

ARTICLE 541
Railroads

541.01 Obstructing railroad crossings.

541.02 Trespassing.
541.99 Penalty.

CROSS REFERENCES

Authority to eliminate grade crossings - see W. Va.
Code 17-10-7

Grant of right of way - see W. Va. Code 31-2-13

Stopping at grade crossing - see TRAF. 343.01 et seq.

541.01 OBSTRUCTING RAILROAD CROSSINGS.

(a) Definitions. As used in this section:

- (1) "Carrier," "railroad" or "railroad company" means a common carrier by railroad.
- (2) "Train" or "trains" means engines, cars and any type of railroad equipment or rolling stock, or any part thereof, capable of blocking any crossing of a railroad track or tracks and any public street, road or highway.

(b) Blocking of Crossing Prohibited; Time Limit. No railroad company, except in an emergency, shall order, allow or permit the operation of or operate its system so that a train blocks the passage of vehicular traffic over the railroad crossing of any public street, road or highway for a period longer than ten minutes. This subsection 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.

(c) Responsibility of Railroad Company. The railroad company shall be solely responsible for the acts of its agents and employees in violating any provision of this section.

(d) Presumption. There shall be a rebuttable presumption that a train is operated by the carrier whose marks, numbers, signs and symbols of identification appear on the engine or caboose of such train.

(e) Service of Process. Process issuing for a violation of this section may be served upon the engineer or conductor of the train causing a violation of the provisions of this section or any other officer, agent or attorney-in-fact of the railroad company authorized by law to receive service of summons or other process issuing against such railroad company.
(WVaC Art. 31-2A)

541.02 TRESPASSING.

No person not a passenger or employee, shall be found trespassing upon any railroad or traction car or train of any railroad, by jumping on or off any car or train in motion, on its arrival at or departure from any station or depot of such railroad, or on the passage of any such car or train over any part of such railroad; nor shall any person drive any horse or any horse-drawn or motor-driven vehicle across or upon any railroad track or bridge, except at public or private crossings.

(WVaC 61-3-43)

541.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for general Code penalty if no specific penalty is provided.)

- (a) Any railroad company, carrier or railroad violating the provisions of Section 541.01(b)(1) shall be fined not less than one hundred fifty dollars (\$150.00); upon a second conviction occurring at the same crossing within one year thereafter, shall be fined not less than two hundred fifty dollars (\$250.00); and upon a third or subsequent conviction occurring at the same crossing within one year after the first conviction, shall be fined not less than three hundred fifty dollars (\$350.00).
- (b) Any railroad company, carrier or railroad violating the provisions of Section 541.01(b)(2) shall be fined not less than one thousand dollars (\$1,000); upon a second conviction occurring at the same crossing within one year thereafter, shall be fined not less than two thousand five hundred dollars (\$2,500); and upon a third or subsequent conviction occurring at the same crossing within one year after the first conviction, shall be fined not less than five thousand dollars (\$5,000).
(WVaC 31-2A-6)
- (c) Whoever violates Section 541.02 shall be fined not more than twenty-five dollars (\$25.00).