

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4422

BY DELEGATES HOWELL, JENNINGS, SYPOLT, PINSON,
WAMSLEY, HAMRICK, LINVILLE, BARNHART, ZATEZALO,
CLARK AND HOLSTEIN

[Introduced January 27, 2022; Referred
to the Committee on Technology and Infrastructure
then the Judiciary].

1 A BILL to amend and reenact §31-2A-1, §31-2A-2, §31-2A-3, and §31-2A-6 of the Code of West
2 Virginia, 1931, as amended, all relating to enforcing stricter penalties upon railroad
3 companies who block railroad crossings with their train and train cars; defining engineer;
4 extending the definition of crossing to include private crossings; extending the definition
5 of blocking an intersection to a train or train cars moving at a very low rate of speed;
6 including an engineer as being subject to fines and penalties for blocking an intersection;
7 and increasing fines and penalties for the amount of time the intersection is blocked.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2A. RAILROAD CROSSING.

§31-2A-1. Definitions.

1 As used in this article:

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

3 (b) "Engineer" means the engineer responsible for operating the train on behalf of the
4 railroad company.

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

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

1 (a) It is unlawful for any railroad company, except in an emergency, to order, allow or
2 permit the operation of or to operate or to so operate its system so that a train blocks the passage
3 of vehicular traffic over the railroad crossing of any public or private street, road or highway of this
4 state for a period longer than 10 minutes. This section does not apply to an obstruction of any
5 such street, road or highway caused by a continuously moving train or caused by circumstances
6 wholly beyond the control of the railroad, such as an emergency outside the control of the
7 engineer or railroad company, but does apply to all other obstructions as aforesaid, including, but
8 not limited to, those caused by a stopped train or a train engaged in switching, loading or

9 unloading operations: *Provided*, That if any such train is within the jurisdictional limits of any
10 municipality which now has or hereafter shall have in force and effect an ordinance limiting the
11 time a railroad crossing may be blocked by a train, such ordinance shall govern, and the
12 provisions of this article shall not be applicable: *Provided, however, That a train shall be*
13 *considered to be blocking a railroad crossing if the train engine and cars are moving at a very low*
14 *rate of speed, defined as five miles per hour or less.*

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

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

1 The railroad company shall be solely responsible for the acts of its agents and employees
2 in violating any provision of this article or any provision of any ordinance of any municipality or
3 any provision of any order of a county or other public authority regulating the period of time any
4 such street, road or highway may be so blocked by a train. The engineer operating the train
5 blocking the intersection shall also be responsible for purposes of the fine or penalty issued
6 pursuant to §31-2A-6 of this code.

§31-2A-6. Fines and penalties.

1 (a) Any railroad company, carrier, engineer or railroad violating the provisions of
2 subsection (a), section two of this article is guilty of misdemeanor and, upon conviction thereof,
3 shall be fined not less than ~~\$450~~ \$1,500 for the first 10 minutes of the crossing being blocked;
4 upon a second conviction occurring at the same crossing ~~within one year thereafter~~ for the first

5 30 minutes of the crossing being blocked, shall be fined not less than ~~\$250~~ \$2,500; and upon a
6 third or subsequent conviction occurring at the same crossing ~~within one year after the first~~
7 ~~conviction~~ for the first hour of the crossing being blocked, shall be fined not less than ~~\$350~~ \$3,500;
8 and upon a fourth conviction occurring at the same crossing for the second hour of the crossing
9 being blocked, shall be fined not less than \$4,500.

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

NOTE: The purpose of this bill is to enforce stricter penalties upon railroad companies who block railroad crossings with their train and train cars. The bill defines an engineer. The bill extends the definition of crossing to include private crossings. The bill extends the definition of blocking an intersection to a train or train cars moving at a very low rate of speed. The bill includes an engineer as being subject to fines and penalties for blocking an intersection. Finally, the bill increases fines and penalties for the amount of time the intersection is blocked.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.