

**603 KAR 9:020. Automatic gates at public grade crossings.**

RELATES TO: KRS 189.561

STATUTORY AUTHORITY: KRS 189.561, 23 C.F.R. Part 924

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.561 requires the Transportation Cabinet to investigate any public grade crossing not equipped with automatic crossing gates, which has an average daily traffic volume of 4000 or more vehicles and at which two (2) or more accidents involving a train and other vehicle have occurred within a five (5) year period. Excluded are nonfatal accidents caused by mechanical failure of the motor vehicle, accidents in which the operator of the highway motor vehicle was in violation of KRS Chapter 189A, or other nonwarning signal related cause as set forth by the Transportation Cabinet in administrative regulation. This administrative regulation sets forth the list of nonwarning signal related accidents.

Section 1. Definition. "Public grade crossing" means as defined in KRS 177.010(4).

Section 2. Qualifying Accident. In evaluating the public grade crossing accident reports, the Transportation Cabinet shall exclude the reports showing the following causes or circumstances associated with the highway vehicle/train collision which are not related to a warning device:

- (1) The highway vehicle was not performing a railroad/highway crossing maneuver at the time of the collision;
- (2) The driver of the highway vehicle made a willful decision to disregard the warning that a train was approaching and to place self at risk;
- (3) The driver of the highway vehicle was warned of the approach of the train but was unable to stop the highway vehicle because of excessive speed or adverse highway conditions;
- (4) The driver of the highway vehicle left the scene of the accident prior to the investigation;
- (5) The driver of the highway vehicle was stopped on the railroad tracks prior to the approach of a train because of traffic congestion on the highway;
- (6) The highway vehicle was struck by another vehicle and propelled into the crossing; or
- (7) The driver of the highway vehicle did not hold an operator's license of the type necessary for the operation of that highway vehicle; or
- (8) The driver of the highway vehicle was not in control of the vehicle due to external circumstances such as illness.

Section 3. Abandoned Rail Line. If the rail line has been proposed for abandonment, the Transportation Cabinet shall not consider placement of automatic crossing gates unless the abandonment proposal is rejected.

(21 Ky.R. 2343; 2718; eff. 6-1-1995; Crt eff. 3-11-2019; Crt eff. 2-23-2026.)