

**Railroad Crossings. Crossings, Over Railroads.**

Section 4318, revised codes, imposes an obligation upon all railroads to make crossings through their fences, and over their road-bed, along their right of way, every four miles thereof, or as near thereto as may be practicable.

Helena, Montana, April 29, 1910.

Railroad Commission of Montana,  
Helena, Montana.

Gentlemen:

In reply to your letter of April 13, enclosing therewith letter, dated April 11, 1910, signed by O. E. Anderson, and complaining of the failure of the Northern Pacific Railway Company to install a crossing at a certain point about four miles west of Terry, I have to advise you as follows:

Section 4318 provides that any "railroad operating in this state which may hereafter fence their right of way, shall make crossings through their fence and over their roadbed along their right of way, every four miles thereof or as near thereat as may be practicable."

This is the only law in this state regulating the construction of crossings over railroad tracks. It requires, of course, as you notice, the construction of a crossing every four miles, or as near thereat as may be practicable. Such matters as extreme curvature, which might render the crossing dangerous, the presence of a river or large stream upon one or both sides of the track, or a bank upon one or both sides of the track, would render such construction impracticable.

The railroad company itself, it seems, would be the best judge of the practicability of installing a crossing at any point, judged from an operating standpoint. However, if the crossing is clearly at a place entirely feasible and safe, I believe that the statute could be invoked to enforce the installation thereof.

Very truly yours,

ALBERT J. GALEN,

Attorney, General.