WEST VIRGINIA CODE CHAPTER 31 ARTICLE 2A

WV Legislature

§31-2A-1. Definitions.

As used in this article:

(a) "Carrier,""railroad" or "railroad company" means a common carrier by railroad.

(b) "Train" or "trains" mean engines, cars and any type of railroad equipment or rolling stock, or any part thereof, capable of blocking any crossing of a railroad track or tracks and any public street, road or highway.

WV Legislature

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

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

(b) Upon receiving notification from a law-enforcement officer, member of a fire department, operator of an emergency medical vehicle, or a member of an emergency services provider that emergency circumstances require the immediate clearing of a public highway railroad grade crossing, the members of the train crew of the train, railroad car or equipment, or engine blocking such crossing shall immediately notify the appropriate railroad dispatcher of the pending emergency situation. Upon receipt of notice of such emergency circumstances by the train crew or dispatcher, the railroad shall immediately clear the crossing, consistent with the safe operation of the train.

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

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

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§31-2A-4. Presumption.

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

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§31-2A-5. Service of process.

Process issuing for a violation of this article may be served upon the engineer or conductor of the train causing a violation of the provisions of this article or any other officer, agent or attorney-in-fact of the railroad company authorized by law to receive service of summons or other process issuing against said railroad company.

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§31-2A-6. Fines and penalties.

(a) Any railroad company, carrier or railroad violating the provisions of subsection (a), section two of this article is guilty of misdemeanor and, upon conviction thereof, shall be fined not less than $150; upon a second conviction occurring at the same crossing within one year thereafter, shall be fined not less than $250; and upon a third or subsequent conviction occurring at the same crossing within one year after the first conviction, shall be fined not less than $350.

(b) Any railroad company, carrier or railroad violating the provisions of subsection (b), section two of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000; upon a second conviction occurring at the same crossing within one year thereafter, shall be fined not less than $2,500; and upon a third or subsequent conviction occurring at the same crossing within one year after the first conviction, shall be fined not less than $5,000.

WV Legislature

§31-2A-7. Severability.

If any provision of this article or the application thereof to any person or circumstance be held invalid, such invalidity shall not affect other provisions or applications of the article, and to this end the provisions of this article are hereby declared to be severable.

WV Legislature