

CHAPTER 315**ACTIONS AGAINST TOWNS OR RAILROADS****§3701. Defective crossings; notice to railroad of action against town**

In a civil action against a town for damages alleged to have occurred by reason of a defect in a railroad crossing constituting part of a highway which said town is obliged to keep in repair, the railroad company owning or occupying such crossing may be notified of the pendency of the action and take upon itself the defense of the same.

§3702. Liability of railroad company

In such trial described in section 3701, after notice as provided therein, if the plaintiff recovers and the jury finds specially that the damage was occasioned by the fault of such company, it shall be liable to the defendants in said action in a civil action for all damage and costs paid by them.

§3703. Form of notice

The notice required in section 3701 shall be by copy of the summons and complaint served upon the company at least 30 days before the action is in order for trial unless the court orders otherwise.

§3704. One indictment only at a term

One indictment only for neglect to open ways or to keep them in repair shall be presented against a town at the same term of court, but it may contain as many counts as are necessary to describe all portions of ways alleged to be defective. The word "highway" used therein includes town ways, causeways and bridges.

§3705. Disposition of fines; agents; duties

All fines imposed under sections 3701 to 3704 shall be appropriated to the repair of such ways. The court imposing them shall appoint one or more agents to superintend their collection and application. Within 3 months after collection, they shall make return of their doings to the clerk of the court, to remain on file for the inspection of those interested, and subject on their motion to be audited and corrected by the court. If an agent is guilty of gross neglect of duty or fraudulently misapplies or retains the fine, he forfeits to the town double its amount, to be recovered by indictment.

§3706. Fines collected by assessment as taxes

When a fine is imposed on a town under sections 3701 to 3704, the clerk of the court shall certify it forthwith to the assessors, who shall assess the amount thereof as other town taxes, certify the same to said clerk and cause the amount to be collected by their collector, who shall pay the same to such agent at such time as the court orders. If not paid by that time, the clerk on application of such agent shall issue a warrant for its collection, as the Treasurer of State may do for the collection of a state tax.

§3707. Failure to repair in 4 months; collection

If the assessors neglect to make such assessment provided for in section 3706 and to certify it to the clerk and the defective way is not repaired to the acceptance of such agent within 4 months after notice of the fine, the court may issue a warrant to collect of the town the fine and costs or the unpaid part thereof.

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