

1                           \* \* \* Rail Trespassing [Sec. 7 only]\* \* \*

2    Sec. 7. 5 V.S.A. § 3734 is amended to read:

3    § 3734. TRESPASS ON RAILROAD PROPERTY; PENALTY

4    A person who, without right, loiters or remains in a depot, or upon the platform, approaches,  
5    or grounds adjacent thereto, after being requested to leave by a railroad policeman, sheriff,  
6    deputy sheriff, constable, or policeman, shall be fined not more than \$20.00 nor less than \$2.00.

7    (a) Definitions. As used in this section:

8       (1) “Passenger” means a person traveling by train with lawful authority and who does not  
9    participate in the train’s operation. The term “passenger” does not include a stowaway.

10      (2) “Railroad” means any form of nonhighway ground transportation that runs on rails or  
11    electromagnetic guideways. “Railroad” does not include rapid transit operations in an urban area  
12    that are not connected to the general railroad system of transportation.

13      (3) “Railroad carrier” means a person providing railroad transportation.

14      (4)(A) “Railroad property” means all tangible property owned, leased, or operated by a  
15    railroad carrier, including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct,  
16    trestle, depot, warehouse, terminal, or any other structure, appurtenance, or equipment owned,  
17    leased, or used in the operations of any railroad carrier, including a train, locomotive, engine,  
18    railroad car, work equipment, rolling stock, or safety device.

19      (B) “Railroad property” does not include a railroad carrier’s administrative building or  
20    offices, office equipment, or intangible property such as computer software or other information.

21      (5) “Right-of-way” means the track and roadbed owned, leased, or operated by a railroad  
22    carrier and property located on either side of the tracks that is readily recognizable to a

1   reasonable person as being railroad property or is reasonably identified as such by fencing or  
2   appropriate signs.

3       (6) "Yard" means a system of parallel tracks, crossovers, and switches where railroad cars  
4   are switched and made up into trains, and where railroad cars, locomotives, and other rolling  
5   stock are kept when not in use or when awaiting repairs.

6       (b) Trespassing on railroad property prohibited. Except for the purpose of crossing railroad  
7   property at a public highway or other authorized crossing, a person shall not, without lawful  
8   authority or the railroad carrier's consent, knowingly enter or remain upon railroad property by  
9   an act including:

10          (1) standing, sitting, resting, walking, jogging, or running, or operating a recreational or  
11   nonrecreational vehicle, including a bicycle, motorcycle, snowmobile, car, or truck; or

12          (2) engaging in recreational activity, including bicycling, hiking, camping, or cross-  
13   country skiing.

14          (c) Stowaways prohibited. A person shall not, without lawful authority or the railroad  
15   carrier's consent, ride on the outside of a train or inside a passenger car, locomotive, or freight  
16   car, including a box car, flatbed, or container.

17          (d) Persons with lawful authority to be on specified railroad property. The following is a  
18   nonexhaustive list of persons who have lawful authority to be on railroad property and are not  
19   subject to the prohibitions of subsections (b) and (c) of this section:

20           (1) passengers on trains, or employees of a railroad carrier while engaged in the  
21   performance of their official duties;

22           (2) police officers, firefighters, peace officers, and emergency response personnel, while  
23   engaged in the performance of their official duties;

1       (3) a person going upon railroad property in an emergency to rescue a person or animal  
2       such as livestock, pets, or wildlife from harm, or to remove an object that the person reasonably  
3       believes to pose an imminent hazard;

4       (4) a person on the station grounds or in the depot of the railroad carrier as a passenger, or  
5       for the purpose of transacting lawful business;

6       (5) a person, or the person's family or invitee, or the person's employee or independent  
7       contractor going upon a railroad's right-of-way for the purpose of crossing at a farm or private  
8       crossing site approved by the railroad carrier or other crossing authorized by law in order to  
9       obtain access to land that the person owns, leases, or operates;

10      (6) a person having written permission from the railroad carrier to go upon the railroad  
11      property in question;

12      (7) representatives of the Transportation Board or Agency of Transportation while  
13      engaged in the performance of their official duties;

14      (8) representatives of the Federal Railroad Administration while engaged in the  
15      performance of their official duties; or

16      (9) representatives of the National Transportation Safety Board while engaged in the  
17      performance of their official duties.

18      (e) Exemptions.

19      (1) The following persons are not subject to the prohibition of subsection (b) of this  
20      section:

21      (A) A person who has permission from the owner, lessee, or operator of land that is  
22      served by a private crossing authorized by law or approved by the railroad carrier to use the  
23      crossing for recreational purposes, and who enters upon the crossing for such purposes.

1           (B) A person who enters or remains upon railroad property, other than a rail yard, while  
2 lawfully engaged in hunting, fishing, or trapping. However, the person shall not qualify as  
3 exempt under this subdivision (e)(1)(B) if he or she enters within an area extending four feet  
4 outward from either side of the rail and within the rail, unless he or she crosses and leaves this  
5 area quickly, safely, and at an angle of approximately 90 degrees to the direction of the rail.

(2) Nothing in this subsection is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law.

8       (f) Penalty. A violation of this section is a traffic violation as defined in 23 V.S.A. chapter 24  
9       and an action under this section shall be brought in accordance with 4 V.S.A. chapter 29. A  
10      person who violates this section shall be subject to a civil penalty of not more than \$200.00.

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12 [NOTE: MERRIAM-WEBSTER DEFINITION OF "TRACK"]

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14 (3) a pair of metal bars that a train, trolley, or subway car rides along]

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