

## **CHAPTER 9: TRESPASSING**

### **CHAPTER OVERVIEW**

Trespassing on railroad property and facilities has become a more serious problem in recent years. According to the Federal Railroad Administration's Railroad Safety Statistics, Annual Report 1998, there were 536 trespasser fatalities in calendar year 1998.

It is against the law in all states to trespass on any private property without permission of the owner or without having an official reason, and all states provide for minimal punishments. This chapter provides a state-by-state listing of trespassing laws as they pertain to railroad property and equipment. In the majority of states, trespassing is in sections of the respective codes concerned with property crimes and general offenses. A number of states specifically forbid trespassing on railroad property and facilities and codify it in their respective sections concerning railroads or utilities. When punishments are spelled out in the statutes, they are listed. As in other chapters, the relevant code sections are listed. Penalties are also listed if available.

### **STATE LAWS, REGULATIONS AND PENALTIES**

#### **ALABAMA**

Alabama has no trespass regulations or laws specifically targeted to railroad property. However, 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. Ala. Code § 13A-7-3 (1999).

#### **ALASKA**

Alaska has no trespass regulations or laws specifically targeted to railroad property or equipment. However, a person shall be guilty of a criminal trespass in the second degree if that person enters or remains unlawfully, in or upon premises, or in a propelled vehicle. A criminal trespass in the second degree is a Class B misdemeanor. Alaska Stat. § 11.46.330 (1999).

#### **ARIZONA**

State law in Arizona makes it a third-degree crime for a person to knowingly enter or remain unlawfully on the railroad right-of-way, the storage or switching yards or rolling stock of a railroad company. The section does not specify a range of punishment. Ariz Rev. Stat. Ann. § 13-1502 (1999).

## **ARKANSAS**

It is unlawful in Arkansas for any person to 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, and with no lawful business thereon, and with intent to obtain a free ride, however short the distance, without consent of person or persons in charge. To do so constitutes a misdemeanor, and upon conviction a person may be fined not less than one dollar or more than ten dollars. Ark. Stat. Ann. § 23-12-802.

No person may use any railroad track as a common highway for horses, cattle, or vehicles other than those propelled on the rails of the railroad in the operation thereof. A person, upon conviction, may be fined in any sum not exceeding twenty-five dollars for each offense and may be imprisoned in the county jail for a period no exceeding thirty days. Ark. Stat. Ann. § 23-12-803 (1999).

## **CALIFORNIA**

It is unlawful in California for anyone to enter or remain upon the property of any railroad where entry, presence or conduct upon the property interferes with or interrupts the safe and efficient operation of any locomotive. A violation of this section is a misdemeanor under California law. Cal. Penal Code § 369i (West 1999). See also, Cal. Penal Code § 554 (West 1999), regarding posting of property.

## **COLORADO**

Colorado has no specific statute related to trespassing on railroad property but does forbid the boarding of a train or entering a train station or other facility of public transportation while carrying a loaded firearm or explosive or incendiary device.

In Colorado, a person commits a Class 6 felony if, without legal authority, he has any loaded firearm or explosive or incendiary device in his possession in, or carries, brings, or causes to be carried or brought any of such items into, and facility of public transportation. Col. Rev. Stat. § 189-118 (1999).

## **CONNECTICUT**

The criminal code of Connecticut lists three degrees of criminal trespass and includes railroad car within the meaning of a building. Conn. Gen. Stat. §§ 53a-107-108-109 (1999).

## **DELAWARE**

It is unlawful for any person, other than those connected with the railroad, to walk along the tracks, except when the tracks are laid along a public road or street. No person may lead or drive any horse or other animal upon railroad property within the fences and guards other than at farm crossings. Violation results in a ten dollar penalty in addition to all damages which are sustained thereby to the aggrieved party. Del. Code Ann. tit. 2, § 1811 (1999).

No person in Delaware other than those connected with or employed upon the railroad shall walk along the tracks of any such railroad, except when the tracks are laid along public roads or streets. Del. Code Ann. tit. 2, § 1811 (1999).

The Governor of Delaware is empowered to appoint any number of special constables for any railroad upon request. The constables shall have all the powers of a county constable, but shall receive no compensation or fees except as shall be paid by the railroad company. The special constables shall have arrest powers on railroad property and may do so for offenses including vagrancy or trespass. The person so arrested, if proven guilty, may be committed to the county jail by any justice of the peace for a term of not exceeding five days. Del. Code Ann. tit. 10, § 2715 (1999).

## **DISTRICT OF COLUMBIA**

In the District of Columbia it is unlawful for any unauthorized person to loiter, walk, ride, drive, or other wise trespass upon railroad tracks, the bridge or elevated or depressed structures carrying tracks, locomotives or cars operated on tracks, in tunnels or underpasses designed solely for the accommodation of tracks of any steam, diesel, or electric railroad company operating in the District of Columbia. 24 DCMR § 120 (2001).

## **FLORIDA**

No person may without authority or without permission ride or attempt to ride on any railroad train with the intention of being transported free. A conviction is a misdemeanor of the second degree, punishable as provided in Sections 775.082 - 775.083. Fla. Stat. Ann. § 860.04 (1999).

## **GEORGIA**

Georgia law states that any person intruding unlawfully upon the tracks of a railroad company without consent is guilty of a misdemeanor. Ga. Code Ann. § 46-8-380 (1999).

A person is guilty of criminal trespassing when he knowingly and without authority:

- (1) Enters upon the land or premises of a railroad or into a railroad car.
- (2) Enters a railroad car after being notified by the owner that such entry is forbidden.
- (3) Remains upon the land after being told to leave.

Violation of this section is a misdemeanor. Ga. Code Ann. § 16-7-21 (1999).

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 tinders, or elsewhere, for the purposes of avoiding payment of fare, or of stealing a ride thereon, is guilty of a misdemeanor. Ga. Code Ann. § 46-8-381 (1999).

## **HAWAII**

Hawaii has no trespass regulations or laws specifically targeted to railroad property or equipment. But state law does make it a criminal trespass in the second degree if anyone shall enter or remain unlawfully in or upon premises that are enclosed in a manner designed to exclude intruders or are fenced. Haw. Rev. Code 708-814 (1999).

## **IDAHO**

It is unlawful for anyone in Idaho to disturb the peace of any traveler on any railroad train, or break the seal or forcibly enter any, or disturb the contents of any car. A person doing so is guilty of a misdemeanor and upon conviction may be fined in an amount not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding six months, or by both. Idaho Code § 18-6012 (1999).

## **ILLINOIS**

The state has a general prohibition against trespassing on railroad property but outlines several exceptions when unlawful trespass may not apply. It is generally prohibited for anyone to walk, drive or ride along the right-of-way or rail yard of any railroad. Unlawful trespass does not apply to passengers on trains, persons entering the property to protect human life, persons crossing at farm crossings, anyone having written permission and representatives of state and Federal governmental agencies in the performance of their official duties. See generally, 625 ILCS 5/18c-7401(3) (1999).

For the purposes of enforcement the statute defines "right-of-way" as the track or roadbed owned or leased by a rail carrier which is located on either side of its tracks and which is readily recognizable to a reasonable person as being rail carrier property or is reasonably identified as such by fencing or appropriate signs. 625 ILCS 5/18c-7401(3) (1999).

A violation of the statute would subject the violator to a fine not to exceed five hundred dollars. 625 ILCS 5/18c-7401(2) (1999).

## **INDIANA**

Indiana law makes it a Class B misdemeanor for anyone to drive, walk or ride along the right-of-way or yard of a railroad company at a place other than a public crossing. The code section also defines the terms used and outlines the differences between the various classes of misdemeanors and felonies. Ind. Code § 8-3-15-3 (1999).

## **IOWA**

It is unlawful in Iowa for anyone to enter or remain 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 section does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad year, 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. The section defines "railway property" as 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. Iowa Code § 716.7 (1999).

## **KANSAS**

It is unlawful in Kansas for any person to enter or remain on railroad property without consent of the owner or the owner's agent. The statute defines "railroad property" as including, but 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. § 21-3761 (1999).

## **KENTUCKY**

A person is guilty of criminal trespass in the third degree if they are on the track, property or the right-of-way, other than while passing over the track or the right-of-way at a public or private crossing. Anyone doing so is subject to a maximum fine of twenty-five dollars for the first violation, fifty dollars for the second, and a maximum fine of one hundred dollars for third and subsequent violations. KY. Rev. Stat. Ann. § 277.350 (Baldwin (1999)).

## **LOUISIANA**

Louisiana prohibits unauthorized entry to railroad property. An initial conviction under the section brings a fine of not more than five hundred dollars, imprisonment of not more than ninety days or both. A second and any subsequent convictions are punishable by a fine not to exceed five hundred dollars or imprisonment for a term not to exceed six months. La. Rev. Stat. Ann. § 14:63.6 (West 1999).

Louisiana has a section prohibiting unauthorized access into or upon any railroad movable property when a person knows that such access is unauthorized, or under circumstances where he reasonably should know such access is unauthorized. The section defines "access" as meaning to enter by any means and includes, but is not limited to, the attaching or holding by any means onto any train, locomotive, or railroad car.

A violation of this section brings a fine of not more than five hundred dollars or imprisonment for not more than six months, or both. La. Rev. Stat. Ann. § 14:63.5 (1999).

## **MAINE**

The State of Maine imposes a fine of not less than five or more than twenty dollars for anyone who, without right, stands or walks on a railroad track or bridge, or passes over such a bridge.

Additionally, whoever, without right, enters upon any railroad track with any team, or any vehicle however propelled or drives any team or propels any vehicle upon any railroad track, commits a class E felony. Me. Rev. Stat. Ann. tit. 23, § 7007 (West 1999).

State law requires that a printed copy of Section 7007 be kept posted at a conspicuous place in every railroad station. Failure to post properly will result in forfeiture by the railroad corporation of not more than one hundred dollars for every offense. Me. Rev. Stat. Ann. tit. 23, § 7008 (1999).

## **MARYLAND**

A person who is in or on a railroad vehicle on a railroad track without complying with the law or with the rules and regulations of the railroad company shall be guilty of a misdemeanor and upon conviction is subject to a fine not exceeding twenty five dollars or imprisonment for a period of time not exceeding one month or both. Md. Ann. Code art., 27, § 455 (1998 Supp.).

## **MASSACHUSETTS**

Massachusetts law prohibits a person from being present, standing, walking or riding a bicycle, snow vehicle, recreational or other vehicle on the right-of-way of a railroad or other property used or controlled by that railroad except at a highway or other authorized grade crossing. Violation brings a fine of one hundred dollars. Any person who violates this section can be arrested without a warrant by law enforcement authorities. Mass. Ann. Laws ch. 160, § 218 (Law. Co-op. 1999).

## **MICHIGAN**

Michigan law prohibits walking, riding, driving or being present on the right-of-way of a railroad or a railroad yard. The law lists a number of exceptions, such as legitimate passengers, railroad employees and authorized representatives of the railroad. A violation of this section is considered a misdemeanor and is punishable by imprisonment for not more than thirty days, a fine of not more than one hundred dollars or both. Mich. Stat. Ann. § 22.1263 (273) (Law. Co-op. 1999). See also, Section 257-1515 for a right-of-way exception for a demonstration snowmobile trail.

## **MINNESOTA**

Minnesota law prohibits anyone from intentionally permitting animals under their control to trespass on a railroad track. Anyone doing so is guilty of a misdemeanor. Minn. Stat. Ann. § 609.85(6) (1999).

## **MISSISSIPPI**

Mississippi law forbids any person from riding, or driving any vehicle, cattle, horses, mules or other livestock along or on any railroad track open and operated for traffic, unless by

permission. A person, if convicted is guilty of a misdemeanor and shall be fined not less than twenty-five dollars or more than two hundred fifty-dollars. Miss. Code Ann. § 97-25-7 (1999).

It is unlawful in Mississippi, other than passengers or employees, for anyone who shall willfully climb, jump or step upon, or in any way attaches himself to, or jumps off a locomotive, tender, or car while in motion on a railroad track or siding. A conviction may bring a fine of not less than fifty dollars nor more than two hundred dollars, or imprisonment in the county jail for a period of not less than five days nor more than twenty-five days, or both. Miss. Code Ann. § 97-25-15 (1999).

## **MISSOURI**

It is unlawful for anyone to walk upon the track of railroad, except at a crossing. Violation of this section is considered a trespass. Mo. Rev. Stat. § 389.650(6) (1999).

Missouri law deems it a "trespass to railroad property" when a person commits any one of the following acts:

- (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.

Any person committing a trespass to railroad property pursuant to this section shall be guilty of a class A misdemeanor. There is an exception, however; and that is if committing a trespass results 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; then the infraction is a class D felony. Mo. Rev. Stat. § 389.653. (1999).

No person may ride, lead or drive any horses or other animals upon a railroad right-of-way other than at a farm crossing without the consent of the railroad. For each offense, a person shall forfeit and pay a sum not exceeding ten dollars, and shall also be required to pay all damages. Mo. Rev. Stat. § 389.650 (1999).

## **MONTANA**

A trespass specific to railroad property or equipment is not mentioned. The reader is referred to Mont. Code Ann. § 45-6-201 (1999), for a discussion of criminal trespass.

## **NEBRASKA**

Nebraska has no trespass regulations or laws specifically targeted to railroad property or equipment.

## **NEVADA**

Nevada has no trespass regulations or laws specifically targeted to railroad property or equipment.

## **NEW HAMPSHIRE**

Any person in the state who enters upon any railroad property without license or privilege to do so shall be guilty of criminal trespass. N.H. Rev. Stat. Ann. § 381:14 (1999). See also, Section 635:2, for a definition of criminal trespass.

## **NEW JERSEY**

It is unlawful in New Jersey for anyone to walk upon the tracks of any railroad. Any person so doing will be deemed to have contributed to any injury sustained and may not recover damages. N.J. Rev. Stat. § 48:12-152 (1999). See also, Section 39:3C-19, for prohibition against the operation of a snowmobile upon a railroad right-of-way.

## **NEW MEXICO**

New Mexico has no trespass regulations or laws specifically targeted to railroad property or equipment.

## **NEW YORK**

A railroad corporation in New York shall not be liable for any injury to an passenger while on the platform of a car, on in any baggage, wood or freight car, in violation of the printed regulations of the railroad, posted 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 by the railroad shall walk upon on along the track or tracks, except where the tracks are laid across or along streets or highways, in which case he shall not walk upon the track unless crossing the same.

It is also unlawful for any person to ride, lead, or drive any horse or other animal upon any railroad, or within the fences and guards, other than at a farm or street or forest crossing, without consent. If convicted, a person shall forfeit to the people of the state the sum of ten dollars, and pay all damage's sustained to the railroad. N.Y. Railroad Law § 83 (1999).

New York prohibits the operation of snowmobiles on railroad property except at the crossing of streets or highways, or at farm or forest crossings. A person violating the provisions of this section shall be guilty of a violation punishable by a fine of one hundred dollars for each separate offense. N.Y. Railroad Law § 83-a (1999).

Any city with a population of one million or more and the counties of 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 provide for the conspicuous posting of the zone for purposes of establishing criminal liability for trespass upon the property pursuant to subdivision (g) of Section 140.10 of the penal law. N.Y. Railroad Law § 83-b (1999).

A person shall be guilty of a criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property 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,” pursuant to Section 83-b of the railroad law, by the city or county in which such property is located. Criminal trespass in the third degree is a class B misdemeanor. N.Y. Penal Law § 140.10 (1999).

## **NORTH CAROLINA**

North Carolina law considers it a trespass on railroad right-of-way if a person enters and remains on the right-of-way of a railroad company without the consent of a railroad company Or the person operating the railroad, or without authority granted pursuant to state or Federal law. The section does not apply to a person crossing the railroad right-of-way at a public or private crossing, or at a right-of-way that has been legally abandoned pursuant to an order of a state or Federal agency an is not being used for railroad services.

Trespassing on a railroad right-of-way is a class 3 misdemeanor. N.C. Gen. Stat. § 14-280.1(a)-(b)-(c)-(d) (2002).

## **NORTH DAKOTA**

North Dakota has no trespass regulations or laws specifically targeted to railroad property or equipment.

## **OHIO**

It is unlawful for any person to draw, drive or cause to be moved any vehicle on or between the rails or tracks of a railroad. Violation of this section is a minor misdemeanor.

No person may climb, jump, step, or stand upon a locomotive, engine, or car upon the track of a railroad without permission. Violation is a minor misdemeanor. Ohio Rev. Code Ann. §§ 4999.01-02 (Baldwin 1999).

## **OKLAHOMA**

It is unlawful for anyone without authority to ride upon a train in Oklahoma. Violation of this section is a misdemeanor. Okla. Stat. tit. 21, § 1365 (1999).

## **OREGON**

Oregon has no trespass regulations or laws specifically targeted to railroad property or equipment.

## **PENNSYLVANIA**

Pennsylvania has no regulations or laws specifically targeted to railroad property or equipment.

## **RHODE ISLAND**

Rhode Island forbids any person to stand or walk on a railroad right-of-way without authorization, except for when crossing at a highway or other authorized crossing. Violation may bring a fine of not more than one thousand dollars, imprisonment for not more than one year, or both. Any person violating this section may be arrested without a warrant by a law enforcement officer. R.I. Gen. Laws § 11-36-6 (1999).

## **SOUTH CAROLINA**

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. § 58-50-850 (1999).

## **SOUTH DAKOTA**

It is unlawful for a person, either individually or as a member of any mob, band, or assembly, to enter upon, occupy, or appropriate any part of a railway train or of railway equipment used or useful in the transportation of passenger or property, or in the maintenance or operation of any road, armed with any instrument or weapon of any kind, for the purpose of committing any offense; or to ride in any other than the usual, proper, and lawful manner at the legal rate of fare, and in the proper coaches or cabooses provided for that purpose. Any violation of this section is a Class 5 felony. S.D. Codified-Laws § 49-J06A-105 (1998).

## **TENNESSEE**

Tennessee has no trespass regulations or laws specifically targeted to railroad property or equipment.

## **TEXAS**

Texas law defines railroad property as a train, locomotive, railroad car, caboose, work equipment, rolling stock, safety device, switch, or connection that is owned, leased, operated, or

possessed by railroad; or a railroad track, rail, bridge, trestle, or right-of-way owned or used by a railroad. Under the same code section, it is unlawful for anyone to enter or remain on railroad property without the consent of the owner, knowing that it is railroad property. An offense under this section 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. Tex. Penal Code Ann. §28.08(A) (1999).

## **UTAH**

It is unlawful in Utah for a person to ride or climb or attempt to ride or climb on, off, under, over, or across a railroad locomotive, car, or train.

A person may not walk, ride, or travel across, along, or upon railroad yards, tracks, bridges, or active right-of-way at any location other than a public crossing.

In Utah, 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 that violates this section. Utah Code Ann. § 56-1-18.5(2)(3)(4) (1999).

## **VERMONT**

No person shall, without right, loiter or remain in a depot, or upon the platform, approaches or grounds adjacent to, after being requested to leave by a railroad policeman, sheriff, deputy sheriff, constable or policeman. A conviction brings a fine of not more than twenty dollars or less than two dollars. Vt. Stat. Ann. tit. 5, 3734 (Lexis 1999).

It is unlawful for any person to board or ride without permission on a train, car or locomotive, other than a passenger train, or to board or ride on a passenger train without paying fare, or to loiter in or about a railroad yard, station or car without permission. A conviction brings a period of imprisonment not to exceed ninety days or a fine of not more than twenty-five dollars, or both. Vt. Stat. Ann. tit, 5, § 3735 (Lexis 1999).

## **VIRGINIA**

It is unlawful in Virginia for anyone to go upon the track of a railroad other than to pass over the track at a public or private crossing without the consent of the railroad company, or person operating the railroad.

It shall be a Class 4 misdemeanor for the first violation. If a second violation occurs within two years of the first violation, it is punishable as a Class 3 misdemeanor. A third violation within two years of a second, is punishable as a Class I misdemeanor. Va. Code Ann. § 18.2-159 (Michie 1999).

## **WASHINGTON**

Washington has no trespass laws specifically targeted to railroad property or equipment.

## **WEST VIRGINIA**

It is unlawful in West Virginia for anyone to trespass upon any railroad property in the state, except when driving across a public, private or farm crossing. Violation of this section is a misdemeanor and punishment shall be a fine not to exceed twenty-five dollars or imprisonment in the county jail for a period of time not to exceed thirty days. W.VA.Code§(1999).

## **WISCONSIN**

1. No person, other than a licensee or authorized newspaper reporters or those connected with or employed upon the railroad, shall walk, loiter or be upon or along the track of any railroad; and,
2. Each railroad corporation shall post notices containing substantially the provisions and penalties of this section, in one or more conspicuous places in or about each railroad station. Wis. Stat. § 192.32 (1999).

Any person under the age of 17 years, who shall get upon, attempt to get upon, cling to, jump, or step from any railroad car or train while it is in motion shall be punished by a fine of not more than twenty dollars nor less than two dollars. This section does not apply to employees of the railroad or railroad express. Wis. Stat. § 192.321 (1999).

## **WYOMING**

Wyoming has no trespass regulations or laws specifically targeted to railroad property or equipment.