

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 3064**

BY DELEGATE ATKINSON, MR. SPEAKER (MR.  
ARMSTEAD), HILL, SOBONYA, WESTFALL AND FRICH  
[Originating in the Committee on the Judiciary]



1 A BILL to amend and reenact §17C-17-11 of the Code of West Virginia, 1931, as amended,  
2 relating to permitting the Commissioner of Highways to issue permits allowing vehicles of  
3 a size and weight exceeding certain specifications to operate over routes specified by the  
4 commissioner; requiring an engineering analysis; providing for maximum gross vehicle  
5 weight of 120,000; limiting routes to specified roads; and authorizing additional terms and  
6 conditions set by the Public Service Commission and the Commissioner of Highways.

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

1 That §17C-17-11 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 17. SIZE, WEIGHT AND LOAD.**

**§17C-17-11. Permits for excess size and weight.**

1 (a) The Public Service Commission may, in its discretion, upon application in writing and  
2 good cause shown issue a special permit in writing authorizing: (1) The applicant, in crossing any  
3 highway of this state, to operate or move a vehicle or combination of vehicles of a size or weight  
4 or load exceeding the maximum specified in this chapter or otherwise not in conformity with the  
5 provisions of this chapter, whether the operation is continuous or not, provided the applicant  
6 agrees to compensate the commissioner of highways for all damages or expenses incurred in  
7 connection with the crossing; (2) the applicant to operate or move a vehicle or combination of  
8 vehicles of a size or weight of vehicles or nondivisible load exceeding the maximum specified in  
9 this chapter or otherwise not in conformity with the provisions of this chapter; and (3) the applicant  
10 to move or operate, for limited or continuous operation, a vehicle hauling containerized cargo in  
11 a sealed, seagoing container to or from a seaport or inland waterway port that has or will be  
12 transported by marine shipment where the vehicle is not, as a result of hauling the container, in  
13 conformity with the provisions of this article relating to weight limitations, upon the conditions that:  
14 (A) The container be hauled only on the roadways and highways designated by the commissioner  
15 of highways; (B) the contents of the container are not changed from the time it is loaded by the

16 consignor or the consignor's agent to the time it is delivered to the consignee or the consignee's  
17 agent; and (C) any additional conditions as the commissioner of highways or the Public Service  
18 Commission may impose to otherwise ensure compliance with the provisions of this chapter.

19 (b)(1) The commissioner of highways may issue a special permit to operate or move a  
20 vehicle or combination of vehicles of a size or weight of vehicles or nondivisible load exceeding  
21 the maximum specified in this chapter or otherwise not in conformity with the provisions of this  
22 chapter over routes designated by the commissioner of highways upon terms and restrictions  
23 prescribed by the Public Service Commission, together with the commissioner of highways.

24 (2) For purposes of this section, nondivisible load means any load exceeding applicable  
25 length or weight limits which, if separated into smaller loads or vehicles, would: (A) Compromise  
26 the intended use of the vehicle, to the extent that the separation would make it unable to perform  
27 the function for which it was intended; (B) destroy the value of the load or vehicle, to the extent  
28 that the separation would make it unusable for its intended purpose; or (C) require more than  
29 eight workhours to dismantle using appropriate equipment: *Provided*, That the applicant for a  
30 nondivisible load permit has the burden of proof as to the number of workhours required to  
31 dismantle the load.

32 (3) The commissioner of highways may, in his or her discretion, upon application in writing  
33 and based upon an engineering analysis, issue a special permit in writing authorizing the  
34 applicant, when operating upon any highway of this state designated by the commissioner, to  
35 operate or move a vehicle or combination of vehicles, hauling commodities manufactured for  
36 interstate commerce, of a size or weight or divisible load exceeding the maximum specified in this  
37 chapter or otherwise not in conformity with the provisions of this chapter, whether the operation  
38 is continuous or not.

39 (A) The engineering analysis must demonstrate that the vehicle permitted under this  
40 subdivision does not adversely affect the designated routes when compared to the size, weight,  
41 and load provisions of this chapter.

42           (B) The maximum gross vehicle weight permitted under this subsection is 120,000  
43 pounds.

44           (C) The permit may contain any additional conditions the commissioner of highways or the  
45 Public Service Commission may impose to otherwise ensure compliance with the provisions of  
46 this chapter.

47           (c) The application for any permit other than a special annual permit shall specifically  
48 describe the vehicle or vehicles and load to be operated or moved along or across the highway  
49 and the particular highway or crossing of the highway for which the permit to operate is requested,  
50 and whether the permit is requested for a single trip or for a continuous operation.

51           (d) The Public Service Commission is authorized to issue or withhold a permit at his or her  
52 discretion; or, if the permit is issued, to limit the number of trips, or to establish seasonal or other  
53 time limitations within which the vehicles described may be operated on or across the highways  
54 indicated, or otherwise to limit or prescribe conditions of operation of the vehicle or vehicles, when  
55 necessary to assure against undue damage to the road foundations, surface, or structures, and  
56 may require the undertaking, bond or other security considered necessary to compensate for any  
57 injury to any roadway structure and to specify the type, number and the location for escort vehicles  
58 for any vehicle: *Provided*, That in establishing limitations on permits issued under this section, the  
59 Public Service Commission shall consult with the commissioner of highways, and may not issue,  
60 limit or condition a permit in a manner inconsistent with the authority of the commissioner of  
61 highways.

62           The Public Service Commission may charge a fee for the issuance of a permit for a mobile  
63 home and a reasonable fee for the issuance of a permit for any other vehicle under the provisions  
64 of this section to pay the administrative costs thereof.

65           (e) Every permit shall be carried in the vehicle or combination of vehicles to which it refers  
66 and shall be open to inspection by any police officer or authorized agent of the commissioner of  
67 highways or the Public Service Commission, and no person shall violate any of the terms or  
68 conditions of the special permit.