

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 604

BY SENATORS LINDSAY AND ROMANO

[Originating in the Committee on Government
Organization; reported on March 24, 2021]

1 A BILL to amend and reenact §24-6-12 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §24A-2-2b of said code, all relating to emergency towing services;
3 requiring county commissions to create districts whereby towing services within a district
4 may be dispatched or implement a policy whereby all available towing services within an
5 area currently served by an organization are dispatched on a rotating basis; defining a
6 term; and amending the sunset and legislative review provisions.

Be it enacted by the Legislature of West Virginia:

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

§24-6-12. Dispatching of towing services for emergency towing of vehicles; districts; policy; exceptions; prohibitions.

1 (a) Every three years, the county commission of each county or the municipality operating
2 an emergency telephone system or an enhanced emergency telephone system shall, in
3 consultation with all public safety units, public agencies, and all ~~available~~ towing services
4 registered as common carriers within the county or municipality pursuant to the provisions of
5 chapter 24A of this code: ~~establish a policy that provides for the most prompt, fair, equitable and~~
6 ~~effective response to requests or dispatches for emergency towing services~~

7 (1) Establish individual districts or zones that cover and include all emergency telephone
8 systems and enhanced emergency telephone systems within the county or municipality whereby
9 all towing services authorized by the Public Service Commission to conduct business located
10 within the newly created districts or zones may be dispatched when the need arises; and/or

11 (2) Establish a policy requiring eligible towing services within the area currently being
12 served by an emergency services organization be dispatched on a rotating basis, where required.

13 (3) Each individual district or zone shall compile two dispatch lists:

14 (A) A list of towing services within the district that are only able to service light-duty
15 vehicles that weigh 26,000 pounds or less; and

16 (B) A list of towing services within the district that are capable of servicing vehicles that
17 weigh 26,001 pounds or more.

18 (4) Towing services will be placed in individual districts or zones based on the addresses
19 on file with the Public Service Commission.

20 (b) An owner or operator of a vehicle to be towed shall have an opportunity to select the
21 towing service of their choice if:

22 (1) The towing service company is authorized through the Public Service Commission to
23 conduct business; and

24 (2) The request will not delay the clearing of vehicles from the roadways that are involved
25 in a traffic crash or hinder a law-enforcement investigation in any manner.

26 (c) "Emergency services organization" means the organization established under §15-5-1
27 et seq. of this code.

CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.

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.

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(s) and special equipment required to complete the recovery or tow;
- 8 (B) Total time to complete the recovery or tow;
- 9 (C) Number of regular and extra employees required to complete the recovery or tow;
- 10 (D) Location of vehicle recovered or towed;
- 11 (E) Materials or cargo involved in recovery or tow;
- 12 (F) Comparison with reasonable prices in the region;
- 13 (G) Weather conditions; and
- 14 (H) Any other relevant information having a direct effect on the pricing of the recovery,
- 15 towing, and storage of a recovered or towed vehicle;
- 16 (2) The process for filing a complaint, the review, and investigation process to ensure it is
- 17 fair, effective, and timely: *Provided*, That in any formal complaint against a carrier relating to a
- 18 third-party tow, the burden of proof to show that the carrier's charges are just, fair, and reasonable
- 19 shall be upon the carrier;
- 20 (3) The process for aggrieved parties to recover the cost, from the carrier, for the charge
- 21 or charges levied by a carrier for recovering, towing, hauling, carrying, or storing a wrecked or
- 22 disabled vehicle where the commission determines that such charge or charges are not otherwise
- 23 just, fair, or reasonable; and
- 24 (4) The process to review existing maximum statewide wrecker rates and special rates for
- 25 the use of special equipment in towing and recovery work to ensure that rates are just, fair, and
- 26 reasonable: *Provided*, That the commission shall generally disapprove hourly and flat rates for
- 27 ancillary equipment.
- 28 (c) All carriers regulated under this article shall list their approved rates, fares, and charges
- 29 on every invoice provided to an owner, operator, or insurer of a wrecked or disabled motor vehicle.
- 30 (d) The rules promulgated pursuant to this article shall sunset on July 1, ~~2021~~ 2022, unless
- 31 reauthorized.

32 (e) On or before December 31, ~~2020~~ 2021, the Legislative Auditor shall review the rules
33 promulgated by the Public Service Commission under this section. The audit shall evaluate the
34 rate-making policy for reasonableness, the complaint process for timeliness, the penalties for
35 effectiveness, and any other metrics the Legislative Auditor deems appropriate. The Legislative
36 Auditor may recommend that the rule be reauthorized, reauthorized with amendment, or repealed.