WEST VIRGINIA CODE: §61-3-28

§61-3-28. Offenses against railroad property and persons on railroad property; definitions.

(a) As used in this section:

(1) "Bodily injury" means substantial physical pain, illness or any impairment of physical injury.

(2) "Railroad" means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including:

(i) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area; and

(ii) High-speed ground transportation systems that connect metropolitan areas but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation;

(3) "Railroad carrier" means a person providing railroad transportation; railroad carrier including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal, railroad signal system, train control system, centralized dispatching system, or any other structure, appurtenance, or equipment owned, leased, or used in the operation of any railroad carrier including a train, locomotive, engine, railroad car, work equipment, rolling stock, or safety device. "Railroad property" does not include administrative buildings, administrative offices, or administrative office equipment;

(4) "Right-of-way" means the track or roadbed owned, leased, or operated by a railroad carrier which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs;

(5) "Yard" means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives and other rolling stock are kept when not in use or when awaiting repairs.

(b) Whoever willfully damages or attempts to damage railroad property or willfully endangers or attempts to endanger the safety of another, by:

(1) Taking, removing, altering, or otherwise vandalizing a railroad sign, placard or marker;

(2) Throwing or dropping an object capable of causing significant damage to railroad property at or on a locomotive, railroad car or train;

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(3) Shooting a firearm or other dangerous weapon at a locomotive, railroad car or train;

(4) Removing appurtenances from, damaging, or otherwise impairing the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, on a railroad owned, leased, or operated by any railroad carrier, and without consent of the railroad carrier involved;

(5) Interfering or tampering with, or obstructing in any way, or threatening to interfere with, tamper with or obstruct in any way any railcar or locomotive, switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railroad carrier without consent of the railroad carrier involved; or

(6) Taking, stealing, removing, changing, adding to, altering, or in any manner interfering with any part of the operating mechanism of any locomotive, engine, tender, coach, car, caboose, or motor car used or capable of being used by any railroad carrier in this state without consent of the railroad carrier is guilty of a felony.

If railroad property damage does not exceed $1,000 and no bodily injury occurs to another as a result of any of the aforesaid acts, upon conviction thereof, the person shall be fined not less than $500 nor more than $5,000, confined in a regional jail for not more than one year, or both. If bodily injury occurs to another not acting with or in connection with the perpetrator as a result of any of the aforesaid acts or if railroad property damage exceeds $1,000, upon conviction thereof, the person shall be fined not less $1,000 nor more than $10,000, committed to the custody of the Commission of Corrections for not less than one nor more than ten years, or both.

(d) The provisions of this section do not apply to any person employed by a railroad who is performing the duties assigned by the railroad or who is otherwise performing within the scope of his or her employment.

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