

Wisconsin Railroad Enforcement Guide



**OPERATION
LIFESAVER**

Wisconsin



Railroad Emergency Phone Numbers

Amtrak

(800) 331-0008

Burlington Northern Santa Fe

(800) 832-5452

Canadian National

(800) 465-9239

Canadian Pacific Railway

(800) 716-9132 or

(800) 766-4357

East Troy Railroad

(414) 534-7175 (*Ryan Jonnes*) or

(262) 642-3263

Escanaba and Lake

Superior Railroad

(906) 280-2513 (*Bob Anderson*) or

(906) 774-9684 (*after hours*) or

(906) 542-3214

Iowa Chicago and

Eastern Railroad

(*Canadian Pacific Railway*)

(800) 339-1080

Mid-Continent Railroad

(800) 930-1385 or

(608) 522-4261 (*emergency*)

Progressive Rail

Wisconsin Northern Division

(715) 382-3257 (*Pat Siverling*) or

(715) 379-4686 (*signal problems*)

Tomahawk Railway

(715) 453-2303 or

(715) 966-0500 (*Susie Klinger*) or

(715) 966-0675

Union Pacific Railroad

(800) 848-8715 (*signal problems*)

(888) 877-7267 (*emergency*)

Wisconsin and

Southern Railroad

(414) 434-0376 (*emergency*)

Wisconsin Great

Northern Railroad

(715) 635-3200

(715) 635-7237 (*after hours*)

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Operation Lifesaver and The purpose of this guide

Operation Lifesaver is an active, continuing public education and awareness program dedicated to ending tragic collisions, fatalities and injuries at highway railroad grade crossings and railroad rights-of-way. The three areas of concentration are education, engineering, and enforcement. To meet its lifesaving goals, the program strives to increase public awareness of the highway-rail grade crossing environment and the dangers of trespassing on railroad rights-of-way.

If existing laws governing motorist responsibilities at grade crossings and trespassing along railroad rights-of-way are not enforced, they will be ignored and broken. State and local law enforcement agencies are urged to partner with Operation Lifesaver by helping to change the behavior of those who choose to disregard the laws and jeopardize their lives as well as the lives of others.

The purpose of this guide is to assist law enforcement officers by providing information on federal, state and local laws relating to public safety around railroads. Information is also provided regarding emergency notification phone numbers, stopping of trains and grade crossing collision investigation procedures.



Wisconsin Operation Lifesaver, Inc.

Applicable Wisconsin Statutes

Wisconsin Motor Vehicle Statutes

340.01 Words and phrases defined. In s.23.33 and chs.340 to 349 and 351, the following words and phrases have the designated meanings unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- (25)** "Intersection" means the area embraced within the prolongation or connection of the curb lines or, if none, then within the boundary lines of the roadways of 2 or more highways which join one another at, or approximately at right angles, whether or not one such highway crosses the other, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.
- (35)** "Motor vehicle" means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. A snowmobile, an all-terrain vehicle, and a utility terrain vehicle, and an electric personal assistive mobility device shall be considered motor vehicles only for purposes made specifically applicable by statute.
- (41)** "Operator" means a person who drives or is in actual physical control of a vehicle.
- (47)** "Railroad crossing" means the intersection of any highway or private road or driveway at grade with tracks upon which railroad track equipment or railroad trains operate.
- (47m)** "Railroad track equipment" means a device that is operated on rails and used primarily for the maintenance of railroads.
- (48)** "Railroad train" means every device with or without engine or motor and whether or not coupled to other similar devices, operated upon rails for the transporting of persons or property.

(74) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except railroad trains. A snowmobile, an all-terrain vehicle, and an electric personal assistive mobility device shall not be considered a vehicle except for purposes made specifically applicable by statute.

Wisconsin Criminal Statutes

939.22 Words and phrases defined. In chs. 939 to 948 and 951, the following words and phrases have the designated meanings unless the context of a specific section manifestly requires a different construction or the word or phrase is defined in s. 948.01 for purposes of ch. 948:

(44) "Vehicle" means any self-propelled device for moving persons or property or pulling implements from one place to another, whether such device is operated on land, rails, water, or in the air.

Wisconsin Railroad Regulations

192.17 Arrest of passenger; police power of conductors. If it shall become necessary for the protection of the passengers on any railroad car from the violent, abusive, profane or indecent language or conduct of any passenger, the conductor may arrest such passenger and keep the passenger in the baggage car or some other safe and secure place on such train until its arrival at some usual stopping place, when the passenger may be put off the train and given into the custody of some officer for prosecution; and for this purpose conductors, while in charge of trains, may exercise the powers of sheriffs.

192.29 Train bells and crossing signs at street and highway crossings.

(3) Bell to ring, municipal authority.

(a) No railroad train or locomotive shall run over any public traveled grade crossing within any city or village, except where gates are operated, or a flagman is stationed, unless the engine bell shall be rung continuously within 330 feet of the crossing and until the crossing is reached.

(b) Flagmen or gates shall be placed and maintained, or such mechanical safety appliances shall be installed upon such public traveled grade crossings in villages and cities as the city or village authorities and the railroad company may by agreement decide; such agreement may include the apportionment of the cost of installation of such mechanical devices.

(4) Highways, Bell. No railroad train or locomotive shall run over any public traveled grade highway crossing outside of the limits of municipalities unless the engine bell shall be rung continuously from 1,320 feet before the crossing until the crossing is reached. But the office may order that the ringing of the bell as required by this subsection shall be omitted at any crossing.

(5) Railroad crossing and yield signs.

(a) Wherever its track crosses a public highway or street, every railroad corporation shall maintain on each side of the track a highway-rail-grade crossing sign, commonly known as a crossbuck sign, that conforms with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e).

(b) No later than July 1, 2007, at every railroad crossing at which a railroad corporation is required to maintain a sign described in par. (a) and that is not controlled by a gate, automatic signal, or official stop sign, the railroad corporation shall install and maintain, below the sign described in par. (a), a yield sign that conforms with the manual of uniform traffic control devices adopted by the department under s. 84.02 (4) (e).

(6) Contact Information at Private Crossings.

A Railroad company shall make a notice containing a telephone number at which a person may contact the company available to private landowners at each private traveled grade crossing at the request of the private landowner. The notice shall be large enough to be visible from the crossing.

FEDERAL RAILROAD ADMINISTRATION (FRA), which enforces rail safety regulations, published the final rule on the issue of locomotive horns at highway-rail grade crossings. Effective June 24, 2005, the rule requires that the locomotive horn be sounded at all public grade crossings.

Train Horn Regulation

Outside of quiet zones, railroads must sound the horn 15 to 20 seconds prior to a train's arrival at the highway-rail grade crossing, but no more than one-quarter mile in advance of the crossing. This rule has superseded state and local laws regarding sound of the horn and bell. The officer should recognize that train speed will determine how far from the crossing the horn will be sounded. As an example, a train moving at 10 mph may sound the horn as close as 300 feet from the crossing, while a train traveling over 45 mph may sound the horn 1,320 feet from the crossing (CFR Title 49, Part 222.) Where required by state statute or other circumstances, trains may sound the horn at private crossings.

Quiet Zones

Trains are required to sound their horns and bells at all public grade crossings, and in special circumstances, may also have to sound horns and bells at private crossings. However, there are some exceptions. The FRA has established a procedure whereby a public authority may establish a "quiet zone" where train horns will not be routinely sounded. Even in a quiet zone if a train crew observes a hazardous condition they may sound the horn at their discretion (CFR Title 49, Part 222).

The pattern for blowing the horn remains two long, one short and one long. This is to be repeated as necessary until the lead locomotive fully occupies the crossing. Locomotive engineers retain the authority to vary this pattern as necessary for crossings in close proximity and are allowed to sound the horn in emergency situations no matter where the location.

192.292 Trains obstructing highways. It shall be unlawful to stop any railroad train, locomotive or car upon or across any highway or street crossing, outside of cities, or leave the same standing upon such crossing longer than 10 minutes, except in cases of accident; and any railroad company that shall violate this section shall be liable to a fine of not more than \$500 or any officer of such company responsible for the violation shall be liable to imprisonment of not more than 15 days.

192.32 Trespassing on railroad.

(1) No person, other than a licensee, authorized newspaper reporter or person connected with or employed upon the railroad, may walk, loiter or be upon or along the track of any railroad. The provisions of this subsection shall not be construed to do any of the following:

(a) To interfere with the lawful use of a public highway by any person.

(b) To prevent any person from driving across any railroad from one part of that person's land to another part thereof.

(d) To interfere with the use of the right-of-way or track by any person in connection with, either directly or indirectly, the shipping, loading or unloading of freight, seeking employment, the investigation or securing of evidence with respect to any accident or wreck or in conducting or transacting any other business for or with the railroad.

(e) To interfere with the entry of any employee during or on account of labor disputes by employees.

(2) Each railroad corporation shall post notices containing substantially the provisions and penalties of this section, in one or more conspicuous places in or about each railroad station.

192.321 Getting on and off cars. Any person who shall get upon, attempt to get upon, cling to, jump or step from any railroad car or train while the same is in motion shall forfeit not less than \$100 nor more than \$200, provided that this section shall not apply to the employees of any railroad company.

Code of Federal Regulations

49 U.S. CODE § 28101 - RAIL POLICE OFFICERS

(a) In General.— Under regulations prescribed by the Secretary of Transportation, a rail police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of any jurisdiction in which the rail carrier owns property, to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction, to protect—

- (1) employees, passengers, or patrons of the rail carrier;
- (2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;
- (3) property moving in interstate or foreign commerce in the possession of the rail carrier; and
- (4) personnel, equipment, and material moving by rail that are vital to the national defense.

(b) Assignment.— A railroad police officer employed by a railroad carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second railroad carrier in carrying out law enforcement duties upon the request of the second railroad carrier, at which time the police officer shall be considered to be an employee of the second railroad carrier and shall have authority to enforce the laws of any jurisdiction in which the second railroad carrier owns property to the same extent as provided in subsection (a).

PART 207—Railroad Police Officers

§207.3 Designation and commissioning.

- (a) A railroad may designate employees to be commissioned by a state authority as railroad police officers to serve in the states in which the railroad owns property.
- (b) The designated railroad police officer shall be commissioned by the railroad police officer's state of legal residence or the railroad police officer's state of primary employment.

Wisconsin Statute

192.47 Railroad police; oath; powers. Any railway company may, at its own expense, appoint and employ railroad police officers at the stations or other places on the line of its road within this state as it deems necessary for the protection of its property and the preservation of order on its premises and in and about its cars, depots, depot grounds, yards, buildings or other structures. Each police officer shall take an oath to support the constitution of the United States and claiming to be a citizen of the United States and shall file it with the office. Each police officer shall, when on duty, wear a shield furnished by the company bearing the words "Railroad Police" and the name of the company. These police officers may arrest, with or without warrant, any person who in their presence commits upon the premises of the company or in or about its cars, depots, depot grounds, yards, buildings or other structures any offense against the laws of this state or the ordinances of any town, city or village, and shall also have the authority of sheriffs in regard to the arrest or apprehension of these offenders in or about the premises or appurtenances. In case of the arrest, by a railroad police officer, of any person without warrant the officer shall immediately take the offender before a judge having jurisdiction and make complaint against the offender. Every railway company shall be responsible for the acts of its police officers.

943.07 Criminal damage to railroads.

(1) Whoever intentionally causes damage or who causes another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, tunnel or signal or any railroad property used in providing rail services, which could cause an injury, accident or derailment is guilty of a Class I felony.

(2) Whoever intentionally shoots a firearm at any portion of a railroad train, car, caboose or engine is guilty of a Class I felony.

(3) Whoever intentionally throws, shoots or propels any stone, brick or other missile at any railroad train, car, caboose or engine is guilty of a Class B misdemeanor.

(4) Whoever intentionally throws or deposits any type of debris or waste material on or along any railroad track or right-of-way which could cause an injury or accident is guilty of a Class B misdemeanor.

Wisconsin Highway-Rail Grade Crossing Traffic Statutes

341.05 When vehicles exempt from registration. A vehicle, even though operated upon a highway of this state, is exempt from registration if any of the following applies:

(6) The vehicle is operated exclusively upon stationary rails or tracks.

343.315 Commercial motor vehicle disqualifications; effects.

(2) Disqualifying offenses.

(j) A person is disqualified for a period of 60 days from operating a commercial motor vehicle if convicted of a railroad crossing violation, or 120 days if convicted of 2 railroad crossing violations or one year if convicted of 3 or more railroad crossing violations, arising from separate occurrences committed within a 3-year period while driving or operating a commercial motor vehicle. In this paragraph, "railroad crossing violation" means a violation of a federal, state, or local law, rule, or regulation, or the law of another jurisdiction, relating to any of the following offenses at a railroad crossing:

(1) If the operator is not always required to stop the vehicle, failing to reduce speed and determine that the tracks are clear of any approaching railroad train or railroad track equipment.

(2) If the operator is not always required to stop the vehicle, failing to stop before reaching the crossing if the tracks are not clear.

(3) If the operator is always required to stop the vehicle, failing to do so before proceeding onto the crossing.

(4) Failing to have sufficient space to proceed completely through the crossing without stopping the vehicle.

(5) Failing to obey any official traffic control device or the directions of any traffic officer, railroad employee, or other enforcement official.

(6) Failing to successfully proceed through the crossing because of insufficient undercarriage clearance.

346.10 When passing at a railroad crossing, intersection, bridge, viaduct or tunnel prohibited.

(1) The operator of a vehicle shall not overtake and pass any other vehicle proceeding in the same direction when approaching within 100 feet of or traversing any railroad crossing unless the roadway is of sufficient width for 2 or more lines of vehicles to lawfully proceed simultaneously in the direction in which such vehicle is proceeding or unless permitted or directed by a traffic officer to pass at such crossing.

346.41 Display of unauthorized signs and signals prohibited.

(1) No person shall place, maintain or display upon or in view of any highway or at or in view of any railroad crossing any unauthorized sign, light, reflector, signal, marking or device which:

(a) Purports to be or is an imitation of or resembles or may be mistaken for an official traffic sign or signal or railroad sign or signal; or

(b) Attempts to direct the movement of traffic; or

(c) Hides from view or by its color, location, brilliance or manner of operation interferes with the effectiveness of any official traffic sign or signal or railroad sign or signal.

346.44 All vehicles to stop at signal indicating approach of train.

(1) The operator of a vehicle shall not drive on or across a railroad crossing under any of the following circumstances:

(a) While any traffic officer or railroad employee signals to stop;

(b) While any warning device signals to stop, except that if the operator of the vehicle after stopping and investigating finds that no railroad train or railroad **track equipment** is approaching the operator may proceed.

(c) If any crossbuck sign specified under s.192.29 (5) (a) is maintained at the crossing, while any railroad train or railroad **track equipment** occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

(2) The operator of a vehicle shall not drive 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.

346.445 Limitations on pedestrians crossing railroad tracks.

(1) No pedestrian may enter or cross a railroad crossing under any of the following circumstances:

(a) While a traffic officer or railroad employee signals to stop.

(b) While a warning device signals to stop, except that if the pedestrian after stopping and investigating finds that no railroad train or railroad track equipment is approaching, the pedestrian may proceed.

(c) If any crossbuck sign specified under s. 192.29 (5) (a) is maintained at the crossing, while a railroad train or railroad track equipment occupies the crossing or approaches so closely to the crossing as to constitute a hazard of collision.

(2) No pedestrian may cross through, around, over, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

(3) No pedestrian may cross through or around or climb over or under a railroad train or railroad track equipment while the railroad train or railroad track equipment occupies a railroad crossing.

346.45 Certain vehicles to stop at railroad crossings.

(1) Except as provided in sub. (3), the operator of any of the following vehicles before crossing at grade any track of a railroad, shall stop such vehicle within 50 feet, but not less than 15 feet from the nearest rail of such railroad:

(a) Every motor bus transporting passengers.

(am) Every vehicle painted and displaying markings in accordance with s.347.44 (1). [i.e. School Buses]

(b) Every motor vehicle transporting any quantity of chlorine.

(c) Every motor vehicle which, in accordance with sub. (4), is required to be marked or placarded with a classification of marking or placarding that requires the vehicle to stop.

[Note: See page 27 for a list of examples.]

(d) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any liquid having a flashpoint below 200° Fahrenheit, as determined by the test method approved for that product by the American society for testing and materials.

(e) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by the same standard method of testing as prescribed in par. (d).

(f) Every vehicle transporting a building, as defined in s. 348.27 (12m) (a) 1.

(2) The operator of every vehicle required to stop before crossing any track shall listen and look in both directions along the track for any approaching railroad train or railroad track equipment, and shall not proceed until such precautions have been taken and until the operator has ascertained that the course is clear. Wherever an auxiliary lane is provided for stopping at a railroad, operators of vehicles required to stop shall use such lane for stopping.

(3) A stop need not be made at:

(a) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed.

(b) A railroad grade crossing when an official traffic control signal permits traffic to proceed.

(c) An abandoned railroad grade crossing with a sign indicating the rail line is abandoned.

(d) A railroad grade crossing which is marked with a sign in accordance with s. 195.285 (3). Such signs shall be erected by the maintaining authority only upon order of the office of the commissioner of railroads as set forth in s. 195.285.

(4) The department shall adopt rules for the marking and placarding of vehicles being used to transport hazardous materials which are potentially dangerous to life and property, which rules shall be in accordance with the regulations of the U.S. department of transportation. These rules shall identify classifications of markings or placarding that, consistent with federal regulations, when required on a vehicle also require the vehicle to stop as provided in sub. (1) (c).

346.452 Owner's liability for vehicle illegally crossing at a railroad crossing.

(1) Subject to s. 346.01 (2), the owner of a vehicle involved in a violation of s. 346.44 or 346.45 shall be liable for the violation as provided in this section.

(2) A railroad employee who observes a violation of s. 346.44 or 346.45 may prepare a written report indicating that a violation has occurred. If possible, the report shall contain the following information:

(a) The violation alleged.

(b) The time and the approximate location at which the violation occurred.

(c) The license number and color of the vehicle involved in the violation.

(d) Identification of the vehicle as an automobile, station wagon, motor truck, motor bus, motorcycle, or other type of vehicle.

(3) Within 24 hours after observing the violation, the railroad employee may deliver the report to a traffic officer of the county or municipality in which the violation occurred. A report which does not contain all of the information in sub. (2) shall nevertheless be delivered and shall be maintained by the county or municipality for statistical purposes.

(4) (a) Within 48 hours after receiving a report containing all of the information in sub. (2) and after verifying the information provided under sub. (2) (c) and (d), the traffic officer may prepare a uniform traffic citation under s. 345.11 and may personally serve it upon the owner of the vehicle.

(b) If with reasonable diligence the owner cannot be served under par. (a), service may be made by leaving a copy of the citation at the owner's usual place of abode within this state in the presence of a competent member of the family at least 14 years of age, who shall be informed of the contents thereof.

(c) If with reasonable diligence the owner cannot be served under par. (a) or (b) or if the owner lives outside of the jurisdiction of the issuing authority, service may be made by certified mail addressed to the owner's last-known address.

(d) In addition to serving the person with the citation under par. (a), (b), or (c), the serving agency shall include a notice that informs the person that he or she may petition the court for a change of venue; of the court costs required for petitioning for a change of venue; and of the procedures for petitioning the court for a change of venue.

(4m) The venue for the action shall be in the county where the violation occurred, except that the venue shall be in the county where the person is a resident if he or she is a resident of the state and he or she petitions the court for a change of venue to his or her county of residence.

(5) (a) Except as provided in par. (b), it shall be no defense to a violation of this section that the owner was not operating the vehicle at the time of the violation.

(b) The following are defenses to a violation of this section:

1. That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.
2. If the owner of the vehicle provides a traffic officer with the name and address of the person operating the vehicle at the time of the violation and the person so named admits operating the vehicle at the time of the violation, then the person operating the vehicle and not the owner shall be charged under this section.
3. If the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides a traffic officer with the information required under s. 343.46 (3), then the lessee and not the lessor shall be charged under this section.
4. If the vehicle is owned by a dealer as defined in s. 340.01 (11) (intro.) but including the persons specified in s. 340.01 (11) (a) to (d), and at the time of the violation the vehicle was being operated by any person on a trial run, and if the dealer provides a traffic officer with the name, address, and operator's license number of the person operating the vehicle, then the person operating the vehicle, and not the dealer, shall be charged under this section.

346.46 Vehicles to stop at stop signs and school crossings.

(1) Except when directed to proceed by a traffic officer or traffic control signal, every operator of a vehicle approaching an official stop sign at an intersection shall cause such vehicle to stop before entering the intersection and shall yield the right-of-way to other vehicles which have entered or are approaching the intersection upon a highway which is not controlled by an official stop sign or traffic signal.

(3) Every operator of a vehicle approaching an official stop sign at a railroad crossing shall, before proceeding on or over such crossing, stop the vehicle immediately before crossing a clearly marked stop line. If there is no clearly marked stop line, the operator shall stop the vehicle not less than 15 nor more than 50 feet from the nearest rail.

346.52 Stopping prohibited in certain specified places.

(1) No person may stop or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, in any of the following places:

(a) Within an intersection.

(i) Within 25 feet of the nearest rail at a railroad crossing.

346.57 Speed restrictions.

(2) **Reasonable and prudent limit.** No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. The speed of a vehicle shall be so controlled as may be necessary to avoid colliding with any object, person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and using due care.

(3) **Conditions Requiring Reduced Speed.** The operator of every vehicle shall, consistent with the requirements of sub. (2), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, when passing school children, highway construction or maintenance workers, sanitation workers, or other pedestrians, and when special hazard exists with regard to other traffic or by reason of weather or highway conditions.

346.62 Reckless driving.

(1) In this section:

(a) "Bodily harm" has the meaning designated in s. 939.22 (4).

(b) "Great bodily harm" has the meaning designated in s. 939.22 (14).

(c) "Negligent" has the meaning designated in s. 939.25 (2).

(d) "Vehicle" has the meaning designated in s. 939.22 (44), except that for purposes of sub. (2m) "vehicle" has the meaning given in s. 340.01 (74).

(2) No person may endanger the safety of any person or property by the negligent operation of a vehicle.

(2m) No person may recklessly endanger the safety of any person by driving a vehicle on or across a railroad crossing in violation of s. 346.44 (1) or through, around or under any crossing gate or barrier at a railroad crossing in violation of s. 346.44 (2).

(3) No person may cause bodily harm to another by the negligent operation of a vehicle.

(4) No person may cause great bodily harm to another by the negligent operation of a vehicle.

346.89 Inattentive driving.

(1) No person while driving a motor vehicle may be engaged or occupied with an activity, other than driving the vehicle, that interferes or reasonably appears to interfere with the person's ability to drive the vehicle safely.

NOTE: The Wisconsin Statutes cited herein may not be complete in their entirety and it is recommended that you check the statutes for its completeness. Local ordinances may incorporate statutory language or may take precedence over the statutory language under certain circumstances. Thus you may also need to review the applicable local government ordinances in addition to the statutes.

Disqualifying Offenses for CDL Drivers on Highway-Rail Intersections

SUMMARY OF DISQUALIFYING OFFENSES FOR CDL DRIVERS PERTAINING TO HIGHWAY - RAIL INTERSECTIONS

Under the Federal motor Carrier Regulations (FMCSRs), states must take action to disqualify drivers who commit certain violations while driving a commercial motor vehicle (CMV). The following table summarizes highway – rail intersection violations and their disqualification periods for *drivers operating vehicles requiring CDL's*. It covers the regulations listed in Parts 383 and 391 of the FMCSRs. NOTE: This list would not be accurate for drivers operating vehicles between 10,001 and 26,000 pounds (which do not require CDLs).

SIX HIGHWAY - RAIL INTERSECTION VIOLATIONS

1. Failing to slow down = Yield the Right of Way
2. Failing to stop
3. Failing to check for clear track
4. Failing to obey traffic control devices or law enforcement officials
5. Crossing without having sufficient undercarriage clearance
6. Crossing without having sufficient space on the other side to clear the tracks without stopping

DISQUALIFICATION PERIODS FOR CDL DRIVERS

Violating any of six (6) railroad crossing rules:

1st violation Minimum of 60 days

2nd violation Minimum of 120 days

3rd violation Minimum of 1 year

If proven that the employer knowingly allowed, required, permitted, or authorized a driver to violate the law or regulation, the employer could be fined \$10,000.

Also see s. 343.315 (2)(j) on page 11.

Wisconsin Motor Vehicle Accident Report: Car/Train Crashes

The following information is provided to assist officers while completing the MV4000 Wisconsin Motor Vehicle Accident Report form, during the investigation of car/train crashes. The information covers only the major train related fields. Badger TraCS—the electronic version of the MV4000 requires the same information to be entered. Note: Some fields may or may not have changed on the following sample report, dated 2008. *Italicized comments refer to the Badger TraCS form.*

FIELD

- 6** **Units;** A unit is any vehicle, pedestrian, bicycle or equipment. A train is classified as a piece of equipment. Include train in total number of units involved.
Accident Summary; Total units.
- 17** **Location number;** Railroad number refers to the US DOT identification number assigned to the crossing. Mark the railroad # bubble if your department requires and include identification number.
Location: Structure Type, enter railroad crossing number
- 21** **Unit type;** Railroad train is considered a piece of equipment, mark the “5” bubble.
Driver; Unit type-select equipment
- 24** **Speed limit;** Mark the “N/A” bubble as there is no roadway speed limit that applies to the train tracks.
Driver; Speed limit- select NA
- 25–32** **Operator Information;** Enter Engineers information, including driver’s license number if available. **NOTE:** Engineers are not required to have a driver’s license, but these fields are to be completed.
Drivers name; enter information
- 36** **Class;** Engineer is not required to have a driver license, mark the “0” bubble which designates that no license is required.
Operating as Class; select the “O” class
- 39** **Seat position;** Engineer sits in front seat— right side of locomotive. Enter position “3”.
Seat position: enter position “3” for Engineer, “1” for Conductor

- 45–49 Vehicle (lead locomotive) owner;** Enter lead locomotive owner information (i.e.; Union Pacific Railroad, 1400 Douglas, Omaha, NE)
Vehicle owner; Organization type
- 50–54 Vehicle (lead locomotive) information;** Enter lead locomotive information, (i.e.; year 2003, make GE, model C44AC).
Vehicle; vehicle type, select RL railroad train
- 55 Vehicle (lead locomotive) ID number;** Enter the identification number found on the lead locomotive (i.e.; UP-7156, CP-7000)
- 56 License plate number;** None required, per statute 341.05 (6)
Vehicle license number; no display, none required.
- 63 Insurance company;** Leave the not required in this field
Insurance; select, not required
- 65–68 Occupant;** Conductors information can go here, but is optional if not injured.
Occupant; Conductor or others in locomotive can go here.
- 80–81 Type of accident;** Mark unit number and “6” bubble to note railway train.
Accident summary; Most Harmful Event; select train Driver; Most harmful event, select motor vehicle in transport
- 82–87 Fixed object struck;** Enter railway company information if damage occurred to fixed railway property, such as signal mast.
Property owner; Organization type, select organization
- 120 Traffic control;** Mark unit number and “10” bubble to note railroad crossing signal.
Driver; Traffic control, select Railroad-crossing-signal

SAMPLE REPORT

7 A SERIAL #

Amended Document On Emergency

Wisconsin Motor Vehicle Accident Report

Document Number Override

INSTRUCTIONS
Please use a Black Ink Pen or #2 Pencil.
Mark Areas as shown:
Correct Mark
Incorrect Marks

Reportable Accident
(Y) (N)

County	MUN/TWP	Accident Date			Time of Accident (Military Time)		Total Number		
1 2 3	4 5 6	MONTH	DAY	YEAR	HOUR	MIN.	UNITS INJURED	KILLED	
(0) (0) (1) (1) (2) (2) (3) (3) (4) (4) (5) (5) (6) (6) (7) (7) (8) (8) (9) (9)	(0) (0) (1) (1) (2) (2) (3) (3) (4) (4) (5) (5) (6) (6) (7) (7) (8) (8) (9) (9)	Jan Feb Mar Apr May June July Aug Sept Oct Nov Dec	0 1 2 3 4 5 6 7 8 9	0 1 2 3 4 5 6 7 8 9	0 1 2 3 4 5 6 7 8 9	0 1 2 3 4 5 6 7 8 9	0 1 2 3 4 5 6 7 8 9	0 1 2 3 4 5 6 7 8 9	

Hit & Run	<input type="checkbox"/> (Y) (N)	Unit #	
Government Property	<input type="checkbox"/> (Y) (N)		
Fire (Narrative)	<input type="checkbox"/> (Y) (N)		
Photos Taken (Narrative)	<input type="checkbox"/> (Y) (N)		
Trailer or Towed (Narrative)	<input type="checkbox"/> (Y) (N)		
Truck or Bus (Last Page)	<input type="checkbox"/> (Y) (N)		
Load Spillage	<input type="checkbox"/> (Y) (N)		
Construction Zone	<input type="checkbox"/> (Y) (N)		
Names Exchanged	<input type="checkbox"/> (Y) (N)		

ACCIDENT LOCATION

Public Highway, Intersection/Related
 Public Highway, Non-Intersection
 Parking Lot
 Private Property or Road

LATITUDE (GPS) Degrees: <input type="text"/> Minutes: <input type="text"/> Seconds: <input type="text"/>	LONGITUDE (GPS) Degrees: <input type="text"/> Minutes: <input type="text"/> Seconds: <input type="text"/>
<input checked="" type="checkbox"/> ON Hwy No. and / Street Name <input type="checkbox"/> Estimated	<input type="checkbox"/> FROM/AT Hwy No. and / Street Name <input type="checkbox"/> (M) (W) (S) (E)

House # <input type="text"/> Fire # <input type="text"/> Other # <input type="text"/> Utility # <input type="text"/> Railroad # <input type="text"/>	Agency Space <input type="text"/> Special Study <input type="text"/>																
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>Unit Number</th> <th>Unit Type</th> <th>Total Number of Occupants</th> <th>Direction of Travel (Before the Accident)</th> </tr> <tr> <td>(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)</td> <td>(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)</td> <td>(0) (1) (2) (3) (4) (5) (6) (7) (8) (9) (0)</td> <td>(N) (W) (E) (S) (Other)</td> </tr> </table>	Unit Number	Unit Type	Total Number of Occupants	Direction of Travel (Before the Accident)	(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)	(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)	(0) (1) (2) (3) (4) (5) (6) (7) (8) (9) (0)	(N) (W) (E) (S) (Other)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>Unit Number</th> <th>Unit Type</th> <th>Total Number of Occupants</th> <th>Direction of Travel (After the Accident)</th> </tr> <tr> <td>(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)</td> <td>(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)</td> <td>(0) (1) (2) (3) (4) (5) (6) (7) (8) (9) (0)</td> <td>(N) (W) (E) (S) (Other)</td> </tr> </table>	Unit Number	Unit Type	Total Number of Occupants	Direction of Travel (After the Accident)	(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)	(1) (2) (3) (4) (5) (6) (7) (8) (9) (0)	(0) (1) (2) (3) (4) (5) (6) (7) (8) (9) (0)	(N) (W) (E) (S) (Other)
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Unit Number	Unit Type	Total Number of Occupants	Direction of Travel (After the Accident)														
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Speed Limit <input type="text"/> OPERATOR Last Name <input type="text"/> First <input type="text"/> M.I. <input type="text"/> ADDRESS Street & Number <input type="text"/> <input type="text"/> City & State <input type="text"/> ZIP <input type="text"/> Phone Number <input type="text"/> <input type="text"/> <input type="text"/>	Speed Limit <input type="text"/> OPERATOR Last Name <input type="text"/> First <input type="text"/> M.I. <input type="text"/> ADDRESS Street & Number <input type="text"/> <input type="text"/> City & State <input type="text"/> ZIP <input type="text"/> Phone Number <input type="text"/> <input type="text"/> <input type="text"/>
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Date of Birth <input type="text"/> Sex <input type="checkbox"/> (M) <input type="checkbox"/> (F) Operating as Classified: <input type="checkbox"/> (P) Police <input type="checkbox"/> (E) EMT/First Responder <input type="checkbox"/> (F) Fire Fighter <input type="checkbox"/> (H) Winter Hwy Maintenance CMV <input type="checkbox"/> (Y) <input type="checkbox"/> (N)	Date of Birth <input type="text"/> Sex <input type="checkbox"/> (M) <input type="checkbox"/> (F) Operating as Classified: <input type="checkbox"/> (P) Police <input type="checkbox"/> (E) EMT/First Responder <input type="checkbox"/> (F) Fire Fighter <input type="checkbox"/> (H) Winter Hwy Maintenance CMV <input type="checkbox"/> (Y) <input type="checkbox"/> (N)
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(CQ) (CR) <input type="checkbox"/> (CS) (CT) <input type="checkbox"/> (CU) (CV) <input type="checkbox"/> (CW) (CX) <input type="checkbox"/> (CY) (CZ) <input type="checkbox"/> (DA) (DB) <input type="checkbox"/> (DC) (DD) <input type="checkbox"/> (DE) (DF) <input type="checkbox"/> (DG) (DH) <input type="checkbox"/> (DI) (DJ) <input type="checkbox"/> (DK) (DL) <input type="checkbox"/> (DM) (DN) <input type="checkbox"/> (DO) (DP) <input type="checkbox"/> (DQ) (DR) <input type="checkbox"/> (DS) (DT) <input type="checkbox"/> (DU) (DV) <input type="checkbox"/> (DW) (DX) <input type="checkbox"/> (DY) (DZ) <input type="checkbox"/> (EA) (EB) <input type="checkbox"/> (EC) (ED) <input type="checkbox"/> (EE) (EF) <input type="checkbox"/> (EG) (EH) <input type="checkbox"/> (EI) (EJ) <input type="checkbox"/> (EK) (EL) <input type="checkbox"/> (EM) (EN) <input type="checkbox"/> (EO) (EP) <input type="checkbox"/> (EQ) (ER) <input type="checkbox"/> (ES) (ET) <input type="checkbox"/> (EU) (EV) <input type="checkbox"/> (EW) (EX) <input type="checkbox"/> (EY) (EZ) <input type="checkbox"/> (FA) (FB) <input type="checkbox"/> (FC) (FD) <input type="checkbox"/> (FE) (FF) <input type="checkbox"/> (FG) (FH) <input type="checkbox"/> (FI) (FJ) <input type="checkbox"/> (FK) (FL) <input type="checkbox"/> (FM) (FN) <input type="checkbox"/> (FO) (FP) <input type="checkbox"/> (FQ) (FR) <input type="checkbox"/> (FS) (FT) <input type="checkbox"/> (FU) (FV) <input type="checkbox"/> (FW) (FX) <input type="checkbox"/> (FY) (FZ) <input type="checkbox"/> (GA) (GB) <input type="checkbox"/> (GC) (GD) <input type="checkbox"/> (GE) (GF) <input type="checkbox"/> (GG) (GH) <input type="checkbox"/> (GI) (GJ) <input type="checkbox"/> (GK) (GL) <input type="checkbox"/> (GM) (GN) <input type="checkbox"/> (GO) (GP) <input type="checkbox"/> (GQ) (GR) <input type="checkbox"/> (GS) (GT) <input type="checkbox"/> (GU) (GV) <input type="checkbox"/> (GW) (GX) <input type="checkbox"/> (GY) (GZ) <input type="checkbox"/> (HA) (HB) <input type="checkbox"/> (HC) (HD) <input type="checkbox"/> (HE) (HF) <input type="checkbox"/> (HG) (HH) <input type="checkbox"/> (HI) (HJ) <input type="checkbox"/> (HK) (HL) <input type="checkbox"/> (HM) (HN) <input type="checkbox"/> (HO) (HP) <input type="checkbox"/> (HQ) (HR) <input type="checkbox"/> (HS) (HT) <input type="checkbox"/> (HU) (HV) <input type="checkbox"/> (HW) (HX) <input type="checkbox"/> (HY) (HZ) <input type="checkbox"/> (IA) (IB) <input type="checkbox"/> (IC) (ID) <input type="checkbox"/> (IE) (IF) <input type="checkbox"/> (IG) (IH) <input type="checkbox"/> (II) (IJ) <input type="checkbox"/> (IK) (IL) <input type="checkbox"/> (IM) (IN) <input type="checkbox"/> (IO) (IP) <input type="checkbox"/> (IQ) (IR) <input type="checkbox"/> (IS) (IT) <input type="checkbox"/> (IU) (IV) <input type="checkbox"/> (IW) (IX) <input type="checkbox"/> (IY) (IZ) <input type="checkbox"/> (JA) (JB) <input type="checkbox"/> (JC) (JD) <input type="checkbox"/> (JE) (JF) <input 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(LK) (LL) <input type="checkbox"/> (LM) (LN) <input type="checkbox"/> (LO) (LP) <input type="checkbox"/> (LQ) (LR) <input type="checkbox"/> (LS) (LT) <input type="checkbox"/> (LU) (LV) <input type="checkbox"/> (LW) (LX) <input type="checkbox"/> (LY) (LZ) <input type="checkbox"/> (MA) (MB) <input type="checkbox"/> (MC) (MD) <input type="checkbox"/> (ME) (MF) <input type="checkbox"/> (MG) (MH) <input type="checkbox"/> (MI) (MJ) <input type="checkbox"/> (MK) (ML) <input type="checkbox"/> (MO) (MN) <input type="checkbox"/> (MP) (MQ) <input type="checkbox"/> (MR) (MS) <input type="checkbox"/> (MT) (MU) <input type="checkbox"/> (MV) (MW) <input type="checkbox"/> (MX) (MY) <input type="checkbox"/> (MZ) <input type="checkbox"/> (NA) (NB) <input type="checkbox"/> (NC) (ND) <input type="checkbox"/> (NE) (NF) <input type="checkbox"/> (NG) (NH) <input type="checkbox"/> (NI) (NJ) <input type="checkbox"/> (NK) (NL) <input type="checkbox"/> (NO) (NP) <input type="checkbox"/> (NQ) (NR) <input 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(PW) (PX) <input type="checkbox"/> (PY) (PZ) <input type="checkbox"/> (QA) (QB) <input type="checkbox"/> (QC) (QD) <input type="checkbox"/> (QE) (QF) <input type="checkbox"/> (QG) (QH) <input type="checkbox"/> (QI) (QJ) <input type="checkbox"/> (QK) (QL) <input type="checkbox"/> (QM) (QN) <input type="checkbox"/> (QO) (QP) <input type="checkbox"/> (QQ) (QR) <input type="checkbox"/> (QS) (QT) <input type="checkbox"/> (QU) (QV) <input type="checkbox"/> (QW) (QX) <input type="checkbox"/> (QY) (QZ) <input type="checkbox"/> (RA) (RB) <input type="checkbox"/> (RC) (RD) <input type="checkbox"/> (RE) (RF) <input type="checkbox"/> (RG) (RH) <input type="checkbox"/> (RI) (RJ) <input type="checkbox"/> (RK) (RL) <input type="checkbox"/> (RM) (RN) <input type="checkbox"/> (RO) (RP) <input type="checkbox"/> (RQ) (RR) <input type="checkbox"/> (RS) (RT) <input type="checkbox"/> (RU) (RV) <input type="checkbox"/> (RW) (RX) <input type="checkbox"/> (RY) (RZ) <input type="checkbox"/> (SA) (SB) <input 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(YQ) (YR) <input type="checkbox"/> (YS) (YT) <input type="checkbox"/> (YU) (YV) <input type="checkbox"/> (YW) (YX)
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SAMPLE REPORT

Occupant Unit Number	NAME Last	First	M.I.	Date of Birth	Sex	Severity	SEAT Position	SAFETY Equipment	AIRBAG
	ADDRESS Street & Number	City & State			ZIP	(M, F)	(K, N)	(A, B, C)	(1) Deployed (2) Non Deployed (3) Not Applicable (4) Unknown
Address Same as Operator <input type="radio"/> Yes <input type="radio"/> No	EJECTED	(1) Not Applicable (2) Not Ejected	(3) Totally Ejected (4) Partially Ejected (5) Unknown	TRAPPED/EXTRICATED	(1) Not Applicable (2) Not Trapped	(3) Trapped/Extricated (4) Trapped/Not Extricated (5) Unknown	Medical Transport	Agency Space	
							(Y, N)		

Type of Accident

First Harmful Event Most Harmful Event

Unit Number	Unit Number
80-81	
(select one per vehicle)	

Collision With Object Not Fixed

(1) Motor Vehicle in Transport	(1)
(2) Parked Motor Vehicle	(2)
(3) Deer	(3)
(4) Pedalcycle	(4)
(5) Pedestrian	(5)
(6) Railway Train	(6)
(7) Other Animal	(7)
(8) Motor Vehicle in Transport In Other Roadway	(8)
(9) Other Object (Not Fixed)	(9)

Collision With Fixed Object

10 Traffic Sign Post	10
11 Traffic Signal	11
12 Utility Pole	12
13 Lum. Light Support	13
14 Other Post	14
15 Tree	15
16 Mailbox	16
17 Guardrail Face	17
18 Guardrail End	18
19 Median Barrier	19
20 Bridge Parapet End	20
21 Bridge/Pier/Abut.	21
22 Impact Attenuator	22
23 Overhead Sign Post	23
24 Bridge Rail	24
25 Culvert	25
26 Ditch	26
27 Curb	27
28 Embankment	28
29 Fence	29
30 Other Fixed Object	30
31 Unknown	31

Non-Collision

32 Overturn	32
33 Fire/Explosion	33
34 Immersion	34
35 Jackknife	35
36 Other Non-Collision	36

Driver Condition

Unit Number	Unit Number
(1) (2) (3) (4) (5) 6 7 8 9 10	(1) (2) (3) (4) (5) 6 7 8 9 10

Driver Factors (Or Pedestrians)

(1) Appeared Normal	(1)
(2) Reduced Alertness	(2)
(3) Ability Impaired	(3)
(4) Not Observed	(4)

Presence

(5) Neither Alcohol nor Drugs Present (5)

(6) Yes—Alcohol Present	(6)
(7) Yes—Drugs Present	(7)
(8) Yes—Alcohol & Drugs Present	(8)
(9) Unknown	(9)

Alcohol

AC Value AC Value

(10) Test Not Given	(10)
(11) Test Refused	(11)
(12) Test Given, Alcohol Unknown	(12)
(13) Test Given, No Alcohol Reported	(13)

Drugs

(14) Test Not Given	(14)
(15) Test Refused	(15)
(16) Test Given, Drugs Unknown	(16)
(17) Test Given, No Drugs Reported	(17)
(18) Drugs Reported (Specify Below)	(18)
19 Marijuana	19
20 Cocaine	20
21 Opiates	21
22 Amphetamines	22
23 PCP	23
24 Other Drug Medication	24
25 Type Unknown	25

Unit #

Pedestrian Location

In Crosswalk	Walking not Facing Traffic
In Roadway	Disregarded Signal
Not in Roadway	Darting into Road
On Sidewalk	Dark Clothing
	Walking Facing Traffic

Manner of Collision

(1) No Collision with Motor Vehicle in Transport

(2) Rear-end

(3) Head On

(4) Rear to Rear

(5) Angle

(6) Sideswipe, Same Direction

(7) Sideswipe, Opposite Direction

(8) Unknown

Unit #

Darken Numbered Area(s) of Vehicle Damage

(0) None (1) Extent of Damage

(10) Undercarriage (0) None (4) Severe

(11) Total (Damage to All Areas)

(12) Other

(13) Unknown

(1) Very Minor (5) Very Severe

(2) Minor (6) Unknown

(3) Moderate

Vehicle Towed Due to Damage: (Y, N)

Vehicle Removed By:

Unit #

Darken Numbered Area(s) of Vehicle Damage

(0) None (1) Extent of Damage

(10) Undercarriage (0) None (4) Severe

(11) Total (Damage to All Areas)

(12) Other

(13) Unknown

(1) Very Minor (5) Very Severe

(2) Minor (6) Unknown

(3) Moderate

Vehicle Towed Due to Damage: (Y, N)

Vehicle Removed By:

Fixed Object Struct				PROPERTY Last	First	M.I.
Unit #	Unit #	Unit #	Unit #	OWNER		
ADDRESS Street & Number				82-87		
Govt. Damage Tag #				City & State	ZIP	Phone Number ()

Stopping of Trains

Law enforcement officers should stop railroad traffic during situations when its continued operation would be hazardous to persons or property.

Procedure: How to Stop A Train In An Emergency

When, in case of emergency, a train must be stopped to avoid a threat to life or property, contact the railroad dispatcher first.

A listing of the railroads 24-hour emergency telephone numbers is included in this manual. If the hazard is located at a crossing, there may be a railroad emergency phone number and unique DOT identification number affixed to the crossbuck post or signal mast that will verify the exact location to railroad personnel. The U.S. Department of Transportation and the Association of American Railroads jointly developed a crossing identification system, giving each at-grade and separated crossing an inventory number composed of six numerals and one letter as the U.S. DOT crossing number affixed at the crossing. This number should be included in your report. In addition, the abbreviation of the railroad responsible for the crossing may be found above the number.

In case of a crossing emergency:

1. Locate the 800 number placard in close proximity to the crossing if available.
2. Notify railroad of crossing DOT number and milepost location.
3. Inform dispatcher as to the nature of the emergency. They will contact nearby train crew, if train needs to be stopped.

Below are examples of where you can find the Emergency Notification Signs.



If it is necessary to stop a train by flagging, remember that a train takes much longer to stop than an automobile. A Freight train traveling at 60 miles per hour could take up to 1 ½ miles to stop, while one traveling at only 30 miles per hour could take 2/3 of a mile to stop. An officer intending to stop a train must be at least the train's stopping distance from the hazard before signaling the engineer. If time permits, always assume the greatest distance.

Do not stop your patrol car on the tracks.

Park your car nearby, turn on the emergency light to attract attention, then position yourself near the tracks. The universal railroad stop signal is a lighted flare, swung slowly back and forth horizontally across your body. The locomotive engineer may acknowledge this signal with two short blasts of the horn, and will stop the train as quickly as possible. **If it is impossible to use a highway flare, a flashlight may be used at night or a brightly colored object in the daytime.** However, a flare should be used whenever possible, day or night.

Highway-Railroad Grade Crossing Signal Malfunctions

Automatic warning signals such as flashing lights, gates and bells are designed to activate whenever a train approaches a highway-railroad grade crossing. Operating times may vary depending on the type of control equipment used.

Occasional problems may develop which cause the signal to activate in a fail-safe manner so the signal will function even if no train is approaching the crossing.



A frequent cause of highway-railroad grade crossing signal failures is vandalism. Police officers can assist by watching for trespassers or incidents of vandalism along the tracks, such as tampering with signal components (connecting wires, cables, lenses, switches, and cabinets). Crossing signals should also be observed for shattered lenses, burned out bulbs, and gate arm damage which could reduce warning effectiveness.

If there is a reason to suspect a problem, refer to the emergency phone numbers listed on the inside cover of this guide and contact the railroad involved.

Examples of Highway-Rail Grade Crossing Signs



Exempt: When this sign is displayed, by order of the Office of Commissioner of Railroads, it shall exempt vehicles from stopping as required under statute 346.45(3)(d), pg 14



Note: Placarded Signs that require a vehicle to stop at a railroad crossing [in accordance with s. 346.45(1)(c) & (4) on pg 13 and 14] are as follows:

- | | |
|------------------|--------------------|
| 1. Explosives A. | 6. Compressed Gas. |
| 2. Explosives B. | 7. Corrosives. |
| 3. Poison. | 8. Flammable Gas. |
| 4. Flammable. | 9. Radioactive. |
| 5. Oxidizers. | 10. Dangerous. |



Laws Governing Railroad Employees Involved in Railroad Incidents

The Federal Railroad Administration (FRA) regulates rail safety in the U.S. As part of its safety mission, FRA conducts alcohol and drug tests on train crews who have been involved in major accidents. FRA's alcohol and drug testing regulations (Title 49, Code of Federal Regulations Part 219) exempt a train crew who has been involved in a highway-rail grade crossing accident from Federal testing. Why? Because trains have much longer stopping distances than cars, trucks, and other motor vehicles. At 55 mph, it can take a train more than a mile to stop. For this reason, the crew has little or no chance to avoid an impact by the time they have spotted a person or vehicle stopped on the tracks. FRA regulations preempt state and local regulations requiring testing of railroad employees after train accidents, but there is an exception for enforcement of state and local criminal laws. Local police may test a train crew under their own authority if they have probable cause to believe that the crew contributed to the cause or severity of a highway-rail grade crossing accident. As explained above, the train crew's involvement in a fatal crash should not be the lone factor in determining whether probable cause for testing exists. For more information, visit <http://www.fra.dot.gov/safety/da.html>.

Section 20106 of Title 49 of the United States Code (*previously Section 205 of the Federal Railroad Safety Act of 1970*) prohibits states from adopting laws with respect to railroad safety if the United States Department of Transportation has adopted standards governing the subject matter, unless the state requirement is necessary to deal with a unique local problem and is not incompatible with the federal standards.

Localities are not permitted to adopt laws with respect to railroad safety under any circumstances. **The federal regulatory authority has been delegated to the Federal Railroad Administration (FRA).** They govern who must be tested and who may not be tested, and also prescribe precise standards and procedures that must be followed in performing testing. In adopting these regulations, **The FRA determined that, in the absence of reasonable cause to believe a particular individual is impaired based on his appearance or behavior, train crews should not be required to submit to testing in connection with the collision of a train or a motor vehicle or other highway conveyance at a rail / highway grade crossing. (See 49 C.F.R. 219.201 (b).**

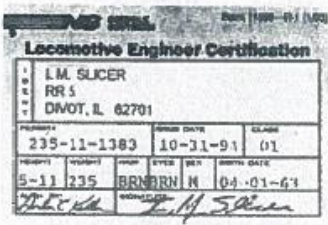
In addition, testing is normally not permitted when a train hits a person on the railroad's right-of-way. Section 219.13 specifies that the regulations in Part 219 of 49 C.F.R. have the preemptive effect contemplated by Section 20106 of Title 49 of the United States Code, and **therefore, States and localities may not adopt laws requiring employees to submit to testing after an accident that does not involve reckless conduct in violation of criminal law.**

State and local law enforcement authorities can call the Federal Railroad Administration Office in Chicago at 312/353-6203 to obtain further information concerning the permissible treatment of railroad employees involved in an accident.

Below are some examples of Engineer Certificates, which are required to be carried by train engineers in lieu of a driver's license. Each engineer and/or student engineer is required to have a current locomotive engineer certification card in his/her possession for presentation to a representative of the FRA when engaged in the operation of a train. The certificate is only valid for 36 months from the issue date.

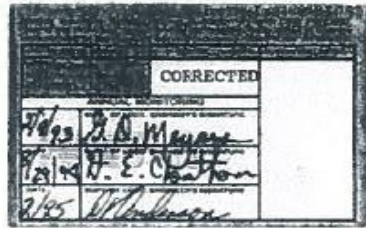
EXAMPLE

FRONT



EXAMPLE

REAR



The certificate must contain these specific elements:

- 1) A physical description or photo;
- 2) The issue date;
- 3) Birth date of engineer;
- 4) Signed by an issuing railroad official;
- 5) Annotate any restriction, corrective lenses, etc.;
- 6) A place, usually the reverse side, indicating that Road Foreman of Engines or the like, conducted a previous yearly ride and evaluated this engineer.

FRA Post-Accident Alcohol and Drug Test

Alcohol and Drug Testing:

The Federal Railroad Administration (FRA) is the Federal agency responsible for regulating rail safety. As part of its mission, FRA investigates significant rail accidents, including those involving fatalities, passenger trains, evacuations due to the release of hazardous materials, and/or major damage to railroad property. With the exception of the three types of accidents discussed below, FRA requires train and engine crewmembers who have been involved in a significant rail accident to provide urine, blood, and sometimes breath specimens for alcohol and drug testing. The purpose of this testing is to yield useful information as to the cause of the accident. FRA specimens are collected under the supervision of a railroad official; blood specimens must, in addition, be collected at an independent medical facility.

Exceptions: There are three types of accidents where FRA prohibits railroad from conducting post-accident testing. All three involve situations where the train crew(s) would have had little or no chance to avoid the accident: (1) highway-rail grade crossing accidents; (2) accidents wholly attributable to natural causes; and (3) accidents wholly attributable to vandalism. In cases of highway-rail grade crossing accidents, FRA exempts train crews from testing because of the long stopping distances required to stop a train safely making it unlikely that the train crew could have had sufficient time to avoid a collision by the time they spotted a vehicle on the tracks.

Preemption: FRA's regulations on the alcohol and drug testing of railroad employees (49 Code of Federal Regulations Part 219) generally preempts State regulations on the same subject (see section 20106 of Title 49, United States Code). However, they do not preempt provisions of State criminal laws that may require alcohol and/or drug testing after train accidents *if such provisions impose sanctions for reckless conduct* that leads to actual loss of life, injury or damage to property.

Message to Local Law Enforcement:

As a law enforcement officer, you may conduct alcohol and drug testing of a railroad employee after an accident if certain conditions are met. Test may be conducted under your authority if: (1) there is *probable cause* to suspect that the railroad employee was impaired at the time of the accident; (2) the testing has an independent basis upon which to withstand constitutional scrutiny; and (3) the collection of your specimens does not interfere with the collection of any required FRA specimens. FRA does not allow non-Federal testing on specimens conducted under Federal authority.

The Wisconsin Attorney General (*James Doyle in 1993 letter*) in caption to letter writes: Federal legislation has explicitly preempted the field of rail safety and not conferred authority on state or local law enforcement officials to conduct drug tests of locomotive engineers involved in grade crossing accidents in Wisconsin. However, this legislation does not preempt state regulation of drugs and narcotics. Thus, state or local law enforcement officials acting pursuant to their authority to enforce the state's general criminal statutes may conduct drug test of locomotive engineers provided that the testing comports with the fourth amendment.

Law Enforcement Officers should confer with their District Attorneys or States Attorney for any questions concerning testing of locomotive engineers.

Message to Local Law Enforcement on statute 340.01(35,74) with regard to train crews showing police a driver's license in Wisconsin.

For your information: In Wisconsin, the requirement to have, and display to traffic officers, a driver's license pertains to the operation of motor vehicles. Under Wisconsin law, a vehicle "operated exclusively on a rail" is explicitly exempted from the definition of motor vehicle. [s. 340.01 (35,74) Stats.] Therefore, under Wisconsin law **there is no need to specifically exempt persons driving trains or locomotives from the requirements** under ch. 343 to have and display a (motor vehicle) driver's license because trains and locomotives are not motor vehicles, as defined by the Wisconsin statutes. Below is the law in question:

340.01 (35) "Motor vehicle" means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. "Motor vehicle" includes, without limitation, a commercial motor vehicle or a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated on rails. A snowmobile, an all-terrain vehicle, and a utility terrain vehicle, and an electric personal assistive mobility device shall be considered motor vehicles only for purposes made specifically applicable by statute.

(74) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except railroad trains. A snowmobile, an all-terrain vehicle, and an electric personal assistive mobility device shall not be considered a vehicle except for purposes made specifically applicable by statute.

Enforcement Programs for Law Enforcement Personnel

(Offered by Operation Lifesaver)

Grade Crossing Collision Investigation (GCCl)

Grade Crossing Collision Investigation is a training program to provide the information a Police Officer needs to successfully investigate a highway-rail crossing collision.

The goals of the training, which come in 4 hour, 8 hour, and 16 hour, sessions is to bring a clear understanding of the difficulties associated with investigating a grade crossing collision. The knowledge and understanding needed to complete a thorough investigation will be provided. Through the use of videos, overheads, a training guide and instruction the officer will become familiar with and discover the peculiarities associated with investigating one of these specialized collisions.

The collision investigation techniques that the officer has developed with the motor vehicle will not be dwelled upon, but instead, the focus will be on the train, the crossing, the train crew, and the peculiarities of these collisions. As most officers will agree this is not a common crash to investigate. It can generate many questions and create investigative problems. This class will provide the working knowledge an officer needs to investigate this collision thoroughly.

The Grade Crossing Collision Investigation program is based on a Model Curriculum developed in cooperation of the International Association of Chiefs of Police and the National Sheriffs Association. **The training is free and all materials are provided.**

(Offered by Operation Lifesaver)

“Officer On The Train”

“Officer On The Train” is a program that allows Law Enforcement Officers to ride in the cab of a locomotive to observe motorist behavior at highway-rail intersections. The officer observes the act of the motorist, just as the Engineer would, and if an infraction is observed, the motorist is identified with the assistance of police support vehicle. Corrective action is taken if that is deemed to be appropriate. The goal of the program is to improve driver behavior at highway-rail intersections to reduce crashes, injuries and fatalities.

The program provides first-hand knowledge and experience for the Officer from the Engineers vantage point. Police experience with crossings and railroad operations is usually limited to the occasional call they get to a crossing incident. This experience allows the Officer to view the crossing from another perspective and to observe what Engineers encounter at the crossing.

The program was developed to improve enforcement action and furnish an avenue to increase public awareness of laws pertaining to highway-rail intersections and along railroad rights-of-way. Highway-rail intersection crashes are an ongoing problem. They are among the most serious and needless crashes ever experienced. These facts underscore the need for law enforcement to actively enforce crossing statutes.

The program includes local media support to promote the activity of Law Enforcement promoting highway-rail intersection safety and to get the public’s attention.

For more information on these free programs, contact the Wisconsin Operation LifeSaver program at 715-453-2303 or (800) 947-7245.

Key Safety Points

The following points are critical for officer safety:

- Notify the railroad before working on or near railroad tracks or railroad yards.
- Watch for movement of trains and rail cars at any time from either direction.
- Never sit, stand, or walk on the rail tracks.
- Be aware of tripping hazards.
- Stay off the roofs of rail cars and locomotives.
- When walking around the end of a rail car, stay 20 feet away.
- Pressurized air hoses are dangerous and may thrash about if uncoupled.
- A stopped train can move unexpectedly at any time.
- Watch for close clearances, as the train is wider than the track by at least three feet on each side.





Wisconsin Operation Lifesaver, Inc. is a part of national Operation Lifesaver, Inc., a non-profit public education program dedicated to ending collisions, deaths and injuries at highway-rail grade crossings and along railroad rights-of-way.

Wisconsin Operation Lifesaver, Inc.

P.O. Box 130

17 S. Marinette St.

Tomahawk, WI 54487

Phone: 715-453-2303 or
800-947-7245

Fax: 715-453-3518

Wisconsin Department of Transportation

Mission: Provide leadership in the development and operation of a safe and efficient transportation system.



For additional copies of this guide,
and for more information,
please call (800) 947-7245.

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