

HB 2536

FILED

2009 MAY -4 PM 3: 19

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2009



**ENROLLED**

**House Bill No. 2536**

(By Delegates Craig and Boggs)



Passed April 11, 2009

In Effect Ninety Days from Passage

**ENROLLED FILED**

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**H. B. 2536**

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(BY DELEGATES CRAIG AND BOGGS)

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[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §61-3-28 of the Code of West Virginia, 1931, as amended, relating to offenses against railroad property, generally; adding language that includes railcars and locomotives in the category of railroad property that is illegal to interfere with, tamper with or obstruct, or to threaten to interfere with, to tamper with or obstruct; and establishing a minimum fine for violations.

*Be it enacted by the Legislature of West Virginia:*

That §61-3-28 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

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

1 (a) As used in this section:

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

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

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

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

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

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

29 (5) "Yard" means a system of parallel tracks, crossovers,  
30 and switches where railroad cars are switched and made up  
31 into trains, and where railroad cars, locomotives and other

32 rolling stock are kept when not in use or when awaiting  
33 repairs.

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

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

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

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

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

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

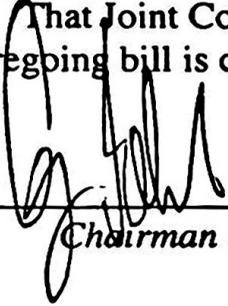
58 (6) Taking, stealing, removing, changing, adding to,  
59 altering, or in any manner interfering with any part of the  
60 operating mechanism of any locomotive, engine, tender,

61 coach, car, caboose, or motor car used or capable of being  
62 used by any railroad carrier in this state without consent of  
63 the railroad carrier is guilty of a felony.

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

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

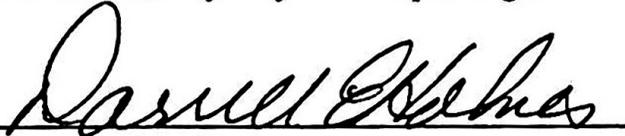
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

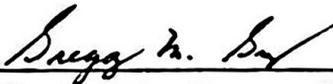
  
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Chairman Senate Committee

  
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Chairman House Committee

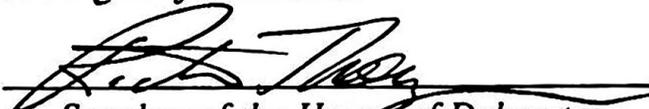
Originating in the House.

In effect ninety days from passage.

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is appended this the 4<sup>th</sup>  
day of May, 2009.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

APR 30 2009

Time 3:20 pm