

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2878**

By Delegates Holstein, Dillon, and Chiarelli

[Introduced February 24, 2025; referred to the  
Committee on Energy and Public Works]

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

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

## CHAPTER 17. ROADS AND HIGHWAYS.

### ARTICLE 4. STATE ROAD SYSTEM.

#### §17-4-8. Use of roadbed by railroad, telephone company, etc.

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

17 shall be upon the railway company. The Commissioner of Highways shall enter into a mutually  
 18 agreeable memorandum of understanding with each operating railway company detailing a  
 19 process to coordinate road closures with the Department, communicate plans to the public, and  
 20 minimize disruption of such closures.

## CHAPTER 31. CORPORATIONS.

### ARTICLE                      2A.                      RAILROAD                      CROSSING.

#### §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 permit  
 2 the operation of or to operate or to so operate its system so that a train blocks the passage of  
 3 vehicular traffic over the railroad crossing of any public street, road or highway of this state for a  
 4 period longer than ten minutes. This section does not apply to an obstruction of any such street,  
 5 road or highway caused by a continuously moving train or caused by circumstances wholly  
 6 beyond the control of the railroad, but does apply to all other obstructions as aforesaid, including,  
 7 but not limited to, those caused by a stopped train or a train engaged in switching, loading or  
 8 unloading operations: *Provided*, That if any such train is within the jurisdictional limits of any  
 9 municipality which now has or hereafter ~~shall have~~ has in force and effect an ordinance limiting the  
 10 time a railroad crossing may be blocked by a train, ~~such~~ the ordinance shall govern, and the  
 11 provisions of this article ~~shall~~ may not be applicable.

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

19 operation of the train.

20 (c) A temporary alternate method of entry and exit shall be provided for emergency medical  
21 service vehicles when performing maintenance, repairs, and construction when, for a time period  
22 of greater than six hours, the maintenance, repairs, and construction are occurring along a road  
23 that serves as the sole entry and exit way for residents, both as a matter of public health of citizens  
24 and employees of the state of West Virginia and employees of railroad companies.

25 (d) An alternate method of entry and exit shall be provided for all vehicles when performing  
26 maintenance, repairs, and construction when, for a time period of greater than 24 hours, and the  
27 maintenance, repairs, and construction are occurring along a road that serves as the sole entry  
28 and exit way for residents.

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.