

IMPORTANT NUMBERS

Union Pacific Railroad	1-800-892-1283
Kansas City Southern Railroad	1-800-892-6295
Canadian National Illinois Central Railroad	1-800-465-9239
Norfolk Southern Railroad	1-800-680-0400
Operation Lifesaver, Inc.	1-800-537-6224
Louisiana & Delta Railroad	1-337-364-9625, Ext. 0
CSX Railroad	1-800-232-0148
Betsey Williams Tramonte, Louisiana Operation Lifesaver	1-225-926-7507
Louisiana Highway Safety Commission	1-225-925-6991
AMTRAK	1-800-331-0008
Burlington-Northern-Santa Fe	1-800-832-5452
New Orleans Public Belt Railroad	1-504-896-7442

LAWS PERTAINING TO RAIL PROPERTY AND GRADE CROSSINGS

U. S. CODE, TITLE 49 TRANSPORTATION CHAPTER III FEDERAL HIGHWAY ADMINISTRATION

383.21 NUMBER OF DRIVER'S LICENSES

No person who operates a commercial motor vehicle shall at any time have more than one driver's license.

383.37 EMPLOYER RESPONSIBILITIES

No employer may knowingly allow, require, permit, or authorize a driver to operate a CMV in the United States:

- (a) During any period in which the driver has a CMV driver's license suspended, revoked, or canceled by a State, has lost the right to operate a CMV in a State, or has been disqualified from operating a CMV;
- (b) During any period in which the driver has more than one CMV driver's license;
- (c) During any period in which the driver, or the CMV he or she is driving, or the motor carrier operation, is subject to an out-of-service order; or
- (d) In violation of a Federal, State, or local law or regulation pertaining to railroad-highway grade crossings.

383.51 DISQUALIFICATION OF DRIVERS

- (e) Disqualification for railroad-highway grade crossing violation -
 - (1) *General rule.* A driver who is convicted of operating a CMV in violation of a Federal, State, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in paragraph (e)(2) of this section:
 - (i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
 - (ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

- (iii) For drivers who are always required to stop, failing to stop before driving into the crossing;
 - (iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
 - (v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing;
 - (vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.
- (2) Duration of disqualification for railroad-highway grade crossing violation -
- (i) First violation. A driver must be disqualified for not less than 60 days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.
 - (ii) Second violation. A driver must be disqualified for not less than 120 days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.
 - (iii) Third or subsequent violation. A driver must be disqualified for not less than 1 year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.

392.10 RAILROAD GRADE CROSSINGS; STOPPING REQUIRED

(a) Except as provided in paragraph (b) of this section, the driver of a motor vehicle specified in paragraphs (a)(1) through (6) of this section shall not cross a railroad track or tracks at grade unless he first: stops the vehicle within 50 feet of, and not closer than 15 feet to, the tracks; therefore listens and looks in each direction along the tracks for an approaching train; and ascertains that no train is approaching. When it is safe to do so, the driver may drive the vehicle across the tracks in a gear that permits the vehicle to complete the crossing without a change of gears. The driver must not shift gears while crossing the tracks.

- (1) Every bus transporting passengers.
- (2) Every motor vehicle transporting a quantity of chlorine.
- (3) Every motor vehicle which, in accordance with the regulations of the Department of Transportation, is required to be marked or placarded with one of the following markings:

(i) Explosives A	(x) Poison
(ii) Explosives B	(xi) Oxygen
(iii) Poison Gas	(xii) Flammable Gas
(iv) Flammable Solid W	(xiii) Combustible
(v) Radioactive	(xiv) Flammable Solid
(vi) Flammable	(xv) Oxidizer
(vii) Blasting Agent	(xvi) Organic Peroxide
(viii) Nonflammable Gas	(xvii) Corrosive
(ix) Chlorine	(xviii) Dangerous
- (4) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any hazardous material as defined in the Hazardous Material Regulations of the Department of Transportation, Parts 170-189 of this Title.
- (5) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flash point as determined by section 173.115 of this Title.

**LOUISIANA TRAFFIC CODE
TITLE 14**

R.S.14:32.1. Vehicular homicide

B. Whoever commits the crime of vehicular homicide shall be fined not less than two thousand dollars not more than fifteen thousand dollars and shall be imprisoned with or without hard labor for not less than two years nor more than fifteen years. At least one year of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. The court shall require the offender to participate in a court-approved substance abuse program or a court-approved driver improvement program, or both. All driver improvement courses required under this Section shall include instruction on railroad grade crossing safety.

14:59. Criminal mischief

Criminal mischief is the intentional performance of any of the following acts:

- (6) Throwing any stone or any other missile in any street, avenue, alley, road, highway, open space, public square, or enclosure, or throwing any stone, missile, or other object from any place into any street, avenue, road, highway, alley, open space, public square, enclosure, or at any train, railway car, or locomotive.**
- (9) The discharging of any firearm at a train, locomotive, or railway car.**

14:61 Unauthorized entry of a critical infrastructure

A. Unauthorized entry of a critical infrastructure is the intentional entry by a person without authority into any structure or onto any premises, belonging to another, that constitutes in whole or in part a critical infrastructure that is completely enclosed by any type of physical barrier, including but not limited to: (1) chemical manufacturing facilities; (2) refineries; (3) electrical power generating facilities; (4) water intake structures and water treatment facilities; (5) natural gas transmission compressor stations; (6) LNG terminals and storage facilities; and (7) transportation facilities, such as ports, railroad switching yards, and trucking terminals.

B. Whoever commits the crime of unauthorized entry of a critical infrastructure shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than six years, or both.

C. Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including but not limited to any labor dispute between any employer and its employee.

Acts 2004, No. 157, §1, eff. June 10, 2004

14:63. Criminal trespass

A. No person shall enter any structure, watercraft, or movable owned by another without

express, legal, or implied authorization.

B. No person shall enter upon immovable property owned by another without express, legal, or implied authorization.

C. No person shall remain in or upon property, movable or immovable, owned by another without express, legal, or implied authorization.

D. It shall be an affirmative defense to a prosecution for a violation of Subsection A, B, or C of this Section, that the accused had express, legal, or implied authority to be in the movable or on the immovable property.

E. The following persons may enter or remain upon the structure, watercraft, movable or immovable property, of another:

(1) A duly commissioned law enforcement officer in the performance of his duties.

(2) Any firefighter, whether or not a member of a volunteer or other fire department, and any employee or agent of the Louisiana Department of Agriculture and Forestry engaged in locating and suppressing a fire.

(3) Emergency medical personnel engaged in the rendering of medical assistance to an individual.

(4) Any federal, state, or local government employee, public utility employee or agent engaged in suppressing or dealing with an emergency that presents an imminent danger to human safety or health or to the environment.

(5) Any federal, state, or local government employee, public utility employee or agent in the performance of his duties when otherwise authorized by law to enter or remain on immovable or movable property.

(6) Any person authorized by a court of law to enter or remain on immovable property.

(7) Any person exercising the mere right of passage to an enclosed estate, as otherwise provided by law.

F. The following persons may enter or remain upon immovable property of another, unless specifically forbidden to do so by the owner or other person with authority, either orally or in writing:

(1) A professional land surveyor or his authorized personnel, engaged in the "Practice of Land Surveying", as defined in R.S. 17:682.

(2) A person, affiliate, employee, agent, or contractor of any business which is regulated by the Louisiana Public Service Commission or by a local franchising authority or the Federal Communication Commission under the Cable Reregulation Act of 1992 or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude, or any property located on the immovable property which belongs to such a business.

(3) Any person making a delivery, soliciting, selling any product or service, conducting a survey or poll, a real estate licensee or other person who has a legitimate reason for making a delivery, conducting business or communicating with the owner, lessee, custodian, or a resident of the immovable property, and who, immediately upon entry, seeks to make the

delivery, to conduct business or to conduct the communication.

(4) An employee of the owner, lessee, or custodian of the immovable property while performing his duties, functions, and responsibilities in the course and scope of his employment.

(5) The owner of domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock.

(6) The owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person.

(7) Any candidate for political office or any person working on behalf of a candidate for a political office.

(8) The owner or occupant of a watercraft or vessel traveling in salt water engaged in any lawful purpose for the purpose of retrieval of his property or for obtaining assistance in an emergency situation.

G. The following penalties shall be imposed for a violation of this Section:

(1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both.

(2) For the second offense, the fine shall not be less than three hundred dollars and not more than seven hundred dollars, or imprisonment for not more than ninety days, or both.

(3) For the third offense and all subsequent offenses, the fine shall not be less than five hundred dollars and not more than one thousand dollars, or imprisonment for not less than sixty days and not more than six months, or both, and forfeiture to the law enforcement authority of any property seized in connection with the violation.

(4) A person may be convicted of a second offense and any subsequent offenses regardless of whether any prior conviction involved the same structure, watercraft, movable or immovable property and regardless of the time sequence of the occurrence of the offenses.

H. The provisions of any other law notwithstanding, owners, lessees, and custodians of structures, watercraft, movable or immovable property shall not be answerable for damages sustained by any person who enters upon the structure, watercraft, movable or immovable property without express, legal, or implied authorization, or who without legal authorization, remains upon the structure, watercraft, movable or immovable property after being forbidden by the owner, or other person with authority to do so; however, the owner, lessee, or custodian of the property may be answerable for damages only upon a showing that the damages sustained were the result of the intentional acts or gross negligence of the owner, lessee or custodian.

I. A minor ten years old or younger shall not be arrested, detained, or apprehended for the crime of trespass.

Amended by Acts 1960, No. 458, §1; Acts 1964, No. 497, §1; Acts 1981, No. 78, §1, eff. Jan. 1, 1982; Acts 1990, No. 870, §1, eff. Jan 1, 1991; Acts 1991, No. 438, §1; Acts 1993, No. 887, §1; Acts 2003, No. 279, §3; Acts 2003, No. 802, §1.

14:96. Aggravated obstruction of a highway of commerce

Aggravated obstruction of a highway of commerce is the intentional or criminally negligent placing of anything, or performance of any act, on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, wherein it is foreseeable that human life might be endangered.

Whoever commits the crime of aggravated obstruction of a highway of commerce shall be imprisoned, with or without hard labor, for not more than 15 years.

14:97. Simple obstruction of a highway of commerce

Simple obstruction of a highway of commerce is the intentional or criminally negligent placing of anything or performance of any act on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, which will render movement thereon more difficult.

Whoever commits the crime of simple obstruction of a highway of commerce shall be fined not more than \$200, or imprisoned for not more than 6 months, or both.

14:321. Unauthorized signals to persons in charge of locomotives, etc. prohibited: penalty

No person without authority and in the absence of apparent danger shall, out of the spirit of mischief, or with any purpose other than to prevent or give information of an accident, made or cause to be made any signal to persons in charge of a locomotive, railroad train, or railroad cars, or to any of these persons or in their sight, with intent to cause the stopping of the locomotive, train, or cars.

Whoever violates this Section shall be fined not less than \$10 nor more than \$200 or imprisoned for not more than 3 months.

17:270. Driver education and training program for children

A. The State Board of Education and the State Department of Education shall establish and operate a driver education and training program in each parish of this state for children of secondary school age. The program shall consist of a course of not less than six hours of actual driving experience and thirty hours of classroom instruction. The aid and purposes of the driver education and training program shall be to educate drivers to be competent, to develop a knowledge of those provisions of the law of this state relating to the operation of motor vehicles, a proper acceptance of personal responsibility in traffic, a true appreciation of the causes, seriousness and consequences of traffic accidents, and to develop the knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles. The course shall include training on railroad and highway grade crossing safety.

R.S. 17:271. Driver training required for certain adults; same purpose and use of same facilities as in program for children

A. The State Board of Education and the State Department of Education shall establish and

operate a driver education and training program in each parish of this state for adults. This program shall have the same ends and purposes as the driver education and training program for all children of secondary school age established and operated by the State Board of Education and the State Department of Education. The program shall consist of a course of not less than six hours of actual driving experience and thirty hours of classroom instruction which shall include training on railroad and highway grade crossing safety. In order to provide and operate the driver education and training program for adults, the State Board of Education and the State Department of Education shall use, insofar as is possible, the same facilities, instructors, driving simulators, equipment, visual and training aids and devices and all related materials as are used in the driver education and training program for all children of secondary school age. The State Board of Education shall prescribe such rules and regulations as are necessary and proper to provide for the conduct and operation of the driver education and training program for adults.

32:168. Equipment of locomotive with bell and whistle or horn, sounding of signals

- A. Every railroad company or person owning and operating a railroad in this state shall equip each locomotive engine with a bell and a whistle or horn which, under normal conditions, can be heard at a distance of not less than one quarter of a mile.**
- B. Except as specifically exempted by law, any person controlling the motion of an engine on any railroad shall commence sounding the audible signal when such engine is approaching and not less than one quarter of a mile from the place where such railroad crosses any highway. Such sounding shall be prolonged either continuously or by blasts of the whistle or horn to be sounded in the manner provided by the Uniform Code of Railroad Operation Rules until the engine has crossed the roadway, unless the distance from that crossing to the start of the movement or the distance between the crossings is less than one quarter mile, in which event such warning signals shall be sounded for the lesser distance. In cases of emergency said whistles or horn may be sounded in repeated short blasts.**
- C. The provision of this Section shall not apply to the Kansas City Southern railroad line which runs parallel to Perkins Road in the city of Baton Rouge.**

32:169. Cross buck, stop and warning signs

E. (1) A railroad company shall install a traffic control device or devices at a public railroad grade crossing pursuant to an agreement with the Department of Transportation and Development. Whenever the department determines that a particular traffic control device needs to be installed at a public highway railroad grade crossing, the railroad company shall cooperate with the department in the installation of such device or devices. In the case of a federally funded grade crossing project, the railroad company shall enter into an agreement with the department for the installation or upgrade of such traffic control device. A railroad company shall not be required to provide the non-federal share of costs involved in federally funded grade crossing improvement projects.

(2). (a) The Department of Transportation and Development, in cooperation with each parish superintendent of transportation, shall identify all public highway railroad grade crossings

located on state highways within one-half mile of any public or private elementary or secondary school. The department shall further identify such grade crossings that have active warning devices in place, whether such active warning devices include lights only or lights and cross-arms, and also identify the grade crossings that are scheduled to have active warning devices installed, and the grade crossings that do not have active warning devices in place.

(b) The survey shall be completed no later than February 1, 2003. A report of the survey shall be submitted to the Senate Committee on Transportation, Highways and Public Works and the House Committee on Transportation, Highways and Public Works no later than March 1, 2003. Beginning in 2004, the department shall file an annual report with the committees no later than March 1 of each year. The report shall contain but not be limited to the following information: the number of grade crossings located within one-half mile of any public or private elementary or secondary school; the number of affected grade crossing that have active warning devices in place; whether such active warning devices include lights only or lights and cross-arms; the number of affected grade crossings scheduled to have active warning devices installed; the expected dates of installation of active warning devices for those affected grade crossings; and the number of affected grade crossings that do not have active warning devices in place.

(c) After all grade crossings located within one-half mile of any public or private elementary or secondary school have been identified and the initial report has been filed, the department shall prioritize the affected grade crossings according to standards of the industry as set forth in the Railroad Grade Crossing Handbook. The department is authorized to use at least twenty-five percent of all federal or state funds available to the department for grade crossing upgrades to upgrade such affected grade crossings, each year, until all such affected grade crossings have been upgraded with active warning devices, including lights and cross-arms provided that such use complies with all other state and federal laws and regulations.

(3) A railroad company may install a traffic control device or make other improvements or modifications at a railroad grade crossing at its own expense under the following conditions:

- (a) When such crossing upgrade, improvement, or modification will improve the safety of the traveling public, train crew members, or train passengers.
- (b) When such crossing upgrade, improvement, or modification is needed due to the presence of hazardous conditions or certain operation factors or a combination of both
- (c) When such crossing upgrade, improvement, or modification is incidental to a railroad improvement project relating to track structures or train control systems.

(4) Any upgrade, improvement, or modification performed by a railroad company under the provisions of this Subsection shall comply with all conditions and requirements in the Manual on Uniform Traffic Control Devices.

F. Nothing in this Section shall relieve a railroad company of its responsibility to maintain safe crossings.

G. In any civil action to recover damages arising from or out of a railroad grade crossing accident, the survey and initial or annual reports of railroad grade crossing prepared pursuant to

Subsection (E) of this Section shall not be considered as comparative negligence and shall not be discoverable or admissible as evidence in any civil trial

32:170. Exemptions; Old Metairie railroad corridor; elimination of railroad liability.

B. (1) The provision of R.S. 32:168 requiring the sounding of a bell, whistle, or horn by a locomotive engine when it approaches a street or highway crossing shall not apply to crossing in the Old Metairie railroad corridor in Jefferson parish between Airline Highway and the 17th Street Canal when train activated flashing light signals and gates are installed and operating at those crossings, and such soundings in the corridor are hereby prohibited except in cases of emergency.

(2) After train activated flashing light signals or gates are installed and operating at crossing in the Old Metairie railroad corridor in Jefferson parish between Airline Highway and the 17th Street Canal, a railroad company or its employees shall not be liable to any person or other entity for civil damages for injury or death of person or damage to property which occur due to failure of an oncoming train to sound an audible warning approaching or at such crossings.

R.S. 32:171. Obedience to signal indicating approach to train

A. Whenever any person driving a motor vehicle approaches a railroad grade crossing under any of the circumstances stated in this Section, the driver of such vehicle shall stop within 50 feet, but not less than 15 feet from the nearest rails of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply within:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.

(3) A railroad train approaching within approximately 900 feet of the highway crossing emits a signal in accordance with R.S. 32:168, and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(5) A stop sign is erected at the approach to a railroad grade crossing.

B. No person shall stop a motor vehicle upon any railroad crossing.

C. No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed when an approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

D. No person shall drive any vehicle across any railroad crossing while the devices are flashing when an approaching railroad train is plainly visible and is in hazardous

proximity to such crossing.

- E. At any railroad grade crossing provided with railroad cross buck signs, without automatic, electric, or mechanical signal devices, crossing gates, or a human flagman giving a signal of the approach or passage of a train, the driver of a vehicle shall in obedience to the railroad cross buck sign, yield the right of way and slow down to a speed reasonable for the existing conditions and shall stop, if required for safety, at a clearly marked stopped line or , if no line within fifty feet but not less than fifteen feet from the nearest rail or the railroad and shall not proceed until he or she can do so safely. If a driver is involved in a collision at a railroad crossing or interferes with the movement of a train after driving past the railroad cross buck sign, the collision or interference is prima facie evidence of the driver's failure to yield the right of way.**

- F. Any person who violates any provision of this Section shall be fined as follows:**

 - (1) On first offense the fine shall be not more than one hundred seventy five dollars or imprisonment for not more than ninety days, or both. In addition, the person in violation shall be required to attend an Operation Lifesaver Course to be given by a certified Operation Lifesaver presenter within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of jurisdiction of the successful completion of the Operation Lifesaver Course.**
 - (2) On second and each subsequent offense the fine shall not be more than five hundred dollars or imprisonment for not more than ninety days, or both. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of jurisdiction of the successful completion of the Operation Lifesaver Course.**
 - (3) Any person who violates any provision of this section by racing a train to a railroad crossing and thereby causes immediate danger to any railroad crew member, the general public, or damage to any property in the immediate vicinity of the crossing shall be fined not more than one thousand dollars. In addition, the person in violation shall be required to attend a one-day safe driver's course designed by Operation Lifesaver within one hundred eighty days after the adjudication of the citation. It shall be the responsibility of the violator to notify the appropriate court of jurisdiction of the successful completion of the Operation Lifesaver Program.**
 - (4) If a violator fails to attend any safe driving courses pursuant to this Subsection, the department shall suspend such violator's driving privileges for a period of thirty days.**

- G. The governing authority of a municipality may enter into a cooperative endeavor agreement authorizing certified railroad law enforcement officers to assist in the enforcement of state laws and local ordinances pertaining to railroad grade crossings within its municipal limits.**

H. The operator, engineer, or conductor of any train is authorized to notify the appropriate law enforcement authority of any railroad grade crossing violation within thirty-six hours of the violation. The operator, engineer, or conductor shall report such violations by affidavit which shall contain the color, license number, and any other identifiable information from the vehicle involved in the violation. In addition to the affidavit, the law enforcement officer may rely upon other evidence of a grade crossing violation including photographic or video evidence. A law enforcement officer may issue a citation to the owner or driver of the vehicle, or in the case of a leased vehicle, the lessee or driver of the leased vehicle, on the basis of the information contained in the affidavit or photographic or video evidence. The owner of lessee shall not be cited if the vehicle had been stolen.

32:172 All vehicles must stop at certain railroad grade crossings

A. (1) The department shall determine highway grade crossings of railroads on state maintained highways or roads which are of particular danger to public safety and shall erect stop signs thereat.

(2) The department shall also make a preliminary determination of highway grade crossings of railroads on non-state maintained public highways or roads which are of particular danger to public safety which shall be made available to parishes and municipalities. The governing authorities of such parishes and municipalities may erect stop signs at such crossings.

(3) The department shall promulgate rules and regulations, not later than December 15, 1998. Which set forth criteria to determine those crossings which are particularly dangerous to include, but not be limited to. crossings where multiple collisions have occurred, crossings which are high profile crossings, and crossings with reduced sight distance or visibility. When such stop signs are erected, the driver of any vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of such railroad and shall proceed only upon exercising due care.

B. The opinions and final report of the department promulgated or published pursuant to this Section shall not be subject to any discovery or production nor be admissible evidence in any judicial proceeding in this state.

C. A decision of the department relative to the placement of a stop sign at a crossing which possesses any other warning device shall not be considered as presumptive or conclusive evidence of fault on the part of the state or its agents or any political subdivision or its agents.

D. Nothing in this Section shall relieve the railroad of its responsibility to maintain safe crossings and operate their trains in a safe manner.

32:173. Certain vehicles MUST STOP at all railroad grade crossings

A. The driver of any motor vehicle carrying passengers for hire, or of any school bus whether carrying any school child or not, or of any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall

stop such vehicle within 50 feet, but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track of any approaching train, and for signals indicating the approach of a train, except as hereinafter provided, and shall not proceed until he can do so safely. After stopping as required herein and upon proceeding when it is safe to do so the driver of any said vehicle shall cross only in such gear of the vehicle that there will be no necessity for changing gears while traversing such crossing and the driver shall not shift gears while crossing the track or tracks.

B. The driver of any school bus, in addition to the requirements of Sub-section A of this Section, after coming to a complete stop, as required by Sub-Section A of this Section, shall open the door of the school bus and shall leave it open while ascertaining that no train or other vehicle is approaching on the railroad track from either side and until immediately prior to proceeding across the railroad crossing.

C. No stop need be made at any such crossing where a police officer or traffic-control signal directs traffic to proceed.

32:174. Moving heavy equipment at railroad grade crossings

A. No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of 10 or less miles per hour or a vertical body or load clearance of less than $\frac{1}{2}$ inch per foot of the distance between any two adjacent axles or in any event of less than 9 inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this Section.

B. Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.

C. Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions, and shall not proceed until the crossing can be made safely.

D. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

32:175. Vehicles must yield at railroad grade crossings; exceptions

A. The driver or operator of a vehicle approaching a rail-highway grade crossing identified by the presence of a railroad cross buck sign shall slow down to a speed reasonable for the existing conditions, or shall stop if necessary, before entering the cross walk on the near side of the intersection or, in the event there is no cross walk, at a clearly marked stop line, or if none, then at the point nearest the intersecting rail of such railroad where the driver has a clear view of any

approaching train. The driver shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train. Having slowed or stopped in this manner, the driver shall yield the right of way to any approaching train and then shall proceed only upon exercising due care and upon being sure that it is safe to proceed.

B. The driver or operator of a vehicle need not yield at any such rail-highway grade crossing where a police officer or traffic-control signal directs traffic to proceed.

C. The provisions of this Section do not relieve drivers or operators of the responsibility to comply with the provisions of R.S. 32:171 and 32:173. (Added by Acts 1990, No. 143, R.S. 1, eff. 9/7/90)

32:176. Required notification of recording devices carried on railroad trains.

Immediately following a railroad crossing accident, the engineer or a responsible member of the crew, if the engineer is unable to provide the information, shall inform the law enforcement officer investigating such accident if the train possesses an event recorder which records and preserves any information which is relevant to the accident or may be of assistance in the investigation of the accident. Upon request of the law enforcement officer, the railroad or its representative shall provide, in a timely manner, any such information contained on the event recorder whose release is not prohibited by federal law, rule, or regulation

32:76. Further limitations on passing on the left

A. No vehicle shall at any time be driven to the left side of the highway under the following conditions:

- (1) when approaching the crest of a grade or upon a curve in the highway, where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
- (2) when approaching within 100 feet of or traversing any intersection or railroad grade crossing;
- (3) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

B. The foregoing limitations shall not apply upon a one-way roadway or a multiple-lane highway.

32:143. Stopping, standing or parking prohibited in specified places

A. No person shall stand, or park a vehicle, except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;

- (3) Within an intersection;**
- (4) Within 15 feet of a fire hydrant;**
- (5) On a cross walk;**
- (6) Within 20 feet of cross walk at an intersection;**
- (7) Within 20 feet upon the approach of any flashing beacon stop sign, or traffic control signal located at the side of a roadway;**
- (8) Between a safety zone and the adjacent curb, or within 20 feet of points on the curb immediately opposite the ends of a safety zone.;**
- (9) Within 50 feet of the nearest rail of a railroad crossing;**
- (10) Within 20 feet of the driveway entrance of any fire station, and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance, when properly posted;**
- (11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;**
- (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;**
- (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;**
- (14) At any place where official signs prohibit such;**
- (15) Any place where parking will obscure or obstruct visibility or any traffic control device.**

B. No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

32:251. Permission for operation; crossing railroad grade crossings; markings

- A. The owner or operator of a vehicle transporting flammable liquids shall not, except where he is protected by a flagman then on duty, cross any railroad without coming to a full stop, before reaching it, in such manner and for such time as to make certain that no train or other facility is approaching, as provided in R.S. 32:173. If the vehicle is transporting explosives, the operator shall proceed across the tracks only under the protection of a competent flagman furnished by the owner or himself. Under no circumstances whatever shall any vehicle transporting explosives carry as part of its load any other commodity or thing.**
- B. The commissioner is authorized to adopt regulations concerning the markings & identification of vehicles transporting explosives & flammable liquids.**

32:402.1 Driver education; required

A. No application for a license for the operation of a motor vehicle shall be received from any person seventeen years or older making application for the first time unless there is also submitted with the application, on a form approved by the secretary of the Department of Public Safety and Corrections, written evidence of the successful completion by the applicant of:

(1) A "driver education course", which shall include training of railroad and highway grade crossing safety, approved by the Department of Public Safety and Corrections or the Department of Education.

(2) A "pre-licensing training course" if a behind-the-wheel course is not completed. The pre-licensing training course shall consist of a minimum of six hours of instruction in the National Safety Council's defensive driving course, Louisiana's traffic safety laws, and substance abuse education, or shall be an equivalent course approved and certified by the Department of Public Safety and Corrections. The course shall include training of railroad and highway grade crossing safety. The secretary of the Department of Public Safety and Corrections shall adopt rules relating to the "pre-licensing training course." Oversight review of these rules shall be conducted by the House and Senate Committees on Transportation, Highways and Public Works.

32:402.2. Driver improvement program for remediation

The Department of Public Safety and Corrections, office of motor vehicles may approve court-ordered driver remediation courses or programs, in the same manner as "pre-licensing training courses" are approved in R.S. 32:402. 1 (A)(2). All such approved driver remediation courses or programs shall include instruction on railroad grade crossing safety. The department shall compile and maintain a list of all department-approved courses which shall be delivered to all persons who are decreed by a court to be traffic violators and who are ordered by a court to attend a driver improvement course for remediation purposes. The court shall allow a violator to select a course within the judicial district in which he resides if there is no court-approved driving course in such district provided that it is one of the courses on the department-approved list.

32:407 Application of minors; revocation

A. (2) Upon completion of a driver's education course approved by the Department of Public Safety and Corrections or the Department of Education and upon passing a visual examination and a road knowledge test, including rules of the road, signs and signals and not less than two questions relative to railroad and highway grade railroad safety, an applicant at least fifteen years of age, but less than seventeen years of age, applying for the first time may be issued a Class "E" learner's license. The license may be issued for a four-year period at the same fee as a Class "E" driver's license and must be maintained for at least ninety days prior to being converted to a Class "E" intermediate driver's license. The Class "E" learner's license shall authorize the holder to drive while being accompanied by a licensed parent, guardian, or adult at least age twenty-one or older.

32:408 Examination of applicants required; classes of licenses

A. (1) Except as otherwise provided, every applicant must pass a knowledge and skills test for a motor vehicle representative of the type of motor vehicle he operates or expects to operate, or provide evidence on a form approved by the department that he has successfully passed a driving or skills test administered by an authorized third party. In addition to the specialized knowledge and skills tests, each such examination shall include a test of the applicant's eyesight; his ability to understand highway signs regulating, warning, and directing traffic; his knowledge of railroad and

highway grade crossing safety; and his knowledge of all relevant traffic regulations.

(3) Each knowledge test for a Group “D” or “E” vehicle shall contain at least thirty items, exclusive of the number of items testing airbrake knowledge. Not less than two of the thirty items shall be relative to railroad and highway grade crossing safety. For each endorsement, the knowledge test and the airbrake component of the basic knowledge test shall contain a number of questions that is sufficient to test the applicant’s knowledge of the required subject matter with validity and reliability. The applicant for a Class “A”, “B”, “C”, “D”, or “E” license shall correctly answer at least eighty percent of the questions on each knowledge test in order to achieve a passing score on such knowledge test. To achieve a passing score on the skills test, an applicant for a Class “A”, “B”, “C”, “D”, or “E” license shall demonstrate that he can successfully perform all of the required skills. If an applicant for a Class “A”, “B”, or “C” commercial driver’s license scores less than eighty percent on the airbrake component of the basic knowledge test, the driver shall fail the airbrake component and, if the driver is issued a driver’s license, an airbrake restriction shall be indicated on the commercial driver’s license. If an applicant for a Class “A”, “B”, or “C” commercial driver’s license performs the skills test in a vehicle not equipped with air brakes, the driver shall have omitted the airbrake component of the skills test and, if the driver is issued a driver’s license, the airbrake restriction shall be indicated on the license.

H. (1) Information on how to obtain a driver's license and endorsements shall be included in manuals made available by the office of motor vehicles to applicants at a cost to be established by regulation. The information provided to the applicant shall include:

(h) The substance of the knowledge and skills which drivers must have for the different vehicle groups and endorsements. including information on railroad and highway grade crossing signage and safety procedures.

32:662.2 Operation of a locomotive engine under the influence of alcoholic beverages or controlled dangerous substances; implied consent to chemical tests; administering of test and presumptions

A.(1) Any person who operates a locomotive engine upon the railroad tracks of this state shall be deemed to have given consent, subject to the provisions of R.S. 32:662, to a chemical test or tests of his blood, breath, urine, or other bodily substance for the purpose of determining the alcoholic content of his blood and the presence of any abused or illegal controlled dangerous substance as set forth in R.S. 40:964 in his blood if he is involved in a collision at a railroad crossing at any roadway of this state alleged to have occurred when he was driving or in actual physical control of the locomotive engine while believed to be under the influence of an alcoholic beverage or any abused or illegal controlled dangerous substance as set forth in R.S. 40:964.

(2) The test or tests shall be administered at the direction of the law enforcement officer having reasonable grounds to believe the person to have been operating or in physical control of the locomotive engine while under the influence of either an alcoholic beverage or any abused or illegal controlled dangerous substance as set forth in R.S. 40:964. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered.

B. Any person who is dead, unconscious, or otherwise in a condition rendering him

incapable of refusal or who has been involved in a railroad crossing collision involving bodily injury or death shall be deemed not to have withdrawn the consent provided by Subsection A of this Section, and the test or tests may be administered subject to the provisions of R.S. 32:662.

C.(1) When a law enforcement officer requests that a person submit to a chemical test as provided for in this Section, he shall first read to the person a standardized form approved by the Department of Public Safety and Corrections. The department is authorized to use such language in the form as it, in its sole discretion, deems proper, provided that the form does inform the person of the following:

(a) His constitutional rights under *Miranda v. Arizona* and subsequent applicable jurisprudence.

(b) The consequences of his refusal to submit to the chemical test.

(c) The name and employing agency of all law enforcement officers involved in the detention, investigation, or arrest of the person.

(2) In addition, the law enforcement officer, after reading the form, shall request the arrested person to sign the form. If the person is unable or unwilling to sign, the officer shall certify that the arrestee was advised of the information contained in the form and that the person was unable to sign or refused to sign.

D. If a person refuses the request of the law enforcement officer to submit to a chemical test offered pursuant to the provisions of this Section, a test shall not be given without a court order. A written report shall be forwarded by the enforcement officer to the United States Department of Transportation. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime pursuant to the provisions of R.S. 14:98 and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal.

Acts 1998, 1st Ex. Sess., No. 81, §1.

32:1518 Reckless handling of hazardous materials

A. No person shall offer or accept for transportation, load or unload, or transport a hazardous waste or hazardous material as defined in R.S. 32:1502, in a manner that endangers or could endanger human life or health.

B. Any person who willfully violates this Section shall, upon conviction, be guilty of a felony and be fined or imprisoned in accordance with R.S. 32:1514(B) or may be subject to a civil penalty in accordance with R.S. 32:1512(A).

Added by Acts 1982, No. 327, §1. Acts 1985, No. 497, §1, eff. July 12, 1985; Acts 1992, No. 270, §1.

32:1520 Careless handling of hazardous material

A. Any person who offers or accepts for transportation, loads or unloads, or transports a hazardous material or a hazardous waste in a careless or imprudent manner without regard for the hazards of the material or the circumstances of such actions shall be guilty of careless handling.

B. Any person who violates this Section shall, upon conviction, be guilty of a misdemeanor and be fined or imprisoned in accordance with R.S. 32:1514(A) or may be civilly penalized in accordance with R.S. 32:1512(A).

Acts 1984, No. 327, §2; Acts 1992, No. 269, §1.

48:386. Repairs to railway grade crossings and crossing warning devices; responsibility on railroads

A. Whenever a highway crosses a railroad track at grade, and the grade crossing needs repair and should, in the judgment of the chief engineer or his duly authorized representative, be repaired, and if, after fifteen days notice in writing, the railroad company whose tracks are crossed thereby fails to repair it, the department may make the repairs and maintain the crossing and charge the expenses thereof to the railroad company.

B. Whenever a warning device located at a railroad crossing needs repair or is not being maintained in compliance with federal guidelines and should, in the judgment of the chief engineer or his duly authorized representative, be repaired or receive maintenance, written notice of the necessity of such repair or maintenance shall be given to the railroad company owning the track at which the device is located. If the railroad does not proceed with the repair or maintenance within thirty days after receipt of the notice, the department may initiate the performance of the repair or maintenance of the warning device and charge the expenses thereof to the railroad company.

48: 386.1, relative to railroads; to provide for the maintenance of railroad rights of way; to provide for definitions; to provide for notice for failure to maintain rights of way; to provide for fines; to provide for limitation of liability; and to provide for related matters.

A. As used in this Section, the following definitions shall apply;

(1) "Maintenance length" means a distance of three hundred feet on each side of the centerline of the public road or highway.

(2) "Maintenance width" means a distance of fifty feet on each side of the centerline between the rails or the width of the operating right of way, whichever is shorter. The measurement for grade crossings with multiple tracks shall be from the centerlines of the outside tracks.

(3) "Structures and other obstructions" means man-made items placed within the required maintenance area but shall not include:

- a) Any device or structure which is necessary for the safe operation of the railroad.**
- b) Any device or structure which is necessary for the safe operation of a motor vehicle.**
- c) Any device or structure installed by any governing authority having regulatory authority over the public road or highway.**
- d) Fences.**
- e) Any device or structure legally placed by public utility or telecommunication**

companies.

f) Any permanent structures or buildings in existence prior to June 1, 2002.

(4) "Vegetation" means grass, high weeds, brush, climbing vines, shrubbery and trees.

B. In addition to the requirements set forth in R.S. 45:323, all railroad companies operating in this state shall maintain their rights of way at any public road or highway railroad grade crossing that is not protected by an active warning device that includes lights and crossarms, in such a manner that the vegetation and structures and other obstructions do not obstruct the view of motorists approaching such public road or highway railroad grade crossing.

C. Railroad companies shall cut vegetation and remove structures and other obstructions that obstruct the view of the operator of any motor vehicle approaching any public road or highway railroad grade crossing that is not protected by an active warning device that includes lights and cross-arms, from either direction and that are located within the maintenance width and maintenance length of the crossing.

D. (1) The Department of Transportation and Development may periodically inspect and evaluate all state highway railroad grade crossings on state highways to determine whether such grade crossing are maintained in compliance with the provisions of this Section. If the Department of Transportation and Development determines that a particular grade crossing is not in compliance with the provisions of this Section, the department shall inform the parish or municipal governing authority in whose jurisdiction the crossing is located of such determination and the respective governing authority shall notify the respective railroad company.

(2) Each parish or municipal governing authority may periodically inspect and evaluate all non-state public road or highway railroad grade crossings located within its jurisdiction to determine whether such grade crossings are maintained in compliance with the provisions of this Section. If a parish or municipal governing authority determines that a particular grade crossing is not in compliance with the provisions of this Section, the governing authority shall notify the respective railroad company.

(3) Every notification to a railroad company, as authorized under the provisions of this Subsection, shall be in writing transmitted by certified mail, return receipt requested, to the person listed as the registered agent of the railroad company for service of process.

(4) Every railroad company who fails or refuses to maintain, or to cause a grade crossing to be in compliance with the provision of this Section within fifteen working days after receipt of notifications, as provided in this Subsection, shall be subject to a civil fine of not less than one hundred dollars for each day of the violation after receipt of the notification subject to a maximum fine not to exceed a total of five thousand dollars, payable to the appropriate parish or municipal governing authority.

E. In any civil action to recover damages arising from or out of a railroad grade crossing accident, the failure of the Department of Transportation and Development or any parish or

municipal governing authority to inspect and evaluate a public road or highway railroad grade crossing and notify a railroad company of non-compliance, as provided for in Subsection D of this Section, shall not be considered as comparative negligence and shall not be discoverable or admissible as evidence in any civil trial.

48:386.2 The provisions of this Act shall not be enforceable for any purpose until one hundred and twenty days after the effective date of this Act so as to allow the railroad companies operation in this state to bring the affected public highway railroad grade crossing into compliance with the provisions of this act. The Department of Transportation and Development shall immediately notify each railroad company operation in this state of the enactment of this Act by serving a copy of this Act on the registered agent for service of process of each railroad company by certified mail, return receipt requested.

48:387. Contributions by the Department of Highways to the maintenance of flashing light signals at railroad crossings; conditions

The Department of Transportation and Development may, to the extent that the legislature appropriates funds therefore, make payments to railroads, whose railroad grade crossings across state highways are or shall hereafter be marked by the installation of flashing light signals, for not more than one-half the cost of maintenance of such flashing light signals during the fiscal year for which the funds are appropriated.

48:389. Railroad traffic; certain speed restrictions

A. In accordance with the Federal Railroad Safety Act (FRSA), 45 USC 421 et seq., specifically Section 434 thereof, the Department of Transportation and Development is authorized to establish speed restrictions for railroad traffic on a segment of railroad track within the corporate limits of a municipality when such speed restriction is necessary to eliminate or reduce an essentially local safety hazard.

B. To enable the department to exercise the authority conferred upon it by Subsection A, the governing body of the municipality seeking to restrict the speed of railroad traffic shall submit to the department a request, in writing, setting forth the unique characteristics of the essentially local safety hazard that is sought to be eliminated or reduced by the imposition of a local speed restriction.

C. Upon receipt of a request from a municipal governing authority, the department shall notify the railroad company affected of the request and furnish it with a copy of the request. The department shall conduct an evidentiary fact-finding hearing prior to proposing any rule under the authority of this Section. Within thirty days after the public hearing, the department shall publish its report and identify the unique characteristics of the local safety hazard sought to be eliminated or reduced by a speed restriction on railroad traffic, together with its findings that such speed restriction.

- (1) Is being imposed at a location which contains a unique and distinctive essentially local situation which is not statewide in character.
- (2) Will eliminate or reduce an essentially local safety hazard
- (3) Is not incompatible with any federal law, rule, regulation, order, or standard
- (4) Will not create an undue burden on interstate commerce
- (5) Will not create a safety hazard which is different from the essentially local safety hazard which the speed restriction is designed to reduce or eliminate

D. If after the public hearing the department determines there is a need for such requested speech restriction, it shall proceed to adopt a rule imposing same. Any speed restriction imposed upon railroad traffic by rule of the department shall set forth the duration of the restriction, which duration shall not exceed the time required to eliminate or reduce the unique local safety hazard.

E. If after the public hearing the department determines there is no need for such requested speed restriction, it shall so advise the affected parties of its determination

F. Any party being aggrieved by the findings, the determination, or the adoption of any rule by the department shall have the right to contest such findings, determination, or rule in any court of competent jurisdiction.

G. The department shall comply with the provisions of the Administrative Procedure Act in implementing the provisions of this Section

48:390. Railroad grade crossing elimination

A. No later than March 1, 1999, the secretary shall complete a study to establish priorities for railroad grade crossing closures in compliance with federal guidelines and shall develop a prioritized plan for implementing railroad grade crossing closures. The priority list shall be annually revised to reflect any changes made under the provisions of this Section.

B. The department, when it determines that it is necessary for the safety of the public, may change the location of or abolish any existing public grade crossing on any state-maintained highway in the state in compliance with the following procedure:

(1) Not less than one hundred and eighty days prior to the closure of any public grade crossing, the department shall notify the municipal governing authority of the area in which the crossing is located, the governing authority of the parish in which the crossing is located, the railroad company whose railroad tracks are crossed at grade by the highway, emergency services providers providing services within the affected area, and any other party deemed by the secretary to be interested in the closure procedure. Such notification of closures shall offer opportunity for rebuttals and alternative actions to such closures.

(2) Not less than ninety days prior to the possible closure of any public grade crossing, the department shall hold a public hearing in the parish or municipality of the affected grade crossing.

(3) After the hearing, the department shall attempt to address any concerns raised at the hearings relative to the proposed closing. However, if the secretary determines that the closure is consistent with the standards established by the department and in the public interest, the

department shall issue an order to close the existing grade crossing. Any such closure order shall also determine the manner in which such closure shall be made including a determination as to any alteration to be made to the crossing and the method of diversion of traffic to an alternate road or crossing. No provisions of this Act shall impose any liabilities of any nature upon the state of Louisiana or any agency thereof.

C. Any local governing authority which opposes the closure of a grade crossing within its territorial jurisdiction may agree to undertake the upgrading of warning devices and additional safety alternatives in compliance with requirements determined by the department as an alternative to the proposed closing. The expense of the alternative upgrade of the crossing shall be done by the local governing authority.

D. At the written request of any local governing authority, the department shall investigate the need to change the location of or abolish a railroad grade crossing within the jurisdiction of such governing authority and which is not on a state-maintained roadway. After compliance with the provisions of this Section, the department may, upon determination of the need for closure of the crossing, proceed with the relocation or abolishment of the crossing. The application by the local governing authority shall constitute the consent of the authority for such closing.

E. The department, subject to the provisions of the Administrative Procedure Act, shall promulgate rules and regulations to implement the provisions of this Section. The rules and regulations shall include specific criteria for the closure of grade crossings. The following factors shall be considered in developing closure criteria:

- (1) Total number of daily vehicular use at crossing.
- (2) Total number of trains passing the crossing daily.
- (3) Alternative routes and distance to such routes.
- (4) Timetable speeds of trains passing the crossing.
- (5) Collision history of the crossing.
- (6) Type of warning device presently at the crossing.
- (7) Degree of difficulty involved in improvement of roadway approach to the crossing or in providing adequate warning devices.
- (8) Use of the crossing by vehicles carrying hazardous materials, vehicles carrying passengers for hire, and school buses.
- (9) Use of grade crossing by emergency vehicles.
- (10) Sight distance and reduced visibility at the crossing.
- (11) Angle of intersection of alignments of the roadway and the railroad. Redundancy of crossings in the area.
- (12) Proximity to a new crossing or a recently upgraded crossing.
- (13) Availability and responsibility of user of private crossings.
- (14) Other factors the department determines to be necessary in the development of this criteria.

48:391. Obstruction of railroad grade crossings

A. (1) It shall be unlawful for any train, railroad car or equipment, or engine to obstruct vehicular traffic at a public highway railroad grade crossing for a period in excess of twenty consecutive minutes, except when such train, railroad car or equipment, or engine is moving or when such movement is prevented by any of the following:

- (a) A power brake failure or other mechanical failure.**
- (b) Enforcement of the Hours of Service Act.**
- (c) Derailment or other accident.**
- (d) A directive of the Federal Railway Administration.**
- (e) Circumstances over which the railroad company or carrier has no reasonable control, such as a natural disaster or acts of third parties.**

(2) No employee performing his duties under the operating rules or orders of the railroad company or carrier or its supervisory personnel shall be prosecuted for any violation of this Section.

(3) Any rail carrier violating the provisions of Paragraph (1) of this Subsection shall be fined as follows:

(a) If the duration of the obstruction is in excess of twenty minutes, but not longer than twenty-five minutes, the fine shall be not less than two hundred dollars nor more than five hundred dollars.

(b) If the duration of the obstruction is in excess of twenty-five minutes, but not longer than thirty minutes, the fine shall be five hundred dollars.

(c) If the duration of the obstruction is in excess of thirty minutes, but not longer than thirty-five minutes, the fine shall be seven hundred dollars.

(d) If the duration of the obstruction is in excess of thirty-five minutes, but not longer than forty minutes, the fine shall be nine-hundred dollars.

(e) If the duration of the obstruction is in excess of forty minutes, but not longer than forty-five minutes, the fine shall be one thousand dollars.

(f) If the duration of the obstruction is in excess of forty-five minutes, the fine shall be one thousand dollars plus an additional five hundred dollars for each five minutes of obstruction in excess of forty-five minutes. However, the maximum fine shall not exceed five thousand dollars for an obstruction which occurs within a twenty-four hour period.

B. (1) Every railroad shall be operated in such a manner as to minimize obstruction of emergency vehicles at public highway grade crossings.

(2) Upon receiving notification from a law enforcement officer, member of a fire department, operator of an emergency vehicle, or a member of an emergency services provider that emergency circumstances require the clearing of a public highway railroad grade crossing, the members of the train crew of the train, railroad car or equipment, or engine blocking such crossing

shall immediately notify the appropriate railroad dispatcher of the pending emergency situation and request the clearing of such crossing, consistent with the safe operation of the train.

(3) Every railroad dispatcher or other person responsible for the movement of a train, railroad car or equipment, or engine in a specific area who receives notification that a train, railroad car or equipment, or engine is obstructing the movement of an emergency vehicle at any crossing within such area shall immediately notify the train crew through use of existing communication facilities. Upon notification, the train crew shall take immediate action in accordance with this Subsection.

C. (1) Any person riding upon a train, railroad car or equipment or engine which is running through or within this state who is accountable for the movement of the train, car or equipment, or engine shall keep on his person or upon the train, railroad car or equipment, or engine written identification of the person, corporation, firm, or agent by whom he is employed.

(2) It shall be the responsibility of any railroad company or carrier operating any railroad, engine, or wain within this state to inform the chief law enforcement officer of each parish or municipality in which they operate of the telephone numbers of the railroad dispatch center having jurisdiction over such railroad, engine, or train in the parish or municipality. The information shall be updated within forty-eight hours of any change, but no less than once every six months.

D. (1) Any railroad or public agency may, by formal application to the Department of Transportation and Development, request a variance from the requirements of this Section or have different regulations provided in connection with operation over a specific crossing where local conditions so require. The application shall list any public agencies within the geographic area or any railroads which may be affected by the variance and shall detail any previous steps which may have been taken in an attempt to reach an agreement on or alternative to the proposed variance.

(2) The department shall promulgate rules and regulations for the implementation and administration of the application process provided in this Subsection.

48:392 Obstruction of railroad grade crossings; moving trains

- A. (1) It shall be unlawful for any moving or non-moving train, railroad car or equipment, or engine to obstruct vehicular traffic at a public highway railroad grade crossing for a period in excess of twenty consecutive minutes.
- (2) No employee performing his duties under the operating miles or orders of the railroad company or carrier or its supervisory personnel shall be prosecuted for any violation of this Section.
- (3) Any rail carrier violating the provisions of Paragraph (1) of this Subsection shall be fined as provided for in R.S. 48:390(A)(3).

B. (1) Any railroad or public agency may, by formal application to the department, request a variance from the requirements of this Section or have different regulations provided in connection with operation over a specific crossing where local conditions so require. The application shall list any public agencies within the geographic area or any railroads which may be affected by the variance and shall detail any previous steps which may have been taken in an attempt to reach an agreement on or alternative to the proposed variance.

(2) The department shall promulgate rules and regulations for the implementation and administration of the application process provided in this Subsection.

TITLE 32 REGARDING HAZ MAT

§1514. Criminal penalties

A. Any person who violates any provision of this Chapter, or any regulation issued there under, shall, upon conviction, be guilty of a misdemeanor and be fined not more than one thousand dollars per day of violation or imprisoned for not more than one year, or both.

B. Any person who willfully violates any provision of this Chapter shall, upon conviction, be guilty of a felony and be fined not less than five thousand dollars nor more than ten thousand dollars per day of violation, or be imprisoned with or without hard labor for not less than five years nor more than ten years, or both.

Added by Acts 1979, No. 83,§ 1. Amended by Acts 1980, No. 603,§ 1, eff. July 23, 1980; Acts 1982, No. 539,§ 1. Acts 1984, No. 826,§ 2, eff. July 13, 1984, No. 333,§ 1, eff. Jan. 1, 1985.

§1515. Injunctions

A. If the secretary considers that an imminent hazard exists with respect to the transportation of a hazardous material, he may petition the district court in the parish in which the person sought to be enjoined resides or in the parish in which the danger exists for a restraining order to restrain that person from performing any act creating the hazard, or for any other order necessary to eliminate or ameliorate the hazard. Such actions may be taken without the necessity of posting bond, and actions taken by the secretary in good faith shall make him exempt from suit for civil damage.

B. For the purposes of this Section, an "imminent hazard" exists with respect to the transportation of hazardous materials, when the transportation may present an imminent and substantial endangerment to health or the environment.

Added by Acts 1979, No. 83,§ 1. Acts 1984, No. 826,§ 2, eff. July 13, 1984, No. 333,§ 1, eff. Jan. 1, 1985.

§1516. Driver qualifications

A. The secretary shall adopt and promulgate rules and regulations for the qualifications and licensing of each person driving, piloting, or otherwise in charge of any transport vehicle transporting hazardous material, freight or passengers or any material designated as hazardous waste under regulations issued in this state. Oversight review shall be conducted by the Joint Legislative Committee on Transportation, Highways, and Public Works. The regulations shall cover physical ability, a written examination, and an examination of the skill necessary for the operation or supervision of the transport vehicle.

B. No person having any disorder characterized by a lapse of consciousness or other mental or physical disability affecting the ability to drive or pilot safely shall be granted a license under this Section. The secretary of the Department of Health and Hospitals shall provide a medical evaluation and recommendation as to which disorders are characterized by a lapse of consciousness and which types of mental or physical disability will affect the ability of a person to drive or pilot safely. Based upon these recommendations the secretary shall adopt and promulgate a listing of disorders and disabilities which make a person ineligible to receive a license pursuant to this Section.

C.(1) No person shall operate or take part in operating, or be in physical control of a transport vehicle if he possesses, is under the influence of, or is using, any substance controlled under the Uniform Controlled Dangerous Substance Law (R.S. 40:963), nor may that person do so with any substance which renders him incapable of performing his duties.

(2) No carrier shall knowingly require or permit a person to violate this Section.

(3) The provisions of this Paragraph do not apply to the possession or use of a substance administered to a person by a physician or under the care of a physician when the physician has advised the person that the substance will not affect his ability to operate a transport vehicle.

(4) As used in this Section, "possession" does not include possession of a substance which is manifested and transported as part of a shipment.

D.(1) No person shall:

(a) Consume an intoxicating beverage, regardless of its alcoholic content, or be under the influence of an intoxicating beverage, within four hours of going on duty or operating, or participating in the operation of or having physical control of, a transport vehicle; or

(b) Consume an intoxicating beverage regardless of its alcoholic content, or be under the influence of an intoxicating beverage, while on duty, or operating, or participating in the operation of or in physical control of, a transport vehicle; or

(c) Be on duty or operate a transport vehicle while having in his possession an intoxicating beverage regardless of its alcoholic content. The provisions of this Paragraph do not apply to possession of an intoxicating beverage which is manifested and transported as part of a shipment.

(d) Be on duty, operate, or participate in the operation of a transport vehicle under the influence of alcohol.

(2) No carrier shall require or permit a person to:

(a) Violate any provision of Paragraph (a) of this Subsection; or

(b) Be on duty or operate a transport vehicle if, by the person's general appearance or conduct or by other substantiating evidence, the person appears to have consumed an intoxicating beverage within the preceding four hours or have alcohol in his system.

E.(1) With a reasonable suspicion, any officer of the office of state police may require anyone operating or participating in the operation of a transport vehicle to take a chemical test or tests of

his blood, breath, or urine to determine the alcohol content and/or content in his system of any Schedule I, II, III, IV, and V drugs, as defined in R.S. 40:964.

(2) Pursuant to rules and regulations promulgated by the Deputy Secretary of Public Safety refusal to submit to the chemical test may result in the loss for one year of the individual's privileges to operate a transport vehicle.

Added by Acts 1979, No. 83,§ 1. Amended by Acts 1980, No. 603,§ 1, eff. July 23, 1980; Acts 1984, No. 333,§ 1, eff. Jan. 1, 1985; Acts 1985, No. 113,§ 1, eff. June 29, 1985; Acts 1985, No. 497,§ 1, eff. July 12, 1985.

§1518. Reckless handling of hazardous materials

A. No person shall offer or accept for transportation, load or unload, or transport a hazardous waste or hazardous material as defined in R.S. 32:1502, in a manner that endangers or could endanger human life or health.

B. Any person who willfully violates this Section shall, upon conviction, be guilty of a felony and be fined or imprisoned in accordance with R.S. 32:1514(B) or may be subject to a civil penalty in accordance with R.S. 32:1512(A).

Added by Acts 1982, No. 327,§ 1. Acts 1985, No. 497,§ 1, eff. July 12, 1985; Acts 1992, No. 270,§ 1.

§1520. Careless handling of hazardous material

A. Any person who offers or accepts for transportation, loads or unloads, or transports a hazardous material or a hazardous waste in a careless or imprudent manner without regard for the hazards of the material or the circumstances of such actions shall be guilty of careless handling.

B. Any person who violates this Section shall, upon conviction, be guilty of a misdemeanor and be fined or imprisoned in accordance with R.S. 32:1514(A) or may be civilly penalized in accordance with R.S. 32:1512(A).

Acts 1984, No. 327,§ 2; Acts 1992, No. 269,§ 1.

(3) Any person making a delivery, soliciting, selling any product or service, conducting a survey or poll, a real estate licensee or other person who has a legitimate reason for making a delivery, conducting business or communicating with the owner, lessee, custodian or a resident of the immovable property, and who, immediately upon entry, seeks to make the delivery, to conduct business or to conduct the communication.

(4) An employee of the owner, lessee or custodian of the immovable property while performing his duties, functions and responsibilities in the course and scope of his employment.

(5) The owner of domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock.

(6) The owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person.

(7) Any candidate for political office or any person working on behalf of a candidate for a political office.

(8) The owner or occupant of a watercraft or vessel traveling in salt water engaged in any lawful purpose for the purpose of retrieval of his property or for obtaining assistance in an emergency situation.

G. The following penalties shall be imposed for a violation of this Section:

(1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both.

(2) For the second offense, the fine shall be not less than three hundred dollars and not more than seven hundred fifty dollars, or imprisonment for not more than ninety days, or both.

(3) For the third offense and all subsequent offenses, the fine shall be not less than five hundred dollars and not more than one thousand dollars, or imprisonment for not less than sixty days and not more than six months, or both, and forfeiture to the law enforcement authority of any property seized in connection with the violation.

(4) A person may be convicted of a second offense and any subsequent offenses regardless of whether any prior conviction involved the same structure, watercraft, movable or immovable property and regardless of the time sequence of the occurrence of the offenses.

H. The provisions of any other law notwithstanding, owners, lessees, and custodians of structures, watercraft, movable or immovable property shall not be answerable for damages sustained by any person who enters upon the structure, watercraft, movable or immovable property without express, legal or implied authorization, or who without legal authorization, remains upon the structure, watercraft, movable or immovable property after being forbidden by the owner, or other person with authority to do so; however, the owner, lessee or custodian of the property may be answerable for damages only upon a showing that the damages sustained were the result of the intentional acts or gross negligence of the owner, lessee or custodian.

I. A minor ten years old or younger shall not be arrested, detained or apprehended for the crime of trespass.

Amended by Acts 1960, No. 458, §1; Acts 1964, No. 497, §1; Acts 1981, No. 78, §1, eff. Jan. 1, 1982; Acts 1990, No. 870, §1, eff. Jan. 1, 1991; Acts 1991, No. 438, §1; Acts 1993, No. 887, §1; Acts 2003, No. 279, §3; Acts 2003, No. 802, §1.