

IC 8-3

ARTICLE 3. RAILROADS GENERALLY

IC 8-3-1

Chapter 1. Railroad Regulation—Department of Transportation

IC 8-3-1-1

Financial and business operations report

Sec. 1. (a) As used in this chapter, "department" refers to the Indiana department of transportation.

(b) Every such carrier shall annually, before April 1, file with the department, under the signature and oath of the department's principal accounting officer, a detailed report, in the form prescribed by the department, of all the carrier's financial and business operations in Indiana for the year ending on the preceding December 31. The report shall embrace the other information and facts as shall be prescribed by the Surface Transportation Board for reports of interstate carriers thereto, and the reports shall be in the form prescribed, insofar as the same is applicable. Any carrier failing to make the report for thirty (30) days after the same is due, unless the time therefor is extended by the department, shall forfeit and pay to the state the sum of one hundred dollars (\$100) for each day of the default, to be collected as provided in this chapter.

(Formerly: Acts 1905, c.53, s.3; Acts 1907, c.241, s.3; Acts 1913, c.268, s.1; Acts 1917, c.48, s.1.) As amended by P.L.62-1984, SEC.1; P.L.384-1987(ss), SEC.11; P.L.8-1989, SEC.48; P.L.18-1990, SEC.34; P.L.8-1993, SEC.136; P.L.50-2011, SEC.1.

IC 8-3-1-2

"Railroad" defined

Sec. 2. The term "railroad" as used in this chapter shall mean and include any railroad whether its locomotives are powered by steam, combustion-type fuel or electricity other than a hobby, tourist, amusement, and non-freight-carrying railroad.

(Formerly: Acts 1905, c.53, s.3a; Acts 1963, c.182, s.1.) As amended by Acts 1976, P.L.26, SEC.1.

IC 8-3-1-3

Repealed

(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-4

Repealed

(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-5

Repealed

(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-6

Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-7
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-8
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-9
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-10
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-11
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-12
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-13
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-14
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-15
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-16
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-17
Repealed
(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-18
Information to department; enforcement powers of department
Sec. 18. The department may inquire into the management of the

business of all common carriers subject to this chapter, and shall keep itself informed as to the manner and method in which the same is conducted, and may obtain from such carriers full and complete information necessary to enable the department to perform the duties and carry out the objects for which the department was created. The department shall enforce this chapter and all the other statutes of this state the enforcement of which is devolved upon the department, and such other statutes of this state as shall prescribe the duties and obligations and regulate the conduct of the carriers subject to this chapter in their dealings with the public and each other as common carriers of passengers and property in this state, and, to enable the department so to do, the department may institute and prosecute, in its name, any appropriate action at law or suit in equity, in any circuit or superior court of this state, against any such carrier to compel it to observe the requirements of this chapter and all other statutes of this state, and the orders of the department made under this chapter or any other law of this state, and all orders and judgments of any court in this state made under this chapter; or to restrain any such carrier from the further continuance of any act or practice suffered or authorized by it in violation of this chapter, the other statutes of this state, the orders of the department or a court made under this chapter, and the costs and expenses of such proceedings shall be audited and approved by the auditor of state and paid as provided in this chapter. *(Formerly: Acts 1905, c.53, s.20; Acts 1907, c.241, s.17.) As amended by P.L.62-1984, SEC.11; P.L.384-1987(ss), SEC.26.*

IC 8-3-1-19

Repealed

(Repealed by P.L.50-2011, SEC.5.)

IC 8-3-1-20

Right of action for penalty or forfeiture, release, or waiver

Sec. 20. This chapter does not release or waive any right of action by the state or any person for any right, penalty, or forfeiture which may arise under any law of this state. All penalties accruing under this chapter shall be cumulative of each other, and a suit for or recovery of one (1) shall not be a bar to the recovery of any other penalty.

(Formerly: Acts 1905, c.53, s.22.) As amended by P.L.62-1984, SEC.12; P.L.384-1987(ss), SEC.28.

IC 8-3-1-21

Accident reports; facilities maintenance

Sec. 21. (a) Every railroad company subject to this chapter shall report to the department as soon as possible after it has occurred, every accident and the general cause thereof, involving loss of life or serious injury to passenger or employee.

(b) Whenever the department shall secure reliable information, or complaint shall have been made, or, because of reports made by its inspectors, shall have reason to believe, that any carrier in this state

does not provide and adequately maintain sanitary drinking water and sanitary dispensers therefor on all locomotives and cabooses in use, or that any such carrier does not provide a room or rooms at all terminals, for the use of the department's employees, containing adequate wash basins, shower baths, inside toilets, sanitary drinking water dispensed in a sanitary manner, and sufficient lockers for checking employees' clothing, it shall be the duty of the department to cause such investigation to be made as it may deem necessary, and when such investigation shall have been made, the department shall make a report to the manager or superintendent of the railroad company. In said report and recommendations, the department shall make an accurate statement of the time such examination was made, of the exact location, character, and extent of such defects or omissions, if any such shall have been found, and shall also recommend such reasonable changes and improvements, additions, buildings, and accommodations, as are, in the opinion of the department, necessary to remedy such faults, neglects, requirements, or defects. Such recommendations shall set out specifically a reasonable time within which such improvements or changes or additions shall be made by the railroad company, and if they are not so made within said time so specified, then the department, if it considers it best so to do, may commence proceedings by mandamus or other remedy, in some circuit or superior court having jurisdiction of the carriers, to enforce compliance with its order. All courts, circuit, superior, appellate, or supreme, as shall obtain jurisdiction in these cases, shall give preference to such cases, and shall hear and determine the same speedily to the end that the employees' interests and the public interests may not suffer.

(Formerly: Acts 1905, c.53, s.23; Acts 1907, c.241, s.19; Acts 1911, c.76, s.1; Acts 1933, c.58, s.1; Acts 1949, c.9, s.1.) As amended by P.L.12-1984, SEC.2; P.L.384-1987(ss), SEC.29; P.L.50-2011, SEC.2.

IC 8-3-1-21.1

Abandonment of railroad right-of-way; notices; removal of crossing control devices; failure to comply; cost; recreational use

Sec. 21.1. (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.

(Formerly: Acts 1973, P.L.65, SEC.1.) As amended by Acts 1980, P.L.74, SEC.39; Acts 1982, P.L.62, SEC.3; Acts 1982, P.L.75, SEC.1; P.L.63-1984, SEC.1; P.L.84-1986, SEC.1; P.L.384-1987(ss), SEC.30; P.L.8-1989, SEC.49; P.L.18-1990, SEC.35; P.L.4-2005, SEC.114; P.L.229-2005, SEC.6; P.L.3-2008, SEC.73.

IC 8-3-1-21.2

Restoration; apportionment of costs

Sec. 21.2. (a) The department may order the apportionment of

costs that result from the restoration, under section 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 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) of this chapter if the railroad petitions for that determination.

As added by Acts 1977, P.L.106, SEC.1. Amended by P.L.63-1984, SEC.2; P.L.17-1985, SEC.5; P.L.384-1987(ss), SEC.31.

IC 8-3-1-21.3

Improvement of street or highway intersecting railroad right-of-way; notice and assessment of cost to owner

Sec. 21.3. (a) When a public street or highway intersects with a railroad right-of-way that is not owned by a railroad, the public agency with jurisdiction over the street or highway may:

- (1) remove any crossing control devices;
- (2) remove railroad insignia, rails, or ties; or
- (3) reconstruct the highway so that it conforms with the standards of the intersecting street or highway.

(b) The public agency may not proceed under subsection (a) until the owner of the railroad right-of-way is given written notice of the agency's intention to undertake the work.

(c) The cost of the work shall be documented and charged to the owner, and if not paid by the owner, the cost may be added to the owner's property tax statement of current and delinquent taxes and special assessments under IC 6-1.1-22-8.1.

As added by P.L.95-1985, SEC.1. Amended by P.L.3-2008, SEC.74.

IC 8-3-1-22

Abandoned railroad rights-of-way intersecting or crossing public highways; resurfacing

Sec. 22. If the department determines that the right-of-way of a railroad which intersects or crosses a public highway or street is abandoned, any unit of government may resurface that intersection or crossing.

As added by Acts 1982, P.L.75, SEC.2. Amended by P.L.384-1987(ss), SEC.32.

IC 8-3-1-23

Expenses; charges and payment

Sec. 23. Any expense incurred by the department, either upon a

complaint against a railroad or upon a petition of any railroad, shall be charged and paid in the manner provided for public utilities under IC 8-1-6.

As added by P.L.384-1987(ss), SEC.33.

IC 8-3-1-24

Repealed

(Repealed by P.L.82-1991, SEC.1.)