Ann. § 66-302 (2011)

66-303. Action to compel construction; owner may construct and collect costs.
If upon such request being made, such railroad shall fail, neglect or refuse to construct such crossing and gates, or to keep the same in repair, then the owner of such farm may, by appropriate action, compel such railroad to so construct, keep and maintain such crossing and gates, or such owner may construct or repair such crossing and gates, and then collect from such railroad the cost thereof.
Kan. Stat. Ann. § 66-303 (2011)

Kentucky

***256.150. Railroad to erect cattle guards.**

All railroads shall erect and maintain cattle guards at all terminal points of fences constructed along their lines, except at points where the lines are not required to be fenced on both sides, and at public crossings. Where there is a private passway across the railroad, the landowner for whose benefit the passway is kept open shall bear one-half (1/2) of the expense of cattle guards and gates, and shall erect the gates. The railroad shall erect the cattle guards.
Ky. Rev. Stat. Ann. § 256.150 (2012)

***277.330. Liability of railroads for killing or injuring cattle -- How damages divided.**
If cattle are killed or injured by the locomotive or cars of any railroad company on a track adjoining the lands belonging to or occupied by the owner of the cattle, and the owner has not received compensation for fencing his land along the railroad right-of-way, the loss shall be divided between the railroad company and the owner of the cattle, unless the cattle were killed or injured by the negligence of the agents or servants of the railroad company, in which case the company shall pay full damages.
Ky. Rev. Stat. Ann. § 277.330 (2012)

Louisiana

***§ 48:390. Railroad grade crossing improvement and elimination; notification**
H. (1) A railroad corporation owning or operating a railway in this state, which is constructed across the land of any person leaving a portion of the land of such person on either side of its right-of-way, shall, when ordered to by the commissioner of the Department of Agriculture and Forestry, allow said crossing to remain open at a private rural residence or agricultural crossing or other means of access over its right-of-way.
(2) The Department of Agriculture and Forestry shall promulgate rules and regulations for the implementation of this Subsection no later than January 1, 2009.
La. Rev. Stat. Ann. § 48:390(H) (2012) Excerpt from applicable statute published.

***§ 48:394. Private crossing elimination**
A. (1) Any railroad company operating in this state which desires to close or remove a private crossing shall, no less than one hundred eighty days prior to the proposed closing or removal, provide a written request by registered or certified mail to the Louisiana Public Service Commission and to the owner or owners of record of the private crossing traversed by the rail line. The written request shall state the manner in which such private railroad crossing unreasonably burdens or substantially interferes with rail transportation.
(2) The Louisiana Public Service Commission shall publish the written request from the railroad company in the commission's official bulletin for no less than twenty-five days.
B. No private crossing shall be closed or removed by any railroad company until after a public hearing by the Louisiana Public Service Commission at which parties in interest have had an opportunity to be heard. Notice of the time and place of the hearing shall be published in the official journal of the parish and the commission's official bulletin and at least fifteen days shall elapse between the publication and the date of the hearing. In addition to notice by publication, and at least ten days prior to the hearing, a good faith attempt to notify the owner or owners of record of the property where the private crossing is located shall be made by the commission by sending an official notice by registered or certified mail of the time and place of the hearing to the address or addresses indicated in the mortgage and conveyance records of the parish. The public hearing shall be held not less than sixty days after receipt of request of the railroad company as provided in Subsection A of this Section.

C. If, after such public hearing, the commission determines that the private railroad crossing unreasonably burdens or substantially interferes with rail transportation, the commission shall publish in the official journal of the parish where such crossing is located and in the commission's official bulletin a notice stating the manner in which such closure or removal shall be made and the date of such.
D. The provisions of this Section shall not apply when a private landowner or landowners and a railroad company enter into a consensual or negotiated written agreement or agreements to close a private railroad crossing.
La. Rev. Stat. Ann. § 48:394 (2012)

Maine

***§ 6009. Cattle guards and passes; double damages**
The county commissioners shall order the corporation to make and maintain such cattle guards, cattle passes and farm crossings as they think reasonable and prescribe the time and manner of making them and consider this work in awarding pecuniary damages. If the corporation after 48 hours' notice in writing to its president or superintendent neglects to commence the work or complete it within a reasonable time, the owner may apply to the Superior Court and the court, after due notice to the corporation, shall issue all necessary processes to enforce the specific performance of the orders or restrain it by injunction or the party interested may recover, in a civil action, double the damage that he has sustained by the neglect.
Me. Rev. Stat. Ann. tit. 23, § 6009 (2012)

§ 7229. Maintenance charges for private crossings
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. Nothing in this section may authorize a municipality to assess or levy these charges nor to use its taxing power to collect these charges.
Me. Rev. Stat. Ann. tit. 23, § 7229 (2012)

Maryland

***§ 5-408. Railroad companies -- Private way**
The power of a railroad company to condemn land and other property under this subtitle includes the power to condemn, for railroad purposes, private crossings or ways and land and other property to provide substitute outlets.
Md. Code Ann., Pub. Util. § 5-408 (LexisNexis 2012)

Massachusetts

***§ 60. Land -- Location by Eminent Domain on Private Land; When Company Deemed to Be Railroad Corporation.**
A company authorized to construct its railway at grade across a public way in any place where such crossing is not a part of the crossing of such way by another public way, and incident to the construction of the street railway longitudinally within the limits of such other public way, shall, in any proceedings for the abolition of such grade crossing, be considered as a railroad corporation under sections sixty-five to eighty-two, inclusive, of chapter one hundred and fifty-nine if such company has taken any land or other property under authority of the two preceding sections; and it may bring a petition, or be made a respondent to any petition brought by any of

the other parties named in said sections, in the same way and be subject to the same liabilities as if it were a railroad corporation.
Mass. Gen. Laws ch. 161, § 60 (West 2012)

§ 109. Crossings -- Severance of Private Land by Crossing.
If a railroad lawfully laid out through land without the consent of the owner thereof separates a portion of such land from another or from a public way, and the owner, having a right to cross the railroad, cannot agree with the corporation as to the place or manner in which he shall cross, or if a crossing is inconvenient, either party, in a case which does not involve the abolition of a crossing at grade, may apply to the county commissioners, who, after taking a recognizance from the applicant to the county, with sureties to their satisfaction, for the payment of costs and expenses according to their order, and after notice to the other party and a hearing, may make an order relative to such crossing and to the costs of the application; but they shall not order the corporation to construct or maintain a crossing without its consent, unless it is liable by law or by agreement to construct a crossing for the owner of the land, or is the applicant.
Mass. Gen. Laws ch. 160, § 109 (West 2012)

***§ 111. Crossings -- Appeal from Decision of County Commissioners, Timing.**
A party aggrieved by a decision or order of the county commissioners in any matter or proceeding arising under section one hundred and nine, or section fifty-nine of chapter one hundred and fifty-nine, or by their unreasonable refusal or neglect to announce a decision in any such matter or proceeding for sixty days after the first day fixed for a hearing thereon, may appeal to the department by filing a notice of appeal with the county commissioners within ten days after the decision or order appealed from, or in case of a refusal or neglect to announce a decision, within ten days after the expiration of sixty days from the first day fixed for a hearing thereon. The proceedings before the county commissioners in which the appeal is taken shall thereupon be stayed.
Mass. Gen. Laws ch. 160, § 111 (West 2012)

***§ 246. Regulation of Crossings for Private Use.**
If the consent of the department is required for the crossing of a way or traveled place by a railroad for private use, it may limit the number of tracks, and may impose other conditions relative to the use of the crossing by said railroad, and may modify such limitations and conditions. The department may, upon the complaint of any party interested, or upon its own motion, exercise supervisory powers over all railroads for private use with regard to the character and condition of the roadbed, tracks, crossings, rolling stock, machinery, equipment and appliances used in or in connection with the operation of such railroads, so far as is reasonable and expedient to promote the security of persons employed in the maintenance and operation of the same and of the public.
Mass. Gen. Laws ch. 160, § 246 (West 2012)

<u>Michigan</u>

§ 462.323. Farm crossings; other private crossings.
(1) A farm crossing shall be constructed and maintained by the railroad at the expense of the party requesting the crossing.
(2) Farm crossings shall be of such width and condition as shall permit expeditious and safe passage of large farm machinery.

(3) A railroad may permit the establishment and use of other private crossings on such terms as may be negotiated between the requesting party and the railroad.
Mich. Comp. Laws Serv. § 462.323 (LexisNexis 2012)

Minnesota

219.13 FARM CROSSING
A railroad company constructing a railroad so as to leave parts of a farm on different sides of the road shall construct a proper farm crossing at some place convenient for that farm.
Minn. Stat. § 219.13 (2012)

***219.33 FENCE, CROSSING, CATTLE GUARD; LANDOWNER RECOURSE**
Subdivision 1. Liability. --A railroad company operating a line of railroad in this state, which has failed or neglected to fence the road and to erect crossings and cattle guards, is liable for all damages sustained by a person as a consequence of that failure or neglect.
Subd. 2. Measure of damages. --The measure of damages for failure to construct or maintain a fence is as follows: the owner of land abutting on the line of railway of the railroad company may serve notice on any of its station agents between April 1 and October 1 of any year, requiring the construction of a fence on the line between the person's land and the company's right-of-way. If the company does not construct the fence within 40 days after service of the notice, the landowner may recover from the company an amount not exceeding twice the cost of construction, with costs and reasonable attorney's fee, to be allowed by the court, or the landowner may construct the fence after the expiration of that time and receive from the company double the cost of construction, with like costs and attorney's fee.
Subd. 3. Duty to maintain. --The fence must be kept in repair by the railroad company in like manner and under like penalties as if built by the company.
Subd. 4. Failure to serve notice. --Failure to serve notice does not relieve the railroad company from liability for damages for injuries to persons or domestic animals or other property, resulting from failure to fence its road.
Minn. Stat. § 219.33 (2012)

219.35 CROSSING AND DRAIN
Persons owning lands abutting upon a railroad may construct, at their own expense, crossings under, over, or across the railroad and drains under and across the railroad at places and in ways that do not obstruct or impair the use of the railroad. Before constructing them, the owner of the land shall serve on the nearest station agent of the company a notice, stating in detail the work which the landowner desires to perform, and the company may construct that work; but the crossings and drains may not be opened for the use of the landowner until the landowner pays the reasonable cost of construction. These crossings and drains must be maintained and kept in repair by the railroad company; however, the railroad may require reimbursement from the abutting landowners of its reasonable and accountable maintenance and repair costs when maintenance and repair are initiated by the landowner and agreed to in advance by the railroad company. The railroad company shall ensure, allow, and not prohibit reasonable egress and ingress under, over, and across a crossing except as may be required for maintenance of the crossing or for normal operation of the railroad.
Minn. Stat. § 219.35 (2012)

***219.36 GATE AT FARM CROSSING**

A railroad company, which erects at a farm crossing a gate for the exclusive use of the owner and occupants of that farm, provides a lock for the gate, and delivers the key for the lock to the owner or occupant, is not liable to the owner or occupant for an animal killed or injured because the gate was left open without fault of the company, unless the killing or injury resulted from the wanton or malicious act of the company or its employees.
Minn. Stat. § 219.36 (2012)

219.165 SAFETY RULES FOR PRIVATE RAILROAD GRADE CROSSING
By December 31, 1992, the commissioner shall adopt rules establishing minimum safety standards at all private railroad grade crossings in the state.
Minn. Stat. § 219.165 (2012)

Mississippi

***§ 77-9-253. Stock-gaps and cattle-guards; crossing for plantation roads; penalty**
(1) It is the duty of every railroad company to construct and maintain all necessary or proper stock gaps and cattle guards where its track passes through enclosed land, and to make and maintain convenient and suitable crossings over its track for necessary plantation roads. However, the duty to make and maintain convenient and suitable crossings for necessary plantation roads shall not apply to property under common ownership that is contiguous to a public road which provides access to a reasonably convenient public railroad crossing. For the purposes of this section, a public railroad crossing is reasonably convenient if it is one (1) mile or less from the plantation road measured along the railroad track.
(2) For any failure to comply with subsection (1) of this section, the railroad company shall be liable to pay Two Hundred Fifty Dollars ($ 250.00), to be recovered by the person interested.
(3) A person owning or having an interest as cropper or tenant in land in an enclosure as described in subsection (1) of this section shall have a right of action under this section whether the land of such person is entered or traversed by said track or not.
(4) This section shall apply to all enclosed land, whether said land is or may be situated in a county or district where the stock law is or may be in force or not. The penalty provided for in subsection (2) of this section shall not be cumulative, and only one (1) recovery shall be had for each failure.
(5) The provisions of this section may be enforced by a court of competent jurisdiction.
(6) The provisions of this section shall not relieve a railroad company from the duty to continue to maintain convenient and suitable crossings over its track for necessary plantation roads and all necessary or proper stock gaps and cattle guards, if such crossings, stock gaps and cattle guards existed and were in use before July 1, 2002.
Miss. Code Ann. § 77-9-253 (2012)

Missouri

§ 389.610. Railroad crossings construction and maintenance, highways and transportation commission to have exclusive power to regulate and provide standards -- apportionment of cost

8. Upon application of any person, firm or corporation, the state highways and transportation commission shall determine if an existing private crossing has become or a proposed private crossing will become utilized by the public to the extent that it is necessary to protect or promote the public safety. The state highways and transportation commission shall consider all relevant factors including but not limited to volume, speed, and type of vehicular traffic, and volume,

speed, and type of train traffic. If it be determined that it is necessary to protect and promote the public safety, the state highways and transportation commission shall prescribe the nature and type of crossing protection or warning device for such crossing, the cost of which shall be apportioned by the state highways and transportation commission among the parties according to the benefits accruing to each. In the event such crossing protection or warning device as prescribed by the state highways and transportation commission is not installed, maintained or operated, the crossing shall be closed to the public.
Mo. Rev. Stat. § 389.610 (2012) Excerpt from applicable statute published.

***§ 488.470 Lawful fences, gates, liability to erect or maintain, when -- recovery of costs, attorney fees**
If any railroad corporation formed or to be formed in this state, and any corporation to be formed pursuant to chapter 389, or any railroad corporation running or operating any railroad in this state fails, neglects or refuses to erect or maintain in good condition any fence, openings or farm crossings or cattle guards as required by section 389.650, then the owners or proprietors of such lands, fields or enclosures may erect or repair such fences, openings, gates or farm crossings or cattle guards, and shall thereupon have a right to sue and recover from such corporation as provided in section 389.650. In such action, if the plaintiff recovers judgment, there shall be taxed, pursuant to section 389.650, as costs against the defendant an attorney's fee, to be fixed by the court or associate circuit judge before which or whom the cause may be pending, at such sum as may be a reasonable compensation for all legal services rendered for plaintiff in the case, without regard to any agreement between plaintiff and his or her counsel as to fees; but such fee shall not be taxed so long as any appeal taken in such case shall remain undisposed of.
Mo. Rev. Stat. § 488.470 (2012)

Montana

No applicable statute related to this topic

Nebraska

§ 74-1335. Crossings; private; railroad; duties
Whenever any person owns land on both sides of the right-of-way of any railroad, such railroad shall provide and keep in repair at least one adequate means for such landowner to cross the right-of-way. Any interested landowner with land on both sides of the right-of-way of any railroad may file written complaint with the Department of Roads against any such railroad that the crossing is not adequate or is unsafe and dangerous to the life and property of those who use it, and the department thereupon shall make such investigation, hold such hearing, and issue such orders as it deems necessary, proper, and adequate. If circumstances warrant, the department may require overhead, underground, or grade crossings and wing fences at underground crossings or may require existing crossings to be relocated so as to be safe to those who use them, but when a special crossing involves an expenditure of more than one thousand five hundred dollars, the landowner shall bear one-half the expenses in excess of one thousand five hundred dollars.
Neb. Rev. Stat. Ann. § 74-1335 (LexisNexis 2012)

Nevada

No applicable statute related to this topic

New Hampshire

373:6-a Private Crossings Used by Public.
Whenever it shall appear, after notice and hearing held by the department of transportation upon its own motion or upon petition of any interested party, that an existing grade crossing is being used as a public highway and the adjacent approach or approaches thereto are maintained for use in a manner similar to a public highway, the department of transportation may require the same to be laid out, constructed and protected, and the costs thereof apportioned in accordance with the provisions of this chapter provided that the railroad shall not be charged with any of the said costs.
N.H. Rev. Stat. Ann. § 373:6-a (LexisNexis 2012)

***373:24 Service of Orders.**
In the case of a private crossing, such order shall be served upon the railroad and the landowner affected, or his legal representative. In the case of public crossings, service shall be made upon the railroad, the clerk or clerks of the towns directly served by such crossing, and, in addition, the order shall be published in a newspaper having general circulation throughout the county where such crossing is located.
N.H. Rev. Stat. Ann. § 373:24 (LexisNexis 2012)

***373:33 Establishing.**
If the owner of land and a railroad are not agreed upon the place, number or kind of cattle guards, passes or crossings to be constructed for his accommodation, either party may apply to the department of transportation, which, after notice, hearing and examination, shall determine the number, places, time and manner of construction of the same.
N.H. Rev. Stat. Ann. § 373:33 (LexisNexis 2012)

***373:34 Failure to Construct.**
If the railroad does not construct such cattle guards, passes and crossings within the times limited by the department of transportation, and does not pay the costs adjudged to be paid by it, upon request, it shall be guilty of a violation for each month's neglect.
N.H. Rev. Stat. Ann. § 373:34 (LexisNexis 2012)

<u>New Jersey</u>

***§ 48:12-46. Duty to erect and maintain; liability**
Every railroad company shall erect and maintain fences on the sides of its road of the height and strength of division fences required by law, with gates or barways at farm crossings. Every such company shall also construct and maintain cattle guards at road crossings sufficient to prevent cattle and other animals from getting on the railroad.
N.J. Rev. Stat. Ann. § 48:12-46 (West 2012)

§ 48:12-49. Bridges and passages at street and road crossings; private ways and cattle guards
Where the railroad intersects the land of an individual the company shall provide and keep in repair suitable and convenient passageways over, under and across the railroad and construct and maintain suitable and proper cattle guards at all road crossings.
N.J. Rev. Stat. Ann. § 48:12-49 (West 2012)

<u>New Mexico</u>

No applicable statute related to this topic

<u>New York</u>

***§ 52. Fences, farm crossings and cattle-guards**

Every railroad corporation, and any lessee or other person in possession of its road, shall, before the lines of its road are opened for use, and so soon as it has acquired the right of way for its roadway, erect and thereafter maintain fences on the sides of its road of height and strength sufficient to prevent cattle, horses, sheep and hogs from going upon its road from the adjacent lands, with farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary for the use of the owners and occupants of the adjoining lands, and shall construct where not already done, and hereafter maintain, cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from going upon its railroad. So long as such fences and cattle-guards are not made, or are not in good repair, the corporation, its lessee or other person in possession of its road, shall be liable for all damages done by their agents or engines or cars to any domestic animals thereon. When made and in good repair, they shall not be liable for any such damages, unless negligently or wilfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence within the provisions of this section, but barbed wire shall not be used in its construction.

No railroad need be fenced, when not necessary to prevent horses, cattle, sheep and hogs from going upon its track from the adjoining lands. Every adjoining land owner, who, or whose grantor, has received compensation for fencing the line of land taken for a railroad, and has agreed to build and maintain a lawful fence along such line, shall build and maintain such fence. If such owner, his heir or assign shall not build such fence, or if built, shall neglect to maintain the same during the period of thirty days after he has been notified so to do by the railroad corporation, such corporation shall thereafter build and maintain such fence, and may recover of the person neglecting to build and maintain it the expense thereof. And when such railroad shall cross timbered or forest lands, the company shall construct and maintain suitable and sufficient crossings, whenever and wherever reasonably necessary to enable the respective owners of said lands to transport logs, timber and lumber for manufacture or sale, or for banking on any stream, to be floated or driven down the same. In case of any neglect or dispute the supreme court may by mandamus or other appropriate proceedings, compel the same, and also fix the point or location of any such crossing.

As used in this section, the term “farm crossings” shall mean at-grade rail crossings that are utilized primarily as access to and from adjoining property which is actively used for farming or agricultural purposes by the owner or by the tenant of such property.

N.Y. R.R. Law § 52 (Consol. 2012)

§ 97. Intercity rail passenger service

1. As used in this section, unless a different meaning clearly appears from the context, the term:

a. “Intercity rail passenger service” shall mean any intercity rail passenger transportation operation where rail passenger trains operate on a regular scheduled basis.

b. “Intercity rail passenger service corridor” shall mean a continuous railroad route which contains one or more segments of railroad track or tracks where intercity rail passenger service is in operation by the national rail passenger corporation.

c. “Public rail crossing” shall mean a crossing where a highway, roadway or similar facility, which is owned by a government, either federal, state or local, a public authority or a public agency, crosses a railroad track or tracks, is open to the public and has been designated as such by order of the commissioner, or recognized as having been a public at-grade crossing prior to eighteen hundred ninety-seven.

d. “Private rail crossing” shall mean a crossing which traverses a railroad track or tracks and may be used 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.
e. “Railroad” shall mean a private or public railroad operating in the state of New York carrying either freight or passengers or freight and passengers including, but not limited to, those operated by the metropolitan transportation authority and its subsidiaries, including the Long Island Rail Road or operated by any other public authority or local government.
2. No new private rail crossings shall be established in an intercity rail passenger service corridor until an application has been made to and approved by the commissioner. Whenever an application is made, the commissioner shall conduct a hearing to determine if a private rail crossing is justified or if an existing public or private crossing could be used to avoid the creation of a new crossing. If the commissioner determines that a crossing is justified and is in the best interest of the people of the state of New York, the commissioner shall determine the manner of the crossing, whether it is to be at-grade or grade-separated, the location, the manner of protection and the apportionment of responsibility for the maintenance of any such crossing, including any warning devices.
3. In order to insure public safety, the commissioner may, if he or she determines it appropriate, require alterations in an existing private rail crossing, including a farm crossing, which is located in an intercity rail passenger service corridor and is hereby authorized to participate in the cost of such alterations. In the event that an agreement on such alterations cannot be reached between the railroad owning the crossing, property owners who are directly impacted by the crossing and the department, the commissioner shall conduct a hearing on the need for such alterations and whether any other alternatives are available, including the use of an alternate route or the closure of the crossing and shall, where applicable, determine the apportionment of responsibility for the alteration and maintenance of any such crossing, including any warning devices. Public comment shall be sought on any proposed alteration or closure which will impact public access to lands open to the public for recreational use. Comments received from the public shall be considered in any decision to alter or close such a crossing. No crossing which provides direct access to public state recreational lands shall be closed unless the commissioner, in consultation with the state agency with jurisdiction over such lands, finds that there is a reasonable alternate route to such lands that maintains public access to and the public recreational value of such lands.
4. The commissioner shall prepare and promulgate standards and specifications for the design and protection of private rail crossings in an intercity rail passenger service corridor and is authorized to adopt and promulgate such rules and regulations to accomplish this as shall be deemed necessary.
5. The commissioner shall have the power to acquire any real property, easements, rights-of-way or similar rights necessary for the purposes of this article in the same manner as property is acquired for state highway purposes pursuant to the provisions of section thirty of the highway law.
N.Y. R.R. Law § 97 (Consol. 2012)

***§ 97-a. Commuter rail service**
1. As used in this section, unless a different meaning clearly appears from the context, the term:
a. “Commuter rail service” shall mean any rail passenger transportation operation where heavy rail passenger trains provide scheduled passenger service for weekday commuters between a city or cities and adjacent areas.

b. “Commuter rail service corridor” shall mean a railroad route which contains one or more segments of railroad track where commuter rail service is in operation.
c. “Private rail crossing” shall have the same meaning as such term is defined in section ninety-seven of this article.
d. “Railroad” shall have the same meaning as such term is defined in section ninety-seven of this article.
2. No new private rail crossings shall be established in a commuter rail service corridor until an application has been made to and approved by the commissioner. Whenever an application is made, the commissioner shall conduct a hearing to determine if a private rail crossing is justified or if an existing public or private crossing could be used to avoid the creation of a new private rail crossing. If the commissioner determines that a new private rail crossing is justified and is in the best interest of the people of the state of New York, the commissioner shall determine the manner of the crossing, whether it is to be at-grade or grade-separated, the location, the manner of protection and the apportionment of responsibilities and costs for the construction, inspection and maintenance of any such private rail crossing, including any warning devices.
3. a. In order to insure public safety, the commissioner may, if he or she determines it appropriate, require alterations in an existing private rail crossing, including a farm crossing, which is located in a commuter rail service. In the event that an agreement on such alterations cannot be reached between the railroad owning the crossing, property owners who are directly impacted by the existing private rail crossing and the department, the commissioner shall conduct a hearing on the need for such alterations and whether any other alternatives are available, including the use of an alternate route or the closure of the private rail crossing and shall, where applicable, determine the apportionment of responsibilities and costs for the alteration, construction, inspection and maintenance of any such private rail crossing, including any warning devices.
b. Public comment shall be sought on any proposed alteration or closure which will impact public access to lands open to the public for recreational use. Comments received from the public shall be considered in any decision to alter or close a private rail crossing. No private rail crossing which provides direct access to public state recreational lands shall be closed unless the commissioner, in consultation with the state agency with jurisdiction over such lands, finds that there is a reasonable alternate route to such lands that maintains public access to and the public recreational value of such lands.
4. The commissioner shall prepare and promulgate standards and specifications for the design and protection of private rail crossings in a commuter rail service corridor and, in consultation with the metropolitan transportation authority, is authorized to adopt and promulgate such rules and regulations as may be necessary to implement the provisions of this section. Except as otherwise provided by law, said rules and regulations shall include guidelines for the allocation of responsibility for the costs associated with establishment of any new private crossings pursuant to subdivision two of this section or the closing or improvement of existing private crossings pursuant to subdivision three of this section and shall recognize that the private interests seeking or using a crossing shall be generally responsible for such costs as well as all costs associated with the inspection and maintenance of such improvements; and, that the arrangement between the railroad and the owners or occupants of the adjoining properties shall be formalized in an agreement.
5. The commissioner shall have the power to acquire any real property, easements, rights-of-way or similar rights necessary for the purposes of this article in the same manner as property is

acquired for state highway purposes pursuant to the provisions of section thirty of the highway law.
N.Y. R.R. Law § 97-a (Consol. 2012)

North Carolina

***§ 136-194. Cattle guards and private crossings; failure to erect and maintain misdemeanor**
Every company owning, operating or constructing any railroad passing through and over the enclosed land of any person shall, at its own expense, construct and constantly maintain, in good and safe condition, good and sufficient cattle guards at the points of entrance upon and exit from such enclosed land and shall also make and keep in constant repair crossings to any private road thereupon. Every railroad corporation which shall fail to erect and constantly maintain the cattle guards and crossings provided for by this section shall be liable to an action for damages to any party aggrieved, and shall be guilty of a Class 3 misdemeanor and only fined in the discretion of the court. Any cattle guard approved by the Commission shall be deemed a good and sufficient guard under this section.
N.C. Gen. Stat. § 136-194 (2012)

North Dakota

***49-10.1-21. Railroad crossing determination.**
If a dispute arises as to whether a railroad grade crossing should be classified as public or private as defined in section 49-11-00.1, the railroad corporation, governmental entity, or private property owner may file with the commission a petition and the commission shall determine whether the crossing is public or private.
N.D. Cent. Code § 49-10.1-21 (2012)

***49-11-17. Railroad crossing over land owned on both sides by one person -- Penalty for failure to provide.**
When any person owns land on both sides of any railroad and contiguous to the railway, the corporation or individual owning or operating such railway shall make and keep in good repair a proper cattle guard and causeway or other adequate means of crossing such railway at such reasonable place as may be designated by the landowner or the landowner's agent, upon at least ten days' written notice by the commission to the railroad corporation provided an adequate crossing is not otherwise accessible. The type of all cattle guards required by law to be constructed in this state before being installed shall be approved by the commission. The owner or person in possession of the land through which the railroad passes may recover twenty-five dollars for every thirty days of default on the part of the person or corporation operating the railroad after at least a ten-day notice served on an officer, roadmaster, or section foreman of the operating company has designated the place for the erection of the cattle-guarded crossings or the road crossing, requested and a like penalty for failure to keep such cattle guards or road crossings in good repair after at least a ten-day written notice has been served upon the operating company that such repairs are necessary.
N.D. Cent. Code § 49-11-17 (2012)

***49-11-28. Swinging gates -- When railroad required to maintain.**
Upon the written request of the owner or lessee of land abutting the railroad's right of way, the owners or operators of a railroad shall construct and maintain suitable and safe swinging gates on

any side of a private crossing enclosed by the railroad under section 49-11-24. The request must be made at the same time a request is made under subsection 1 of section 49-11-24.
N.D. Cent. Code § 49-11-28 (2012)

Ohio

§ 4955.27. Private crossing
When a person owns fifteen or more acres of land in one body through which a railroad passes, which land is so situated that he cannot use a crossing in a public street, lane, road or other highway in going from his land on one side of the railroad to that on the other side without great inconvenience, at his request the company or person operating such railroad, at the expense of such company or person shall, within four months after such request, construct a good and sufficient private crossing across such railroad and the lands occupied by the company, between the two pieces of land to enable such landowner to pass with a loaded team and over which he may go at all times when such railroad is not being used at the crossing, or so near to it as to render passing thereat dangerous.
Ohio Rev. Code Ann. § 4955.27 (LexisNexis 2013)

§ 4955.28. Owner may build at company's expense
If, for four months after the request by a landowner for that purpose, the company or person neglects to construct a good and sufficient private crossing as provided in section 4955.27 of the Revised Code, after reasonable notice to the agent of the company for receiving and shipping freight at the station on the railroad nearest to the land where it is proposed to construct such crossing by the landowner of the time when he will proceed to construct it, such landowner may enter upon the lands of the company at any point he wishes between the two pieces of his land and construct such crossing. Such company or person is liable to such landowner for all reasonable expense of such construction, not exceeding fifty dollars, which he may recover in an action against such company or person.
Ohio Rev. Code Ann. § 4955.28 (LexisNexis 2013)

***§ 4955.29. Exception**
Sections 4955.27 and 4955.28 of the Revised Code do not apply to any case in which compensation for building a private crossing is considered and estimated as part of the consideration to be paid for the right of way, so far as the right to private crossing has been or may be settled or paid for. Such sections do not affect, in any manner, any contract or agreement between any railroad company or person having control or management of a railroad and the proprietor or occupants of lands adjoining, for the construction or maintenance of railroad crossings.
Ohio Rev. Code Ann. § 4955.29 (LexisNexis 2013)

***§ 4959.03. Cattle guards and crossings**
Before operating a railroad, the company or person having control or management of such railroad shall maintain at every point where a public road, street, lane, or highway used by the public crosses such railroad, safe and sufficient crossings, and on each side of such crossings cattle guards sufficient to prevent domestic animals from going upon such railroad. Such company or person shall be liable for all damages sustained in person or property by reason of the want or insufficiency of such fence, crossing, or cattle guard, or neglect or carelessness in the construction or keeping in repair of such fence, crossing, or cattle guard.
Ohio Rev. Code Ann. § 4959.03 (LexisNexis 2013)

***§ 4999.03. Riding or driving into enclosures of railroads**
No person shall, at a place other than a private crossing or for a purpose other than crossing a railroad, ride or drive a horse or other domestic animal into an enclosure of a railroad or knowingly permit such animal to go into or remain in such enclosure, or place feed, salt, or other thing within such enclosure to induce such animal to enter into it or upon the track of such railroad, or, while constructing a private crossing or crossing a railroad at a private crossing, permit a fence to remain down or open for a longer time than is necessary to construct or use such crossing. Whoever violates this section shall be fined not more than ten dollars or imprisoned for not less than ten nor more than thirty days.
Each ten hours such animal is knowingly permitted to remain in such enclosure or upon such track is an additional offense. Such animal is not exempt from execution for a fine or costs imposed under this section.
Ohio Rev. Code Ann. § 4999.03 (LexisNexis 2013)

Oklahoma

§ 127. Causeway
When any person owns land on both sides of any railroad, the corporation owning such railroad, shall, when required to so do, make and keep in good repair one causeway or other safe and adequate means of crossing the same.
Okla. Stat. tit. 66, § 127 (2012)

Oregon

***374.309 County permits; rules.**
(1) The county court or board of county commissioners shall adopt reasonable rules and regulations and may issue permits, not inconsistent with law, for the use of the rights of way of county roads for the purposes described in ORS 374.305.
(2) Rules and regulations adopted and permits issued under subsection (1) of this section shall include provisions, terms and conditions that in the judgment of the granting authority are in the best interest of the public for the protection of the road and the traveling public and may include, but need not be limited to:
(a) Provisions for construction of culverts under approaches, requirements as to depth of fills over culverts and requirements for drainage facilities, curbs, islands and other facilities for traffic channelization as may be deemed necessary.
(b) With respect to private road crossings, additional provisions for the angle of intersection, crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing signs and signals, reinforcement for protection of the road, maintenance of the crossing and for payment by the applicant of any of the costs of complying with the provisions.
(c) With respect to private road crossings, the granting authority may also require the applicant to furnish:
(A) Public liability and property damage insurance in a sum fixed by the granting authority that indemnifies the members, officers, employees and agents of the granting authority from any claim that might arise on account of the granting of the permit and the crossing of the road by vehicles operating under the permit; and
(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in a sum fixed by the granting authority,

indemnifying the granting authority for any damage to the roads that may be caused by the use of the crossing.
(3) The powers granted by this section and ORS 374.315 may not be exercised so as to deny any property abutting the road reasonable access. In determining what is reasonable access, the county court or board of county commissioners shall apply the following criteria:
(a) The access must be sufficient to allow the authorized uses for the property identified in the acknowledged local comprehensive plan.
(b) The type, number, size and location of approaches must be adequate to serve the volume and type of traffic reasonably anticipated to enter and exit the property, based on the planned uses for the property.
Or. Rev. Stat. § 374.309 (2011)

***608.310 Erecting and maintaining fences, crossings, gates and cattle guards; rules**
(1) Every person, or the lessee or agent of the person, owning or operating any railroad, shall erect and maintain good and sufficient lawful fences on both sides of the railroad line, except at the crossings of and upon public roads and highways, within such portions of cities as are or may be laid out and platted in lots and blocks and at railroad station grounds. Such person shall also at the same time erect and maintain necessary farm crossings and gates and sufficient cattle guards at all public crossings.
(2) Railroad lines shall be so fenced and farm crossings, gates and cattle guards installed, within three months from the time such lines are put in operation. However, the Department of Transportation may prescribe by rule the number, location and character of farm crossings which may be necessary and the manner in which they shall be constructed so that they are reasonably adequate, safe, sufficient and convenient, but not so as to impair the terms of any contract between the landowner and the railroad or judgment in condemnation relative to such crossings.
(3) The Department of Transportation may, by rule, determine and prescribe any other description of fence than that designated as a lawful fence, which shall be constructed and maintained by any such railroad company between the points which are designated in such rule, and may provide for the apportionment of the costs of reconstruction necessitated thereby as between the parties interested.
(4) The Department of Transportation by rule may suspend the operation of this section as to any particular portion of any line of railroad.
Or. Rev. Stat.§ 608.310 (2011)

***608.320 Penalty for railroad refusing or failing to maintain fences, gates and guards.**
(1) Any person shall forfeit and pay into the State Treasury the sum of $ 100 for each mile of fence on either side of a railroad, or for each farm crossing, gate or cattle guard which the person fails, neglects or refuses to erect and maintain in violation of ORS 608.310. This shall be recovered as other penalties are recovered and paid into the State Treasury.
(2) If a person neglects or refuses to comply with ORS 608.310 to 608.330, the Attorney General or prosecuting attorney of the proper county may, by mandamus, compel compliance with such sections.
(3) The provisions of ORS 608.310 to 608.330 are cumulative to existing remedies.
Or. Rev. Stat. § 608.320 (2011)

608.330 Leaving gate open.
(1) No person shall intentionally or negligently leave open or unfastened any farm crossing gate, or let down and leave down any bars of any railroad fence

(2) Justices of the peace have original jurisdiction for violations of this section.
Or. Rev. Stat. § 608.330 (2011)

***744.310 State permits; rules.**
(1) The Department of Transportation shall adopt rules consistent with this section and ORS 374.312 to govern the process of application for issuance of permits for approach roads to state highways by owners of property abutting highways. However, the department may not issue a permit for the construction of any approach road at a location where no rights of access exist between the highway and abutting real property.
(2) The rules and permits shall include provisions, terms and conditions that in the judgment of the department are in the best interest of the public for the protection of the highway and the traveling public and may include, but need not be limited to:
(b) With respect to private road crossings, additional provisions for the angle of intersection, crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing signs and signals, reinforcement for protection of the highway, maintenance of the crossing and for payment by the applicant of any of the costs of complying with the provisions.
(c) With respect to private road crossings, the department may also require the applicant to furnish:
(A) Public liability and property damage insurance in a sum fixed by the department that indemnifies the officers, employees and agents of the department from any claim that might arise on account of the granting of the permit and the crossing of the highway by vehicles operating under the permit; and
(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in a sum fixed by the department that indemnifies the department for any damage to the highways that may be caused by the use of the crossing.
Or. Rev. Stat. § 374.310 (2011) Excerpt from applicable statute published.

824.224 When stop signs are to be installed by railroad; exemption; grade crossing alteration, relocation or closure.
(1) At every farm or private grade crossing of a railroad where no automatic grade crossing protective device is installed, the railroad shall cause to be installed and maintained, as a means of protecting the crossing, one or more stop signs.
(3) After notice to any affected landowner and opportunity for a hearing, unless a hearing is not required under ORS 824.214, the Department of Transportation may alter, relocate or close any farm or private grade crossing on any line designated as a high speed rail system.
(4) If the department decides to alter, relocate or close a farm or private grade crossing in such a manner as to constitute a taking of private property, the department shall exercise its power of eminent domain to acquire such property as is necessary to carry out the decision. A department order under this subsection shall constitute a resolution of necessity for exercise of the department's power of eminent domain.
(5) If the department exercises its power of eminent domain under subsection (4) of this section, the department shall use any combination of state or federal funds allocated for high speed rail systems to pay any settlement with or judgment in favor of an owner of a farm or private grade crossing. The department shall have discretion to determine whether to reach a settlement with an owner of a farm or private grade crossing.
(6) The costs of implementing a department order issued under subsection (3) of this section shall be apportioned to any combination of state or federal funds specifically allocated for high

speed rail systems as the department determines appropriate in order to eliminate farm or private grade crossings or to enhance safety at such crossings.
Or. Rev. Stat. § 824.224 (2011) Excerpt from applicable statute published.

Pennsylvania

No applicable statute related to this topic

Rhode Island

§ 39-8-1.3. Authorization for private crossing

No railroad owning railroad tracks within the state shall enter into any agreement of any nature whatsoever with any private party for the establishment of a private crossing at grade, unless and until the railroad shall have obtained permission from the commission for the establishment of the private crossing.
R.I. Gen. Laws § 39-8-1.3 (2012)

§ 39-8-1.4. Barricading of crossings
The general assembly hereby declares that any private railroad crossing found by the commission after a hearing to be dangerous or a hazard to the public or to those using trains is a public nuisance, and the commission may order the railroad to barricade the crossing as a matter of public safety.
R.I. Gen. Laws § 39-8-1.4 (2012)

§ 39-8-16. Closing of gates at private way
Whoever enters upon or crosses a railroad at any private way which is closed by gates or bars and neglects to close them securely, shall be fined not less than two dollars ($ 2.00) nor more than ten dollars ($ 10.00) and shall be liable for the damage sustained therefrom.
R.I. Gen. Laws § 39-8-16 (2012)

South Carolina

§ 58-15-810. Protection of private crossings over railroads.
Private roads crossing railroads shall be protected by the railroads as the law requires them to protect public highways.
S.C. Code Ann. § 58-15-810 (2011)

***§ 58-17-1370. Stock guards or cattle gaps shall be constructed.**
Each railroad company whose line of road lies wholly or partly in this State shall construct and keep in repair an adequate stock guard or cattle gap at every point where the line of railroad of any such company crosses the line of any fence in this State. For every violation of this section the railroad company so violating it shall pay to the owner of the fence upon the line of which such stock guard or cattle gap should have been constructed and kept in repair the sum of one hundred dollars, to be recovered by action in the court of common pleas for the county in which such stock guard or cattle gap should have been constructed and kept in repair.
S.C. Code Ann. § 58-17-1370 (2011)

South Dakota

§ 49-16A-86. Private farm crossings--Cattle guards--Duty to keep gates closed--Liability of railroad.

A railroad owning or operating a road in this state, which is constructed across the land of any person leaving a portion of the premises on each side of its right-of-way, shall, when ordered to by the Department of Transportation, make and keep in good repair a private farm crossing or other causeway over its right-of-way, and upon like order shall construct and maintain safe and adequate cattle guards and wing fences for the private farm crossings. The owner or lessee of the land shall keep the gates for such private farm crossing closed except when in actual use. A railroad is not liable to the owner or lessee of such land for any loss or damage sustained to his property by reason of a failure to keep the gates closed.
S.D. Codified Laws § 49-16A-86 (2012)

Tennessee

***65-18-106. Private crossings and cowgaps.**
Where land on both sides of a track is owned by the same proprietor, convenient crossings shall be made and kept up at the expense of the corporation for the use of the proprietor, and all necessary cowgaps made.
Tenn. Code Ann. § 65-18-106 (2012)

Texas

No applicable statute related to this topic

Utah

§ 56-1-13. Fencing right of way -- Gates
Every railroad company shall erect and maintain a fence on each side of its rights of way where the same passes through lands owned and improved by private owners, and at all public road crossings shall connect the same with cattle guards. Such fence shall not be less than four and one-half feet in height and may be constructed of barbed or other fencing wire with not less than five wires, and good, substantial posts not more than one rod apart with a stay midway between the posts attached to the wires to keep said wires in place; and whenever such railroad company shall provide gates for private crossings for the convenience of the owners of the land through which such railroad passes, such gates shall be so constructed that they may be easily operated; and every railroad company shall be liable for all damages sustained by the owner of any domestic animal killed or injured by such railroad in consequence of the failure to build or maintain such fence. The owner of such lands shall keep such gate closed at all times when not in actual use, and if such owner fails to keep such gates closed, and in consequence thereof, any animal owned by him strays upon such railroad, and is killed or injured, such owner shall not be entitled to recover damages therefor.
Utah Code Ann. § 56-1-13 (2012)

Vermont

***§ 3639. Farm crossings and cattle guards; construction and maintenance**
(a) A person or corporation owning or operating a railroad shall construct and maintain farm crossings of the road for the use of the proprietors of lands adjoining the railroad, and cattle guards at all farm and road crossings sufficient to prevent cattle and animals from getting on the railroad. A farm crossing may be temporarily or permanently closed or discontinued by mutual agreement between all parties having an interest therein. If no such mutual agreement can be reached by such interested parties, then a person or corporation owning or operating a railroad

and desiring to close any farm crossing shall make application to the transportation board. The board shall thereupon give notice to all parties interested, in such manner as the board may direct, of hearing on such application, such hearing to be in the county where such crossing is located. After such hearing, a person or corporation owning or operating a railroad shall not close such farm crossing without the approval of the transportation board. A person aggrieved by the closing of a farm crossing after January 1, 1955, by a person or corporation owning or operating a railroad may notify the transportation board by registered or certified mail of such closing, and thereupon such board shall conduct a hearing. Notice and place of hearing shall be as hereinbefore provided. The transportation board may require the reopening of any such crossing and make such other order as is permitted in section 3649 of this title. At any such hearing the burden of proof shall rest with the person or persons effecting or seeking to effect the closing of such farm crossing. Any person aggrieved by an order of the transportation board may, in accordance with Rule 75 of the Vermont Rules of Civil Procedure, appeal to the superior court, whereupon such cause shall be tried as an original action brought under the provisions of 12 V.S.A. § 402.
(b) A person or railroad corporation closing any farm crossing in violation of a provision of this section or failing to comply with any such order shall be fined not less than $ 50.00 nor more than $ 500.00 and any person aggrieved by such violation may recover his or her damages in an action on this statute.
Vt. Stat. Ann. tit. 5, § 3639 (2013)

***§ 3640. Board, when parties disagree**
When the parties cannot agree upon the plan, manner, or number of the farm crossings, the same shall be determined by the transportation board on petition and after a public hearing. However, if the cost of such farm crossings exceeds the value of the land to be accommodated thereby, the board need not order such crossings to be made, but shall award reasonable damages in lieu thereof.
Vt. Stat. Ann. tit. 5, § 3640 (2013)

***§ 3641. Cattle guards at highway crossings**
The provisions of law relieving parties owning property adjoining a highway from maintaining fences along the line of such highway shall not be held to relieve persons owning or operating a railroad from maintaining cattle guards at points where such railroad crosses a highway at grade.
5 V.S.A. § 3641 (2013)

***§ 3648. Complaint regarding fences, guards, crossings, watercourses**
A person through whose land a railroad passes, after such road is in operation, and after 10 days' notice by registered or certified letter addressed to the principal office of such railroad, may make complaint in writing to the transportation board that he or she is aggrieved by the neglect or default of a railroad corporation in constructing or maintaining fences, cattle guards, or farm crossings which the corporation is bound to construct or maintain, or by its stopping, impeding, or altering a watercourse, or by its making or stopping a ditch. The board shall give reasonable notice to the petitioner and to the railroad corporation and to any other parties having an interest in the subject matter of the complaint, of the time and place of hearing thereon, and such notice shall be given by registered or certified mail or by personal delivery.
Vt. Stat. Ann. tit. 5, § 3648 (2013)

Virginia

***§ 56-429. Company to erect fences along roadbed; cattle guards, etc**

Upon the written request by certified mail to the registered agent of the railroad in question of any landowner whose land adjoins the railroad and whose land is otherwise enclosed for the purpose of maintaining livestock, every railroad company shall cause fences to be erected along its line and on both sides of its roadbed and shall keep such fences in proper repair. Such fence shall be adequate to enclose livestock. The owners of adjoining lands may connect their fences with such fences at such places as they may deem proper. In erecting such fences the company shall, at the termini of those portions of the roadbed which it is required to fence, and on each side of all public and private crossings, construct across its roadbed and keep in good repair cattle guards reasonably sufficient to turn all kinds of livestock, with which its fences shall be connected. Such cattle guards at private crossings may be dispensed with if the company erects sufficient gates and maintains them in good order.

Such fences shall be constructed on the request of the landowner, in writing, by certified mail, to the registered agent of such railroad. If the company refuses or fails, for 180 days after such request, to construct or maintain the fences at the place designated, the owner, having given ten days' notice in writing to such registered agent, may apply to the circuit court of the county or city in which any such point is located for the appointment of three disinterested freeholders, whose duty it shall be to go on the land and determine whether the proposed fence shall be constructed. Their decision shall be in writing, and shall be forthwith returned to and filed in the office of the clerk of such court. If such decision is that the fence ought to be constructed, the company shall, within sixty days thereafter, construct the same. Upon its failure so to do, it shall pay to the landowner fifty dollars for every day of such failure. Any style of fence approved by the State Corporation Commission shall, if properly constructed and maintained, be deemed a sufficient fence within the meaning of this chapter. Any delay in construction or maintenance caused by inclement weather, war, strikes, acts of God, national emergencies or failure of any local, state, or federal governmental agencies to grant permits shall extend the aforesaid period.

Any such company may erect gates or bars instead of the cattle guards required by this section, if, in the judgment of the company, the hazard to trains at such crossings requires gates or bars as a safeguard to life and property on the trains. If such fence, cattle guard or gate is destroyed or damaged due to the negligence of the landowner, the landowner shall be solely responsible for restoring or repairing such fence, cattle guard or gate.

The circuit court of the county or city wherein any such fence or cattle guard, or any portion thereof, is to be erected or built pursuant to this section shall have jurisdiction through its power to grant equitable relief to compel the erection of any such fence, or building of any such cattle guards along or adjoining lands or lots actually enclosed.

Va. Code Ann. § 56-429 (2012)

§ 56-548. Highway and roadway crossings

No crossing of a railway, highway, street, road or alley shall be at grade, but shall pass above or below the railway, highway, street, road, or alley, and such crossings are hereby permitted, subject to the provisions of this chapter.

Va. Code Ann. § 56-548 (2012)

Washington

No applicable statute related to this topic

West Virginia

No applicable statute related to this topic

Wisconsin

***85.085. Private road crossings.**
(1b) In this section, "rehabilitated" means a significant rebuilding of railroad track that restores severely deteriorated track to a minimum service standard or, for track that is at or above a minimum service standard, that increases the service standard of the track.
(1m) The department shall make payments from the appropriation under s. 20.395 (2) (bu) to fund the rebuilding of any private road crossing across the tracks of a rail transit commission within this state if the applicable tracks of the rail transit commission were rehabilitated during the 1992-93 fiscal year or thereafter, the private road crossing has not been rebuilt since the tracks were rehabilitated and the private road crossing user obtains a private road crossing permit from the applicable rail transit commission.
(2) The department shall make payments from the appropriation under s. 20.395 (2) (bu) to reimburse any private road crossing user for costs incurred by the user in financing the rebuilding of a private roadv crossing across the tracks of a rail transit commission within this state if the applicable tracks of the rail transit commission were rehabilitated during the 1992-93 fiscal year or thereafter and the private road crossing user has obtained a private road crossing permit from the applicable rail transit commission.
(3) The department shall not make any payment under this section unless the applicable private road crossing permit provides that the rail transit commission shall, at the users sole cost and expense, maintain, repair and renew the private road crossing. "Maintain, repair and renew" does not include any rebuilding of a private road crossing that is required because the applicable tracks have been rehabilitated.
Wis. Stat. § 85.085 (2012)

***192.33. Fences, cattle guards, crossings.**
(1) Subject to s. 190.09, every corporation operating any railroad shall erect and maintain on both sides of its railroad, depot grounds excepted, sufficient fences with openings or gates or bars therein, and suitable and convenient farm crossings for the use of the occupants of the lands adjoining and shall maintain cattle guards at all highway crossings, outside of municipalities, and connect their fences therewith. This section shall not apply to that part of the railroad where sidetracks or switch tracks are used in cities of the 1st class.
(2) All fences and cattle guards required under sub. (1) shall be made within one month from the time of commencing to operate the railroad right-of-way, so far as operated. Until the required fences and cattle guards are made, the railroad corporation owning or operating the right-of-way shall be liable for all damages done to domestic animals, or persons on the right-of-way, occasioned in any manner, in whole or in part, by the want of the required fences or cattle guards. After the required fences and cattle guards are constructed the railroad conformations liability shall not extend to damages occasioned in part by contributory negligence, nor to defects existing without negligence on the part of the corporation or its agents.
(3) The sufficiency of fences shall be determined according to ch. 90; but nothing in this section shall render any fence insufficient which was a legal or sufficient fence when built.
(4) No fence shall be required in places where ponds, lakes, watercourses, ditches, hills, embankments or other sufficient protection renders a fence unnecessary to prevent domestic animals from straying upon the right-of-way.

(5) The maintenance of cattle guards may be omitted by the railroad company with the written consent of the office specifying the particular crossings.
Wis. Stat. § 192.33 (2012)

***192.37. Fences, farm crossings; railroads to provide.**
(1) Whenever any corporation operates a railroad through enclosed lands and fails to construct the fences, farm crossings or cattle guards required by law, proper for the use of the enclosed lands, the owner or occupant of the lands may give notice to the railroad corporation of its failure to construct the necessary fences, farm crossings and cattle guards on the owners or occupants enclosed lands.
(2) The notice under sub. (1) shall meet all of the following requirements:
(a) It shall be in writing, signed by the owner or occupant of the enclosed lands.
(b) It shall contain a description of the owners or occupants enclosed lands.
(c) It shall be served in the manner provided for the service of summons in the circuit court.
(3) If a railroad corporation, after being notified under this section, neglects for 3 months to construct the necessary fences, farm crossings and cattle guards on the lands described in the notice, it shall be liable to pay to the owner or occupant of the described lands 10 for each day after the expiration of the 3 months until the necessary fences, farm crossings and cattle guards are constructed. No time between November 1 and April 1 shall be included in the calculation of the 3-month period under this subsection.
Wis. Stat. § 192.37 (2012)

Wyoming

***§ 37-9-304. Fences and cattle guards; generally.**
(a) All railway corporations, owning or operating a line of railway within the state, shall construct, maintain and keep in repair on each side of the track thereof, a sufficient fence which meets or exceeds department of transportation fencing standards, so connected with suitable cattle guards at all public road crossings as to prevent stock from getting on the railroad track of the corporation. The fence shall be constructed within nine (9) months after the completion of any railroad track or any part thereof; provided, that railway corporations shall not be required to construct and maintain a fence within the boundaries of any incorporated city or town.
(b) Any corporation failing to comply with this section is subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00) for each day during which a violation continues. Each county in which there is a failure to comply with this section shall constitute a separate violation. This penalty shall be prosecuted and collected pursuant to the provisions of W.S. 37-9-302.
(c) No fine shall be assessed under subsection (b) of this section against a corporation that has on file with the department of transportation an approved plan for fence construction, reconstruction and maintenance so long as the corporation is in full compliance with the terms and conditions of the approved plan.
Wyo. Stat. § 37-9-304 (2012)

***§ 37-9-305. Fences and cattle guards; liability for damages.**
Any corporation operating a railway and failing to fence the same and to construct and maintain suitable cattle guards as required by W.S. 37-9-304, shall be liable to the owner or owners of any livestock killed or injured by reason of its failure to construct or keep in repair the fence or cattle guard in the manner provided in W.S. 37-9-304, for the full amount of the damage sustained by the owner on account thereof and to make a prima facie case for recovery, it shall only be

necessary for the owner to prove the loss or injury to his property; provided, that no corporation operating a railroad shall be liable for any damage occasioned by the willful act of the owner or of his agent or employees or for stock killed or injured on public road crossings unless negligence on the part
of the corporation, its agents, servants or employees can be shown.
Wyo. Stat. § 37-9-305 (2012)

Chapter 12: Vegetation Clearance

CHAPTER OVERVIEW

This chapter presents an overview of laws and regulations covering responsibility for the removal of brush, shrubbery, and trees from railroad rights-of-way within a reasonable distance from the crossing.

Alabama

No applicable statute related to this topic

Alaska

No applicable statute related to this topic

Arizona

No applicable statute related to this topic

Arkansas

23-12-201. Maintenance of right-of-way free from obstructions -- Penalty.
(a) (1) All railroad corporations operating in this state shall 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 highways.
(b) Any railroad corporation failing or refusing to comply with the provisions of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.
Ark. Code Ann. § 23-12-201 (2012) Excerpt from applicable statute published.

California

No applicable statute related to this topic

Colorado

40-24-104. Railroad to maintain and keep joint road and bridges in good repair
Any person, company, corporation, or association to whom any such right-of-way and franchise is granted shall construct and maintain its railroad on either side of the county road, and, at its own expense and in good substantial manner, shall strengthen and repair all bridges and culverts on said county road which are used or occupied jointly by said electric railroad and the traveling public, and, thereafter during the existence of said franchise, shall contribute and pay not less than one-half of the necessary expense of keeping said bridges and culverts in good repair, and shall pay all expense of keeping public and private crossings planked and in good repair, and, at its own expense, shall widen to not less than twenty-four feet all bridges, culverts, cuts, and embankments on said public highway which are used or occupied jointly by said electric railroad and the traveling public.
Colo. Rev. Stat. § 40-24-104 (2012)

Connecticut

Connecticut

Sec. 13b-281. (Formerly Sec. 16-109). Obstruction of view adjoining grade crossing.
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 or embankments of earth, the Commissioner of Transportation may, after a hearing upon such notice as the commissioner deems reasonable to the company or companies owning or operating such railroad or railroads and to the selectmen of the town, mayor of the city or warden of the borough wherein such crossing is situated and to the owners of the land adjoining such crossing, make such orders for or concerning the removal of any such obstruction as will afford an unobstructed view of such railroad tracks and such highway in accordance with current American Association of State Highway and Transportation Officials' Policy for vehicles to safely traverse a railroad crossing from a stopped position. All orders of the commissioner pursuant to the provisions of this section shall specifically set forth the limits within which land may be taken and the nature, purposes and specific limits of the easements so authorized to be taken. The expense occasioned by any order of said commissioner under the provisions of this section shall be paid by the owner of the land upon which the obstruction is located.
Conn. Gen. Stat. § 13b-281 (2012)

Delaware

§ 706. Regulation of maintenance of railroad property
(a) No hedge, shrub, tree or solid fence shall be erected, planted or maintained within the railroad property or right-of-way and for a distance of 25 yards from the point where that property or right-of-way crosses any public or private road at which grade crossing protection is not provided by gates, warning lights or watchperson.
(b) If any railroad company, at any time, fails to comply with subsection (a) of this section, the Department shall notify the president or other executive officer of the company, in writing, stating the nature of the obstruction. If the company does not within 30 days thereafter comply with subsection (a) of this section, it shall be fined for the first offense $ 100, for the second offense $ 200 and for every subsequent offense not less than $ 500 nor more than $ 1,000.
(c) The Superior Court shall have jurisdiction of offenses under this section.
Del. Code Ann. tit. 17, § 706 (2012)

District of Columbia

No applicable statute related to this topic

Florida

§ 337.405. Trees or other vegetation within rights-of-way of State Highway System or publicly owned rail corridors; removal or damage; penalty
(1) 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 is prohibited unless prior written permission to remove or cut such trees or other vegetation has been granted by the department, 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, and any subsequent amendments thereto. The department shall adopt rules for the implementation of this section to achieve protection of vegetation while at the same time assuring safe utility operations.
(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
Fla. Stat. Ann.§ 337.405 (2013)

Georgia

No applicable statute related to this topic

Hawaii

No applicable statute related to this topic

Idaho

§ 49-221. Removal of traffic hazards
(1) It shall be the responsibility of the owner of real property to remove from his property 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. The above sight obstructions shall not extend more than three (3) feet, or less than ten (10) feet, in height above the existing center line highway elevation within the vision triangle of vehicle operators. The boundaries of the vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent highways forty (40) feet along each highway and connecting the two (2) 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 (40) feet along the railroad property line when intersecting with a highway.
(2) When the department or any local authority determines that a traffic hazard exists, it may notify the owner and order that the hazard be removed within an appropriate time as determined by the department or local authority, considering the circumstances and conditions involved. The appropriate time may be specified in the notice. Such notice shall not obligate the department or local authorities to pursue removal or abatement until all legal remedies are exhausted.
(3) The failure of the owner to remove the traffic hazard within the appropriate specified time shall constitute a misdemeanor and every day the owner shall fail to remove the obstruction may be considered a separate and distinct offense. Civil action may also be initiated by state or local officials to enforce vision triangle restrictions.
(4) Local officials may, by resolution or ordinance, establish standards and procedures for protecting vision triangles at the intersections of local streets and roads. Such locally adopted standards or procedures, which may be more or less restrictive than the provisions hereof, shall not modify the standards established by this section concerning intersections with state maintained highways and intersections with railroads.
Idaho Code Ann.§ 49-221 (2012)

Illinois

§ 625 ILCS 5/18c-7401. Safety Requirements for Track, Facilities, and Equipment.
(3) Railroad Crossings. Every rail carrier operating within this State shall remove from its right of way at all railroad-highway grade crossings within the State, such brush, shrubbery, and trees as is reasonably practical for a distance of not less than 500 feet in either direction from each grade crossing.

625 Ill. Comp. Stat. Ann. 5/18c-7401 (2012) Excerpt from applicable statute published.

Indiana

8-3-7-1. Destruction of noxious weeds required.
All railroad corporations doing business in this state shall, between July 1 and August 20 in each year, destroy detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation growing on lands occupied by them.
Ind. Code Ann. § 8-3-7-1 (2012)

8-3-7-2. Penalty for failure to comply.
In case any railroad company shall refuse or neglect to comply with the requirements specified in section 1 [IC 8-3-7-1] of this chapter, such company shall be liable in a penalty of twenty-five dollars ($25) to be prosecuted for in an action of debt by any person feeling himself aggrieved. Said suit may be brought before any court in the county, who shall require of the complainant surety to pay costs in case he fails to maintain his action. Summons may be served on any agent or officer of the company.
Ind. Code Ann. § 8-3-7-2 (2012)

8-6-7.6-1. Unobstructed view at crossings.
(a) Except as provided in subsection (b) or in a rule adopted by the Indiana department of transportation, each railroad in the State of 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 (1500) 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 under IC 4-22-2 to adjust the distance of the unobstructed view requirement under this subsection 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.
(b) A public crossing equipped with a train activated crossing gate is exempt from the requirements of subsection (a), if the railroad maintains an unobstructed view for at least two hundred fifty (250) feet in both directions along the railroad right-of-way.
Ind. Code Ann. § 8-6-7.6-1 (2012)

8-6-7.6-2 Violations; penalty; action to recover; venue
Sec. 2. A railroad that violates the provisions of this chapter shall be held liable therefor to the State of Indiana in a penalty of one hundred dollars ($100) a day for each day the violation continues subject to a maximum fine of five thousand dollars ($5,000), 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 (2012) Excerpt from applicable statute published.

Iowa

327F.27. Vegetation on right-of-way.
1. Every railroad corporation shall insure that vegetation on railroad property which is on or immediately adjacent to the roadbed be controlled so that it does not:
a. Become a fire hazard to track-carrying structures.
b. Obstruct visibility of railroad signs and signals.
c. Interfere with railroad employees performing normal trackside duties.

d. Prevent proper functioning of signal and communication lines.
e. Prevent railroad employees from visually inspecting moving equipment from their normal duty stations.
2. Nothing in this section shall be construed to exempt a railroad corporation from carrying out noxious weed control programs as provided in chapter 317.
Iowa Code § 327F.27 (2012)

Kansas

19-2612. Removal or cutting of hedge fences, trees and shrubs; cutting weeds; removing signboards and board fences; expenses.
The board of county commissioners of each county in the state are authorized to cut all hedge fences, trees and shrubs growing upon the highway right of way or on right of way boundary, within three hundred fifty (350) feet of a railroad grade crossing or abrupt corner in the highway, and thereafter keep the same trimmed to provide clear vision, and to cut all weeds in the highways and thereafter keep the same cut so that the same shall not at any time be allowed to grow to a height obstructing clear vision; to remove all signboards, billboards, and board fences obstructing clear vision within three hundred fifty (350) feet of any such railroad crossing or abrupt corner in the highway: Provided, That nothing in this act shall apply to signs placed by any county or state association for the purpose of imparting historical information or traveling directions: Provided, however, That the board of county commissioners of any county in this state are hereby authorized to cause the removal of any hedge along any road in their respective counties, when in their judgment they, having first made suitable investigation of conditions, such hedge should be removed. The county may pay all expenses incident to removing such hedge out of the state and county road fund when applied to state and county roads and out of the county and township road fund when applied to county and township roads.
Kan. Stat. Ann. § 19-2612 (2011)

Kentucky

No applicable statute related to this topic.

Louisiana

§ 48:386.1. Maintenance of railroad rights-of-way at public road or highway railroad grade crossings; notice; penalty
A. As used in this Section, the following definitions shall apply:
(1) “Maintenance length” means a distance of three hundred feet on each side of the centerline of the public road or highway.
(2) “Maintenance width” means 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.
(3) “Structures and other obstructions” means man-made items placed within the required maintenance area but shall not include:
(a) Any device or structure which is necessary for the safe operation of the railroad.
(b) Any device or structure which is necessary for the safe operation of a motor vehicle.
(c) Any device or structure installed by any governing authority having regulatory authority over the public road or highway.
(d) Fences.
(e) Any device or structure legally placed by public utility or telecommunication companies.

(f) Any permanent structures or buildings in existence prior to June 1, 2002.
(4) “Vegetation” means grass, high weeds, brush, climbing vines, shrubbery, and trees.
B. In addition to the requirements set forth in R.S. 45:323, all railroad companies operating in this state 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 other obstructions do not obstruct the view of motorists approaching such public road or highway railroad grade crossing.
C. 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 device that includes lights and cross-arms, from either direction and that are located within the maintenance width and maintenance length of the crossing.
D. (1) The Department of Transportation and Development may periodically inspect and evaluate all state highway railroad grade crossings on state highways to determine whether such grade crossings are maintained in compliance with the provisions of this Section. If the Department of Transportation and Development determines that a particular grade crossing is not in compliance with the provisions of this Section, the department shall inform the parish or municipal governing authority in whose jurisdiction the crossing is located of such determination and the respective governing authority shall notify the respective railroad company.
(2) Each parish or municipal governing authority may periodically inspect and evaluate all nonstate public road or highway railroad grade crossings located within its jurisdiction to determine whether such grade crossings are maintained in compliance with the provisions of this Section. If a parish or municipal governing authority determines that a particular grade crossing is not in compliance with the provisions of this Section, the governing authority shall notify the respective railroad company.
(3) Every notification to a railroad company, as authorized under the provisions of this Subsection, shall be in writing transmitted by certified mail, return receipt requested, to the person listed as the registered agent of the railroad company for service of process.
(4) Every railroad company who 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, as provided in this Subsection, shall be subject to a civil fine 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 a total of five thousand dollars, payable to the appropriate parish or municipal governing authority.
E. In any civil action to recover damages arising from or out of a railroad grade crossing accident, the failure of the Department of Transportation and Development or any parish or municipal governing authority to inspect and evaluate a public road or highway railroad grade crossing and notify a railroad company of noncompliance, as provided for in Subsection D of this Section, shall not be considered as comparative negligence and shall not be discoverable or admissible as evidence in any civil trial.
La. Rev. Stat. Ann. § 48:386.1 (2012)

Maine

§ 7222. Crossings designated

The Department of Transportation shall designate by general orders, which may be issued without formal notice or hearing, the grade crossings in this State at which, from all points on the highway or other way within 300 feet of these crossings, and on either side of the crossings,

measured along the highway or way, a traveler on the way carrying the crossing can have a fair view of an approaching train, engine or car continuously from the time the train, engine or car is 300 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 (2012)

***§ 7223. Obstructions ordered removed; notice**
At every crossing of a highway or other way, except state and state aid highways and a railroad at grade, the municipal officers of the town or unorganized place in which the crossing is located are authorized and required on order of the Department of Transportation to remove embankments and other obstructions within highway limits and to enter on private property and properly trim, cut down, remove or apply chemical treatment to bushes, and from time to time as may be necessary to cut down and remove trees, fences, signboards and encroachments which obstruct the view of an engine, train or car by a traveler at or near any crossing. The department shall cause the same to be done on state and state aid highways. The authority of the department in any order to the municipal officers shall not extend beyond the land bounded on a line from a point 300 feet on either side of any crossing, measured along the highway or other way, and a point 300 feet on either side of any crossing measured along the railroad right-of-way, for the purpose of enabling a traveler on any way, when the traveler is 300 feet or less distant from anycrossing, to have a fair view of an approaching train, engine or car from one or more angles continuously from the time the train, engine or car is 300 feet from thecrossing until it has passed over the crossing. Entry on private property for the purposes stated shall be only after a 10 days' notice, mailed to the last known address of the property owner, and posting of the notice in a conspicuous place in the municipality.
Me. Rev. Stat. Ann. tit. 23, § 7223 (2012)

§ 7234. Trees near railroad crossings
Whenever the Department of Transportation deems that trees, bushes or other encroachments within the limits of a public way obstruct the view at railroad crossings or where one public way enters another and thereby renders the way dangerous to travelers, it shall cause the removal of the obstructions.
Me. Rev. Stat. Ann. tit. 23, § 7234 (2012)

Maryland

No applicable statute related to this topic

Massachusetts

§ 150. Signals at Crossings -- Removal of Standing Wood at Crossings.
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 notice and a hearing, shall make such 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. Such damage and the expense incident thereto may be recovered from the railroad corporation under chapter seventy-nine.
Mass. Gen. Law ch. 160, § 150 (2012)

Michigan

§ 462.317. Clear vision areas; expenditure of funds relating to high speed rail corridor.
(1) If a road authority determines to establish a clear vision area as described in this section, the railroad and a road authority may agree in writing for clear vision areas with respect to a particular crossing. 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 railroad and road authority.
(2) The acquisition of right-of-way, purchase and removal of obstructions within a clear vision area, including buildings and other artificial constructions, 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 road authority.
(3) For public, farm, bicycle, pedestrian, or other private crossings of the railroad tracks of a high speed rail corridor, state, federal, and other funds may be expended in accordance with section 301(4) for construction of access roads, purchase of real estate, purchase of private crossing easements, compensation for crossing closure, utility relocation, costs associated with improvements to traffic control devices, grade crossing closures, relocations, consolidations, and separations.
Mich. Comp. Laws Serv. § 462.317 (2012)

Minnesota

219.384 REMOVAL OF DANGEROUS OBSTRUCTION
Subdivision 1. Removal ordered. --If a railroad company, 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 so 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 trains at the crossings. The commissioner shall adopt rules establishing minimum standards for visibility at public and private grade crossings.
Subd. 2. Penalty. --A railroad company, road authority, or property owner that fails to comply with this section within 30 days after being notified in writing is subject to a fine of $ 50 for each day that the condition is uncorrected. This penalty may be recovered in the manner provided in section 219.97, subdivision 5.
Minn. Stat. § 219.384 (2012)

Mississippi

***§ 77-9-254. Removal by railroad companies of vegetation at railroad right-of-way grade crossings; specifications; inspections by Department of Transportation; fines; damages**
(1) At all public highway railroad grade crossings that do not have automatic flashing lights and/or gates where vegetation would materially obstruct the view of a vehicle operator exercising reasonable care of a train approaching a grade crossing from either direction, every railroad, as is reasonably practical, shall remove from its right-of-way which it owns or operates, such vegetation as weeds, brush, climbing vines, shrubbery and trees, for a distance of not less than three hundred (300) feet in each direction from the centerline of the public road or highway, unless the authorized train speed is ten (10) miles per hour or less, in which case the distance from the centerline of the public road or highway shall be not less than one hundred (100) feet.

At the outer edges of the public road or highway, the vegetation shall be removed to a width of twenty-five (25) feet on each side of the centerline of the railroad or to the full width of the railroad's operating right-of-way whichever is shorter. The area cleared of vegetation may be tapered inward from its full width at the involved roadway to the outer limits of the area being cleared so as to create a triangle, or it may be cleared at a constant width so as to form a rectangle.
(2) The violation of subsection (1) of this section shall not of itself be grounds for recovery, and the comparative negligence statute and the apportionment statute of this state shall apply in these cases as in other cases of negligence.
(3) This section does not change or modify the duties of the operator of a vehicle as set forth in Sections 77-9-249, 65-3-1007, 65-3-1009, 65-3-1011 or 65-3-1013, or the application of such sections.
(4) The Department of Transportation may periodically inspect and evaluate all public highway railroad grade crossings to determine whether such grade crossings are maintained in compliance with the provisions of this section. If the department determines that a particular grade crossing is not in compliance, the department shall notify the railroad company which owns or operates the right-of-way that a grade crossing is not in compliance with this section.
(5) Every notification to a railroad company, as authorized under the provisions of this section shall be in writing transmitted by certified mail, return receipt requested, to the person listed as the registered agent of the railroad company for service of process. Upon receipt of the notice, the railroad company shall have thirty (30) days to comply with the notice before any civil action may be taken by the Department of Transportation.
(6) Any railroad company that fails to comply with the provisions of this section shall be subject to a civil fine of not to exceed Five Hundred Dollars ($ 500.00) per violation. The Department of Transportation shall have the exclusive authority to bring a civil action to enforce the provisions of this section. The fines shall be payable to the Department of Transportation.
(7) In any civil action to recover damages arising from or out of a highway railroad grade crossing accident, the failure of the Department of Transportation to inspect and evaluate a public highway railroad grade crossing and notify a railroad company of noncompliance, as provided in subsections (4) and (5) of this section, shall not be considered as comparative negligence and shall not be discoverable or admissible as evidence in any civil trial.
Miss. Code Ann. § 77-9-254 (2012)

Missouri

§ 389.665. Right-of-way to be cleared of weeds and brush to prevent fires, violation, damages and costs -- public grade crossings to be clear of vegetation and undergrowth
1. It shall be the duty of every corporation or person owning or operating any railroad or branch thereof in this state to keep the right-of-way reasonably clear of brush and high weeds, by cutting, burning, chemical spraying, plowing under, or other appropriate means for the purpose of preventing the spread of fire, and in case such corporation or person shall fail or neglect to do so, any person owning land adjoining such railroad is hereby authorized, after giving three days' notice, in writing, to such owner or operator of the railroad, by service upon any person authorized to receive service of legal process on behalf of the corporation within this state to cause such brush and high weeds upon the right-of-way occupied by the railroad company to be cut and removed, burned, plowed, or sprayed with chemical material for killing such brush and high weeds in front of and adjoining his land, and such landowner may maintain an action against the corporation or person so failing to perform this duty, in any court of competent

jurisdiction, and shall be entitled to recover double the amount of all expenses and damages incurred and accruing thereby, together with costs.
2. It shall be the duty of every corporation or person owning or operating any railroad or branch thereof in this state to maintain the right-of-way at public grade crossings so that it will be reasonably clear of vegetation, undergrowth or other debris for a distance of two hundred fifty feet each way from the near edge of such crossings where such things would materially obscure approaching trains from the view of travelers on the highway.
Mo. Rev. Stat. § 389.665 (2012)

Montana

No applicable statute related to this topic

Nebraska

No applicable statute related to this topic

Nevada

No applicable statute related to this topic

New Hampshire

373:18 Removal of Obstructions to View.
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 said crossingshall be cleared and kept clear of buildings, trees, brush or other obstructions, its order shall require the railroad corporation operating over the crossing to clear the land of such obstructions.
N. H. Rev. Stat. Ann. §373:18 (2012)

New Jersey

No applicable statute related to this topic

New Mexico

No applicable statute related to this topic

New York

No applicable statute related to this topic

North Carolina

No applicable statute related to this topic

North Dakota

No applicable statute related to this topic

Ohio

§ 4955.36. Removal of obstructive vegetation at crossings
Every railroad company shall destroy or remove plants, trees, brush, or other obstructive 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 such public road or highway as shall be determined by the public utilities commission.

When any railroad company 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. If the company fails to pay the amount demanded within thirty days, after such company has been notified by certified mail at the address to which tax bills are sent, 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 of the county in which the work was performed to be collected as other taxes and assessments and upon collection shall be credited to the general fund of the public body causing said work to be performed.
Ohio Rev. Code Ann. § 4955.36 (2013)

Oklahoma

No applicable statute related to this topic

Oregon

No applicable statute related to this topic

Pennsylvania

§ 57040 Acquisition of unobstructed view at crossings
Any township may acquire, by purchase or by the right of eminent domain, a free and unobstructed view down and across such lands located at or near the intersection of any two streets or highways, or a street or highway and a railroad or railway, or at any curve in any street or highway, as may be necessary to assure a free and unobstructed view in all directions at such crossings, and to so prevent the use of such lands for any purpose or in any manner which may interfere with or obstruct the vision of persons traveling upon any such street or highway.
Upon any such condemnation, the township commissioners, having had such view condemned, may, from time to time, abate or remove, or cause to be abated or removed, any obstruction to such view over and across such lands.
The proceedings for the condemnation of such view over and across such lands and for the assessment of damages for property taken, injured or destroyed, shall be taken in the same manner as is provided in this act for the condemnation of land by townships.
Upon the condemnation of a view, the owner of such lands may make every such use thereof as will not interfere with a free and unobstructed view at such dangerous crossing or curve, and, unless specially provided for in such condemnation proceedings, such condemnation shall not be construed to prevent the owner thereof from using such land for pasture or the growing of grass, oats, wheat, or other crops which will not obstruct the vision more than wheat.
53 Pa. Cons. Stat. § 57040 (2012)

Rhode Island

No applicable statute related to this topic

South Carolina

§ 58-17-1450. Railroad crossing safety requirements.

If the person inspecting the railroad crossing 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 person inspecting the railroad crossing must immediately give written notice of the hazard to the appropriate department of the State, county, or municipality, upon whose right-of-way the obstruction exists. If the obstruction is on the right-of-way maintained by a county or municipality, the person inspecting the crossing must also give immediate written notice of the hazard to the Deputy Director of Engineering within the Department of Transportation.

The department, counties, and municipalities have sixty days from issuance of the written notice by the person inspecting the crossing to eliminate the obstructions within their respective rights-of-way.

The person initially inspecting the railroad crossing is responsible for inspecting the crossing after notice of the hazard has been given and reporting to the department the date upon which obstructions are eliminated. If counties or municipalities do not eliminate the obstructions within sixty days of receipt of notification, the department must remove or eliminate the obstructions. Counties and municipalities must reimburse the Department of Transportation for the department's cost in eliminating the obstructions.

If the person inspecting the railroad crossing finds that motorists' view of approaching trains is obstructed by vegetation, growth, or objects not permanently affixed to realty that lie on private property outside the right-of-way of the railroad and outside the highway or road right-of-way of the State, county, or municipality, he must immediately give written notice of the hazard to the owner of the property and to the appropriate agency of the State, county, or municipality which maintains that highway or roadway. The owner of the property has sixty days after receipt of the notice to eliminate the obstructions and the inspector shall reinspect the crossing after this sixty-day period has expired to determine if the obstructions have been eliminated.

By January first of each year, counties and municipalities must report all railroad crossings that were inspected during the preceding year and at which no obstructions were found to the department. The department must make an annual report of inspections conducted during the preceding year. The annual report must be provided to the Senate Transportation Committee and the Education and Public Works Committee of the House of Representatives.

S.C. Code Ann. § 58-17-1450 (2011) Excerpt from applicable statute published.

<u>South Dakota</u>

***§ 9-38-25. Control over plantings, vegetation, sidewalks and crossing on public grounds**

The governing body may place under the control and management of the board the planting, maintenance, trimming, and removal of trees, shrubs, and plants in any and all public grounds, thoroughfares, or lands appurtenant thereto throughout the limits of the first or second class municipality, the cutting of weeds and grass upon all public grounds and thoroughfares and lands adjacent or appertaining thereto, and the location of all sidewalks or crossings upon or adjacent to such public grounds or thoroughfares.

S.D. Codified Laws § 9-38-25 (2012)

<u>Tennessee</u>

***65-6-132. Trees to be cut down.**

(a) Every company or person operating a railroad in this state shall cut down all trees standing on its lands which are six (6) or more inches in a diameter two feet (2') above the ground and of sufficient height to reach the roadbed if they should fall.
(b) A failure to comply with subsection (a) will render the company liable for all damages to person or property resulting therefrom; also to a penalty of one hundred dollars ($100), to be recovered on suit brought in the name of any citizen before any tribunal having jurisdiction, half of which shall go to the treasury of the county in which such provisions may have been disregarded, and the other half to the plaintiff.
Tenn. Code Ann. § 65-6-132 (2012)

Texas

No applicable statute related to this topic

Utah

***§ 41-6a-216. Removal of plants or other obstructions impairing view -- Notice to owner -- Penalty**
(1) The owner of real property shall remove from his property any tree, plant, shrub, or other obstruction, or part of it that constitutes a traffic hazard by obstructing the view of an operator of a vehicle on a highway.
(2) When a highway authority determines on the basis of an engineering and traffic investigation that a traffic hazard exists, it shall notify the owner and order that the hazard be removed within 10 days.
(3) The failure of the owner to remove the traffic hazard within 10 days is a class C misdemeanor.

Utah Code Ann. § 41-6a-216 (2012)

Vermont

§ 3785. Alterations, crossings; order by transportation board
When the transportation board, in the absence of any application therefor, is of the opinion that the public safety requires an alteration in any highway crossed at grade by a railroad, or by railroads belonging to or operated by more than one corporation, or an alteration in lands or buildings thereon adjoining or near such highway at or near such crossing in order to afford proper view from the approaches to such crossing, in each direction, of the track or tracks of such railroad or railroads, after hearing had on notice of not less than ten days to the corporation or corporations owning or operating such railroad or railroads, to the selectboard of the town within which such highway is situated, to the owners of the land adjoining such crossing and the owners of such land or buildings thereon adjoining, or near such highway as may be required for or materially affected by a proposed alteration, and to the attorney general, who, by himself or herself or through the state's attorney of the county in which such crossing is located shall represent the interests of the state, it may order such alterations in such highway, and the removal of such obstructions to the view in each direction of the tracks of such railroads, as it deems best, and shall determine and direct by whom, at whose expense and within what time such alterations and removals shall be made.
Vt. Stat. Ann. tit. 5,§ 3785 (2013)

***§ 3787. Taking of land, proceedings**

When a railroad corporation, a town, or any other party is ordered to do the requisite work in the alteration, changes, or removals at a railroad-highway crossing, or on lands or obstructions to the view near such crossing and it is necessary to take land to carry out such order, the party ordered to do the work shall cause such land to be surveyed and furnish a copy thereof to the owner of such land or his agent. Whereupon, in case the owner of such land and the parties ordered to do the work cannot agree on the price of the land and the damage to the owners resulting from such taking, either party in interest may make written application to the board. After hearing had, on notice of not less than ten days to the same parties for whom notice is provided in section 3785 of this title, such board shall first adjudge whether the taking of such land is necessary, and, if so adjudged, shall appraise the same and award such damages for the taking thereof as are just.
Vt. Stat. Ann. tit. 19, § 3787 (2013)

Virginia

§ 56-411. Removal of brush and trees from right-of-way
Every railway company operating in this Commonwealth shall be required to clear from its right-of-way trees and brush for 100' on each side of public road crossings at grade when such trees or brush would otherwise obstruct the view of approaching trains.
Every railway company violating the provisions of this section shall be fined not more than $ 500 for each offense, to be imposed by the State Corporation Commission after due notice and hearing upon the company or the employee so offending.
Va. Code Ann. § 56-411 (2012)

Washington

§ 36.86.100. Railroad grade crossings -- Obstructions
Each railroad company shall 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 in such a manner as to permit a person upon the road to obtain an unobstructed view in both directions of an approaching train. The county legislative authority shall cause brush and timber to be cleared from the right-of-way of county roads in the proximity of a railroad grade crossing for a distance of one hundred feet from thecrossing in such a manner as to permit a person traveling upon the road to obtain an unobstructed view in both directions of an approaching train. It is unlawful to erect or maintain a sign, signboard, or billboard within a distance of one hundred feet from the point of intersection of the road and railroad grade crossinglocated outside the corporate limits of any city or town unless, after thirty days notice to the Washington utilities and transportation commission and the railroad operating the crossing, the county legislative authority determines that it does not obscure the sight distance of a person operating a vehicle or train approaching the grade crossing.
When a person who has erected or who maintains such a sign, signboard, or billboard or when a railroad company permits such brush or timber in the vicinity of a railroad grade crossing with a county road or permits the surface of a grade crossing to become inconvenient or dangerous for passage and who has the duty to maintain it, fails, neglects, or refuses to remove or cause to be removed such brush, timber, sign, signboard, or billboard, or maintain the surface of the crossing, the utilities and transportation commission upon complaint of the county legislative authority or upon complaint of any party interested, or upon its own motion, shall enter upon a hearing in the manner now provided for hearings with respect to railroad-highway grade crossings, and make and enforce proper orders for the removal of the brush, timber, sign, signboard or billboard, or maintenance of the crossing. Nothing in this section prevents the

posting or maintaining thereon of highway or road signs or traffic devices giving directions or distances for the information of the public when the signs conform to the "Manual for Uniform Traffic Control Devices" issued by the state department of transportation. The county legislative authority shall inspect highway grade crossings and make complaint of the violation of any provisions of this section.
Wash. Rev. Code Ann. § 36.86.100 (2012)

§ 47.32.140. Railroad crossings, obstructions -- Hearing
Each railroad company shall 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 in such manner as to permit a person upon the highway to obtain an unobstructed view in both directions of an approaching train. The department shall cause brush and timber to be cleared from the right-of-way of a state highway in the proximity of a railroad grade crossing for a distance of one hundred feet from the crossing in such manner as to permit a person upon the highway to obtain an unobstructed view in both directions of an approaching train. It is unlawful to erect or maintain a sign, signboard, or billboard, except official highway signs and traffic devices and railroad warning or operating signs, outside the corporate limits of any city or town within a distance of one hundred feet from the point of intersection of the highway and railroad gradecrossing unless, after thirty days notice to the Washington utilities and transportation commission and the railroad operating the crossing, the department determines that it does not obscure the sight distance of a person operating a vehicle or train approaching the grade crossing. When a person who has erected or who maintains such a sign, signboard, or billboard or when a railroad company permits such brush or timber in the vicinity of a railroad grade crossing with a state highway or permits the surface of a grade crossing to become inconvenient or dangerous for passage and who has the duty to maintain it, fails, neglects, or refuses to remove or cause to be removed such brush, timber, sign, signboard, or billboard, or maintain the surface of the crossing, the utilities and transportation commission upon complaint of the department or upon complaint of any party interested, or upon its own motion, shall enter upon a hearing in the manner now provided for hearings with respect to railroad-highway grade crossings, and make and enforce proper orders for the removal of the brush, timber, sign, signboard or billboard, or maintenance of the crossing. However, nothing in this section prevents the posting or maintaining of any legal notice or sign, signal, or traffic device required or permitted to be posted or maintained, or the placing and maintaining thereon of highway or road signs or traffic devices giving directions or distances for the information of the public when the signs are approved by the department. The department shall inspect highway grade crossings and make complaint of the violation of any provisions of this section.
Wash. Rev. Code Ann. § 47.32.140 (2012)

<u>West Virginia</u>

No applicable statute related to this topic

<u>Wisconsin</u>

195.29. Railroad highway crossings.
(6) VIEW AT CROSSINGS; TREES AND BRUSH NEAR CROSSINGS; FORFEITURE. Every railroad shall keep its right-of-way clear of brush or trees for a distance of not less than 330 feet in each direction from the center of its intersection at grade with any public highway to provide an adequate view of approaching trains or railroad track equipment from the highway.

Every municipality shall keep the public highways within its jurisdiction clear of brush and shall adequately trim all trees within 330 feet of the center of any railroad highway grade crossing. Every person or corporation owning or occupying any land adjacent to any railroad highway grade crossing shall keep all brush cut and adequately trim all trees on the land within the triangles bounded on 2 sides by the railway and the highway, and on the 3rd side by a line connecting points on the center lines of the railway and the highway, 330 feet from the intersection of the center lines. The office, upon its own motion, or upon any complaint to the effect that any work required by this subsection has not been performed, after due notice and hearing, may order the corporation, municipality or person at fault to perform the work; provided, however, that if the physical conditions at any crossing are such that the performance of the required work will not materially improve the view for highway traffic, or, if unreasonable loss would be caused thereby, the office may excuse the party in interest from performing the same. The office may also order the cutting of brush and the trimming of trees at private farm crossings as may be necessary and reasonable. If any person shall violate any provision of this section, or shall fail, neglect or refuse to obey any order made by the office under this section, or any judgment or decree made by any court upon such an order, for every such violation, failure or refusal such person shall forfeit not less than 25 nor more than 150.
Wis. Stat. § 195.29(6) (2012) Excerpt from applicable statute published.

Wyoming

No applicable statute related to this topic

Chapter 13: Photographic Monitoring and Enforcement

CHAPTER OVERVIEW

Automated enforcement of traffic laws using photographs and videotapes has assumed a new role in the efforts to enforce speed limits and ticketing of red-light violators. In the last several years, it has been discussed as a possible tool for monitoring highway-rail grade crossings. The success of several research projects using photographic monitoring of driver behavior at highway-rail grade crossings has prompted a new round of discussion concerning the use of such technology as a means of law enforcement at crossings. Since the last edition of this book was published, efforts have increased in this regard. The following eight states have laws that facilitate use of photographic monitoring and enforcement at highway-rail grade crossings: Arkansas, California, Illinois, Louisiana, Maryland, Michigan, Rhode Island, and Washington.

This chapter provides an overview of the laws in those eight states, as well as references to laws in other states that address traffic monitoring systems.

Alabama

No applicable statute related to this topic

Alaska

No applicable statute related to this topic

Arizona

No applicable statute related to this topic

Arkansas

***27-52-111. Automated enforcement device operated by a municipality or a department of state government operating within the boundaries of a municipality.**
(c)(1) A municipality or a department of state government that is operating within the boundaries of the municipality may use an automated enforcement device to detect and enforce a violation of traffic laws or ordinances:
(A) In a school zone; or
(B) At a railroad crossing.
(2) If a municipality or a department of state government that is operating within the boundaries of the municipality uses an automated enforcement device, then a certified law enforcement officer must:
(A) Be present with the automated enforcement device; and
(B) Issue the citation to the violator at the time and place of the violation.
Ark. Code Ann. § 27-52-111(c) (2012) Excerpt from applicable statute published.

California

Veh. Code § 21362.5. Automated rail crossing enforcement system

(a) Railroad and rail transit grade crossings may be equipped with an automated rail crossing enforcement system if the system is identified by signs clearly indicatng the system's presence and visible to traffic approaching from each direction.
Only a governmental agency, in cooperation with a law enforcement agency, may operate an automated rail crossing enforcement system.
(b) Notwithstanding Section 6253 of the Government Code, or any other provision of law, photographic records made by an automated rail crossing enforcement system shall be confidential, and shall be made available only to governmental agencies and law enforcement agencies for the purposes of this section.
Cal. Veh. Code § 21362.5 (Deering 2012)

Veh. Code § 22451. Distance for stop at railroad crossing; Conditions for proceeding; Notice of violation
(c) Whenever a railroad or rail transit crossing is equipped with an automated enforcement system, a notice of a violation of this section is subject to the procedures provided in Section 40518.
Cal. Veh. Code § 22451(c) (Deering 2012) Excerpt from applicable statute published.

Veh. Code § 21455.5. Automated enforcement system; Warning notices; Authorization for department to contract out operation activities of system; Confidentiality of photographic records
(a) The limit line, the intersection, or a place designated in Section 21455, where a driver is required to stop, may be equipped with an automated enforcement system if the governmental agency utilizing the system meets all of the following requirements:
(1) Identifies the system by signs that clearly indicate the system's presence and are visible to traffic approaching from all directions, or posts signs at all major entrances to the city, including, at a minimum, freeways, bridges, and state highway routes.
(2) If it locates the system at an intersection, and ensures that the system meets the criteria specified in Section 21455.7.
(b) Prior to issuing citations under this section, a local jurisdiction utilizing an automated traffic enforcement system shall commence a program to issue only warning notices for 30 days. The local jurisdiction shall also make a public announcement of the automated traffic enforcement system at least 30 days prior to the commencement of the enforcement program.
Cal. Veh. Code § 21455.5 (Deering 2012) Excerpt from applicable statute published.

Colorado

42-4-110.5. Automated vehicle identification systems
Colorado has a statute that describes automated vehicle identification systems. The statute does not mention any application to highway-rail grade crossings.

Colo. Rev. Stat. § 42-4-110.5 (2012).

Connecticut

No applicable statute related to this topic

Delaware

No applicable statute related to this topic

District of Columbia

§ 50-2209.01. Authorized; violations as moving violations; evidence; definition [Formerly § 40-751]
(a) The Mayor is authorized to use an automated traffic enforcement system to detect moving infractions. Violations detected by an automated traffic enforcement system shall constitute moving violations. Proof of an infraction may be evidenced by information obtained through the use of an automated traffic enforcement system. For the purposes of this subchapter, the term "automated traffic enforcement system" means equipment that takes a film or digital camera-based photograph which is linked with a violation detection system that synchronizes the taking of a photograph with the occurrence of a traffic infraction.
(b) Recorded images taken by an automated traffic enforcement system are prima facie evidence of an infraction and may be submitted without authentication.
D.C. Code Ann. § 50-2209.01 (LexisNexis 2012)

Florida

No applicable statute related to this topic

Georgia

No applicable statute related to this topic

Hawaii

No applicable statute related to this topic

Idaho

No applicable statute related to this topic

Illinois

§ 625 ILCS 5/11-1201.1. Automated Railroad Crossing Enforcement System.
(a) For the purposes of this Section, an automated railroad grade crossing enforcement system is a system in a municipality or county operated by a governmental agency that produces a recorded image of a motor vehicle's violation of a provision of this Code or local ordinance and is designed to obtain a clear recorded image of the vehicle and vehicle's license plate. The recorded image must also display the time, date, and location of the violation.
As used in this Section, "recorded images" means images recorded by an automated railroad grade crossingenforcement system on:
(1) 2 or more photographs;
(2) 2 or more microphotographs;
(3) 2 or more electronic images; or
(4) a video recording showing the motor vehicle and, on at least one image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.
(b) The Illinois Commerce Commission may, in cooperation with a local law enforcement agency, establish in any county or municipality an automated railroad grade crossing enforcement system at any railroad gradecrossing equipped with a crossing gate designated by local authorities. Local authorities desiring the establishment of an automated railroad crossing enforcement system must initiate the process by enacting a local ordinance requesting the creation of such a system. After the ordinance has been enacted, and before any additional steps toward the establishment of the system are undertaken, the local authorities and the Commission

must agree to a plan for obtaining, from any combination of federal, State, and local funding sources, the moneys required for the purchase and installation of any necessary equipment.
(b-1) (Blank.)
(c) For each violation of Section 11-1201 of this Code [625 ILCS 5/11-1201] or a local ordinance recorded by an automated railroad grade crossing enforcement system, the county or municipality having jurisdiction shall issue a written notice of the violation to the registered owner of the vehicle as the alleged violator. The notice shall be delivered to the registered owner of the vehicle, by mail, no later than 90 days after the violation.
The notice shall include:
(1) the name and address of the registered owner of the vehicle;
(2) the registration number of the motor vehicle involved in the violation;
(3) the violation charged;
(4) the location where the violation occurred;
(5) the date and time of the violation;
(6) a copy of the recorded images;
(7) the amount of the civil penalty imposed and the date by which the civil penalty should be paid;
(8) a statement that recorded images are evidence of a violation of a railroad grade crossing;
(9) a warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in a suspension of the driving privileges of the registered owner of the vehicle; and
(10) a statement that the person may elect to proceed by:
(A) paying the fine; or
(B) challenging the charge in court, by mail, or by administrative hearing.
(d) If a person charged with a traffic violation, as a result of an automated railroad grade crossingenforcement system, does not pay or successfully contest the civil penalty resulting from that violation, the Secretary of State shall suspend the driving privileges of the registered owner of the vehicle under Section 6-306.5 of this Code [625 ILCS 5/6-306.5] for failing to pay any fine or penalty due and owing as a result of 5 violations of the automated railroad grade crossing enforcement system.
(d-1) (Blank.)
(d-2) (Blank.)
(e) Based on inspection of recorded images produced by an automated railroad grade crossing enforcement system, a notice alleging that the violation occurred shall be evidence of the facts contained in the notice and admissible in any proceeding alleging a violation under this Section.
(e-1) Recorded images made by an automated railroad grade crossing enforcement system are confidential and shall be made available only to the alleged violator and governmental and law enforcement agencies for purposes of adjudicating a violation of this Section, for statistical purposes, or for other governmental purposes. Any recorded image evidencing a violation of this Section, however, may be admissible in any proceeding resulting from the issuance of the citation.
(e-2) The court or hearing officer may consider the following in the defense of a violation:
(1) that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and not under the control of or in the possession of the owner at the time of the violation;

(2) that the driver of the motor vehicle received a Uniform Traffic Citation from a police officer at the time of the violation for the same offense;
(3) any other evidence or issues provided by municipal or county ordinance.
(e-3) To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.
(f) Rail crossings equipped with an automatic railroad grade crossing enforcement system shall be posted with a sign visible to approaching traffic stating that the railroad grade crossing is being monitored, that citations will be issued, and the amount of the fine for violation.
(g) The compensation paid for an automated railroad grade crossing enforcement system must be based on the value of the equipment or the services provided and may not be based on the number of citations issued or the revenue generated by the system.
(h) (Blank.)
(i) If any part or parts of this Section are held by a court of competent jurisdiction to be unconstitutional, the unconstitutionality shall not affect the validity of the remaining parts of this Section. The General Assembly hereby declares that it would have passed the remaining parts of this Section if it had known that the other part or parts of this Section would be declared unconstitutional.
(j) Penalty. A civil fine of $ 250 shall be imposed for a first violation of this Section, and a civil fine of $ 500 shall be imposed for a second or subsequent violation of this Section.
625 Ill. Comp. Stat. Ann. § 5/11-1201.1 (LexisNexis 2012)

Indiana

No applicable statute related to this topic

Iowa

No applicable statute related to this topic

Kansas

No applicable statute related to this topic

Kentucky

No applicable statute related to this topic

Louisiana

§ 32:171. Obedience to signal indicating approach to train; reporting violations; penalties
H. The operator, engineer, or conductor of any train is authorized to notify the appropriate law enforcement authority of any railroad grade crossing violation within thirty-six hours of the violation. The operator, engineer, or conductor shall report such violations by affidavit which shall contain the color, license number, and any other identifiable information from the vehicle involved in the violation. In addition to the affidavit, the law enforcement officer may rely upon other evidence of a grade crossing violation including photographic or video evidence. A law enforcement officer may issue a citation to the owner or driver of the vehicle, or in the case of a leased vehicle, the lessee or driver of the leased vehicle, on the basis of the information contained in the affidavit or photographic or video evidence. The owner or lessee shall not be cited if the vehicle had been stolen.
La. Rev. Stat. Ann. § 32:171(H) (2012) Excerpt from applicable statute published.

Maine

No applicable statute related to this topic

Maryland

***§ 21-704.1. Automated railroad grade crossings enforcement systems**

(a) Definitions. --
(1) In this section the following words have the meanings indicated.
(2) "Agency" means:
(i) For an automated railroad grade crossing enforcement system operated and maintained at a railroad grade crossing in Montgomery County or Prince George's County that is under the control of the State, the law enforcement agency of the State primarily responsible for traffic control at that railroad grade crossing;
(ii) For an automated railroad grade crossing enforcement system operated and maintained at a railroad grade crossing under the control of Prince George's County or a municipal corporation in Prince George's County, a law enforcement agency of Prince George's County or the municipal corporation that is authorized to issue citations for a violation of the Maryland Vehicle Law or of local traffic laws or regulations at that railroad grade crossing; or
(iii) For an automated railroad grade crossing enforcement system operated and maintained at a railroad grade crossing under the control of Montgomery County or a municipal corporation in Montgomery County, a law enforcement agency of Montgomery County or the municipal corporation that is authorized to issue citations for a violation of the Maryland Vehicle Law or of local traffic laws or regulations at that railroad grade crossing.
(3) "Automated railroad grade crossing enforcement system" means a system operated by an agency that records a driver's response to a traffic control signal or traffic control device located at a railroad grade crossing.
(4)(i) "Owner" means the registered owner of a motor vehicle or a lessee of a motor vehicle under a lease of 6 months or more.
(ii) "Owner" does not include a motor vehicle rental or leasing company or a holder of a special registration plate issued under Part III of Title 13, Subtitle 9 of this article.
(5) "Violation" means any violation of §§ 21-701 through 21-704 of this subtitle.
(b) Applicability of section. -- This section applies only in Montgomery County and Prince George's County.
(c) Contents of recording. -- A recording by an automated railroad grade crossing enforcement system under this section indicating that the driver of a motor vehicle has committed a violation shall include:
(1) An image of the motor vehicle;
(2) An image of the driver of the motor vehicle;
(3) An image of the motor vehicle's rear license plate;
(4) The time of the violation;
(5) The date of the violation; and
(6) The location of the violation.
(d) Methods of recording. -- The recording shall be made on:
(1) Two or more photographs;
(2) Two or more microphotographs;
(3) Two or more electronic images;
(4) Videotape; or

(5) Any other medium.
(e) Civil penalty. --
(1) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or, in accordance with subsection (h)(5) of this section, the driver of a motor vehicle is subject to a civil penalty if the motor vehicle is recorded by an automated railroad grade crossing enforcement system during the commission of a violation.
(2) A civil penalty under this subsection may not exceed $ 100.
(3) For purposes of this section, the District Court shall prescribe:
(i) A uniform citation form consistent with subsection (f)(1) of this section and § 7-302 of the Courts Article; and
(ii) A civil penalty, which shall be indicated on the citation, to be paid by persons who choose to prepay the civil penalty without appearing in District Court.
(f) Citation. --
(1) Subject to the provisions of paragraphs (2) through (4) of this subsection, an agency shall mail to the owner liable under subsection € of this section a citation that shall include:
(i) The name and address of the registered owner of the vehicle;
(ii) The registration number of the motor vehicle involved in the violation;
(iii) The violation charged;
(iv) The location of the railroad grade crossing;
(v) The date and time of the violation;
(vi) A copy of the recorded image;
(vii) The amount of the civil penalty imposed and the date by which the civil penalty must be paid;
(viii) A signed statement by a technician employed by the agency that, based on inspection of recorded images, the motor vehicle was being operated during the commission of a violation;
(ix) A statement that recorded images are evidence of a violation; and
(x) Information advising the person alleged to be liable under this section:
1. Of the manner and time in which liability as alleged in the citation may be contested in the District Court; and
2. Warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in refusal or suspension of the motor vehicle registration.
(2) The agency may mail a warning notice in lieu of a citation to the owner liable under subsection (e) of this section.
(3) Except as provided in subsection (h)(5) of this section, a citation issued under this section shall be mailed no later than 2 weeks after the alleged violation.
(4) A person who receives a citation under paragraph (1) of this subsection may:
(i) Pay the civil penalty, in accordance with instructions on the citation, directly to Montgomery County or Prince George's County, or to the District Court; or
(ii) Elect to stand trial for the alleged violation.
(g) Evidence and admissibility. --
(1) A certificate alleging that a violation occurred, sworn to or affirmed by a duly authorized agent of the agency, based on inspection of recorded images produced by an automated railroad grade crossing enforcement system shall be evidence of the facts contained in the certificate and shall be admissible in any proceeding concerning the alleged violation.
(2) Adjudication of liability shall be based on a preponderance of evidence.
(h) Defenses. --

(1) The District Court may consider in defense of a violation:
(i) That the driver of the vehicle passed through the railroad grade crossing in a manner that would constitute a violation:
1. In order to yield the right-of-way to an emergency vehicle; or
2. As part of a funeral procession in accordance with § 21-207 of this title;
(ii) Subject to paragraph (2) of this subsection, that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation;
(iii) That under § 21-201 of this title, this section is unenforceable against the owner because at the time and place of the alleged violation, the traffic control signal or traffic control device was not in proper position and was unable to be seen by an ordinarily observant individual;
(iv) Subject to paragraph (3) of this subsection, evidence that the person named in the citation was not operating the vehicle at the time of the violation; and
(v) Any other issues and evidence that the District Court deems pertinent.
(2) In order to demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report about the stolen motor vehicle or registration plates was filed in a timely manner.
(3) To satisfy the evidentiary burden under paragraph (1)(iv) of this subsection, the person named in the citation shall provide to the District Court evidence to the satisfaction of the court of who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address.
(4)(i) The provisions of this paragraph apply only to a citation that involves a Class E (truck) vehicle with a registered gross weight of 26,001 pounds or more, Class F (tractor) vehicle, Class G (trailer) vehicle operated in combination with a Class F (tractor) vehicle, and Class P (passenger bus) vehicle.
(ii) To satisfy the evidentiary burden under paragraph (1)(iv) of this subsection, the person named in a citation described under subparagraph (i) of this paragraph may provide to the District Court a letter, sworn to or affirmed by the person and mailed by certified mail, return receipt requested, that:
1. States that the person named in the citation was not operating the vehicle at the time of the violation; and
2. Provides the name, address, and driver's license identification number of the person who was operating the vehicle at the time of the violation.
(5)(i) If the District Court finds that the person named in the citation was not operating the vehicle at the time of the violation or receives evidence under paragraph (4)(ii)2 of this subsection identifying the person driving the vehicle at the time of the violation, the clerk of the court shall provide to the agency issuing the citation a copy of any evidence substantiating who was operating the vehicle at the time of the violation.
(ii) On the receipt of substantiating evidence from the District Court under subparagraph (i) of this paragraph, an agency may issue a citation as provided in subsection (f) of this section to the person that the evidence indicates was operating the vehicle at the time of the violation.
(iii) A citation issued under subparagraph (ii) of this paragraph shall be mailed no later than 2 weeks after receipt of the evidence from the District Court.

(i) Refusal to register or reregister vehicle. -- If the civil penalty is not paid and the violation is not contested, the Administration may refuse to register or reregister or may suspend the registration of the motor vehicle.
(j) Effect of civil penalty. -- A violation for which a civil penalty is imposed under this section:
(1) Is not a moving violation for the purpose of assessing points under § 16-402 of this article and may not be recorded by the Administration on the driving record of the owner or driver of the vehicle;
(2) May be treated as a parking violation for purposes of § 26-305 of this article; and
(3) May not be considered in the provision of motor vehicle insurance coverage.
(k) Procedures for citations. -- In consultation with local law enforcement agencies in Montgomery County and Prince George's County, the Chief Judge of the District Court shall adopt procedures for the issuance of citations, the trial of violations, and the collection of civil penalties under this section.
Md. Code Ann., Transp. § 21-704.1 (LexisNexis 2012)

Massachusetts

No applicable statute related to this topic.

Michigan

***§ 257.667a. Installation and use of unmanned traffic monitoring devices at railroad grade crossing; civil infraction; evidence; diagnostic study team review required where fatality at public railroad grade crossing; exception.**
(1) The department of state police or the state transportation department; the county board of commissioners, board of county road commissioners, or county sheriff; or other local authority having jurisdiction over a highway or street may authorize the installation and use of unmanned traffic monitoring devices at a railroad grade crossing with flashing signals and gates on a highway or street under their respective jurisdictions. Each device shall be sufficiently marked or identified or a sign shall be placed at the approach to the crossing indicating that the crossing is monitored by an unmanned traffic monitoring device.
(2) Beginning 31 days after the installation of an unmanned traffic monitoring device at a railroad grade crossing described in subsection (1), a person is responsible for a civil infraction as provided in section 667 if the person violates a provision of that section on the basis of evidence obtained from an unmanned traffic monitoring device. However, for the first 30 days after the installation of an unmanned traffic monitoring device, a person shall be issued a written warning only. It is an affirmative defense to a charge of violating section 667 that the mechanical warning devices at the crossing were malfunctioning.
(3) A sworn statement of a police officer from the state or local authority having jurisdiction over the highway or street upon which the railroad grade crossing described in subsection (1) is located, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by an unmanned traffic monitoring device, is prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images indicating such a violation shall be available for inspection in any proceeding to adjudicate the responsibility for a violation of section 667. Any photographs, videotape, or digital images of the violation shall be destroyed 90 days after final disposition of the citation.
(4) In a prosecution for a violation of section 667 established by an unmanned traffic monitoring device under this section, prima facie evidence that the vehicle described in the citation issued was operated in violation of section 667, together with proof that the defendant was at the time of

the violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that the registered owner of the vehicle was the person who committed the violation. The presumption is rebutted if the registered owner of the vehicle files an affidavit by regular mail with the clerk of the court that he or she was not the operator of the vehicle at the time of the alleged violation or testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation. The presumption also is rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen before the time of the alleged violation of this section, is presented before the appearance date established on the citation. For purposes of this subsection, the owner of a leased or rental vehicle shall provide the name and address of the person to whom the vehicle was leased or rented at the time of the violation.
(5) Notwithstanding section 742, a citation for a violation of section 667 on the basis of evidence obtained from an unmanned traffic monitoring device may be executed by mailing by first-class mail a copy to the address of the owner of the vehicle as shown on the records of the secretary of state. If the summoned person fails to appear on the date of return set out in the citation previously mailed by first-class mail under this subsection, a copy shall be sent by certified mail-return receipt requested. If the summoned person fails to appear on either of the dates of return set out in the copies of the citation mailed under this section, the citation shall be executed in the manner provided by law for personal service. The court may issue a warrant for the arrest of a person who fails to appear within the time limit established on the citation if a sworn complaint is filed with the court for that purpose.
(6) If there is a fatality resulting from a train-vehicle crash at a public railroad grade crossing, the state transportation department shall convene a diagnostic study team review, if there has not been a diagnostic study team review at the crossing in the last 2 years. However, a diagnostic study team review is not required if the initial law enforcement investigation of the fatality indicates that the motorist's consumption of alcohol or a controlled substance or his or her disregard of an existing traffic control device conveying a “stop” message contributed to the fatality, or that the fatality was a suicide. The diagnostic study team review shall be conducted within 120 days after the state transportation department is made aware of the fatality. If the diagnostic study team review reaches consensus that warning device enhancements are needed, the state transportation department shall order those improvements. The cost for the improvements shall be financed consistent with the financing of similar projects by the state transportation department according to its annual prioritization of grade crossing safety improvements.
Mich. Comp. Laws Serv. § 257.667a (LexisNexis 2012)

Minnesota

No applicable statute related to this topic

Mississippi

No applicable statute related to this topic

Missouri

No applicable statute related to this topic

Montana

No applicable statute related to this topic

Nebraska

No applicable statute related to this topic

Nevada

No applicable statute related to this topic

New Hampshire

No applicable statute related to this topic

New Jersey

No applicable statute related to this topic

New Mexico

No applicable statute related to this topic

New York

§ 1111-a. [Expires and is repealed Dec 1, 2014] Owner liability for failure of operator to comply with traffic-control indications

(a) 1. Notwithstanding any other provision of law, each city with a population of one million or more is hereby authorized and empowered to adopt and amend a local law or ordinance establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications in such city in accordance with the provisions of this section. Such demonstration program shall empower a city to install and operate traffic-control signal photo violation-monitoring devices at no more than one hundred fifty intersections within such city at any one time.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such traffic-control signal photo violation-monitoring systems shall not include images that identify the driver, the passengers, or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that such city has made a reasonable effort to comply with the provisions of this paragraph.

(b) In any city which has adopted a local law or ordinance pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of subdivision (d) of section eleven hundred eleven of this article, and such violation is evidenced by information obtained from a traffic-control signal photo violation-monitoring system; provided however that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of subdivision (d) of section eleven hundred eleven of this article.

(c) For purposes of this section, “owner” shall have the meaning provided in article two-B of this chapter. For purposes of this section, “traffic-control signal photo violation-monitoring system” shall mean a vehicle sensor installed to work in conjunction with a traffic-control signal which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of subdivision (d) of section eleven hundred eleven of this article.

(d) A certificate, sworn to or affirmed by a technician employed by the city in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a traffic-control signal photo violation-monitoring system, shall [fig 1] be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law or ordinance adopted pursuant to this section.
(e) An owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be set forth in such local law or ordinance, except that in a city which, by local law, has authorized the adjudication of such owner liability by a parking violations bureau, such schedule shall be promulgated by such bureau [fig 1] . The liability of the owner pursuant to this section shall not exceed fifty dollars for each violation; provided, however, that such local law or ordinance may provide for an additional penalty not in excess of twenty-five dollars for each violation for the failure to respond to a notice of liability within the prescribed time period.
(f) An imposition of liability under a local law or ordinance adopted pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.
(g) 1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein
2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.
3. The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.
4. The notice of liability shall be prepared and mailed by the city having jurisdiction over the intersection where the violation occurred, or by any other entity authorized by the city to prepare and mail such notification of violation.
(h) Adjudication of the liability imposed upon owners by this section shall be by a traffic violations bureau established pursuant to section three hundred seventy of the general municipal law or, if there be none, by the court having jurisdiction over traffic infractions, except that any city which has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations may, by local law, authorize such adjudication by such tribunal.
(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid

defense to an allegation of liability for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the traffic violations bureau, court having jurisdiction or parking violations bureau.
(j) 1. In a city where the adjudication of liability imposed upon owners pursuant to this section is by a traffic violations bureau or a court having jurisdiction, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that he or she sends to the traffic violations bureau or court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the bureau or court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section
2. (i) In a city which, by local law, has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of subdivision (d) of section eleven hundred eleven of this article, provided that:
(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and
(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.
(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.
(iii) Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for such violation pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.
(k) 1. If the owner liable for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.
2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator failed to obey a traffic-control

indication. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator failed to obey a traffic-control indication.
(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of subdivision (d) of section eleven hundred eleven of this article.
(m) In any city which adopts a demonstration program pursuant to subdivision (a) of this section, such city shall submit [fig 1] an annual report on the results of the use of a traffic-control signal [fig 2] photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly [fig 3] on or before June first, two thousand [fig 4] seven and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to
1. a description of the locations where traffic-control signal [fig 1] photo violation-monitoring systems were used;
2. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department of motor vehicles of this state;
3. within each borough of such city, the aggregate number, type and severity of accidents reported at intersections where a traffic-control signal photo violation-monitoring system is used, to the extent the information is maintained by the department of motor vehicles of this state;
4. the number of violations recorded at each intersection where a traffic-control signal photo violation-monitoring system is used and in the aggregate on a daily, weekly and monthly basis;
5. the total number of notices of liability issued for violations recorded by such systems;
6. the number of fines and total amount of fines paid after first notice of liability issued for violations recorded by such systems;
7. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;
8. the total amount of revenue realized by such city from such adjudications; [fig 1]
9. expenses incurred by such city in connection with the program; and
10. quality of the adjudication process and its results.
(n) It shall be a defense to any prosecution for a violation of subdivision (d) of section eleven hundred eleven of this article pursuant to a local law or ordinance adopted pursuant to this section that such traffic-control indications were malfunctioning at the time of the alleged violation.
N.Y. Veh. & Traf. Law § 1111-a (Consol. 2012)

North Carolina

No applicable statute related to this topic

North Dakota

No applicable statute related to this topic

Ohio

§ 4511.094. Signs indicating use of traffic law photo-monitoring devices
(A) As used in this section:
(1) “Local authority” means a municipal corporation, county, or township.

(2) “Traffic law photo-monitoring device” means an electronic system consisting of a photographic, video, or electronic camera and a means of sensing the presence of a motor vehicle that automatically produces photographs, videotape, or digital images of the vehicle or its license plate.
(B) (1) No local authority shall use traffic law photo-monitoring devices to enforce any traffic law until after it has erected signs on every highway that is not a freeway that is part of the state highway system and that enters that local authority. The signs shall inform inbound traffic that the local authority utilizes traffic law photo-monitoring devices to enforce traffic laws. The signs shall be erected within the first three hundred feet of the boundary of the local authority or, if the signs cannot be located within the first three hundred feet of the boundary of the local authority, as close to that distance as possible, provided that if a particular highway enters and exits the territory of a local authority multiple times, the local authority shall erect the signs as required by this division at the locations in each direction of travel where inbound traffic on the highway first enters the territory of the local authority and is not required to erect additional signs along such highway each time the highway reenters the territory of the local authority. The local authority is responsible for all costs associated with the erection, maintenance, and replacement, if necessary, of the signs. All signs erected under this division shall conform in size, color, location, and content to standards contained in the manual adopted by the department of transportation pursuant to section 4511.09 of the Revised Code and shall remain in place for as long as the local authority utilizes traffic law photo-monitoring devices to enforce any traffic law. Any ticket, citation, or summons issued by or on behalf of the local authority for any traffic law violation based upon evidence gathered by a traffic law photo-monitoring device after the effective date of this section, but before the signs have been erected is invalid; provided that no ticket, citation, or summons is invalid if the local authority is in substantial compliance with the requirement of this division to erect the signs.
(2) A local authority is deemed to be in substantial compliance with the requirement of division (B)(1) of this section to erect the advisory signs if the authority does both of the following:
(a) First erects all signs as required by division (B)(1) of this section and subsequently maintains and replaces the signs as needed so that at all times at least ninety per cent of the required signs are in place and functional;
(b) Annually documents and upon request certifies its compliance with division (B)(2)(a) of this section.
(C) A local authority that uses traffic law photo-monitoring devices to enforce any traffic law at an intersection where traffic is controlled by traffic control signals that exhibit different colored lights or colored lighted arrows shall time the operation of the yellow lights and yellow arrows of those traffic control signals so that the steady yellow indication exceeds by one second the minimum duration for yellow indicators at similar intersections as established by the provisions of the manual adopted by the department of transportation under section 4511.09 of the Revised Code.
Ohio Rev. Code Ann. § 4511.094 (LexisNexis 2013)

Oklahoma

No applicable statute related to this topic

Oregon

No applicable statute related to this topic

Pennsylvania

No applicable statute related to this topic

Rhode Island

§ 31-41.2-3. Automated traffic violation monitoring systems
(a) The state department of transportation and the municipalities of this state are hereby authorized to install and operate automated traffic violation detection systems. Such systems shall be limited to systems which monitor and detect violations of traffic control signals. For purposes of this chapter an automated traffic violation detection system means a system with one or more motor vehicle sensors which produces images of motor vehicles being operated in violation of traffic signal laws.
(b) No automated traffic violation detection system shall be installed pursuant to this section which has not been approved for use by the director of the state department of transportation. The director of the state department of transportation shall promulgate regulations for the approval and operation of said systems pursuant to the administrative procedures act, chapter 35 of title 42. Systems shall be approved if the director is satisfied they meet standards of efficiency and accuracy. All systems installed for use under this chapter must be able to record the image of the vehicle and the license plates of the vehicle.
(c) In the event that the system is to be installed other than by the state department of transportation on state-maintained streets or roads, the director of the department of transportation must approve such installation.
(d) The state department of transportation and/or the municipalities may enter into an agreement with a private corporation or other entity to provide automated traffic violation detection systems or equipment and to maintain such systems.
(e) Compensation to a private entity that provides traffic signal monitoring devices shall be based on the value of such equipment and related support services, and shall not be based on the revenue generated by such systems.
R.I. Gen. Laws § 31-41.2-3 (2012)

South Carolina

No applicable statute related to this topic

South Dakota

No applicable statute related to this topic

Tennessee

Tennessee has a statute that relates to traffic light signal monitoring systems. No mention is made of its application to highway-rail grade crossings.
Tenn. Code Ann.§ 55-8-198 (2012)

Texas

Texas law provides for the implementation of photographic traffic signal enforcement systems by local authorities. No mention is made of its application to highway-rail grade crossings.
Tex. Transp. Code Ann. § 707.003 (Vernon 2012)

Utah

No applicable statute related to this topic

Vermont

No applicable statute related to this topic

Virginia

Virginia law provides for the use of photo-monitoring systems or automatic vehicle identification systems. However, use of these systems is limited to the collection of unpaid tolls at toll facilities.
Va. Code Ann. § 46.2-819.1 (2012)

Washington

***§ 46.63.170. Automated traffic safety cameras -- Definition**
(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:
(a) The appropriate local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located: (i) Before enacting an ordinance allowing for the initial use of automated traffic safety cameras; and (ii) before adding additional cameras or relocating any existing camera to a new location within the jurisdiction. Automated traffic safety cameras may be used to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance. Beginning one year after June 7, 2012, cities and counties using automated traffic safety cameras must post an annual report of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information about the automated traffic safety cameras that the city or county deems appropriate on the city's or county's web site.
(b) Use of automated traffic safety cameras is restricted to the following locations only: (i) Intersections of two arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement of the camera; (ii) railroad crossings; and (iii) school speed zones.
(c) During the 2011-2013 fiscal biennium, automated traffic safety cameras may be used to detect speed violations for the purposes of section 201(2), chapter 367, Laws of 2011 if the local legislative authority first enacts an ordinance authorizing the use of cameras to detect speed violations.
(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to take pictures of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.
(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation

under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.
(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(d) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.
(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.
(h) All locations where an automated traffic safety camera is used must be clearly marked at least thirty days prior to activation of the camera by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.
(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.
(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3). The amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction. However, the amount of the fine issued for a traffic control signal violation detected through the use of an automated traffic safety camera shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments.
(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:
(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or
(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the

infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or
(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.
Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.
(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).
(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device. During the 2011-2013 fiscal biennium, an automated traffic safety camera includes a camera used to detect speed violations for the purposes of section 201(2), chapter 367, Laws of 2011.
(6) During the 2011-2013 fiscal biennium, this section does not apply to automated traffic safety cameras for the purposes of section 216(5), chapter 367, Laws of 2011.
Wash. Rev. Code Ann. § 46.63.170 (LexisNexis 2012)

West Virginia

No applicable statute related to this topic

Wisconsin

No applicable statute related to this topic

Wyoming

No applicable statute related to this topic