

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4886

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

[Introduced February 11, 2020; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §17C-17A-3 of the Code of West Virginia, 1931, as amended,
 2 relating to requiring the Public Service Commission and the Division of Highways to submit
 3 reports to the Commercial Motor Vehicle Weight and Safety Enforcement Advisory
 4 Committee and to the Joint Committee on Government and Finance concerning activity
 5 on the Coal Resource Transportation Road System.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17A. REGULATION OF THE COMMERCIAL TRANSPORTATION OF COAL.

**§17C-17A-3. Authority of the Division of Highways and Public Service Commission
 generally; reporting requirements.**

1 (a) The Division of Highways shall establish all legal vehicle weight limits for all public
 2 highways including roads within the Coal Resource Transportation Road System. Public highways
 3 shall be designated as coal resource transportation roads by the Commissioner of the Division of
 4 Highways pursuant to this article. Only state-maintained roads and public highways found in the
 5 following areas: Boone, Fayette, Lincoln, Logan, McDowell, Mercer, Mingo, Raleigh, Wayne and
 6 Wyoming counties; in Braxton county, Braxton county route 19/29 from Mine 5 haulroad to
 7 intersection of county route 36/1, county route 36/1 to intersection of county route 36 and county
 8 route 36 to the Webster County line (Webster County route 9); in Ohio County, county route 1
 9 from the intersection of county route 7 to intersection of Riley Delaplaine Road; in Greenbrier
 10 County, routes west of Sam Black Church and southwest to the Summers County line; in Clay
 11 County, routes 4 and 16; in Nicholas County, routes 1/11, 16, 19, 19/2, 19/40, 20, 39, 41, 55 and
 12 82; in Webster County, routes 9, 9/1, 9/2, 20, 32 and 82; and all state-maintained roads and public
 13 highways found in Washington, Malden, Loudon and Cabin Creek districts, Kanawha County, are
 14 eligible to qualify as part of the Coal Resource Transportation Road System. The division shall
 15 post signs on roads informing the public of the designation and shall also list a toll-free telephone
 16 line for public reporting of poor driving or law violations by special permit operators. ~~The division~~
 17 ~~shall provide periodic reports to the commercial motor vehicle weight and safety enforcement~~

18 ~~advisory committee as established in §24A-1A-2 of this code relating to the study of coal resource~~
19 ~~transportation roads. The periodic reports shall include the following at a minimum: (1) citations~~
20 ~~issued for violations of this chapter; (2) disposition of the violations; (3) road conditions and~~
21 ~~maintenance; and (4) the amount of undue road damage attributable to coal resource~~
22 ~~transportation road system permit use~~

23 (b) The Public Service Commission shall administer the Coal Resource Transportation
24 Road Permitting Program and otherwise enforce the provisions of this article. The commission
25 shall establish requirements for vehicle operators holding coal resource transportation road
26 permits pursuant to §17C-17A-5 of this code consistent with federal statutory and regulatory
27 requirements.

28 (1) The commission may, during normal business hours, conduct inspections of all
29 trucking-related records of shippers, vehicle operators, vehicle owners and receivers engaged in
30 the transportation of coal. Copies of records shall be provided to commission employees upon
31 request. This provision may not be construed to authorize the commission to reveal trade secrets
32 or other confidential financial information of those persons inspected; however the commission
33 may use any weight measurement records as evidence of a violation of this article.

34 (2) The commission shall establish and maintain a toll-free telephone line for public
35 reporting of poor driving or law violations by special permit operators. In addition, the commission
36 shall require all vehicles operating under a permit issued pursuant to the provisions of this article
37 to clearly display on the vehicle the toll-free telephone number.

38 (3) The commission shall implement a study of commercial vehicle safety-related issues,
39 including using higher education institutions and other research organizations. The commission
40 shall provide periodic reports to the commercial motor vehicle weight and safety enforcement
41 advisory committee as established in §24A-1A-2 of this code relating to the study of motor vehicle
42 weight and safety enforcement.

43 (4) The commission shall establish procedures to use electronic real time reporting of coal

44 vehicle weights on coal resource transportation roads by shippers and receivers. The commission
45 may require daily certified reports from shippers or receivers if electronic reporting methods are
46 not used. The commission may authorize alternative measures of reporting that require same-
47 day reporting of weight measurements by shippers and receivers.

48 (5) The commission shall impose and collect from shippers of coal on the coal resource
49 transportation road system through the use of the special permit, issued pursuant to §17C-17A-5
50 of this code, for the privilege of loading coal in excess of 88,000 pounds for transport on a coal
51 resource transportation road. The fee shall be assessed in the amount of five cents per ton of
52 coal hauled over the road. Revenue from the fees shall be deposited in the Coal Resource
53 Transportation Fund created in said section.

54 (c) Notwithstanding the provisions of §29A-1-3 of this code, the commission and the
55 division shall each propose legislative rules for promulgation in accordance with the provisions of
56 §29A-3-1 *et seq.* of this code to carry out their duties and responsibilities pursuant to the
57 provisions of this article.

58 (d) Notwithstanding any provisions of this code to the contrary, the division may propose
59 rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code
60 which would provide a process for approval by the commissioner of the division of a special
61 crossing permit and renewals thereof. Special crossing permits authorized by this subsection
62 would authorize the holder of the permit to operate or move a vehicle or combination of vehicles
63 which exceed the maximum weight allowance specified in this chapter or are otherwise not in
64 conformity with the provisions of this chapter on limited sections of public highways under specific
65 circumstances specified in the permit: *Provided*, That no special crossing permit may allow the
66 operation or movement of any vehicle or combination of vehicles on a public highway for more
67 than one-half of a mile: *Provided, however*, That no special crossing permit may allow the
68 operation or movement of any vehicle or combination of vehicles on a public highway if the
69 Commissioner of the Division of Highways determines there is an existing alternate off-road route

70 available. Each special crossing permit shall contain the specific section or mileage of the public
71 highway where operation is authorized. Special crossing permits may not exceed a three-year
72 period and may be renewed upon approval by the Commissioner of the Division of Highways as
73 specified in legislative rule. The commissioner of the division may provide for fees for the
74 processing of applications for special crossing permits. As a condition of approval of a special
75 crossing permit, an applicant shall agree to pay for all actual expenditures incurred by the
76 Department of Transportation for the upgrading or repair of the public highway, including traffic
77 control devices, for which the applicant seeks the special crossing permit. In addition, all holders
78 of special crossing permits shall pay for the restoration of the public highway to its original
79 condition after the permit has expired. The initial rule filed by the division pursuant to this
80 subsection shall be filed as an emergency rule.

81 (e) The division and commission shall jointly submit reports on February 1 and August 1
82 of each year to the Commercial Motor Vehicle Weight and Safety Enforcement Advisory
83 Committee as established in §24A-1A-2 of this code and to the Joint Committee on Government
84 and Finance. The reports shall contain, at a minimum:

85 (1) The number and nature of citations issued for violations of this chapter, including
86 specific data for each citation, to include: Date issued; sum of adjustments; respondent parties;
87 latest payment date; case number; balance due; site; county; date served; hearing required; 20
88 days up; date staff memo filed; identifying number; order final date; type of violation; offense
89 number; and fine amount;

90 (2) Disposition of each of the violations;

91 (3) Road conditions and maintenance performed since the last report; and

92 (4) Details concerning the amount of undue road damage attributable to coal resource
93 transportation road system permit use, including comprehensive information regarding the
94 amount of undue damage caused by coal transportation on the Coal Resource Transportation
95 Road System and detailed information regarding the cost of repairs for Coal Resource

96 Transportation Road System roadways.

NOTE: The purpose of this bill is to require the Public Service Commission and the Division of Highways to submit reports to the Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee and to the Joint Committee on Government and Finance concerning activity on the Coal Resource Transportation Road System.

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