

Title 23: TRANSPORTATION
Chapter 617: RAILROAD CROSSINGS

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§7201. LAND TAKEN FROM RAILROAD; NOTICE AND HEARING

No town way, city street, public easement or highway taking land of any railroad corporation shall be located, unless a notice of the time and place of the hearing on the location has been served on the president, any vice-president, any director, the treasurer or any assistant treasurer, the general manager or the clerk of the corporation at least 7 days before the time for the hearing. In case a corporation has no officer within the State, service shall be made on its duly authorized agent or attorney within the State. Service in like manner shall be made on any corporation which operates a railroad of another corporation under lease or other agreement. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7204. RECORDING ADJUDICATIONS OF DEPARTMENT OF TRANSPORTATION

Adjudications of the Department of Transportation relating to ways shall be recorded in the office in which the location of the way must be recorded. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7205. CROSSING OF PUBLIC WAYS

Railroads may cross any public highways in the line of the railroad, but may not pass along public highways without the written consent of the officials charged by statute with the duty of maintenance of these ways; but when a railroad is hereafter laid out across a public way, it shall be constructed so as to pass either over or under the way unless the Department of Transportation, after notice and hearing, authorizes a crossing at grade. Before entering on the construction of any railroad along or across public ways, the manner and conditions of crossings shall be determined as provided by section 7202. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7206. WAYS RAISED OR LOWERED; COURSE ALTERED

Highways and other ways may be raised or lowered, or the course of the highways may be altered, to facilitate a crossing or to permit a railroad to pass over or under the highway or at the side of it, on application to the Department of Transportation, and proceedings as provided by section 7202, and for these purposes land may be taken and damages awarded as provided for laying out highways and other ways. The department may prescribe the manner in which the work shall be done by the corporation. While the use of any way is thereby obstructed, a temporary way shall be provided by the corporation. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7208. DAMAGES FOR NEGLIGENCE

When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in a civil action, commenced within one year after performance is required. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7209. BRIDGES OVER CANALS OR RAILROADS; REPAIRS; PROCEEDINGS WHERE UNSAFE CONDITIONS

A railroad may be carried over or under a canal or railroad in a manner as not unnecessarily to impede the travel or transportation on them. The corporation making the crossing is liable for damages, occasioned by making the crossing, in a civil action. Bridges and their abutments, constructed for a crossing of any way, shall be kept in repair by the corporation, or by persons or parties running trains on any railroad crossing a highway or town way. The municipal officers of any city or town may give notice in writing to persons, parties or corporations that a bridge required at the crossing has not been erected, or is out of repair and not safe and convenient, within the requirements of section 3651, or that the crossing of any highway or town way passing the railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient as required by this section. Those persons, parties or corporations shall erect or repair the bridge or make the crossing safe and convenient within 10 days from the service of the notice. If they neglect to do so, any one of the municipal officers may apply to the Superior Court to compel the delinquents to erect or repair the bridge or make the crossing. After hearing, the court may make any order on the hearing, which the public convenience and safety require, and may by injunctions compel the respondents to comply with the order. The officers may, after 10 days from the service of the notice, cause necessary repairs to be made and the expense of the repairs shall be paid by the persons, parties or corporations whose duty it is to keep the crossing safe and convenient. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. 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 all crossings 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 crossing is 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 the crossings. 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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7215. FAILURE TO COMPLY; DAMAGES

For unnecessarily neglecting to comply with any provision of section 7214, the corporation forfeits not more than \$500. The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent or for the mismanagement of an engine, to be recovered in a civil action by the person damaged by the neglect. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7216. RIGHT OF ENTRY

The officers, agents and employees of the Department of Transportation may enter in and on property of any railroad corporation for the purpose of inspecting railroad-highway crossings and attendant facilities, including grade separation facilities. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7217. PLANT RAILROADS

Sections 1251, 1254, 7202, 7205, 7206 and 7214, so far as applicable, apply to plant railroads. The term "plant railroad" means a railroad of the owners of any mills, mines, quarries, gravel pits, log landings or yards, warehouses, storehouses, stock yards, bulk storage yards, airports, piers, docks, shipyards, educational institutions, power plants, gas works, petroleum tank farms or bulk stations, or other manufacturing, processing or mercantile establishments, and including state and federal institutions and developments, erected or in process of erection, which is located on land provided or acquired for the purpose by the owners, and whether operated by the owners or by state or federal government or an agency thereof or through connection with a public railroad under operating contract with it and by operation of its equipment over the plant railroad. [2013, c. 36, §11 (AMD).]

SECTION HISTORY

1989, c. 398, §8 (NEW). 2013, c. 36, §11 (AMD).

§7218. BRIDGES ERECTED BY MUNICIPALITIES MAINTAINED

Bridges erected by any municipality, over which any railroad passes, shall be constructed and maintained in a manner and condition as to safety as the Department of Transportation may determine. The department may require the officers of the railroad company and of the municipality to attend a hearing in the matter, after notice of the hearing to all parties in interest as the department deems proper. The department shall determine at the hearing the repairs, renewals or strengthening of parts, or if necessary the manner of rebuilding the bridge required to make the bridge safe for the uses to which it is put. The department shall determine who shall bear the expenses of the repairs, renewals, strengthening or rebuilding, or it may apportion the expense between the railroad company and the city or town, as the case may be, in a manner as deemed by the department to be just and fair and shall make its report. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7219. REPORT OF DECISIONS AND COPIES TO PARTIES INTERESTED

The department shall make a report in writing of its decision in all matters named in section 7218, file the report in the department's office, and cause a copy of the decision to be sent by mail to each of the railroad corporations and to the municipal officers of the cities or towns, as the case may be, interested in the report. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1993, c. 164, §1 (AMD).]

SECTION HISTORY

1989, c. 398, §8 (NEW). 1993, c. 164, §1 (AMD).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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 any crossing, 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 the crossing 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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7224. EXPENSE OF REMOVAL PAID BY MUNICIPALITY; PARTIAL STATE REIMBURSEMENT

Within a time as the Department of Transportation by order directs, the municipal officers or county commissioners shall cause the bushes to be cut down and removed, or chemically treated, and shall cause the trees, fences, signboards or other encroachments to be trimmed, cut down or removed and from time to time, as may be ordered by the department, to keep them trimmed, cut down or removed, and the expense shall in the first instance be paid by the municipality where the labor is performed, but, on the filing with the department of proper proof of the payment, 1/2 of any amount shall be repaid by the State to the municipality. The payment shall be paid from the appropriation for the operation of the department. Any expense incurred by the department in applying chemical treatment, or to properly trim, cut down or remove and from time to time, as may be necessary, to keep trimmed, cut down and removed, bushes, trees and signboards, shall be borne by the department. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7225. DAMAGES; MUNICIPALITY AND STATE TO SHARE

If any person claims damages on account of any such act done under sections 7223 and 7224, the person may, within 2 years after the doing of any act, petition the Department of Transportation to assess damages and the department, after reasonable notice to the petitioner and to the interested municipality and, after hearing, shall award a sum as seems proper as damages to be paid by the municipality where the property is located. On proper proof of any payment, the Governor shall cause 1/2 of the payment to be paid by the State to the municipality. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7226. BUILDINGS NOT REMOVED WITHOUT OWNER'S CONSENT

Nothing contained in sections 7222 to 7225 authorizes the removal of any building without the consent of the owner. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7227. APPLICABILITY TO ALL RAILROADS

Except where otherwise expressly specified, sections 7221 to 7226 and section 7228 apply to all railroads operated by steam, electric, diesel-electric, diesel-motor, gasoline-electric or gasoline-motor power and engaged in the transportation of freight or passengers in standard railroad freight or passenger cars. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7228. RAILROAD COMPANY MAY ENTER PRIVATE PROPERTY

For the purpose of creating and maintaining the fair view mentioned in sections 7221 to 7227 or for the purpose of improving the view at one or more angles, any steam railroad company subject to this chapter may enter on private property and remove any embankment or other obstruction except a dwelling house. The owner of the property is entitled to damages, and may have the damages estimated and paid in a manner provided in chapter 607, and there is the same right of appeal as given in that chapter. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [2003, c. 498, §5 (AMD).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW). 2003, c. 498, §5 (AMD).

§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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7232. TRACKS OF MORE THAN ONE RAILROAD

Whenever the Department of Transportation, on an application or petition brought under section 7231, finds that a public way crosses or is crossed by tracks of more than one railroad and the tracks of the railroads are so near together that public safety or convenience requires the work of abolishment, reconstruction, alteration, change or removal to be done under and in compliance with one order, the department shall give notice to all the corporations operating the railroads to appear before it and be heard on the application. After notice and hearing the department shall determine what abolishment, reconstruction, alteration, change or removal, if any, of the crossing shall be made and shall determine by whom the work shall be done and shall apportion the percentage of expense to be borne by the railroad corporations between the corporations in such manner as the department shall deem just and proper. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§7233. ORDER OF DEPARTMENT OF TRANSPORTATION; APPEALS

The order of the Department of Transportation relating to any matter on which the department may act under the authority of sections 7231 and 7232 shall be communicated in writing to the petitioners and to all persons to whom notice of the hearing on the petition was given. Any person aggrieved by the order, who was a party to the proceedings, may appeal from the order to the Superior Court within and for the county in which the way or crossing is located in the manner now provided in section 7202. Any person aggrieved by the decision or judgment of the Department of Transportation in relation to damages for land taken for the purposes of section 7231 may appeal from the decision to the Superior Court to be held in the county where the land is situated, within 30 days after the report of the department is made, which court shall determine the same by a committee of reference if the parties so agree or by a verdict of its jury, and shall render judgment for the damages recovered with costs to the party prevailing in the appeal, but the committee or jury shall not alter the requirements in the report of the department. The appellants shall, when an appeal is taken, include in the complaint a statement setting forth substantially the facts of the case and shall give written notice of the appeal with a copy of the complaint to the opposite party. An appeal may be taken to the law court as in other actions. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

§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. [1989, c. 398, §8 (NEW).]

SECTION HISTORY

1989, c. 398, §8 (NEW).

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