

Article 15.

Railroads.

**§ 136-190. Powers of railroad corporations.**

Every railroad corporation shall have power:

- (1) To Survey and Enter on Land. – To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be done thereto.
- (2) To Condemn Land under Eminent Domain. – To appropriate land and rights therein by condemnation, as provided in the Chapter Eminent Domain.
- (3) To Take Property by Grant. – To take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.
- (4) To Purchase and Hold Property. – To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, the stations and other accommodations necessary to accomplish the object of its incorporation.
- (5) To Grade and Construct Road. – To lay out its road, not exceeding 100 feet in width, and to construct the same; to take, for the purpose of cuttings and embankments, as much more land as may be necessary for the proper construction and security of the road; and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in the Chapter Eminent Domain.
- (6) To Intersect with Highways and Waterways. – To construct its road across, along or upon any stream, watercourse, street, highway, turnpike, railroad or canal which the route of its road shall intersect or touch; but the company shall restore the stream, watercourse, street, highway or turnpike, thus intersected or touched, to its former state or to such state as not unnecessarily to impair its usefulness. Nothing in this Chapter shall be construed to authorize the erection of any bridge or any other construction across, in or over any stream or lake navigated by motor boats commensurate in size to sailboat, or sailboats or vessels, at the place where any bridge or other obstructions may be proposed to be placed, nor to authorize the construction of any railroad not already located in, upon or across any streets in any municipality without the assent of such municipality.
- (7) To Intersect with Other Railroads. – To cross, intersect, join and unite its railroad with any other railroad at any point on its route and upon the grounds of such other railroad, with the necessary turnouts, sidings, switches and other conveniences in furtherance of the object of its connections. Every company whose railroad is or shall be hereafter intersected by any other railroad shall unite with the owners of such other railroad in forming such intersections and connections and grant the facilities aforesaid, and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and

manner of such crossings and connections, the same shall be ascertained and determined by the Commission.

- (8) To Transport Persons and Property. – To take and convey persons and property on its railroad or by water by the power or force of steam, electricity, or by any other power, and to receive compensation therefor.
- (9) To Erect Stations and Other Buildings. – To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of its passengers, freight and business.
- (10) To Borrow Money, Issue Bonds and Execute Mortgages. – From time to time to borrow such sums of money as may be necessary for completing and finishing or operating its railroad, to issue and dispose of its bonds for any amount so borrowed, to mortgage its corporate property and franchises and to secure the payment of any debt contracted by the company for the purposes aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed, as aforesaid, the right to convert the principal due or owing thereon into stock of such company at any time under such regulations as the directors may see fit to adopt.
- (11) To Lease Rails. – To lease iron rails to any person for such time and upon such terms as may be agreed on by the contracting parties, and upon the termination of the lease by expiration, forfeiture or surrender, to take possession of and remove the rails so leased as if they had never been laid.
- (12) To Establish Hotels and Eating Houses. – To purchase, lease, hold, operate or maintain eating houses, hotels and restaurants for the accommodation of the traveling public along the line of its road. (1871-2, c. 138, s. 29; Code, s. 1957; 1887, c. 341; 1889, c. 518; Rev., ss. 2567, 2575; C.S., s. 3444; 1953, c. 675, ss. 6, 7; 1963, c. 1165, s. 1; 1998-128, s. 14.)

#### **§ 136-191. Intersection with highways.**

Whenever the track of a railroad shall cross a highway or turnpike, such highway or turnpike may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway or turnpike desirable, then the railroad company may take such additional lands for the construction of the road, highway or turnpike on such new line as may be deemed requisite. Unless the land so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in the Chapter Eminent Domain, and duly made by such corporation to the owners and persons interested in such land. The same when so taken shall become a part of such intersecting highway or turnpike in such manner and by such tenure as the adjacent parts of the same highway or turnpike may be held for highway purposes. (1871-2, c. 138, s. 26; Code, s. 1954; Rev., s. 2568; C.S., s. 3448; 1963, c. 1165, s. 1; 1998-128, s. 14.)

#### **§ 136-192. Obstructing highways; defective crossings; notice; failure to repair after notice misdemeanor.**

(a) Whenever, in their construction, the works of any railroad corporation shall cross established roads or ways, the corporation shall so construct its works as not to impede the passage or transportation of persons or property along the same. If any railroad corporation shall so construct its crossings with public streets, thoroughfares or highways, or keep, allow or permit the

same at any time to remain in such condition as to impede, obstruct or endanger the passage or transportation of persons or property along, over or across the same, the governing body of the county, city or town, or other public road authority having charge, control or oversight of such roads, streets or thoroughfares may give to such railroad notice, in writing, directing it to place any such crossing in good condition, so that persons may cross and property be safely transported across the same.

(b) The notice may be served upon the agent of the offending railroad located nearest to the defective or dangerous crossing about which the notice is given, or it may be served upon the section master whose section includes such crossing. Such notice may be served by delivering a copy to such agent or section master, or by registered or certified mail addressed to either of such persons.

(c) If the railroad corporation shall fail to put such crossing in a safe condition for the passage of persons and property within 30 days from and after the service of the notice, it shall be guilty of a Class 1 misdemeanor. Each calendar month which shall elapse after the giving of the notice and before the placing of such crossing in repair shall be a separate offense.

(d) This section shall in nowise be construed to abrogate, repeal or otherwise affect any existing law now applicable to railroad corporations with respect to highway and street crossings; but the duty imposed and the remedy given by this section shall be in addition to other duties and remedies now prescribed by law. (R.C., c. 61, s. 30; 1874-5, c. 83; Code, s. 1710; Rev., s. 2569; 1915, c. 250, ss. 1, 2; C.S., ss. 3449, 3450; 1963, c. 1165, s. 1; 1993, c. 539, s. 480; 1994, Ex. Sess., c. 24, s. 14(c); 1998-128, s. 14.)

#### **§ 136-193. Joint construction of railroads having same location.**

Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, they may by agreement provide for the construction of so much of said line as is common to both of them, by one of the companies, and for the manner and terms upon which the business thereon shall be performed. (1871-2, c. 138, s. 46; Code, s. 1983; Rev., s. 2602; C.S., s. 3473; 1963, c. 1165, s. 1; 1998-128, s. 14.)

#### **§ 136-194. Cattle guards and private crossings; failure to erect and maintain misdemeanor.**

Every company owning, operating or constructing any railroad passing through and over the enclosed land of any person shall, at its own expense, construct and constantly maintain, in good and safe condition, good and sufficient cattle guards at the points of entrance upon and exit from such enclosed land and shall also make and keep in constant repair crossings to any private road thereupon. Every railroad corporation which shall fail to erect and constantly maintain the cattle guards and crossings provided for by this section shall be liable to an action for damages to any party aggrieved, and shall be guilty of a Class 3 misdemeanor and only fined in the discretion of the court. Any cattle guard approved by the Commission shall be deemed a good and sufficient guard under this section. (1883, c. 394, ss. 1, 2, 3; Code, s. 1975; Rev., ss. 2601, 3753; 1915, c. 127; C.S., s. 3454; 1933, c. 134, s. 8; 1941, c. 97, s. 5; 1963, c. 1165, s. 1; 1993, c. 539, s. 481; 1994, Ex. Sess., c. 24, s. 14(c); 1998-128, s. 14.)

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

The Department may require the raising or lowering of any tracks or roadway at any grade crossing in a road or street not forming a link in or part of the State highway system and designate who shall pay for the same by partitioning the cost of said work and the maintenance of such

crossing among the railroads and municipalities interested in accordance with the formula provided for grade crossing alterations or eliminations on the State highway system in G.S. 136-20(b). (1899, c. 164, s. 2, subsec. 13; Rev., s. 1097; 1907, c. 469, s. 1c; 1911, c. 197, s. 1; C.S. ss. 1041, 1048; 1933, c. 134; s. 8; 1941, c. 97; 1963, c. 1165, s. 1; 1998-128, ss. 14, 15.)

**§ 136-196. Injury to passenger while in prohibited place.**

If any passenger on any railroad is injured in any portion of a train where passengers are prohibited by notice conspicuously posted in its passenger cars, such railroad shall not be liable for the injury, provided the railroad has furnished sufficient room within its passenger cars for the proper accommodation of all passengers on the train. (1871-2, c. 138, s. 42; Code, s. 1978; Rev., s. 2628; C.S., s. 3509; 1963, c. 1165, s. 1; 1998-128, s. 14.)

**§ 136-197. Ticket may be refused intoxicated person; penalty for prohibited entry.**

The ticket agent of a passenger train shall at all times have the power to refuse to sell a ticket to a person wanting to purchase a ticket who may at the time be intoxicated. The conductor in charge of the train shall at all times have the power to prevent an intoxicated person from boarding the train. An intoxicated person who boards a train after being forbidden by the conductor to do so is guilty of a Class 1 misdemeanor. (1998-128, s. 16.)

**§ 136-198. Passenger refusing to pay fare or violating rules may be ejected.**

If a passenger shall refuse to pay the fare, be or become intoxicated, or violate the rules of a passenger train, it shall be lawful for the conductor of the train to stop the train at any station or at any regular stop, and to put the passenger and the passenger's baggage out of the train, using no unnecessary force. (1998-128, s. 16.)

**§ 136-199. Reserved for future codification purposes.**