

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1974



ENROLLED

HOUSE BILL No. 939

(By Mr. Kopp and Mr. Jones, of Kanawha)



PASSED March 5, 1974

In Effect Unity Day from Passage



*Handwritten initials*

FILED IN THE OFFICE  
EDGAR F. BRISKELL III  
SECRETARY OF STATE  
THIS DATE 3-18-74

**ENROLLED**

**H. B. 939**

(By MR. KOPP and MR. JONES, of Kanawha)

[Passed March 5, 1974; in effect ninety days from passage.]

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-a, relating to railroad crossings; prohibiting the blocking of a street, road or highway by a railroad train for longer than a prescribed period of time, under certain circumstances and subject to certain exceptions; defining terms; relating to the authority of municipalities, counties and other public authorities with respect to the blocking of any such street, road or highway; relating to responsibility of railroad; providing a presumption as to the identity of the carrier operating a train; relating to service of process; providing criminal offenses and penalties; and providing a severability clause.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-a, to read as follows:

**ARTICLE 2A. RAILROAD CROSSING.**

**§31-2A-1. Definitions.**

- 1 As used in this article:
- 2 (a) "Carrier," "railroad" or "railroad company" means a  
3 common carrier by railroad.
- 4 (b) "Train" or "trains" mean engines, cars and any type  
5 of railroad equipment or rolling stock, or any part thereof, cap-

6 able of blocking any crossing of a railroad track or tracks and  
7 any public street, road or highway.

**§31-2A-2. Blocking of crossing prohibited; time limit.**

1 It shall be unlawful for any railroad company, except in  
2 an emergency, to order, allow or permit the operation of or to  
3 operate or to so operate its system so that a train blocks the  
4 passage of vehicular traffic over the railroad crossing of any  
5 public street, road or highway of this state for a period longer  
6 than ten minutes. This section does not apply to an ob-  
7 struction of any such street, road or highway caused by a  
8 continuously moving train or caused by circumstances wholly  
9 beyond the control of the railroad, but does apply to all other  
10 obstructions as aforesaid, including, but not limited to, those  
11 caused by a stopped train or a train engaged in switching,  
12 loading or unloading operations: *Provided*, That, if any such  
13 train is within the jurisdictional limits of any municipality  
14 which now has or hereafter shall have in force and effect an  
15 ordinance limiting the time a railroad crossing may be blocked  
16 by a train, such ordinance shall govern, and the provisions  
17 of this article shall not be applicable.

**§31-2A-3. Responsibility of railroad company.**

1 The railroad company shall be solely responsible for the  
2 acts of its agents and employees in violating any provision of  
3 this article or any provision of any ordinance of any munici-  
4 pality or any provision of any order of a county or other public  
5 authority regulating the period of time any such street, road  
6 or highway may be so blocked by a train.

**§31-2A-4. Presumption.**

1 There shall be a rebuttable presumption that a train  
2 is operated by the carrier whose marks, numbers, signs and  
3 symbols of identification appear on the engine or caboose of  
4 such train.

**§31-2A-5. Service of process.**

1 Process issuing for a violation of this article may be served  
2 upon the engineer or conductor of the train causing a violation  
3 of the provisions of this article or any other officer, agent or

4 attorney-in-fact of the railroad company authorized by law to  
5 receive service of summons or other process issuing against  
6 said railroad company.

**§31-2A-6. Fines and penalties.**

1 If any railroad company, carrier or railroad shall violate  
2 the provisions of this article it shall be guilty of a misdemeanor,  
3 and, upon conviction thereof, shall be fined not less than  
4 fifty dollars.

**§31-2A-7. Severability.**

1 If any provision of this article or the application thereof to  
2 any person or circumstance be held invalid, such invalidity  
3 shall not affect other provisions or applications of the article,  
4 and to this <sup>o/k</sup> and the provisions of this article are hereby de-  
5 clared to be severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. Darrel Darby  
Chairman Senate Committee

Clarence C. Churchman, Jr.  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard W. Carson  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

H. T. Brotherton, Jr.  
President of the Senate

Lewis F. McManus  
Speaker House of Delegates

The within approved this the 18th  
March, 1974.  
day of \_\_\_\_\_, 1974.

Arthur A. Rame, Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/8/74

Time 11:47 a.m.