

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 4886**

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

[Originating in the Committee on Government

Organization; February 19, 2020.]



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

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

89 (2) Disposition of each of the violations.

90 (f) The division shall submit reports on February 1 and August 1 of each year to the  
91 Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee as established  
92 in §24A-1A-2 of this code and to the Joint Committee on Government and Finance. The  
93 commission report shall contain, at a minimum:

94 (1) Road conditions and maintenance performed since the last report; and

95           (2) Details concerning the amount of undue road damage attributable to coal resource  
96 transportation road system permit use, including comprehensive information regarding the  
97 amount of undue damage caused by coal transportation on the Coal Resource Transportation  
98 Road System and detailed information regarding the cost of repairs for Coal Resource  
99 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.