

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3250

BY DELEGATE HANSHAW (MR. SPEAKER)

[BY REQUEST]

[Introduced March 16, 2021; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §24A-2-2b of the Code of West Virginia, 1931, as amended, relating
 2 to the Public Service Commission; restricting the Public Service Commission from
 3 promulgating rules or regulations requiring wrecker companies to permit the registered
 4 owner of a towed vehicle to access the vehicle without a fee to retrieve his or her personal
 5 property; restricting the Public Service Commission from promulgating rules requiring
 6 wrecker companies to destroy abandoned vehicles in lieu of selling such vehicles; and
 7 other technical corrections.

Be it enacted by the Legislature of West Virginia:

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: Provided, That no rules which are promulgated under the authority
 3 granted in this section may require a wrecker company to:

4 (1) Permit the registered owner or any other person to access the towed vehicle in any
 5 manner whatsoever unless and until the registered owner or his or her designee has remitted to
 6 the wrecker company all fees and charges which have been lawfully assessed by the wrecker
 7 company and for which the registered owner is responsible; or

8 (2) Destroy or otherwise dispose of a vehicle which has been abandoned by its owner.
 9 Provided, however, that the Commission may promulgate rules governing the procedures by
 10 which a wrecker company may sell a vehicle which has been abandoned by its owner.

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

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

- 15 (A) Tow vehicle(s) and special equipment required to complete recovery/tow;
- 16 (B) Total time to complete the recovery or tow;
- 17 (C) Number of regular and extra employees required to complete the recovery or tow;
- 18 (D) Location of vehicle recovered or towed;
- 19 (E) Materials or cargo involved in recovery or tow;
- 20 (F) Comparison with reasonable prices in the region;
- 21 (G) Weather conditions; and
- 22 (H) Any other relevant information having a direct effect on the pricing of the recovery,
- 23 towing, and storage of a recovered or towed vehicle;
- 24 (2) The process for filing a complaint, and the review and investigation process to ensure
- 25 ~~it~~ that each is fair, effective and timely: *Provided, That* in any formal complaint against a carrier
- 26 relating to a third-party tow, the burden of proof to show that the carrier's charges are just, fair,
- 27 and reasonable shall be upon the carrier;
- 28 (3) The process for aggrieved parties to recover the cost, from the carrier, for the charge
- 29 or charges levied by a carrier for recovering, towing, hauling, carrying or storing a wrecked or
- 30 disabled vehicle where the commission determines that such charge or charges are not otherwise
- 31 just, fair or reasonable; and
- 32 (4) The process to review existing maximum statewide wrecker rates and special rates for
- 33 the use of special equipment in towing and recovery work to ensure that rates are just, fair and
- 34 reasonable: *Provided, That* the commission shall generally disapprove hourly and flat rates for
- 35 ancillary equipment.
- 36 (c) All carriers regulated under this article shall list their approved rates, fares and charges
- 37 on every invoice provided to an owner, operator or insurer of a wrecker or disabled motor vehicle.
- 38 (d) The rules promulgated pursuant to this article shall sunset on July 1, 2021, unless
- 39 reauthorized.
- 40 (e) On or before December 31, 2020, the Legislative Auditor shall review the rules

41 promulgated by the Public Service Commission under this section. The audit shall evaluate the
42 rate-making policy for reasonableness, the complaint process for timeliness, the penalties for
43 effectiveness and any other metrics the Legislative Auditor deems appropriate. The Legislative
44 Auditor may recommend that the rule be reauthorized, reauthorized with amendment or repealed.

NOTE: The purpose of this bill is to restrict the Public Service Commission from promulgating any rules requiring wrecker companies to permit owners of vehicles which have been towed to access the vehicle to retrieve personal property unless and until the wrecker company has been paid for its services. The bill also restricts the Public Service Commission from promulgating any rules requiring wrecker companies to destroy an abandoned vehicle in lieu of selling it.

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