



The

Vermont Legislative Research Shop

Private Rail Crossing Liability

A private rail crossing is typically defined as any crossing on a roadway that is not open to the public. These crossings are necessary to access land that is not accessible using a public crossing. According to the Missouri Department of Transportation, "Private crossings are usually intended for the exclusive use of the adjoining property owner and the property owner's family, employees, residential, farm, recreation/cultural, industrial or commercial activities."¹ Private crossings include farm crossings, industrial crossings, residential access crossings, and temporary crossings. There were 97,306 private crossings in the United States in 2005.²

Private railway crossings are not federally regulated and state regulations are inconsistent. In fact, in 2002 twenty seven states did not have laws about the establishment and regulation of private crossings. In the absence of legislation, the use of private crossings is negotiated between the landowner and the agreement between the railroad and the

landowner. All examples of these

Rights of Way in many states are managed by the state Department of Transportation,

form as shall be acceptable to Railroad. Said insurance shall be endorsed to provide that Railroad shall be notified in writing by the insurance company at least thirty (30) days in advance of any cancellation or charges which modify the coverage provided thereunder. The providing of such insurance shall not be deemed a limitation on the liability of Licensee as provided in this License, but shall be additional security therefor. Railroad shall be named as an additional insured on all insurance policies required under the terms of this agreement. (b) Railroad shall have the right to periodically conduct a review of the adequacy of the insurance requirements provided for in Section 11(a) and on (1) year intervals from the effective date of this License. In the event that Railroad should determine that the requirements of Section 11(a) no longer provide adequate protection to Railroad, at its sole option, may give Licensee notice ("Insurance Notice") that Licensee must immediately obtain such additional insurance as Railroad requires.¹¹

This agreement is written to protect the railroad, and requires the landowner to purchase five million dollars of Rs

Washington

During the 2009 session the Washington State

Only Indiana has livestock laws that pertain specifically to the establishment and use of farm