

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

House Bill 3130

BY DELEGATES CAPITO, KEATON AND L. PACK

[Passed April 10, 2021; in effect ninety days from
passage.]

1 AN ACT to amend §24A-2-2b of the Code of West Virginia, 1931, as amended, relating to
2 rulemaking by the Public Service Commission with respect to common carriers by motor
3 vehicle engaged in recovering, towing, hauling, carrying, or storing wrecked or disabled
4 vehicles; extending sunset date for such rules to July 1, 2023; and extending deadline for
5 audit of such rules by Legislative Auditor to December 31, 2022.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. COMMON CARRIER 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 or vehicles and the special equipment required to complete recovery or
8 tow;

9 (B) Total time to complete the recovery or tow;

10 (C) Number of regular and extra employees required to complete the recovery or tow;

11 (D) Location of vehicle recovered or towed;

12 (E) Materials or cargo involved in recovery or tow;

13 (F) Comparison with reasonable prices in the region;

14 (G) Weather conditions; and

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

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

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

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

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

31 (d) The rules promulgated pursuant to this section shall sunset on July 1, 2023, unless
32 reauthorized.

33 (e) On or before December 31, 2022, the Legislative Auditor shall review the rules
34 promulgated by the Public Service Commission under this section. The audit shall evaluate the
35 rate-making policy for reasonableness, the complaint process for timeliness, the penalties for
36 effectiveness, and any other metrics the Legislative Auditor deems appropriate. The Legislative
37 Auditor may recommend that the rule be reauthorized, reauthorized with amendment, or repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2021.

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Governor