

**Senate Bill No. 198**

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(By Senators Klempa, Unger, Jenkins, Fanning, Plymale and Kessler  
(Acting President)

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[Introduced January 18, 2011; referred to the Committee on  
Government Organization; and then to the Committee on Finance.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new section, designated §17A-2-10b, relating  
to requiring a study of the feasibility of consolidation of  
government services and enforcement of laws pertaining to the  
motor carrier industry; requiring the Commissioner of the  
Division of Motor Vehicles to conduct the study; authorizing  
the commissioner to retain an outside expert consultant or  
consultants to advise and assist the commissioner in  
conducting the study; exempting certain information received  
by the commissioner from the West Virginia Freedom of  
Information Act; establishing the misdemeanor offense of  
unauthorized disclosure of trade secrets or proprietary  
business information obtained by the commissioner in the  
course of conducting the study; and providing for criminal

1 penalties.

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

3 That the Code of West Virginia, 1931, as amended, be amended  
4 by adding thereto a new section, designated §17A-2-10b, to read as  
5 follows:

6 **ARTICLE 2. DIVISION OF MOTOR VEHICLES.**

7 **§17A-2-10b. Commissioner study of feasibility of consolidation of**  
8 **government services for the motor carrier industry.**

9 (a) *Findings and purpose.* -- The Legislature finds that  
10 responsibility for delivery of government services and the  
11 enforcement of laws pertaining to the motor carrier industry  
12 currently reside in several state agencies, divisions and  
13 departments including the Public Service Commission, Division of  
14 Highways, Division of Motor Vehicles, State Tax Division and the  
15 State Police. The Legislature further finds that it may be more  
16 cost effective and efficient to both the state and the motor  
17 carrier industry to provide these services through consolidated  
18 facilities and enhanced electronic information and communication  
19 technologies which would inure to the benefit and general welfare  
20 of West Virginia. Therefore, it is the purpose of this section to  
21 require a study of the feasibility of consolidation of government  
22 services for the motor carrier industry, including review of the  
23 administration of the regulation, taxation of motor carrier  
24 industry in West Virginia and the agencies responsible for the

1 delivery of government services, the imposition and collection  
2 taxes and the enforcement of laws pertaining to the motor carrier  
3 industry.

4       (b) *Study of the feasibility of consolidation of government*  
5 *services for the motor carrier industry.* -- The commissioner shall  
6 study the feasibility of consolidation of government services for  
7 the motor carrier industry and shall file a report with the  
8 Governor and the Legislature on or before January 1, 2012. The  
9 report shall make recommendations pertaining to changes in process,  
10 policy and procedure in the provision of government services  
11 applicable to the motor carrier industry and shall include  
12 recommended legislation necessary to implement the proposed  
13 recommendations. The commissioner in the report shall examine the  
14 feasibility and fiscal implications on affected governmental  
15 entities of consolidating government services affecting the motor  
16 carrier industry in West Virginia. The study shall include an  
17 examination of consolidating the administration and collection of  
18 taxes and fees and the enforcement of laws pertaining to the motor  
19 carrier industry in West Virginia or, alternatively, the  
20 consolidation of the administration of some of these government  
21 services. The report shall also examine utilizing electronic  
22 information and communication methods to provide the efficient  
23 delivery of services to the motor carrier industry. For purposes  
24 of this study, the commissioner may seek and examine the

1 information, data, records and testimony of: Experts in the fields  
2 of law, economics and taxation; representatives of affected  
3 governmental entities of this state and other states of the United  
4 States; persons and entities engaged in the motor carrier industry;  
5 persons knowledgeable about the motor carrier industry, taxation of  
6 the motor carrier industry and the economics of the motor carrier  
7 industry; and any other person or entity that may have information  
8 relevant to the study mandated by this section.

9       (c) *Cooperation of other state agencies*- The Public Service  
10 Commission, Division of Highways, Division of Motor Vehicles, State  
11 Tax Division and the State Police shall cooperate with the  
12 commissioner and provide such necessary information, aid and  
13 assistance to the commissioner as is necessary to conduct the study  
14 mandated in this section.

15       (d) *Retention of outside consultant expert*-

16       In order to assist the commissioner with the highly technical  
17 and complex task of conducting the study mandated in this section,  
18 the commissioner may retain an outside expert consultant or  
19 consultants qualified to review, analyze and evaluate the current  
20 structure of state agencies that provide the government services,  
21 regulation, taxation and enforcement of laws regulating and  
22 pertaining to the motor carrier industry in this state, to advise  
23 and assist the commissioner in conducting the study mandated in  
24 this section, and to provide other support and assistance as

1 necessary to accomplish the purposes of this section. The  
2 commissioner shall select the expert or experts by a competitive  
3 bid process in accordance with the provisions of article three,  
4 chapter five-a of this code. Any consultant retained by the  
5 commissioner to assist in the study shall be deemed to be an agent  
6 of the commissioner subject to the confidentiality requirements of  
7 this section.

8 (e) *Protection of proprietary business information-*

9 (1) Motor carrier industry information provided to the  
10 commissioner or the commissioner's consultants and other agents,  
11 including, but not limited to, all proprietary industry data or  
12 information and trade secrets, constitutes proprietary business  
13 information is exempt from disclosure under the provisions of  
14 chapter twenty-nine-b of this code: *Provided*, That the information  
15 is identified as proprietary business information when submitted to  
16 the commissioner.

17 (2) Trade secrets or proprietary business information obtained  
18 by the commissioner in the course of conducting the study mandated  
19 by this section from persons in the motor carrier industry and  
20 other persons or entities shall be secured and safeguarded by the  
21 state: *Provided*, That the information is identified as proprietary  
22 business information when submitted to the commissioner. Such  
23 information or data shall not be disclosed to the public or to any  
24 firm, individual or agency other than officials or authorized

1 employees of the state. Any person who makes any unauthorized  
2 disclosure of such confidential information or data is guilty of a  
3 misdemeanor and, upon conviction thereof, may be fined not more  
4 than \$5,000 or confined in a correctional facility for not more  
5 than one year, or both.

6 (3) Nothing in this section may be construed as prohibiting  
7 the publication or release of statistics so classified as to  
8 prevent the identification of a particular person or entity.

NOTE: The purpose of this bill is to require the Commissioner of Motor Vehicles to conduct a study of the feasibility of consolidation of government services and enforcement of laws pertaining to the motor carrier industry. The bill authorizes the commissioner to retain an outside expert consultant to advise and assist the commissioner in conducting the study; exempts certain information received by the commissioner from the West Virginia Freedom of Information Act; prohibits the disclosure of certain information received by the commissioner; and provides for criminal penalties.

This section is new; therefore, strike-throughs and underscoring have been omitted.