

Senate Bill No. 198

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

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

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.