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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

SENATE BILL NO. 224

(By Senator MILLER, ET AL)



PASSED MARCH 11, 1995

In Effect 90 Days From Passage

ENROLLED

Senate Bill No. 224

(BY SENATORS MILLER, WHITLOW AND DEEM)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and three, article twelve, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing fines and penalties for violations of railroad crossing stop laws for motor vehicle drivers.

Be it enacted by the Legislature of West Virginia:

That sections one and three, article twelve, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 12. SPECIAL STOPS REQUIRED.

§17C-12-1. Obedience to signal indicating approach of train.

- 1 (a) Whenever any person driving a vehicle approaches
- 2 a railroad grade crossing under any of the circumstances
- 3 stated in this section, the driver of such vehicle shall stop
- 4 within fifty feet but not less than fifteen feet from the
- 5 nearest rail of such railroad and shall not proceed until

6 he can do so safely. The foregoing requirements shall
7 apply when:

8 (1) A clearly visible electric or mechanical signal
9 device gives warning of the immediate approach of a
10 railroad train;

11 (2) A crossing gate is lowered or when a human flag-
12 man gives or continues to give a signal of the approach
13 or passage of a railroad train;

14 (3) A railroad train approaching within approximately
15 one thousand five hundred feet of the highway crossing
16 emits a signal audible from such distance and such
17 railroad train, by reason of its speed or nearness to such
18 crossing, is an immediate hazard;

19 (4) Any approaching railroad train is plainly visible
20 and is in hazardous proximity to such crossing.

21 (b) No person shall drive any vehicle through, around
22 or under any crossing gate or barrier at a railroad
23 crossing while such gate or barrier is closed or is being
24 opened or closed.

25 (c) Any person failing to comply with the requirements
26 of this section is guilty of a misdemeanor, and, upon
27 conviction thereof, shall be fined one hundred dollars or
28 imprisoned for not more than ten days. The commis-
29 sioner shall promulgate rules to further penalize those
30 convicted of violating this section by levying three points
31 against the violator's driver's license record: *Provided,*
32 That if the electric or mechanical signal device is mal-
33 functioning, this subsection shall not apply.

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

1 (a) The driver of any motor vehicle carrying passengers
2 for hire, or of any bus, or of any vehicle required to be
3 placarded under 49 CFR part 172 carrying explosive
4 substances, flammable liquids or hazardous materials as
5 a cargo or part of a cargo, or of any vehicle owned by an
6 employer which, in carrying on such employer's business

7 or in carrying employees to and from work, is carrying
8 more than six employees of such employer, before
9 crossing at grade any track or tracks of a railroad, shall
10 stop such vehicle within fifty feet but not less than
11 fifteen feet from the nearest rail of such railroad and
12 while so stopped shall listen and look in both directions
13 along such track for any approaching train and for
14 signals indicating the approach of a train, except as
15 hereinafter provided, and shall not proceed until he can
16 do so safely. After stopping as required herein and upon
17 proceeding when it is safe to do so the driver of any said
18 vehicle shall cross only in such gear of the vehicle that
19 there will be no necessity for changing gears while
20 traversing such crossing and the driver shall not shift
21 gears while crossing the track or tracks.

22 (b) No stop need be made at any such crossing where a
23 police officer or a traffic-control signal directs traffic to
24 proceed.

25 (c) This section shall not apply at street railway grade
26 crossings within a business or residence district.

27 (d) Any person driving a vehicle that requires a com-
28 mercial drivers license who fails to comply with the
29 requirements of this section is guilty of a misdemeanor,
30 and, upon conviction thereof, shall be fined one hundred
31 dollars or imprisoned for not more than ten days. The
32 commissioner shall promulgate rules to further penalize
33 those convicted of violating this section by levying three
34 points against the violator's driver's license record:
35 *Provided*, That if the electric or mechanical signal device
36 is malfunctioning, this subsection shall not apply.

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

Ray Schowover
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll R. Kline
.....
Clerk of the Senate

Donald L. Jeff
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Edwin C. Eubank
.....
Speaker House of Delegates

The within *is* approved this the *24th* day of *March*, 19*65*.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/95

Time 3:43 pm