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## PART THREE — TRAFFIC CODE

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### ARTICLE 310 Grade Crossings; Special Stops

- 310.01 Driving across grade crossing.
- 310.02 Stop at dangerous grade crossing.
- 310.03 Stopping at grade crossing.
- 310.04 Moving heavy equipment across grade crossings.
- 310.05 Through streets and stop intersections.
- 310.06 Driving onto roadway from place other than roadway; stopping at sidewalk.
- 310.07 Stopping for school bus; signs and warning lights; sale of school bus.
- 310.08 Stopping for passenger van; signs and warning lights.
- 310.09 Obstructing intersection or crosswalk.
- 310.99 Penalty.

#### CROSS REFERENCES

See sectional histories for similar State law.

Authority to designate through streets and stop intersections – see WV Code 17C-2-8(a)(6), 17C-12-5

#### 310.01 Driving across grade crossing.

- (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
- (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
  - (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
  - (3) A railroad train approaching within approximately 1,500 feet of the street or highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;
  - (4) Any approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
- (b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or close. (WV Code 17C-12-1. Ord. 2013-01, passed 02-11-2013.) <sup>[310.01]</sup>

#### 310.02 Stop at dangerous grade crossing.

Council or other designated traffic authority with the approval of the State Commissioner of Highways is hereby authorized to designate particularly dangerous highway grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected the driver of any vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (WV Code 17C-12-2. Ord. 2013-01, passed 02-11-2013.) <sup>[310.02]</sup>

#### 310.03 Stopping at grade crossing.

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#### FOOTNOTES:

310.01 This section was previously codified as 343.01.

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## PART THREE — TRAFFIC CODE

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- (a) Except as provided in subsection (g) of this section, the driver of a commercial motor vehicle specified in subsection (b) of this section shall not cross a railroad track or tracks at grade unless he or she first:
- (1) Stops the commercial motor vehicle within fifty feet of, and not closer than fifteen feet to, the tracks;
  - (2) Thereafter, listens and looks in each direction along the tracks for an approaching train; and
  - (3) Ascertains that no train is approaching.
- (b) When it is safe to do so, the driver may drive the commercial motor vehicle across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without change of gears. The driver shall not shift gears while crossing the tracks.
- (c) The following commercial vehicles are required to stop at railroad tracks or tracks at grade:
- (1) Every bus transporting passengers;
  - (2) Every commercial motor vehicle transporting any quantity of a United States Department of Transportation defined division 2.3 chlorine;
  - (3) Every commercial motor vehicle which, in accordance with United States Department of Transportation regulations, is marked or placarded and is required to stop in accordance with 49 C.F.R. part §392.10(a)(3)(2001);
  - (4) Every cargo tank motor vehicle, loaded or empty, used for the transportation of any hazardous material, as defined in Federal Department of Transportation hazardous materials rules, 49 C.F.R. parts §107 through §180 (2001);
  - (5) Every cargo tank motor vehicle transporting a commodity which, at the time of loading, has a temperature above its flashpoint as determined by 49 C.F.R. §173.120 (2001); and
  - (6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity exemption in accordance with 49 C.F.R. part §107 subpart B (2001).
- (d) Any vehicle owned by an employer which, in carrying on the employer's business or in carrying employees to and from work, carries more than six employees of the employer is required to stop at all railroad tracks or tracks at grade, in accordance with subsection (a) of this section.
- (e) All drivers of commercial motor vehicles not required to stop at railroad tracks or tracks at grade as provided in subsection (a) of this section may not cross a railroad track or tracks at grade unless he or she first slows the commercial motor vehicle to a speed which will permit the commercial motor vehicle to be stopped before reaching the nearest rail of the railroad crossing and permit exercise of due caution to ascertain that the tracks are clear of an approaching train.
- (f) All drivers of commercial motor vehicles may not proceed to cross a railroad crossing unless there is sufficient space to drive completely through the crossing without stopping and the vehicle has sufficient undercarriage clearance to drive completely through the crossing without stopping.
- (g) No stop need be made at:
- (1) Any crossing where a police officer, crossing flamer or a traffic-control signal directs traffic to proceed;
  - (2) A streetcar crossing, or railroad tracks used exclusively for industrial switching purposes within a business district, as defined in 49 C.F.R. §390.5 (2000);
  - (3) A railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law permits the commercial

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### FOOTNOTES:

310.02 This section was previously codified as 343.02.

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## PART THREE — TRAFFIC CODE

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- motor vehicle to proceed across the track without slowing or stopping; or
- (4) A railroad grade crossing which is marked with a sign indicating that the rail line is out of service.
- (h) Any person driving a vehicle specified in this section or a vehicle that requires a commercial driver's license who fails to comply with the requirements of this section is guilty of a misdemeanor; provided, that if the electric or mechanical signal device is malfunctioning, this subsection shall not apply. (WV Code 17C-12-3. Ord. 2013-01, passed 02-11-2013.) <sup>[310.03]</sup>

### **310.04 Moving heavy equipment across grade crossings.**

- (a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event, of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
- (b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
- (c) Before making any such crossing the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
- (d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction. (WV Code 17C-12-4. Ord. 2013-01, passed 02-11-2013.) <sup>[310.04]</sup>

### **310.05 Through streets and stop intersections.**

- (a) Council or other designated traffic authority may designate through streets or highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection.
- (b) Every such sign shall bear the word "Stop" in letters not less than six inches in height and such sign shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.
- (c) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the roadway.
- (d) Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting street or highway where the driver has a view of approaching traffic on the intersecting street or highway before entering the intersection except when directed to proceed by a police officer or traffic control signal. (WV Code 17C-12-5. Ord. 2013-01, passed 02-11-2013.) <sup>[310.05]</sup>

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#### **FOOTNOTES:**

- 310.03 This section was previously codified as 343.03.  
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## PART THREE — TRAFFIC CODE

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### **310.06 Driving onto roadway from place other than roadway; stopping at sidewalk.**

The driver of a vehicle within a business or residence district emerging from any alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or private driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching on such roadway. (WV Code 17C-12-6. Ord. 2013-01, passed 02-11-2013.) <sup>[310.06]</sup>

### **310.07 Stopping for school bus; signs and warning lights; sale of school bus.**

- (a) The driver of a vehicle upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on such school bus flashing warning signal lights, as referred to in West Virginia Code 17C-12-8 and such driver shall not proceed until such school bus resumes motion, or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. This section applies wherever the school bus is receiving or discharging children, including, but not limited to, any street, highway, parking lot, private road or driveway; provided, that the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a school bus which is on a different roadway or adjacent to such highway and where pedestrians are not permitted to cross the roadway. If the identity of the driver cannot be ascertained, then any such owner or lessee of the vehicle in violation of this subsection shall be subject to the penalty provided for a violation of this subsection provided, however, that such conviction shall not subject such owner or lessee to farther administrative or other penalties for such offense, notwithstanding other provisions of the West Virginia Code or this Traffic Code to the contrary.
- (b) Every bus used for the transportation of school children shall bear upon the front and rear thereof a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a contract school bus is being operated upon a street or highway for purposes other than the actual transportation of children either to or from school, all markings thereon indicating "school bus" shall be covered or concealed. Any school bus sold or transferred to another owner by a county board of education, agency or individual, shall have all flashing warning lights disconnected and all lettering removed or permanently obscured, except when sold or transferred for the transportation of school children. (WV Code 17C-12-7. Ord. 2013-01, passed 02-11-2013.) <sup>[310.07]</sup>

### **310.08 Stopping for passenger van; signs and warning lights.**

- (a) Every passenger van used for the transportation of children shall bear upon the front and rear thereof a plainly visible sign containing the warning "Caution: Loading and Unloading Passengers" in letters not less than six inches in height. Every such passenger van shall be equipped with either flashing warning signal lights as are contemplated and referred to in West Virginia Code 17C-12-8, or a red caution flag which the driver or some other adult must use by exiting the passenger van and displaying while assisting in the loading or unloading of passengers. Such vehicles may also be equipped with a white flashing strobotron-warning light that meets the requirements set forth in West Virginia Code 17C-15-26(e).

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#### **FOOTNOTES:**

- 310.05 This section was previously codified as 343.05.  
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## PART THREE — TRAFFIC CODE

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- (b) The driver of a vehicle upon meeting or overtaking from any direction any passenger van which has stopped for the purpose of loading or unloading passengers shall stop his or her vehicle before reaching the passenger van when there is in operation on the passenger van flashing warning signal lights or when an adult is outside the passenger van with a red caution flag and assisting with the loading or unloading of passengers. The driver of a vehicle may not proceed until he or she is signaled by the passenger van driver to proceed, the passenger van flashing signal lights are no longer actuated, or the passenger resumes motion. This section applies whenever the passenger van is loading or unloading children on any street, highway, parking lot, private road or driveway; provided, that the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a passenger van which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway. (WV Code 17C-12-7a. Ord. 2013-01, passed 02-11-2013.)

### **310.09 Obstructing intersection or crosswalk.**

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. (Ord. 2013-01, passed 02-11-2013.) <sup>[310.09]</sup>

### **310.99 Penalty.**

- (a) Driving onto roadway from place other than roadway. Whoever violates Section 310.06 shall be fined not more than one hundred dollars (\$100.00); upon a second conviction within one year thereafter shall be fined not more than two hundred dollars (\$200.00); and upon a third or subsequent conviction, shall be fined not more than five hundred dollars (\$500.00).
- (b) Stopping for school bus or passenger van. Any driver acting in violation of Section 310.07(a) or 310.08(b) shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or imprisoned not more than thirty days, or both. If the identity of the driver cannot be ascertained, then any such owner or lessee of the vehicle in violation of Section 310.07(a) or 310.08(b) shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00); provided, however, that such conviction shall not subject such owner or lessee to further administrative or other penalties for such offense, notwithstanding other provisions of this Traffic Code to the contrary. (Ord. 2013-01, passed 02-11-2013.)

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#### **FOOTNOTES:**

310.09 This section was previously codified as 343.08.