

1407 RAILROADS: SPEED: FIXED LIMITS

An order of the Office of the Commissioner of Railroads limits the speed of all trains at the highway crossing in question to ____ miles an hour. Any speed in excess of that limit would be a negligent speed regardless of conditions.

COMMENT

The instruction and comment were originally published in 1967 and revised in 1980 and 2005.

The matter of train speeds at grade crossings is in the exclusive jurisdiction of the Office of the Commissioner of Railroads. Wis. Stat. § 192.29(1). This has been the law since 1949. Before then, the statute fixed limits at grade crossings in cities and villages. Dombeck v. Chicago, M. St. P. & P. Ry., 24 Wis.2d 420, 129 N.W.2d 185 (1964).

See also Comment, Wis JI-Civil 1408.

Dombeck v. Chicago, M. St. P. & P. Ry., *supra* at 432, and its reference to Schulz v. Chicago, M. St. P. & P. Ry., 260 Wis. 541, 51 N.W.2d 542 (1952), alludes to the possibility that a railroad might be negligent if its train was exceeding a company rule as to speed at a crossing that was not affected by a Transportation Commission order.