

Oklahoma Corporation Commission's Guide for Enforcement of Blocked Railroad Crossings

Introduction:

On July 1, 2019, a new statute will go into effect regulating trains that block Oklahoma road crossings for more than ten (10) minutes. This guide is written to introduce law enforcement agencies to the procedures that will be used to process violations of this statute. For reference, the new statute can be found at 66 O.S. §190, and the rules related to the statute can be found at OAC 165:32-1-13.

Prohibited Conduct:

The legislation prevents trains from blocking vehicle traffic at any crossing for more than ten (10) minutes. An exception is provided if the train is moving in a continuous forward or backward direction or if the train is stopped for an emergency condition. The period of time a train may block a crossing may be extended to twenty (20) minutes in a limited number of circumstances, (see 66 O.S. §190 for details.)

Penalty:

Violations of this statute may result in a penalty of up to \$1,000.00.

Who May Enforce This Statute?:

Per 66 O.S. §190, municipalities, county sheriffs and the Oklahoma Highway Patrol may issue citations.

Who May be Cited for Violations?:

A citation may be issued to any person or corporation that violates a provision of this statute.

Enforcement Procedure:

When a citation for a violation of 66 O.S. §190 is written, a copy of the citation and train identification information should be given to a licensed attorney that represents the issuing agency. That attorney will file an enforcement action with the Oklahoma Corporation Commission ("Commission"), consisting of a Complaint, (with the attached citation and train identification information) and a Citation for Contempt.

Counsel for the agency bringing the action must ensure that the notice and service requirements for the enforcement action conform with the Corporation Commission's Rules of Practice (OAC 165:5-19-1) except that service of the complaint and citation shall be made upon the respondents by either personal delivery by the Sheriff's Department, a licensed process server, or by certified mail. A copy of the verified complaint and contempt citation shall also be delivered to the legal counsel for the Commission's Transportation Division.

From that point forward, the complaint is prosecuted by the issuing agency's attorney using the same procedures as any other complaint filed at the Commission. There is no filing fee for the complaint, but to be timely the complaint must be filed within one (1) calendar year from the date of the alleged violation.

FAQ:

1. Should the citation be issued to a train employee or the railroad?

While either is presumably allowed under the statute, it is best practice to issue the citation to the railroad company itself.

2. How do I identify which railroad is operating the train?

This is a matter of evidence and there are many ways for this to be proven. Often times identifying information is found on the side of the trains themselves. The exact way that is most appropriate to prove which railroad operated the blocking train may vary from situation to situation.

However, be advised that most railroads own or lease the track on which they operate, and the only train that operates on a track belongs to a single specific railroad. Accordingly, if one knows the owners of the track in your jurisdiction, they will also know who is operating the train on that track. To find out which railroad owns the tracks in your jurisdiction you may visit the Oklahoma Department of Transportation's website at <http://www.okladot.state.ok.us/maps/railroad/index.htm> or contact the Railroad Section of the Oklahoma Corporation Commission at (405) 521-3407.

3. How do I know if an exception allows a railroad to block the crossing for 20 minutes instead of only 10 minutes?

This is another matter of evidence and how that is proven will depend on the specific facts in question. As a practical matter if you are in doubt you should wait for the blockage to last more than 20 minutes before you issue the citation.

4. How do we prove the length of time a crossing was blocked?

Again, this is a matter of evidence that will vary from situation to situation. Officer testimony, video footage, as well as any other valid method of establishing a violation is allowed.

5. What are the officer's responsibilities in enforcing this statute?

The officer is responsible for collecting evidence to prove that a train blocked a crossing for over the specified length of time, and establishing the identity of the railroad that owned the train. The officer should then fill out a citation, normally to be issued to the railroad that owned the offending train, indicating at a minimum the date, time, and location of the blockage, as well as the railroad responsible for the blockage. After that point, the citation should be forwarded to the licensed attorney that will bring the enforcement action on behalf of the issuing agency. The officer should be prepared to testify at a hearing at the Commission, if required.