

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2826

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ELDRIDGE, LONGSTRETH, BOGGS, SUMMERS,
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[Passed March 12, 2016; in effect ninety days from
passage]

1 A Bill to amend and reenact §17-4-49 of the Code of West Virginia, 1931, as amended, relating
2 to access from and to commercial, industrial or mercantile establishments; requiring the
3 Commissioner of the Division of Highways and owners of real property under certain
4 circumstances to place “no parking” signs or otherwise notify public that parking is
5 prohibited; and designating law as “Sarah Nott’s Law”.

Be it enacted by the Legislature of West Virginia:

1 That §17-4-49 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 4. STATE ROAD SYSTEM.

**§17-4-49. Same -- Points of commercial, etc.; access to comply; plans, objections and
procedures for new points; review of and changes in existing points;
commissioner's preliminary determination; requiring notice.**

1 (a) No new points of access to and from state highways from and to real property used or
2 to be used for commercial, industrial or mercantile purposes may be opened, constructed or
3 maintained without first complying with this section and sections forty-seven and forty-eight of this
4 article. Access points opened, constructed or maintained without compliance are unauthorized.

5 (b) Plans for any new point of access shall be submitted to the Commissioner of Highways
6 directly and the following rules shall apply:

7 (1) Notice of the proposed new point of access shall be filed with the commissioner, along
8 with a plan of the proposed new point of access.

9 (2) The commissioner shall review the plan to ensure compliance with the policies stated
10 in section forty-seven of this article and with any regulations issued by the commissioner under
11 section forty-eight of this article.

12 (3) If the commissioner objects to a plan, he or she shall reduce his or her objections to
13 the proposed new point of access to writing and promptly furnish notice of the objection to the
14 owner or owners of the real property affected and advise the owner or owners of the right to

15 demand a hearing on the proposed plan and the objections. If a plan is not objected to within six
16 weeks from the time it is filed with the commissioner, it is considered approved by the
17 commissioner.

18 (4) In any case where the commissioner objects to the proposed new point of access, the
19 owner or owners of the real property affected shall have reasonable opportunity for a hearing on
20 such objections.

21 (c) (1) Existing points of access to and from state highways from and to real property used
22 for commercial, industrial or mercantile purposes may be reviewed by the commissioner to
23 determine whether such points of access comply with the policies stated in section forty-seven of
24 this article and with any regulations issued by the commissioner under section forty-eight of this
25 article. The commissioner may direct reasonable changes in existing points of access to and
26 from state highways from and to property used for commercial, industrial or mercantile purposes
27 if he or she determines from accident reports or traffic surveys that the public safety is seriously
28 affected by such points of access and that such reasonable changes would substantially reduce
29 the hazard to public safety. When such changes require construction, reconstruction or repair,
30 such work shall be done at state expense as any other construction, reconstruction or repair.

31 (2) If the commissioner makes a preliminary determination that any changes should be
32 made, the following rules apply:

33 (A) The commissioner shall reduce his or her preliminary determination to writing and
34 promptly furnish notice of such preliminary determination to the owner or owners of the real
35 property affected and of their right to demand a hearing on the preliminary determination. The
36 commissioner's notice shall include a description of suggested changes suitable for reducing the
37 hazard to the public safety.

38 (B) In any case where the commissioner makes a preliminary determination that any
39 changes should be made, the owner or owners of the real property affected shall have reasonable
40 opportunity for a hearing on the preliminary determination.

41 (d) For points of access existing on or before July 1, 2016, to and from state highways
42 from and to real property used for commercial, industrial or mercantile purposes if the access is
43 more than fifty feet wide, the access is along a state highway with a speed limit of more than forty-
44 five miles per hour and the commissioner deems it appropriate due to heavy traffic or other
45 circumstances, the commissioner shall either place “no parking” signs at each side of the driveway
46 entrance fronting the state highway or clearly mark that right-of-way with yellow paint with the
47 words "no parking" or both to provide notice that parking is prohibited.

48 (e) For points of access approved by the commissioner after July 1, 2016, to and from
49 state highways from and to real property used for commercial, industrial or mercantile purposes
50 if the access is more than fifty feet wide, the access is along a state highway with a speed limit of
51 more than forty-five miles per hour and the commissioner deems it appropriate due to heavy traffic
52 or other circumstances, the owner or owners of the real property shall be required to place “no
53 parking” signs at each side of the driveway entrance fronting the state highway or clearly mark
54 that right-of-way with yellow paint with the words "no parking" or both to provide notice that parking
55 is prohibited. This subsection and subsection (d) of this section shall be known as "Sarah Nott's
56 Law".