

TITLE 62
RAILROADS AND OTHER PUBLIC UTILITIES

CHAPTER 12
FENCES ALONG RAILROADS

62-1201. PUBLIC UTILITIES COMMISSION MAY REQUIRE FENCE ALONG RAILROADS. The public utilities commission shall have the jurisdiction and authority to require every railroad company or corporation operating any steam or electric railroad in this state to erect and maintain lawful fences on each or either side of such railroad where such railroad is not now required by law to erect and maintain fences, at such places as the public utilities commission shall determine such fences to be necessary to protect cattle, horses or mules or any other domestic animal being ranged or grazed upon land adjacent to such railroad from being wounded, maimed or killed by the operation or management of engines, cars or other rolling stock upon or over such railroad, with necessary openings and gates in such fences, and crossings and cattle guards for such openings and gates.

[62-1201, added 1945, ch. 143, sec. 1, p. 213.]

62-1202. AUTHORITY EXERCISED UPON VERIFIED APPLICATION. Such jurisdiction and authority shall be exercised in each instance only when verified application shall be filed with such commission by not less than fifteen (15) persons owning cattle, horses or mules with the right to range or graze the same upon the lands adjacent to the portion of the railroad sought to be fenced.

[62-1202, added 1945, ch. 143, sec. 2, p. 213.]

62-1203. CONTENTS OF APPLICATION. Such application shall set forth sufficient description of such lands to identify the same, and the name and address of the owner or owners of such lands, and if any such lands are lands of the United States or the state of Idaho shall designate the agency or department of government administering such lands, and shall also set forth the nature of the right of each petitioner to range or graze cattle, horses, mules or other domestic animals thereon. Such application shall also specify the ownership of the railroad sought to be fenced.

[62-1203, added 1945, ch. 143, sec. 3, p. 213.]

62-1204. NOTICE OF HEARING. Upon the filing of such application notice thereof and of any hearing by the commission thereon shall be given by mail by the commission to the owner or owners of such lands and if any such land is land of the United States or the state of Idaho, to the agency or department of government administering such land, and to the railroad company or corporation owning or operating the railroad and such owners, agency or department and such railroad shall have the right to protest the granting of such application and be heard thereon.

[62-1204, added 1945, ch. 243, sec. 4, p. 213.]

62-1205. DETERMINATION OF NECESSITY -- TIME ALLOWANCE FOR CONSTRUCTION. Upon such hearing the public utilities commission shall determine whether or not any fence or fences shall be necessary to protect cattle, horses or mules or any other domestic animals being ranged or grazed upon the land designated in such application, from being wounded, maimed or killed

by the operation or management of engines, cars or other rolling stock upon such railroad and may then order that fence or fences be constructed and maintained by the railroad company or corporation at such place or places along such railroad adjacent to the lands designated in such petition as the commission in its discretion shall determine and may fix the time within which such fence or fences shall be constructed and may designate the place or places for necessary openings and gates therein and crossings and cattle guards in connection therewith.

[62-1205, added 1945, ch. 143, sec. 5, p. 213.]

62-1206. MODIFICATION OR REVOCATION OF ORDERS. Such commission shall also have the jurisdiction and authority to modify or revoke any such order when upon its determination the necessity for any such fence shall cease to exist.

[62-1206, added 1945, ch. 143, sec. 6, p. 213.]

62-1207. PENALTY FOR VIOLATION OF ORDER. The failure of any railroad company or corporation to comply with any order of the commission authorized by this act shall not subject such noncomplying railroad company or corporation, or any of its officers, agents or employees, to any of the penalties prescribed in sections 61-706 to 61-709[, Idaho Code], both inclusive, but shall subject such company or corporation to the liability prescribed by section 61-702 of the Idaho Code.

[62-1207, added 1945, ch. 143, sec. 7, p. 213.]