

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2878

By Delegates Holstein, Dillon, Chiarelli, and Eldridge

[Originated in the Committee on Energy and Public

Works; Reported on March 13, 2025]

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 roads 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 upon any state road except under such
3 restrictions, conditions and regulations as may be prescribed by the Commissioner of the Division
4 of Highways. 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 ~~Read~~ 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

shall be upon the railway company. The commissioner of the Division of Highways shall enter into a mutually agreeable memorandum of understanding with each operating railway company that seeks to temporarily close down a state road, detailing a process to coordinate road closures with the Division of Highways, communicate plans to the public, and minimize disruption of such closures.

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~~ has in force and effect an ordinance limiting the time a railroad crossing may be blocked by a train, ~~such~~ the 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

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 by any operating railroad company that closes down a state road when
22 performing maintenance, repairs, or construction when, for a time period of greater than twenty-
23 four hours, the maintenance, repairs, or construction are occurring along a road that serves as the
24 sole entry and exit way for residents, as a matter of public health of citizens and employees of the
25 state of West Virginia and employees of railroad companies.