

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 56-102, 56-111, 56-117, 56-118, 56-129.1, 56-130, 56-131, 56-354,*
 3 *56-362, 56-363, 56-366.1, 56-366.3, 56-368.1, 56-369, 56-405, 56-405.02, 56-405.1, 56-405.2,*
 4 *56-406.1, 56-406.2, 56-411, 56-428, 56-446, and 56-451.1 of the Code of Virginia, and to amend the*
 5 *Code of Virginia by adding sections numbered 33.1-145.1, 56-345.1, 56-355.2, 56-365.1, and*
 6 *56-413.01, and to repeal §§ 56-44, 56-45, 56-46, 56-93 through 56-99.1, 56-100.1, 56-101, 56-102.1*
 7 *through 56-110, 56-112 through 56-116, 56-129, 56-132, 56-139, 56-266 through 56-272, 56-345,*
 8 *56-348, 56-359, 56-360, 56-361, 56-364, 56-365, 56-366.2, 56-371 through 56-382, 56-384 through*
 9 *56-389, 56-405.01, 56-405.3, 56-413, 56-413.1, 56-413.2, 56-417, 56-418, 56-419.1, 56-427, 56-445,*
 10 *56-447 through 56-451, 56-454, 56-455, and 56-456 of the Code of Virginia, relating to railroads.*

11 [H 1133]

12 Approved

13 **Be it enacted by the General Assembly of Virginia:**

14 **1. That §§ 56-102, 56-111, 56-117, 56-118, 56-129.1, 56-130, 56-131, 56-354, 56-362, 56-363,**
 15 **56-366.1, 56-366.3, 56-368.1, 56-369, 56-405, 56-405.02, 56-405.1, 56-405.2, 56-406.1, 56-406.2,**
 16 **56-411, 56-428, 56-446, and 56-451.1 of the Code of Virginia are amended and reenacted, and that**
 17 **the Code of Virginia is amended by adding sections numbered 33.1-145.1, 56-345.1, 56-355.2,**
 18 **56-365.1, and 56-413.01 as follows:**

19 *§ 33.1-145.1. Grade crossing closing and safety.*

20 *It is the public policy of the Commonwealth of Virginia to enhance public safety by establishing safe*
 21 *highway/rail grade crossings and to consolidate and close unsafe, unnecessary, or redundant crossings*
 22 *and to limit the establishment of new crossings. The Commonwealth Transportation Board has the*
 23 *authority to close public highway/rail grade crossings on the system of highways for which it has*
 24 *responsibility.*

25 *The Commissioner on his own motion or by request of any interested landowner, railroad*
 26 *corporation, county board of supervisors, or other governing body may petition the Commonwealth*
 27 *Transportation Board, to close the highway/rail grade crossing as a public road.*

28 *The Commissioner shall, prior to petitioning the Commonwealth Transportation Board, conduct a*
 29 *traffic engineering study to determine the validity of closing the crossing. The traffic engineering study*
 30 *shall consider all factors including but not be limited to: (i) the number of freight and passenger trains*
 31 *passing the crossing and their timetable speeds, (ii) the distance to an alternate crossing, (iii) the*
 32 *availability of alternate access, (iv) the crossing's accident history during the five year period*
 33 *immediately prior to the study, (v) the number of vehicles per day using the crossing, (vi) the posted*
 34 *speed limit at the crossing, (vii) the type of warning devices present at the crossing, (viii) the alignment*
 35 *of the roadway and railroad and their angle of intersection, (ix) the number of trucks per day carrying*
 36 *hazardous materials through the crossing, (x) the number of vehicles per day carrying passengers for*
 37 *hire through the crossing, (xi) the number of school buses per day using the crossing, and (xii) the use*
 38 *of the crossing by emergency vehicles.*

39 *The results of the traffic engineering study shall be made public in accordance with the procedures*
 40 *set forth in § 33.1-145. The Commissioner shall present his findings and recommendations to the*
 41 *Commonwealth Transportation Board and the Board shall decide what actions to be taken regarding the*
 42 *crossing(s) at issue.*

43 *§ 56-102. Unlawful to charge other than published tariff.*

44 *When the Commission shall have either authorized or specified and published any such rates, fares,*
 45 *and charges, excluding those covered by contracts have been published in a tariff, it shall be unlawful*
 46 *for any such company to charge, demand, collect, or receive from any person a greater or less*
 47 *compensation for the transportation of passengers or property, or for any services in connection*
 48 *therewith, than is specified in such published schedule of rates, fares, and charges, ~~so authorized, or~~*
 49 *prescribed and published by the Commission, unless or until changed by the Commission; provided,*
 50 *however, when the Commission determines unless it is determined that a rate, fare or charge has been*
 51 *published recorded in error it shall order publication of an appropriate correction which shall be*
 52 *effective from the effective date of the erroneous rate, fare or charge.*

53 *§ 56-111. When railroads may operate by motor vehicle or aircraft.*

54 *Any railroad, electric railway or steamboat corporation operating a railroad, electric railway or*
 55 *steamboat line doing business in this Commonwealth may acquire, own and operate motor vehicles for*
 56 *the purpose of transporting persons or property over the public highways as a common carrier by motor*

57 vehicle as that term is defined by § ~~56-273~~ 46.2-2000, subject to the laws of Virginia governing the
 58 operations and regulation of common carriers by motor vehicle and all lawful regulations of the
 59 ~~Commission Commonwealth~~ made pursuant thereto and applying to other motor vehicles or other
 60 common carriers by motor vehicle, including the laws requiring the payment of registration and license
 61 fees and other taxes by common carriers by motor vehicle, when lawfully authorized ~~so to do by the~~
 62 ~~Commission~~ in accordance with the provisions of such laws and regulations.

63 ~~So long as the gross transportation receipts from operations as a common carrier by motor vehicle~~
 64 ~~are subject to road tax, such gross transportation receipts shall not be included in the gross transportation~~
 65 ~~receipts of any such railroad or steamboat corporation upon which its annual state franchise tax is~~
 66 ~~calculated.~~

67 Any such railroad, ~~electric railway or steamboat corporation~~ may also acquire, own and operate
 68 equipment for and engage in ~~aerial~~ *air* transportation, subject to the provisions of the law regulating
 69 ~~aerial~~ *air* transportation.

70 § 56-117. Company to notify consignee of arrival of freight.

71 It shall be the duty of every ~~transportation railroad~~ company, or carrier, upon the arrival of freight
 72 shipped to any of its depots or stations, to notify the consignee by mail, *electronic data transfer*, or
 73 otherwise when such freight is ready for delivery, and to give a reasonable time for the removal of the
 74 same, making due allowance for its class and bad weather and holidays.

75 § 56-118. Freight bill; what to contain.

76 Every ~~transportation railroad~~ company or line, doing business in this Commonwealth, shall, at the
 77 time when such company delivers any articles shipped or transported over its line, furnish to the owner
 78 or consignee thereof, or to his agent, a bill, plainly stating the class of freight to which the articles
 79 belong, the weight thereof, and the rate charged for transporting the same. *Bills may be furnished by*
 80 *mail or contemporaneous electronic transmission.*

81 § 56-129.1. Participation in the Federal Railroad Administration Safety and Inspection Program.

82 The State Corporation Commission shall have the authority to participate in carrying out ~~track safety~~
 83 inspection activities in connection with any rule, regulation, order, or standard prescribed by the
 84 Secretary of Transportation of the United States under the authority of the Federal Railroad Safety Act,
 85 ~~United States Code, Title 45, Chapter 13 (49 U.S.C. § 20101 et seq.) as delegated to the Commonwealth~~
 86 *by the Federal Railroad Administration*, provided that the Commission shall comply with all the
 87 requirements imposed by the United States Code, ~~Title 45, Section 435~~. The Commission shall employ
 88 such expert, professional or other assistance as is necessary to carry out the activities authorized by this
 89 section. ~~Such track~~ Safety inspectors shall attain Federal Railroad Administration qualifications necessary
 90 to qualify the Commonwealth for federal funds. Provided, however, that a maximum of \$150,000
 91 \$200,000 paid to the State Corporation Commission under §§ 58.1-2660 through 58.1-2662 shall be
 92 allocated to this program.

93 The Commission shall have the authority to adopt such rules in conformance with the Federal
 94 Railroad Safety Act that are necessary for the promulgation of railroad ~~track~~ safety within the
 95 Commonwealth.

96 § 56-130. Penalty for failure to make necessary repairs, etc.

97 If any railroad, or other ~~transportation railroad~~ company, when directed by a valid order of the
 98 Commission, refuses or fails to ~~make necessary repairs or additions to its rolling stock, or addition or~~
 99 ~~improvement to its equipment, or any enlargement of or improvement in its stations, station houses,~~
 100 ~~wharves, or landings, or any change in the mode of operating its road or transportation line, or in~~
 101 ~~conducting its business, which the Commission deems reasonable and expedient in order to promote the~~
 102 ~~security, convenience, and accommodation of the public, such company comply with any requirement~~
 103 ~~imposed pursuant to § 56-129.1, such company shall, in the discretion of the Commission, be fined not~~
 104 ~~less than \$100 nor more than \$1,000 in accordance with federal guidelines.~~

105 § 56-131. Accident Investigation and Reporting.

106 The Commission ~~may shall~~ investigate the cause of any accident on any ~~transportation line railroad~~
 107 which, in its judgment, ~~shall require~~ *requires* investigation. *The Commission shall require every*
 108 *common carrier by railroad doing business in this Commonwealth to file all reports required by the*
 109 *Federal Railroad Administration pursuant to the Federal Accidents Reports Act and regulations issued*
 110 *pursuant thereto to the Commission at its office in Richmond, Virginia, provided that neither such report*
 111 *nor any part thereof shall be admitted as evidence in any suit or action for damages growing out of any*
 112 *matter mentioned in such report.*

113 § 56-345.1. Notice; consolidation, merger, abandonments, or discontinuances.

114 Any railroad company operating in the Commonwealth who submits an application to the federal
 115 government for consolidation, merger, abandonment, or discontinuance shall, *contemporaneously with*
 116 *such application, notify the Commission and the Chief Executive Officer of the Commonwealth of such*
 117 *action.*

118 § 56-354. Conductors, etc., to be conservators of the peace.

119 Conductors *and engineers* of railroad *passenger* trains, ~~motormen~~, and station and depot agents, shall
 120 be conservators of the peace; ~~and they and each of them.~~ *Each* shall have the same power to make
 121 arrests that other conservators of the peace have; except that the conductors *and engineers of passenger*
 122 *trains* shall only have such power on board their respective trains and on the property of their company
 123 while on duty and the agents at their respective places of business; ~~and such conductors.~~ *Conductors,*
 124 *engineers,* and agents may cause any person so arrested by them to be detained and delivered to the
 125 proper authorities for trial as soon as practicable.

126 § 56-355.2. *Definitions.*

127 "Public road authority" as used in this chapter means any appropriate governing body which has
 128 responsibility for the construction and maintenance of public highways.

129 "Overpass" as used in this chapter means a grade separation structure in which the public highway
 130 passes above and across the railroad.

131 "Underpass" as used in this chapter means the railroad passes above and across the public highway.

132 "Highway" as used in this chapter means any public highway, road, or street maintained by the
 133 Virginia Department of Transportation or for which maintenance payments are made pursuant to
 134 §§ 33.1-41.1 and 33.1-23.5:1.

135 § 56-362. Right of railroad to cross watercourse, intervening railroad, etc.

136 Any railroad corporation created *or doing business* under the laws of this Commonwealth, which
 137 shall have fully located the route of its railway, may, in the construction of such railway on such route,
 138 cross any canal, navigable stream, or watercourse between its termini, but in such manner as not
 139 unreasonably to impede the navigation and use thereof; and may also cross any railway or railroad
 140 intervening, in the manner and upon the terms prescribed by §§ 56-17 to 56-32, and ~~56-364~~ 56-363.

141 § 56-363. Crossing of a railroad or public highway by another railroad; crossing of a railroad by a
 142 public highway.

143 It is hereby declared to be the policy of ~~this~~ *the* Commonwealth that all crossings of one railroad by
 144 another, or of a ~~county road or~~ *public* highway by a railroad, or of a railroad by a ~~county road or~~ *public*
 145 highway, shall, wherever reasonably practicable, pass above or below the existing ~~structure~~ *facility*. And
 146 every railroad hereafter constructed across another railroad or across a ~~county road or~~ *public* highway,
 147 and every ~~county road or~~ *public* highway hereafter constructed across a railroad, shall, wherever it is
 148 reasonably practicable, and does not involve an unreasonable expense, all the circumstances of the case
 149 considered, pass above or beneath the existing structure at a sufficient elevation or depression, as the
 150 case may be, with easy grades, so as to admit of safe speedy travel over each.

151 The provisions of this section shall not apply to crossings in cities or towns, nor to electric railways
 152 within or without cities and towns.

153 *If constructing a crossing either above or below the existing structure is not practical and involves*
 154 *an unreasonable expense, the responsible governing body constructing a new public crossing at grade,*
 155 *in accordance with the laws of the Commonwealth of Virginia, shall take precautions to provide for the*
 156 *safe movement of traffic. It is the policy of the Commonwealth to limit the number of new public at*
 157 *grade crossings and to eliminate unnecessary crossings.*

158 § 56-365.1. *Closing and or consolidation of grade crossings.*

159 *Whenever the public safety requires that an existing crossing of a railroad by a public highway at*
 160 *grade be eliminated or that multiple grade crossings be consolidated, either the public road authority or*
 161 *the affected railroad may petition the Commonwealth Transportation Board to provide funding for and*
 162 *to require the elimination of the existing grade crossing as a condition of participating in the funding.*
 163 *Upon a finding that the public safety requires elimination of the existing grade crossing, and the*
 164 *Commonwealth Transportation Board funds are available for the improvement, the Commonwealth*
 165 *Transportation Board may order the elimination of the crossing or the consolidation of multiple grade*
 166 *crossings. The affected railroad may contribute to the cost of eliminating or consolidating grade*
 167 *crossings. The Commonwealth may apply for, receive, and contribute any available federal or other*
 168 *funds for the elimination or consolidation of grade crossings.*

169 § 56-366.1. Proceedings to avoid or eliminate grade crossings by grade separation or to widen,
 170 strengthen, remodel, relocate or replace existing crossing structures on public highways.

171 Whenever a road in the State Highway System or ~~in the secondary system of state highways~~ *a public*
 172 *highway maintained by a locality* (1) crosses a railroad, (2) is projected across a railroad, (3) is to be so
 173 changed as to cross a railroad, or (4) an existing ~~overhead~~ *overpass* or underpass crossing of any such
 174 road and a railroad is in need of widening, strengthening, ~~remodelling~~ *remodeling*, relocating or
 175 replacing, and funds are (or are to be) allocated by the Commonwealth Transportation Board *or public*
 176 *road authority* for payment of the *locality or state's* portion of the cost of constructing such an ~~overhead~~
 177 *overpass* or underpass structure or for widening, strengthening, ~~remodelling~~ *remodeling*, relocating or
 178 replacing such an existing structure, the Commonwealth Transportation Commissioner *or representative*

179 *of the public road authority* may agree with the railroad company or companies, involved, on such terms
 180 and conditions as he shall deem in the best interests of the Commonwealth *or locality* regarding the
 181 plans and specifications, the method and manner of construction and the division of costs *and*
 182 *maintenance responsibility* of any such separation of grade structure. In case of a separation of grade by
 183 structure at a new, or an existing, grade crossing, the project, except in special cases and under special
 184 circumstances to be mutually agreed upon by the Commonwealth Transportation Commissioner, *the*
 185 *public road authority*, and the railroad company or companies involved, shall be deemed to start at
 186 points on each side of the tracks of the railroad or railroads where the grade, under the proposed plans
 187 and specifications, leaves the ground line to go over or under, as the case may be, the tracks of the
 188 railroad or railroads.

189 In the event the Commonwealth Transportation Commissioner, *the public road authority*, and the
 190 railroad company or companies involved are unable to agree (1) on the necessity for the construction of
 191 such underpass or overpass structure or for the widening, strengthening, ~~remodelling~~ *remodeling*,
 192 relocating or replacing of any existing ~~overhead~~ *overpass* or underpass structure, or (2) the plans and
 193 specifications for and method or manner of construction thereof, or (3) the portion of the work, if any,
 194 to be done and the share of the cost of such project, if any, to be borne by each of the railroad
 195 company or companies involved, the Commonwealth Transportation Commissioner *or the public road*
 196 *authority* shall petition the State Corporation Commission setting forth the plans and specifications for
 197 and the method and manner of construction of such project and the facts which in his opinion justify the
 198 elimination of the crossing ~~and~~, the erection of a new separation of grade structure or the widening,
 199 strengthening, ~~remodelling~~ *remodeling*, relocating or replacing of an existing structure *and the*
 200 *maintenance responsibility*. Copies of the petition and the plans and specifications shall forthwith be
 201 served by the State Corporation Commission on the railroad company or companies involved. Within
 202 twenty days after service on it of such petition and plans and specifications, the railroad company or
 203 companies shall file an answer with the State Corporation Commission setting out its objections to the
 204 proposed project and the Commission shall hear and determine the matter as other matters are heard and
 205 determined by that body. The Commission shall consider all the facts and circumstances surrounding the
 206 case and shall determine (1) whether public necessity and convenience justifies or requires the
 207 construction of such new separation of grade structure or whether an existing structure is so dangerous
 208 to or insufficient to take care of traffic on the highway as to require the widening, strengthening,
 209 ~~remodelling~~ *remodeling*, relocating or replacing proposed, (2) whether the plans and specifications or
 210 method and manner of construction are proper and appropriate, and (3) what portion of the work, if any,
 211 to be done and what share of the cost of such project, if any, to be borne by each of the railroad
 212 company or companies involved (excluding the cost of right-of-way) is fair and reasonable, having
 213 regard to the benefits, if any, accruing to such railroad or railroads from the elimination of such grade
 214 crossing or the widening, strengthening, ~~remodelling~~ *remodeling*, relocating or replacing any existing
 215 ~~overhead~~ *overpass* or underpass structure, and either dismiss the proceeding as against the railroad
 216 company or companies involved or enter an order deciding and disposing of all of the matters
 217 hereinbefore submitted to its jurisdiction.

218 *Grade crossings shall be closed when replaced by a new public highway. However, the*
 219 *Commonwealth Transportation Board or the public road authority may authorize the continued use of*
 220 *the crossing for a period of two years following the construction of the new highway to familiarize the*
 221 *public with the new route.*

222 § 56-366.3. Proceedings to alter, rebuild or replace existing grade separation structure destroyed or
 223 rendered unusable.

224 In the event an existing ~~bridge~~ *overpass* or crossing over a railroad is destroyed or rendered unusable
 225 or otherwise becomes necessary to alter, rebuild, or replace, which ~~bridge~~ *overpass* or crossing is
 226 maintained by a railroad company, such company shall immediately notify the Commonwealth
 227 Transportation Commissioner, *or the public road authority* of its intent to formulate plans for such
 228 alteration, rebuilding, or replacement. The Commissioner *or the public road authority* shall, as soon as
 229 practicable after receipt of such notice, determine if, in consideration of the needs of the state systems of
 230 highways, the work to be done on such ~~bridge or crossing~~ *existing separation structure* should
 231 encompass any upgrading of such ~~structure~~ *overpass*. Upon reaching such decision, the Commissioner *or*
 232 *the public road authority* shall forthwith notify the company thereof.

233 If the Commissioner *or representative of the public road authority* determines that upgrading is not
 234 necessary, the company, within six months of notice thereof, shall, in consultation with the
 235 Commissioner *or representative of the public road authority*, formulate and submit plans to the
 236 Commissioner *or representative of the public road authority* for the necessary work. As soon as the
 237 plans are submitted the Commissioner *or representative of the public road authority* shall review the
 238 same and after determining the plans are satisfactory, shall notify the railroad to begin construction by a
 239 specified date and to complete such construction within a specified time limit after considering public

240 safety, convenience and necessity and the amount, nature and extent of the planned construction. All
 241 costs of necessary work, including formulation of plans, where upgrading is not necessary, shall be
 242 borne by the company. In the event, there is a disagreement as to the design, method of construction
 243 and date of completion such dispute shall be resolved under the procedural provisions of § 56-366.1.

244 If the Commissioner *or public road authority* determines that upgrading is necessary or desirable, the
 245 same procedure for coordination with the company shall apply except that the parties may agree that the
 246 Commissioner *or representative of the public road authority* formulate, and execute plans for such work,
 247 in consultation with such company. Disputes as to matters in this regard, including allocation of cost,
 248 shall also be resolved ~~under the procedural provisions of § 56-366.1~~ *by petition to the State Corporation*
 249 *Commission and any new overpass shall be maintained in accordance with § 56-368.1.*

250 When it is necessary only to repair any ~~such bridge or crossing over a railroad overpass~~, maintained
 251 by such railroad, the railroad shall perform all work and bear all costs in connection therewith.

252 All duties under this section shall be performed as expeditiously as possible. Nothing herein shall be
 253 construed in any way to limit the authority of the Commissioner ~~over the roads on such bridges or~~
 254 ~~crossovers~~ *or representative of the public road authority over public highways and overpasses.*

255 § 56-368.1. Subsequent maintenance of underpasses and overpasses.

256 After the work specified in §§ 56-366.1 and 56-366.3 *regarding underpasses and overpasses* has
 257 been done, the maintenance, including drainage, of any underpass hereafter so constructed, except the
 258 pavement thereof, shall be the sole responsibility of the railroad company and the maintenance of any
 259 ~~overhead structure overpass~~ hereafter so constructed shall be the sole responsibility of the Department of
 260 Transportation *or the public road authority*; provided, that the railroad company shall not be responsible
 261 for any damage to an underpass caused by operations on the highway, and the Department of
 262 Transportation *or the public road authority* shall not be responsible for any damage to an overpass
 263 caused by the operations of the railroad company; and further provided, that the provisions herein as to
 264 maintenance of overhead and underpasses shall also be construed as applicable in the case of those
 265 structures previously built on the primary system under agreement between the railroad company and the
 266 Department of Transportation *or the public road authority*; and further provided that the provisions
 267 herein as to maintenance by a railroad company shall not be applicable in the case of any underpass
 268 hereafter constructed without eliminating a crossing of a railroad and a highway grade, but the
 269 maintenance of such structures, including highway drainage and pavement therefor, shall be the sole
 270 responsibility of the Department of Transportation *or the public road authority*.

271 § 56-369. Elimination of public grade crossings by change of alignment of public highways or
 272 construction of replacement public highways.

273 Whenever the Commonwealth Transportation Commissioner *or the appropriate public road authority*
 274 in improving a ~~state road~~ *the alignment of public highways or* proposes to change the alignment of the
 275 highway *or construct a replacement public highway* and thereby permanently eliminate as a public
 276 crossing one or more crossings of a railroad at grade, he may agree with the railroad company involved,
 277 on such terms and conditions as he *or the representative of the public road authority* shall deem in the
 278 best interest of the Commonwealth *or locality* regarding the plans and specifications, the method and
 279 manner of construction and the division of costs of so changing the alignment of the highway. *Grade*
 280 *crossings shall be closed when replaced by a new public highway. However, the Commonwealth*
 281 *Transportation Board or the public road authority may authorize the continued use of the crossing for a*
 282 *period of two years following the construction of the new public highway to familiarize the public with*
 283 *the new route.*

284 In the event the Commonwealth Transportation Commissioner *or the public road authority* and the
 285 railroad company are unable to agree (1) on the necessity for such change in the alignment of the
 286 highway, or (2) the plans and specifications for the method and manner of construction thereof, or (3)
 287 the portion of the work, if any, to be done and the share of the cost of such project, if any, to be borne
 288 by the railroad company involved, the Commonwealth Transportation Commissioner *or the public road*
 289 *authority* shall petition the State Corporation Commission setting forth the plans and specifications for
 290 the method and manner of changing the alignment of the *public* highway and the facts which, in his
 291 opinion, justify the proposed elimination as a public crossing of one or more crossings of the railroad at
 292 grade. Copies of the petition and the plans and specifications shall forthwith be served by the State
 293 Corporation Commission on the railroad company involved. Within twenty days after service on it of
 294 such petition and plans and specifications, the railroad company involved shall file an answer with the
 295 State Corporation Commission setting out its objections to the proposed project and the Commission
 296 shall hear and determine the matter as other matters are heard and determined by that body. The
 297 Commission shall consider all the facts and circumstances surrounding the case and shall determine (1)
 298 whether public necessity and convenience justifies or requires the proposed change in the alignment of
 299 the highway which shall not, in respect to any particular project within the meaning of this section,
 300 exceed five miles in length, (2) whether the plans and specifications or method and manner of

301 construction are proper and appropriate, and (3) what portion of the work, if any, to be done and what
 302 share of the cost of such project, if any, to be borne by the railroad company involved is fair and
 303 reasonable, having regard to the benefits, if any, accruing to such railroad from the elimination of such
 304 grade crossing or crossings, and either dismiss the proceeding as against the railroad company involved
 305 or enter an order deciding and disposing of all of the matters hereinbefore submitted to its jurisdiction,
 306 provided, however, that the share of the cost of such project which the Commission may find proper to
 307 be borne by the railroad under the provisions of this section, shall not exceed what the Commission
 308 might otherwise decide would be the proportion of the cost of constructing an ~~overhead or undergrade~~
 309 *overpass or underpass* structure or structures at the point or points where such *public* grade crossing or
 310 crossings are to be eliminated.

311 § 56-405. Railroad companies to maintain grade crossings of public highways and approaches; repair
 312 by Commonwealth Transportation Commissioner or public road authority; recovery of cost from railroad
 313 company.

314 At every crossing, now existing or hereafter established, of a public road by a railroad or of a
 315 railroad by a public ~~road~~ *highway* at grade, it shall be the duty of the railroad company to keep such
 316 crossing in good repair to the full width of the public ~~road~~ *highway*, and to maintain such crossing in a
 317 smooth condition so as to admit of reasonable and safe travel over the same, and it shall also be the
 318 duty of the railroad company to maintain and keep in good repair that portion of the highway located
 319 between points two feet on either side of the extreme rails. *A railroad may request that a public*
 320 *highway be closed for grade crossing maintenance activities and the representative of the*
 321 *Commonwealth Transportation Commissioner or the representative of the appropriate public road*
 322 *authority may approve such closing where a reasonable detour is available.* Any railroad company
 323 violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction,
 324 shall be fined not less than \$10 nor more than \$500.

325 The Commonwealth Transportation Commissioner or ~~the local governing body of a county, city or~~
 326 ~~town, where such county, city or town maintains its streets and roads~~ *the representative of the public*
 327 *road authority*, whenever he or it shall ascertain that any such crossing is not being properly maintained
 328 shall notify the railroad company involved in writing to repair the crossing forthwith; the railroad
 329 company upon receipt of notice may request a conference on the condition of the crossing and the need,
 330 if any, for the repair of such crossing and such conference shall be held within thirty days after receipt
 331 of the Commissioner's or such governing body's notice. After the conference if the Commissioner or
 332 such governing body is of the opinion that such repairs are required and the railroad is not willing to
 333 proceed promptly with such repairs, he or such governing body may repair the same or cause it to be
 334 repaired and recover from the railroad company the actual cost of such work including any
 335 administration and engineering cost.

336 If no conference is requested by the railroad company within the thirty-day period, the Commissioner
 337 or ~~such governing body~~ *the public road authority with advance notice* may repair the crossing or cause
 338 it to be repaired and recover from the railroad company the actual cost of such work including any
 339 administration and engineering cost.

340 In any action under this section to recover the cost of the repair of any such crossing, the need for,
 341 and reasonableness of, the repairs may be put in issue.

342 Nothing herein shall be construed as placing a duty on the railroad company to construct or
 343 reconstruct any such crossing in the event any such crossing is relocated or the highway approaches
 344 thereto are widened or reconstructed.

345 § 56-405.02. Railroads to adjust certain public highways at grade crossings.

346 When adjustments are made to railway trackage grade which crosses public rights-of-way in use as a
 347 *public highway or street or thoroughfare* in any locality, the railway company making such adjustments
 348 to their trackage shall also make initial adjustments to those *public highways or streets or thoroughfares*
 349 so affected thereby to maintain a safe vertical relationship between trackage and street surfaces and to
 350 insure positive storm drainage such as existed prior to such repairs. After making such initial
 351 adjustments the responsibility for the continuing maintenance of the areas within such *public highways*
 352 *and streets and thoroughfares* so adjusted shall be controlled by § 56-405.

353 The cost of all such initial street improvements necessitated by railway trackage adjustments shall be
 354 the responsibility of the railway company making such initial adjustments irrespective of whether or not
 355 the street improvements extended beyond railway right-of-way.

356 § 56-405.1. Agreements with Commonwealth Transportation Commissioner or public road authority
 357 representative for maintenance and repair of public grade crossings.

358 Whenever the Commonwealth Transportation Commissioner *or representative of the appropriate*
 359 *public road authority* determines that it is in the best interest of the public *to assist a railroad in their*
 360 *grade crossing maintenance and repair activities*, he is authorized to enter into an agreement with any
 361 railroad company for the repair or maintenance of any crossing of a railroad and a public ~~road~~ *highway*

362 or for the sale of materials to the railroad company for the repair and maintenance of any such crossing.
 363 Any such agreement shall provide for the railroad company to bear the cost of the repair or maintenance
 364 or material furnished and such other conditions as the Commonwealth Transportation Commissioner or
 365 *representative of the appropriate road authority* deems necessary or advisable to protect the interest of
 366 the public.

367 § 56-405.2. Construction and maintenance of crossbucks.

368 Every railroad company shall cause signal boards, hereinafter referred to as crossbucks, well
 369 supported by posts or otherwise and approved by the Department of Transportation at such heights as to
 370 be easily seen by travelers from both directions of the *public* highway, and not obstructing travel,
 371 containing in capital letters, at least five inches high, the inscription "railroad crossing," to be placed,
 372 and constantly maintained, at each public highway at or near and, on both sides of, each place where it
 373 is crossed by the railroad at the same level; provided that the requirements of this section in ~~cities and~~
 374 ~~towns~~ *localities that maintain their own streets* may be waived at specific crossings on the petition of
 375 any such company to both the Commonwealth Transportation Commissioner and the ~~governing body of~~
 376 ~~such city or town~~ *public road authority* if both the Commissioner and ~~such governing body the public~~
 377 *road authority* determine that any such crossing has or will have other adequate warning devices or that
 378 the placement of new crossbucks will not enhance the safety of the traveling public. Neither official
 379 action nor failure to act as hereinabove provided shall impair the power of ~~either~~ the Commissioner or
 380 ~~any governing body the public road authority~~ to require crossbucks at specific *public* crossings ~~in cities~~
 381 ~~and towns~~ should a subsequent determination of their need be made.

382 The cost of erecting crossbucks placed at a public highway for the first time *or whenever the*
 383 *Commissioner or the public road authority determines an upgrade of the standards is required* may be
 384 paid or supplemented from federal funds when available to the Department of Transportation for such
 385 purpose at the sole discretion of the Commonwealth Transportation Commissioner. But the election of
 386 the Commissioner not to participate in such cost shall not relieve any company from the obligation of
 387 this section.

388 This section shall apply as to cities and towns in the case of new crossbucks beginning July 1, 1977.

389 § 56-406.1. Proceedings for installation and maintenance of automatically operated gates, signals and
 390 other automatic crossing warning devices.

391 ~~Whenever, in the opinion of the Commonwealth Transportation Commissioner, or of the governing~~
 392 ~~body of any county that has withdrawn its roads from the secondary system of state highways as to~~
 393 ~~roads maintained by such county, the public interest requires that automatically operated gates, wigwag~~
 394 ~~signals or other electrical or automatic protection devices be installed at any highway, road or street~~
 395 ~~crossing of one or more railroads at grade outside the corporate limits of any city or incorporated town,~~
 396 ~~and whenever in the opinion of the council of any city or incorporated town the public interest requires~~
 397 ~~that automatically operated gates, wigwag signals or other electric or automatic protection devices or~~
 398 ~~manually operated gates be installed or a flagman stationed and kept at any highway or street crossing~~
 399 ~~of one or more railroads at grade within the corporate limits of such city or incorporated town, the~~
 400 ~~Commonwealth Transportation Commissioner, or the governing body of such county, or the council of~~
 401 ~~such city or incorporated town, as the case may be, may agree with the railroad company or companies~~
 402 ~~involved, on such terms and conditions as such Commissioner, governing body or council shall deem in~~
 403 ~~the best interest of the public, regarding the plans and specifications, the method and manner of~~
 404 ~~construction and operation, and the division of the cost of installing such crossing protection devices.~~
 405 *Railroads shall cooperate with the Virginia Department of Transportation and the Department of Rail*
 406 *and Public Transportation in furnishing information and technical assistance to enable the*
 407 *Commonwealth to develop plans and project priorities for the elimination of hazardous conditions at*
 408 *any crossing of a public highway which crosses at grade including, but not limited to grade crossing*
 409 *elimination, reconstruction of existing grade crossings, and grade crossing improvements. The*
 410 *Commonwealth shall provide each locality a listing of their grade crossing safety needs for their*
 411 *consideration. Information collected and analyses undertaken by the designated state agencies are*
 412 *subject to 23 U.S.C. § 409. A railroad shall not unilaterally select or determine the type of grade*
 413 *crossing warning system to be installed at any crossing of a public highway and railroad at grade. The*
 414 *railroad shall only install or upgrade a grade crossing warning system at any crossing of a public*
 415 *highway and railroad at grade pursuant to an agreement with the Virginia Department of*
 416 *Transportation or representative of the appropriate public road authority authorized to enter into such*
 417 *agreements. A railroad is not required but is permitted to upgrade, at its own expense, components of*
 418 *any public highway at grade warning system when such upgrade is incidental to a railroad improvement*
 419 *project relating to track, structures or train control systems.*

420 *When required by the Commonwealth Transportation Commissioner or representative of the*
 421 *appropriate public road authority, every railroad company shall cause a grade crossing warning device*
 422 *including flashing lights approved by the Department of Transportation at such heights as to be easily*

423 *seen by travelers, and not obstructing travel, to be placed, and maintained at each public highway at or*
 424 *near each place where it is crossed by the railroad at the same level. Such warning device shall be*
 425 *automatically activated by the approaching train so as to be clearly discernible to travelers approaching*
 426 *the railroad crossing from each direction at a distance of two-hundred feet. Such warning devices shall*
 427 *be erected at the initiative of the appropriate public road authority only when required by ordinance or*
 428 *resolution adopted by the Commissioner or the appropriate public road authority thereof stating that*
 429 *such political subdivision will pay the full initial installation cost of such warning devices and that*
 430 *maintenance costs will be fixed as provided in § 56-406.2. A certified copy of such ordinance or*
 431 *resolution shall be delivered to such railroad company, and such railroad company shall forthwith*
 432 *install such warning devices at the full initial cost of such public road authority. The cost of such*
 433 *installation and maintenance of such warning devices may be shared by agreement between such*
 434 *railroad company and the Commonwealth Transportation Commissioner or the appropriate public road*
 435 *authority, when initiating such installation. The railroad shall be responsible for the continuing*
 436 *maintenance of the warning devices.*

437 In the event that such Commissioner, ~~governing body or council~~ or representative of the appropriate
 438 public road authority and the railroad company or companies involved are unable to agree (1) on the
 439 necessity for such grade crossing ~~protection~~ warning device, or (2) the plans and specifications for and
 440 the method and manner of construction or operation thereof, or (3) the share of the cost of construction,
 441 if any, to be borne by the railroad company or companies involved, then the Commonwealth
 442 Transportation Commissioner, ~~governing body or council~~ or representative of the appropriate public
 443 road authority, as the case may be, shall petition the State Corporation Commission setting forth the
 444 grade crossing ~~protection~~ warning devices desired and the plans and specifications for and the method
 445 and manner of construction and operation of the devices desired and the facts which, in the opinion of
 446 the petitioner, justify the requiring of the same. Copies of the petition and plans and specifications shall
 447 be forthwith served by the State Corporation Commission on the railroad company or companies
 448 involved. Within twenty days after service on it of such petition and plans and specifications, each such
 449 railroad company shall file an answer with the State Corporation Commission setting out its objections
 450 to the proposed project and the Commission shall hear and determine the matter as other matters are
 451 heard and determined by that body. The Commission shall consider all the facts and circumstances
 452 surrounding the case and shall determine (1) whether public necessity justifies or requires the proposed
 453 ~~protection~~ warning devices, (2) whether the plans and specifications or the method and manner of
 454 construction and operation be proper and appropriate, and (3) what share of the cost of the project, if
 455 any, to be borne by any railroad company involved is fair and reasonable, having regard to the benefits,
 456 if any, accruing to such railroad company from providing such grade crossing ~~protection~~ warning
 457 devices, and either dismiss the proceeding as against such railroad company or enter an order deciding
 458 and disposing of all of the matters hereinbefore submitted to its jurisdiction.

459 § 56-406.2. Proceeding for fixing cost of maintaining such warning devices at public grade crossings.
 460 Whenever any automatically operated gate, wigwag signal or other ~~electrical~~ or automatic crossing
 461 ~~protection~~ warning device has been or may hereafter be installed at any highway, road or street grade
 462 crossing by any railroad company outside the corporate limits of any city or incorporated town, or at
 463 any such crossing inside the corporate limits of any incorporated town having a population of thirty-five
 464 hundred or less where the street involved is maintained by the Commonwealth Transportation Board,
 465 pursuant to any agreement between such railroad company and the Commonwealth Transportation
 466 Commissioner or the governing body of any county that has withdrawn its roads from the secondary
 467 system of state highways as to roads maintained by such county and/or pursuant to an order of the State
 468 Corporation Commission as provided in § 56-406.1, the Commonwealth Transportation Commissioner or
 469 the ~~governing body~~ public road authority may agree with the railroad company involved as to the
 470 division of the cost of the future maintenance of any such device or devices. *The basis for the division*
 471 *of costs will be determined by the Department of Rail and Public Transportation utilizing the calculated*
 472 *average maintenance cost of all previous warning device maintenance performed and documented by all*
 473 *railroads operating in Virginia.* In the event that the Commissioner or the ~~governing body~~ public road
 474 authority and the railroad company involved are unable to agree upon the share of the cost of
 475 maintenance of any such device or devices to be borne by the railroad company, if any, then such
 476 railroad company may file a petition with the State Corporation Commission setting forth the crossing
 477 protection provided at such crossing, the terms of the contract and/or the conditions of the order of said
 478 Commission *or the public road authority* under which it was constructed and installed and the estimated
 479 future annual cost of maintaining the same. Copies of such petition shall forthwith be served by the
 480 State Corporation Commission upon the Commonwealth Transportation Commissioner or the ~~governing~~
 481 ~~body~~ public road authority who shall, within twenty days after service of such petition, file an answer
 482 thereto setting out reasons for declining to participate in the future cost of maintaining such ~~protective~~
 483 warning device or devices as requested by the railroad company and the Commission shall thereupon

484 hear and determine the matter as other matters are heard and determined by that body. The Commission
 485 shall consider all the facts and circumstances surrounding the case and shall determine what share of the
 486 cost of the future maintenance of such ~~protective~~ warning device or devices, if any, shall be borne by
 487 the railroad company and/or the Commonwealth Transportation Board or the ~~county~~ public road
 488 authority, having regard to the benefits, if any, accruing to such railroad company from the continued
 489 maintenance of such protection of said public highway, road or street grade crossing, and either dismiss
 490 the proceeding or enter an order deciding and disposing of the matters therein submitted to its
 491 jurisdiction.

492 The provisions of this section shall not apply to any automatically operated gate, wigwag signal or
 493 other electrical or automatic crossing protection device installed prior to January 1, 1962, at any grade
 494 crossing on any county road in any county that has withdrawn its roads from the secondary system of
 495 state highways unless and until such time as such county shall bring itself back within such secondary
 496 system of state highways under the provisions of § 33.1-85.

497 § 56-411. Removal of brush and trees from right-of-way.

498 Every railway company operating either by electric power or steam in this Commonwealth shall be
 499 required to clear from its right-of-way trees and brush for 100' on each side of public road crossings at
 500 grade when such trees or brush would otherwise obstruct the view of approaching trains.

501 Every railway company violating the provisions of this section shall be fined not more than \$100
 502 \$500 for each offense, to be imposed by the State Corporation Commission after due notice and hearing
 503 upon the company or the employee so offending.

504 § 56-413.01. Locomotive and rail car standards.

505 All locomotives and rail cars operating over the tracks of a railroad company are subject to Federal
 506 Railroad Administration jurisdiction and shall be maintained in accordance with federal standards.
 507 Locomotives designed with spark arrestors shall be cleaned and maintained on a regularly scheduled
 508 basis.

509 § 56-428. Railroads liable for damage from fires set out by their engines or trains.

510 Whenever any person shall sustain damage from fire occasioned by sparks or coals dropped or
 511 thrown from the engine or train of any railroad company, such company shall be liable for the damage
 512 so sustained, whether such fire shall have originated on the company's right-of-way or not, and whether
 513 or not such engine is equipped with proper spark-arresting appliances, and regardless of the condition in
 514 which such appliances may be.

515 § 56-446. Information to State Corporation Commission; penalty.

516 Every railroad company or person operating a railroad in this Commonwealth shall, at all times, on
 517 request, furnish to the State Corporation Commission any information required by it concerning the
 518 physical condition, management, track and ancillary facilities or operation of the road, or any other
 519 report lawfully required by the Commission and particularly copies of all of its timetables upon such
 520 road and other roads with which its business is connected. Copies of information provided to federal
 521 agencies are acceptable. Any railroad willfully refusing or failing to furnish any such information to the
 522 Commission in compliance with a Commission order or who willfully or unlawfully hinders, delays, or
 523 obstructs the Commission in the discharge of the duties imposed upon it by the Constitution, or by law,
 524 shall, in the discretion of the Commission, be fined not less than \$10 nor more than \$1,000. Each day
 525 of such refusal, hindrance, delay, or obstruction shall be considered a separate offense. Fine amounts
 526 are to be specified in the order.

527 § 56-451.1. Keeping unused tracks in place.

528 If a railroad company shall cease to operate ~~discontinue operations on~~ all or any portion of its line
 529 of railroad (other than yard tracks, passing sidings, or tracks unneeded because of the diversion of traffic
 530 over parallel or other substitute tracks), it shall notify the governing body of any city, town or county
 531 directly served by the portion of line so discontinued at least thirty days prior to the removal of the
 532 track from the roadbed. Upon giving such notice the railroad company may by agreement with such
 533 local governing body, or with a chamber of commerce or other nonprofit organization, leave such track
 534 in place or sell the same to such local governing body, chamber of commerce or other nonprofit
 535 organization, to be held in place pending reestablishment of rail service thereon and during the period of
 536 time when such track shall so remain in place and unused, the State Corporation Commission shall treat
 537 the roadbed on which the same is located as unimproved property and assess it accordingly. Retention of
 538 such track in place shall be in accordance with federal rules and regulations.

539 2. That §§ 56-44, 56-45, 56-46, 56-93 through 56-99.1, 56-100.1, 56-101, 56-102.1 through 56-110,
 540 56-112 through 56-116, 56-129, 56-132, 56-139, 56-266 through 56-272, 56-345, 56-348, 56-359,
 541 56-360, 56-361, 56-364, 56-365, 56-366.2, 56-371 through 56-382, 56-384 through 56-389, 56-405.01,
 542 56-405.3, 56-413, 56-413.1, 56-413.2, 56-417, 56-418, 56-419.1, 56-427, 56-445, 56-447 through
 543 56-451, 56-454, 56-455, and 56-456 of the Code of Virginia are repealed.