# WEST VIRGINIA LEGISLATURE 2024 REGULAR SESSION

**Committee Substitute** 

for

House Bill 4258

By Delegate Holstein and Mazzocchi
[Originating in the Committee on Technology and Infrastructure; Reported on February 23, 2024]

**ARTICLE** 

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A BILL to amend and reenact §17-4-8 and §31-2A-2 of the Code of West Virginia, 1931, as amended, relating to use of state road for rail crossing; requiring cooperation between the rail company and the Division of Highways when construction or maintenance activities are conducted by the company; and requiring railroad companies to provide alternative entry and exit ways in certain circumstances.

Be it enacted by the Legislature of West Virginia:

4.

## **CHAPTER 17. ROADS AND HIGHWAYS.**

**ROAD** 

SYSTEM.

STATE

§17-4-8. Use of roadbed railroad, telephone by company, No railroad or electric or other railway shall be constructed or maintained upon the roadbed of any state road, except to cross the same, nor road except under such restrictions, conditions and regulations as may be prescribed by the Commissioner of the Division of Highways. nor Nor shall any person, firm, or corporation enter upon or construct any works in or upon such a state road, or lay or maintain thereon or thereunder any drainage, sewer or water pipes, gas pipes, electric conduits or other pipes, nor shall any telephone, telegraph or electric line or power pole, or any other structure whatsoever, be erected upon, in or over any portion of a state road, except under such restrictions, conditions and regulations as may be prescribed by the state Road Commissioner of the Division of Highways. Whenever any railroad or electric or other railway. heretofore or hereafter constructed, shall cross crosses any state road, it shall be required to keep its own roadbed, and the bed of the road or highway at such the crossing, in proper repair, or else to construct and maintain an overhead or undergrade crossing, subject to the approval of the State Road Commissioner; and the Commissioner of the Division of Highways. The tracks of such a railroad or railway at grade crossings shall be so constructed as to give a safe and easy approach to and across the same, and when tracks. When the construction of such these approaches is made necessary by a change in the railroad grade at the grade crossing, the cost shall be upon the railway company.

# **CHAPTER 31. CORPORATIONS.**

# ARTICLE 2A. RAILROAD CROSSING.

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

- (a) It is 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 obstruction 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.
- (b) Upon receiving notification from a law-enforcement officer, member of a fire department, operator of an emergency medical vehicle, or a member of an emergency services provider that emergency circumstances require the immediate clearing of a public highway railroad grade crossing, the members of the train crew of the train, railroad car or equipment, or engine blocking such crossing shall immediately notify the appropriate railroad dispatcher of the pending emergency situation. Upon receipt of notice of such emergency circumstances by the train crew or dispatcher, the railroad shall immediately clear the crossing, consistent with the safe operation of the train.
- (c) Railroad companies shall provide an alternative entry and exit way when performing maintenance, repairs, and construction when, for a time period of greater than one hour, such maintenance, repairs, and construction are done in communities with one road in and out of the

- 23 community, both as a matter of public health and to insure the safety of the train crew and other
- 24 <u>railroad</u> <u>employees.</u>

NOTE: The purpose of this bill is to require railroad companies to provide an alternative entry and exit way to one road communities when performing maintenance, repairs, and construction as a matter of public health and safety.

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