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 ninety days from Passage

FIELDED IN THE OFFICE
EDGAR F. RICEKILL 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-
able of blocking any crossing of a railroad track or tracks and
any public street, road or highway.


It shall be 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 ob-
struction 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.


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 municipi-
ality 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.

§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.

§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.

§31-2A-6. Fines and penalties.

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

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

H. Darrell Darby
Chairman Senate Committee

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

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

Lewis F. Mann
Speaker House of Delegates

The within ____________________________ this the ____________ day of ____________________________, 1974.

Audrey Shade
Governor
PRESENTED TO THE GOVERNOR

Date 3/8/74
Time 11:47 a.m.