

CHAPTER 219

COMMON CARRIERS; RAILROADS;
REGULATIONS, LIABILITIES

219.39 Dangerous crossings; complaints; hearings.
219.40 Determination; order; flagmen or safety device.

219.741 Application for removal.
219.761 Locomotive fires; reimbursement for extinguishment.

219.39 DANGEROUS CROSSINGS; COMPLAINTS; HEARINGS.

Upon written complaint authorized by the governing body of any city or county, or by the board of supervisors of any town, or authorized officers of a subject railroad, alleging that any railroad crossing with any street, road or highway in the city, town or county is dangerous to life and property, and giving the reasons therefor, the commissioner shall investigate the matters contained in the complaint, and, where necessary, initiate a hearing before the board.

History: *1Sp1981 c 4 art 2 s 21*

NOTE: The amendment to this section by First Special Session Laws 1981, Chapter 4, Article 2, Section 21 is effective July 1, 1983. See First Special Session Laws 1981, Chapter 4, Article 2, Section 25 and Laws 1980, Chapter 534, Section 87 as amended by Laws 1981, Chapter 357, Section 108.

219.40 DETERMINATION; ORDER; FLAGMEN OR SAFETY DEVICE.

If a complaint is made under section 219.39, the board shall determine after investigation by the commissioner or after hearing whether the crossing is hazardous and may require the railroad company to provide flagmen at the crossing, or to adopt safety devices as the board may deem necessary for the proper protection of the crossing, or may require the removal of any structure, embankment or other obstruction to the view, or may require the crossing complained of or other crossing in the vicinity thereof closed, or it may require the railroad company to construct an overhead or maintain an underground crossing and divide the cost thereof between the railroad company, the town, county, municipal corporation, or state transportation department interested, on terms and conditions as may seem just and equitable. The board may require the complaining city, town, or county to remove any embankment, structure or other obstruction to the view as may be reasonable and necessary to properly protect the crossing. If the complainant road authority, or the railroad files exceptions to an order of the board made under this section without a hearing, the board shall convene a hearing on the original complaint. If the board or its designee after notice and hearing orders the installation of a safety device, or the construction, reconstruction, modernization or replacement of major parts, as defined by rule of the board, of said safety device, gates, or other type of special protection, or the removal of a structure, embankment or other obstruction to the view, or orders the construction, reconstruction or maintenance of an underground or overhead crossing on any public road, street, or highway, it may in the same order direct that the costs thereof be divided between the railroad company and the public authority involved on the basis as the parties may agree, or, if they fail to agree, then the costs thereof shall be as determined by the board on the basis of benefit to the users of each; or the board may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken. Where a state trunk highway is involved, the state's share of the costs shall be paid from any funds available to the department of transportation. In all other cases the public's share of the costs shall be paid from available funds or from the trunk highway fund, if ordered by

the board or from any combination of the above or other available funds; provided that any highway, street or road fund shall only be expended for the costs on a highway, street or road within the political subdivision charged with the maintenance and care thereof and only upon the highways, streets or roads for which the fund was allocated, or for which the fund was created. Any crossing safety devices or improvements installed or maintained under provisions of this chapter as approved by the board, whether by order or otherwise, shall be deemed adequate and appropriate protection for the crossing.

History: *1Sp1981 c 4 art 2 s 22*

NOTE: The amendment to this section by First Special Session Laws 1981, Chapter 4, Article 2, Section 22 is effective July 1, 1983. See First Special Session Laws 1981, Chapter 4, Article 2, Section 25 and Laws 1980, Chapter 534, Section 87 as amended by Laws 1981, Chapter 357, Section 108.

219.741 APPLICATION FOR REMOVAL.

Any railroad company desiring to abandon, close for traffic, or remove any of its tracks described in section 219.681 shall first make application to the board in writing. Before passing upon application the board shall provide the opportunity for a hearing after public notice and, if it so determines, shall fix a time and place for hearing, and a notice of the hearing shall be served upon all interested persons so far as known to the board.

History: *1Sp1981 c 4 art 2 s 23*

NOTE: The amendment to this section by First Special Session Laws 1981, Chapter 4, Article 2, Section 23 is effective July 1, 1983. See First Special Session Laws 1981, Chapter 4, Article 2, Section 25 and Laws 1980, Chapter 534, Section 87 as amended by Laws 1981, Chapter 357, Section 108.

219.761 LOCOMOTIVE FIRES; REIMBURSEMENT FOR EXTINGUISHMENT.

Subdivision 1. Any railroad operating in Minnesota shall be liable for all reasonable expenses of extinguishment when a fire or fire hazard emergency is proximately caused by a railroad locomotive, rolling stock, or employees on a railroad right-of-way or operating property. If the fire department of a local government or nonprofit fire fighting corporation extinguishes a fire or fires arising from one occurrence and deems that it is entitled to reimbursement for its expenses, it shall within 60 days after the first full day after extinguishment, give the railroad written notice by mail which shall state the circumstances of the fire as then known. The notice may be given to the railroad at any address at which the owner has an office, agent or other place of business in this state. The date of the mailing shall be the date of service of the notice.

If after notice and claim for reimbursement, the railroad working the right-of-way refuses to reimburse the local government or nonprofit fire fighting corporation for expenses incurred, the claimant may recover by civil action reasonable expenses, costs, disbursements, and attorney's fees.

[For text of subds 2 and 3, see M.S.1980]

History: *1981 c 32 s 2*