WEST VIRGINIA CODE: §17C-12-3

§17C-12-3. Certain vehicles must stop at all railroad grade crossings.

(a) Except as provided in subsection (f) of this section, the driver of a commercial motor vehicle specified in subsection (b) of this section shall not cross a railroad track or tracks at grade unless he or she first: (1) Stops the commercial motor vehicle within fifty feet of, and not closer than fifteen feet to, the tracks; (2) thereafter, listens and looks in each direction along the tracks for an approaching train; and (3) ascertains that no train is approaching. When it is safe to do so, the driver may drive the commercial motor vehicle across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without a change of gears. The driver shall not shift gears while crossing the tracks.

(b) The following commercial vehicles are required to stop at railroad tracks or tracks at grade:

(1) Every bus transporting passengers;

(2) Every commercial motor vehicle transporting any quantity of a United States Department of Transportation defined division 2.3 chlorine;

(3) Every commercial motor vehicle which, in accordance with United States Department of Transportation regulations, is marked or placarded and is required to stop in accordance with 49 C.F.R. part §392.10(a)(3)(2001);

(4) Every cargo tank motor vehicle, loaded or empty, used for the transportation of any hazardous material, as defined in federal Department of Transportation hazardous materials rules, 49 C.F.R. parts §107 through §180 (2001);

(5) Every cargo tank motor vehicle transporting a commodity which, at the time of loading, has a temperature above its flashpoint as determined by 49 C.F.R. §173.120 (2001); and

(6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity exemption in accordance with 49 C.F.R. part §107 subpart B (2001).

(c) Any vehicle owned by an employer which, in carrying on the employer's business or in carrying employees to and from work, carries more than six employees of the employer is required to stop at all railroad tracks or tracks at grade, in accordance with subsection (a) of this section.

(d) All drivers of commercial motor vehicles not required to stop at railroad tracks or tracks at grade as provided in subsection (a) of this section may not cross a railroad track or tracks at grade unless he or she first slows the commercial motor vehicle to a speed which will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the railroad crossing and permit exercise of due caution to ascertain that the tracks are clear of

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an approaching train.

(e) All drivers of commercial motor vehicles may not proceed to cross a railroad crossing unless there is sufficient space to drive completely through the crossing without stopping and the vehicle has sufficient undercarriage clearance to drive completely through the crossing without stopping.

(f) No stop need be made at:

(1) Any crossing where a police officer, crossing flagger or a traffic-control signal directs traffic to proceed;

(2) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes within a business district, as defined in 49 C.F.R. §390.5 (2000);

(3) A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which under local law permits the commercial motor vehicle to proceed across the track without slowing or stopping; or

(4) A railroad grade crossing which is marked with a sign indicating that the rail line is out of service.

(g) Any person driving a vehicle specified in this section or a vehicle that requires a commercial driver's license who fails to comply with the requirements of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined $100 or imprisoned for not more than ten days: Provided, That if the electric or mechanical signal device is malfunctioning, this subsection shall not apply.

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