

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4186**

BY DELEGATES CADLE, COOPER, FOSTER, AMBLER,  
HOWELL, BUTLER, HOUSEHOLDER, MOFFATT, SMITH, R.,  
WESTFALL AND HAMRICK

[Passed March 12, 2016; in effect from passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new  
2 section, designated §24A-2-2b, relating to Public Service Commission; requiring the  
3 Public Service Commission promulgate rules related to rates charged by a carrier for the  
4 recovery, towing, hauling, carrying or storing of a wrecked or disabled vehicle; establishing  
5 a complaint review process; developing a process for aggrieved parties to recover  
6 charges; providing the burden of proof be on the carrier; establishing factors for Public  
7 Service Commission to consider in determining whether rates are fair, effective and  
8 reasonable; requiring carriers to list rates on invoices; providing for promulgated rules to  
9 sunset; and requiring a review of rules by the Legislative Auditor.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §24A-2-2b, to read as follows:

**CHAPTER 24A. MOTOR CARRIERS OF PASSENGERS AND PROPERTY  
FOR HIRE.**

**ARTICLE 2. COMMON CARRIERS BY MOTOR VEHICLES.**

**§24A-2-2b. Rule-making authority; establishing rates for recovering, towing, hauling,  
carrying, or storing wrecked or disabled vehicles; complaint process; and required  
Legislative Audit.**

1 (a) On or before July 1, 2016, the Commission shall promulgate rules to effectuate the  
2 provisions of this article.

3 (b) The rules promulgated pursuant to the provisions of this section shall describe:

4 (1) Factors determining the fair, effective and reasonable rates levied by a carrier for  
5 recovering, towing, hauling, carrying or storing a wrecked or disabled vehicle. The commission  
6 shall consider, but shall not be limited to:

7 (A) Tow vehicle(s) and special equipment required to complete recovery/tow;

- 8 (B) Total time to complete the recovery or tow;
- 9 (C) Number of regular and extra employees required to complete the recovery or tow;
- 10 (D) Location of vehicle recovered or towed;
- 11 (E) Materials or cargo involved in recovery or tow;
- 12 (F) Comparison with reasonable prices in the region;
- 13 (G) Weather conditions; and

14 (H) Any other relevant information having a direct effect on the pricing of the recovery,  
15 towing and storage of a recovered or towed vehicle;

16 (2) The process for filing a complaint, the review and investigation process to ensure it is  
17 fair, effective and timely: *Provided*, That in any formal complaint against a carrier relating to a  
18 third-party tow, the burden of proof to show that the carrier's charges are just, fair and reasonable  
19 shall be upon the carrier;

20 (3) The process for aggrieved parties to recover the cost, from the carrier, for the charge  
21 or charges levied by a carrier for recovering, towing, hauling, carrying or storing a wrecked or  
22 disabled vehicle where the commission determines that such charge or charges are not otherwise  
23 just, fair or reasonable; and

24 (4) The process to review existing maximum statewide wrecker rates and special rates for  
25 the use of special equipment in towing and recovery work to ensure that rates are just, fair and  
26 reasonable: *Provided*, That the commission shall generally disapprove hourly and flat rates for  
27 ancillary equipment.

28 (c) All carriers regulated under this article shall list their approved rates, fares and charges  
29 on every invoice provided to an owner, operator or insurer of a wrecker or disabled motor vehicle.

30 (d) The rules promulgated pursuant to this article shall sunset on July 1, 2021, unless  
31 reauthorized.

32 (e) On or before December 31, 2020, the Legislative Auditor shall review the rules  
33 promulgated by the Public Service Commission under this section. The audit shall evaluate the

34 rate-making policy for reasonableness, the complaint process for timeliness, the penalties for  
35 effectiveness and any other metrics the Legislative Auditor deems appropriate. The Legislative  
36 Auditor may recommend that the rule be reauthorized, reauthorized with amendment or repealed.