# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

## Committee Substitute

## for

# House Bill 2826

(BY DELEGATES BUTLER, TRECOST, J. NELSON,

ELDRIDGE, LONGSTRETH, BOGGS, SUMMERS, WAGNER,

R. SMITH, PERDUE AND ZATEZALO)

[Originating in the Committee on the Judiciary;

February 25, 2016.]

1    A BILL to amend and reenact §17-4-49 of the Code of West Virginia, 1931, as amended, relating

2            to access from commercial, industrial or mercantile establishments; requiring the

3            Commissioner of the Division of Highways when he or she deems appropriate, to either

4            place no parking signs or clearly mark right-of-way areas with yellow paint with the words

5            "no parking" and hash marks for points of access existing on or before July 1, 2016 for

6            business, industrial or mercantile establishments where the driveway entrance or access

7            is more than fifty feet wide and is along a road with a speed limit of more than forty-five

8            miles per hour; requiring owners of points of access approved after July 1, 2016 to include

9            no parking signs, markings and paint necessary to comply with appropriate safety

10           requirements and with the approval of the commissioner; and designating this as "Sarah

11           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.  Access from commercial, etc., property and subdivisions to highways – 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; <u>designating as Sarah Nott's Law.</u>**

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, and for business, industrial or

42 mercantile establishments where the driveway entrance or access is more than fifty feet wide and

43 is along a roadway with a speed limit of more than forty-five miles per hour, and the commissioner

44 deems it appropriate, due to heavy traffic or other circumstances created by vehicles being parked

45 on the state right-of-way, the commissioner shall either place no parking signs at each end of the

46 driveway entrance or clearly mark that right-of-way with yellow paint with the words "no parking"

47 and hash marks to clearly notify the public that parking is forbidden or both.

48      (e) For points of access approved after July 1, 2016, and which meet the specifications in

49 subsection (d), the owner or owners shall include no parking signs, markings, curbs and paint

50 necessary to comply with the appropriate safety requirements consistent with subsection (d) and

51 with the approval of the commissioner.

52      (f) This shall be known as "Sarah Nott's Law".


Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.