

## **CHAPTER 24-09 RAILROAD CROSSINGS**

### **24-09-01. Definitions.**

Repealed by S.L. 1953, ch. 177, § 120.

#### **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.

#### **24-09-02. Uniform warning systems at railroad crossings.**

The department shall adopt and prescribe uniform warning systems in conformity with sections 39-13-06 and 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.

#### **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.

#### **24-09-04. Advance warning signs - Exceptions.**

The sole signing duty of the road authority, except as otherwise designated by the commission under section 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.

#### **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.

**24-09-06. Vehicles carrying school children, passengers for hire, or explosives must stop at railroad crossing.**

Repealed by S.L. 1975, ch. 347, § 25.

**24-09-07. Speed limit at railroad crossing.**

Repealed by S.L. 1961, ch. 206, § 3.

**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.

**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.

**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.

**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.

**24-09-11. Overhead and underground railroad crossings may be required.**

The commission may require any railroad to construct and maintain overhead or underground crossings and separate grades when in its opinion the interest and safety of the public require, and may apportion the costs therefor in such manner as the commission deems proper, and no overhead or underground crossing, nor separation of grades, may be made except upon petition therefor to the commission and with the commission's approval.

**24-09-12. Advertising signs not to obstruct or resemble crossing signs.**

No person, firm, corporation, or limited liability company may place or maintain any advertising sign or other similar obstruction upon, over, or adjacent to any highway between any approach sign and the grade crossing which it marks, nor may any person, firm, corporation, or limited liability company place or maintain, upon, over, or adjacent to any public highway in this state any sign or symbol in any manner resembling the signs provided for in this chapter.

**24-09-13. Injuring crossing signs - Penalty.**

Repealed by S.L. 1975, ch. 106, § 673.

**24-09-14. Failure to stop at crossing does not affect right to recover for injuries - Penalty.**

Repealed by S.L. 1975, ch. 106, § 673.