

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Introduced**

**Senate Bill 632**

BY SENATOR SWOPE

[Introduced March 11, 2021; referred  
to the Committee on Government Organization]

1 A BILL to amend and reenact §17A-11-4 of the Code of West Virginia, 1931, as amended; to  
 2 amend and reenact §17C-6-10 of said code; to amend and reenact §17C-17-10 of said  
 3 code; to amend and reenact §17E-1-24 of said code; to amend and reenact §24A-7-6 and  
 4 §24A-7-7 of said code; and to amend and reenact §30-29-1 and §30-29-5 said code, all  
 5 relating to changing the term “motor carrier inspectors” to “commercial vehicle  
 6 enforcement officers” to reflect the additional training these officers are now required to  
 7 receive; and removing the inconsistency between code sections.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,  
 CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

**ARTICLE 11. PENALTIES.**

**§17A-11-4. Authority of members of official highway department weighing crews and  
 Public Service Commission, motor carrier employees.**

1 Employees of the department of highways designated by the commissioner of highways  
 2 as weight enforcement officers and employees of the Public Service Commission designated by  
 3 the chairman as ~~motor carrier utility inspectors~~ commercial vehicle enforcement officers, shall,  
 4 during the course of their normal duties, have concurrent jurisdiction with police officers in the  
 5 enforcement of article nine of this chapter.

**CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

**ARTICLE 6. SPEED RESTRICTIONS.**

**§17C-6-10. Enforcement of article with respect to operations of commercial motor vehicles.**

1 In addition to enforcement by officers and other persons authorized by law, ~~designated~~  
 2 ~~employees~~ commercial vehicle enforcement officers of the Public Service Commission of West  
 3 Virginia may enforce the provisions of this article as they relate to the operation of commercial  
 4 motor vehicles.

**ARTICLE 17. SIZE, WEIGHT AND LOAD.****§17C-17-10. Officers may weigh, measure or examine vehicles and require removal or rearrangement of excess loads.**

1           (a) Any police officer or employee of the Division of Highways or the Public Service  
2 Commission designated as a commercial vehicle enforcement officer or member of an official  
3 weighing crew by his or her representative agency may require the driver of any vehicle or  
4 combination of vehicles located on or within one hundred feet of any public highway or right-of-  
5 way, and whether moving or stopped, to submit the vehicle or combination of vehicles to a  
6 weighing with portable or stationary weighing devices or submit the vehicle or combination of  
7 vehicles to a measuring or to any other examination necessary to determine if the vehicle or  
8 combination of vehicles is in violation of any of the provisions of this article or article seventeen-  
9 a of this chapter, and may require that the vehicle or combination of vehicles be driven to the  
10 nearest weighing device.

11           No vehicle or combination of vehicles may be detained for weighing unless a portable or  
12 stationary weighing device is actually present at the location where, and at the time, the vehicle  
13 or combination of vehicles is stopped or unless the vehicle or combination of vehicles is escorted  
14 immediately after being stopped to the nearest portable or stationary weighing device. In no case  
15 may a vehicle or combination of vehicles be detained more than one hour from the time it is  
16 stopped for weighing unless the vehicle or combination of vehicles is impounded for another  
17 violation or placed out of service for a safety violation.

18           (b) Whenever a police officer or a member of an official weighing crew or a commercial  
19 vehicle enforcement officer determines that a vehicle or combination of vehicles is in violation of  
20 any of the provisions of this article or article seventeen-a of this chapter, he or she may require  
21 the driver to remain in place or be moved to a suitable location until the vehicle or combination of

22 vehicles is brought into conformity with the provisions violated.

23 In the case of a weight violation all material unloaded shall be cared for by the owner,  
 24 lessee or borrower of the vehicle or combination of vehicles at the risk of the owner, lessee or  
 25 borrower: *Provided*, That no criminal charge shall be preferred against any driver, operator or  
 26 owner of a vehicle when a rearrangement of the load upon the vehicle, without removal of the  
 27 load from the vehicle, reduces the axle loads of the vehicle to the limit permitted under this  
 28 chapter.

29 (c) Any driver of a vehicle or combination of vehicles who fails or refuses to comply with  
 30 any requirement or provision of this section shall be guilty of a misdemeanor, or in the case of  
 31 any driver of a vehicle engaged in the transportation of coal, any other additional penalties that  
 32 may be applicable under the provisions of article seventeen-a of this chapter.

## **CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.**

### **ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.**

#### **§17E-1-24. Enforcement.**

1 In addition to the officers of the West Virginia State Police, any police officer, or any  
 2 ~~inspector~~ commercial vehicle enforcement officer or weight enforcement officer of the Public  
 3 Service Commission, Motor Carrier Division, and any special agent of the Federal Motor Carrier  
 4 Safety Administration may enforce the provisions of this article.

## **CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.**

### **ARTICLE 7. COMPLAINTS, DAMAGES AND VIOLATIONS.**

**§24A-7-6. Duty of prosecuting attorneys and law-enforcement officers to enforce chapter;  
 regulatory authority of commission; qualifications of commission employees designated  
 as ~~motor carrier inspectors~~ commercial vehicle enforcement officers.**

1           It shall be the duty of the West Virginia State Police and the sheriffs of the counties in  
2 West Virginia to make arrests and the duty of the prosecuting attorneys of the several counties to  
3 prosecute all violations of this chapter and of other chapters governing the regulatory  
4 authority of the commission. The commission employees designated as ~~motor carrier inspectors~~  
5 commercial vehicle enforcement officers shall have the same authority as law-enforcement  
6 officers to enforce the provisions of this chapter and the provisions of other chapters of this code  
7 governing the regulatory authority of the commission as such provisions apply to entities and  
8 persons regulated by the commission in any county or city of this state. Notwithstanding any  
9 provision of this code to the contrary, such ~~motor carrier inspectors~~ commercial vehicle  
10 enforcement officers may carry handguns in the course of their official duties after meeting  
11 specialized qualifications established by the Governor's committee on crime, delinquency and  
12 correction, which qualifications shall include the successful completion of handgun training,  
13 including a minimum of four hours training in handgun safety, paid for by the commission and  
14 comparable to the handgun training provided to law-enforcement officers by the West Virginia  
15 State Police, *Provided*, That nothing in this section shall be construed to include ~~motor carrier~~  
16 ~~inspectors~~ the commission within the meaning of law-enforcement ~~officers~~ agency as defined in  
17 §30-29-1 of this code.

**§24A-7-7. Authority of motor carrier inspectors to enforce all traffic rules as to commercial vehicles; use of radar as evidence.**

1           (a) The employees of the commission designated as ~~motor carrier inspectors~~ commercial  
2 vehicle enforcement officers have the same authority as law-enforcement officers generally to  
3 enforce the provisions of chapter 17C of this code with respect to commercial motor vehicles  
4 owned or operated by motor carriers, exempt carriers or private commercial carriers where  
5 vehicles have a gross vehicle weight rating of 10,000 pounds or more.

6           The commission is authorized to delegate ~~motor carrier inspector~~ commercial vehicle  
7 enforcement officer duties to weight enforcement officers as it considers appropriate, following  
8 successful training and certification of individual officers, who shall then have the same authority  
9 as ~~motor carrier inspectors~~ commercial vehicle enforcement officers under this section. The  
10 commission is also authorized to delegate weight enforcement duties to ~~motor carrier inspectors~~  
11 commercial vehicle enforcement officers.

12           (b) The speed of a commercial motor vehicle owned or operated by a motor carrier,  
13 exempt carrier or private commercial carrier may be proved by evidence obtained by use of any  
14 device designed to measure and indicate or record the speed of a moving object by means of  
15 microwaves, when the evidence is obtained by employees of the commission designated as ~~motor~~  
16 ~~carrier inspectors~~ commercial vehicle enforcement officers. The evidence so obtained is prima  
17 facie evidence of the speed of the vehicle.

18           (c) ~~Motor carrier inspectors~~ Commercial vehicle enforcement officers shall also perform a  
19 north American standard safety inspection of each commercial motor vehicle stopped for  
20 enforcement purposes pursuant to this section.

21           (d) Before exercising the provisions of this section, the ~~motor carrier inspectors~~  
22 commercial vehicle enforcement officers shall receive adequate training.

23           (e) Nothing in this section affects the existing authority of law-enforcement officers not  
24 employed by the commission to enforce the provisions of chapter 17C of this code.

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

### **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

#### **§30-29-1. Definitions.**

1           For the purposes of this article, unless a different meaning clearly appears in the context:

2           (1) "Approved law-enforcement training academy" means any training facility which is

3 approved and authorized to conduct law-enforcement training as provided in this article;

4 (2) "Chief executive" means the Superintendent of the State Police; the chief Natural  
5 Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia  
6 county; any administrative deputy appointed by the chief Natural Resources police officer of the  
7 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement  
8 agency;

9 (3) "County" means the 55 major political subdivisions of the state;

10 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or  
11 above;

12 (5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's  
13 committee" means the Governor's Committee on Crime, Delinquency, and Correction established  
14 as a state planning agency pursuant to §15-9-1 of this code;

15 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement  
16 agency who is authorized to maintain public peace and order, prevent and detect crime, make  
17 arrests, and enforce the laws of the state or any county or municipality thereof, other than parking  
18 ordinances, and includes those persons employed as campus police officers at state institutions  
19 of higher education in accordance with the provisions of §18B-4-5 of this code, persons employed  
20 as hospital police officers in accordance with the provisions of §16-5B-19 of this code, and  
21 persons employed by the Public Service Commission as ~~motor carrier inspectors~~ commercial  
22 vehicle enforcement officers and weight-enforcement officers charged with enforcing commercial  
23 motor vehicle safety and weight restriction laws, although those institutions and agencies may not  
24 be considered law-enforcement agencies. The term also includes those persons employed as  
25 county litter control officers charged with enforcing litter laws: *Provided*, That those persons have  
26 been trained and certified as law-enforcement officers and that certification is currently active.  
27 The term also includes those persons employed as rangers by resort area districts in accordance  
28 with the provisions of §7-25-23 of this code, although no resort area district may be considered a

29 law-enforcement agency: *Provided, however,* That the subject rangers shall pay the tuition and  
 30 costs of training. As used in this article, the term “law-enforcement officer” does not apply to the  
 31 chief executive of any West Virginia law-enforcement agency or any watchman or special Natural  
 32 Resources police officer;

33 (7) “Law-enforcement official” means the duly appointed chief administrator of a  
 34 designated law-enforcement agency or a duly authorized designee;

35 (8) “Municipality” means any incorporated town or city whose boundaries lie within the  
 36 geographic boundaries of the state;

37 (9) “Subcommittee” or “law-enforcement professional standards subcommittee” means  
 38 the subcommittee of the Governor’s Committee on Crime, Delinquency, and Correction created  
 39 by §30-29-2 of this code; and

40 (10) “West Virginia law-enforcement agency” means any duly authorized state, county, or  
 41 municipal organization employing one or more persons whose responsibility is the enforcement  
 42 of laws of the state or any county or municipality thereof: *Provided,* That neither the Public Service  
 43 Commission nor any state institution of higher education nor any hospital nor any resort area  
 44 district is a law-enforcement agency.

**§30-29-5. Certification requirements and power to decertify or reinstate.**

1 (a) Except as provided in subsections (b) and (e) of this section, a person may not be  
 2 employed as a law-enforcement officer by any West Virginia law-enforcement agency or by any  
 3 state institution of higher education or by a hospital or by the Public Service Commission of West  
 4 Virginia on or after the effective date of this article unless the person is certified, or is certifiable  
 5 in the manner specified in subsection (c) of this section, by the subcommittee as having met the  
 6 minimum entry level law-enforcement qualification and training program requirements  
 7 promulgated pursuant to this article: *Provided,* That the provisions of this section do not apply to  
 8 persons hired by the Public Service Commission as ~~motor carrier inspectors~~ commercial vehicle  
 9 enforcement officers and weight enforcement officers before July 1, 2007.



10 (b) Except as provided in subsection (e) of this section, a person who is not certified, or  
11 certifiable in the manner specified in subsection (c) of this section, may be conditionally employed  
12 as a law-enforcement officer until certified: *Provided*, That within 90 calendar days of the  
13 commencement of employment or the effective date of this article, if the person is already  
14 employed on the effective date, he or she makes a written application to attend an approved law-  
15 enforcement training academy and that the person satisfactorily completes the approved law-  
16 enforcement training academy within 18 consecutive months of the commencement of his or her  
17 employment: *Provided, however*, That the subcommittee may grant an extension, one-time only,  
18 not to exceed six months, based upon a written request from the person justifying the need for  
19 such an extension: *Provided further*, That the subcommittee, in its sole discretion, may grant an  
20 additional extension upon demonstration of a hardship warranting it. The person's employer shall  
21 provide notice, in writing, of the 90-day deadline to file a written application to the academy within  
22 30 calendar days of that person's commencement of employment. The employer shall provide full  
23 disclosure as to the consequences of failing to file a timely written application. The academy shall  
24 notify the applicant in writing of the receipt of the application and of the tentative date of the  
25 applicant's enrollment. Any applicant who, as the result of extenuating circumstances acceptable  
26 to his or her employing law-enforcement official, is unable to attend the scheduled training  
27 program to which he or she was admitted may reapply and shall be admitted to the next regularly  
28 scheduled training program. One year after the effective date of this section, certification as a law-  
29 enforcement officer within this state of persons who are not certifiable as provided in subsection  
30 (c) of this section shall, in addition to graduation from an established academy in the state, be  
31 based on: Current employment as a sworn law-enforcement officer by any West Virginia law-  
32 enforcement agency or any state institution of higher education or the Public Service Commission;  
33 and the person's successful completion of an approved entry level law-enforcement examination  
34 established by legislative rule of the subcommittee, which shall include, at a minimum, written  
35 testing requirements, medical standards, physical standards, and good moral character standards

36 conducted in accordance with such rule. The production of a record of successful passage of the  
37 approved entry level law-enforcement examination shall indicate the applicant as qualified under  
38 the law-enforcement training and certification standards within this state. An applicant who  
39 satisfactorily completes the program and successfully passes the approved entry level law-  
40 enforcement examination shall, within 30 days of completion, make written application to the  
41 subcommittee requesting certification as having met the minimum entry level law-enforcement  
42 qualification and training program requirements. Upon determining that an applicant has met the  
43 requirements for certification as set forth in this section, the subcommittee shall forward to the  
44 applicant documentation of certification. An applicant who fails to complete the training program  
45 to which he or she is first admitted, or was admitted upon reapplication, or who fails to pass the  
46 approved entry level law-enforcement examination, may not be certified by the subcommittee:  
47 *And provided further,* That an applicant who has completed the minimum training and  
48 examination required by the subcommittee may be certified as a law-enforcement officer,  
49 notwithstanding the applicant's failure to complete additional training hours required in the training  
50 program to which he or she originally applied. If more than 24 months but less than 60 months  
51 have passed since the applicant for certification has successfully completed the approved entry  
52 level law-enforcement examination, the person may be certified but must complete the additional  
53 training set forth in legislative rules promulgated by the subcommittee addressing the  
54 recertification requirements of certified officers. If more than 60 months have passed since the  
55 applicant for certification has successfully completed the approved entry level law-enforcement  
56 examination, the person must then attend a subcommittee-approved training program and  
57 successfully complete a separate subcommittee entry level law-enforcement examination.

58 (c) Any person who begins employment on or after the effective date of this article as a  
59 law-enforcement officer is certifiable as having met the minimum entry level law-enforcement  
60 training program requirements and is exempt from attending a law-enforcement training academy  
61 if the person has satisfactorily completed a course of instruction in law enforcement equivalent to

62 or exceeding the minimum applicable law-enforcement training curricula promulgated by the  
63 subcommittee. To receive certification, the person shall make written application within 90  
64 calendar days following the commencement of employment to the subcommittee requesting  
65 certification. The application shall include a notarized statement of the applicant's satisfactory  
66 completion of the course of instruction in law enforcement, a notarized transcript of the applicant's  
67 relevant scholastic records, and a notarized copy of the curriculum of the completed course of  
68 instruction. The subcommittee shall review the application and, if it finds the applicant has met  
69 the requirements for certification, shall forward to the applicant documentation of certification. The  
70 subcommittee may set the standards for required records to be provided by or on behalf of the  
71 applicant officer to verify his or her training, status, or certification as a law-enforcement officer.  
72 The subcommittee may allow an applicant officer to participate in the approved equivalent  
73 certification program to gain certification as a law-enforcement officer in this state.

74 (d) Except as provided in subdivisions (1) through (3), inclusive, of this subsection, any  
75 person who is employed as a law-enforcement officer on or after the effective date of this article  
76 and fails to be certified shall be automatically terminated and no further emoluments shall be paid  
77 to such officer by his or her employer. Any person terminated shall be entitled to reapply, as a  
78 private citizen, to the subcommittee for training and certification, and upon being certified may  
79 again be employed as a law-enforcement officer in this state: *Provided*, That if a person is  
80 terminated under this subsection because an application was not timely filed to the academy, and  
81 the person's employer failed to provide notice or disclosure to that person as set forth in  
82 subsection (b) of this section, the employer shall pay the full cost of attending the academy if the  
83 person's application to the subcommittee as a private citizen is subsequently approved.

84 (1) Any person who is employed as a law-enforcement officer on or after the effective date  
85 of this article and fails to be certified as a result of hardship and/or circumstance beyond his or  
86 her control may apply to the director of a training academy for reentry to the next available  
87 academy.

88           (2) Any person who is employed as a law-enforcement officer on or after the effective date  
89 of this article and fails to be certified as a result of voluntary separation from an academy program  
90 shall be automatically terminated and no further emoluments may be paid to such officer by his  
91 or her employer. Any person terminated as a result of voluntary separation from an academy  
92 program may not be conditionally employed as a law-enforcement officer for a period of two years  
93 from the date of voluntary separation.

94           (3) Any person who is employed as a law-enforcement officer on or after the effective date  
95 of this article and fails to be certified as a result of dismissal from an academy program shall be  
96 automatically terminated and no further emoluments may be paid to such officer by his or her  
97 employer. Any person terminated as a result of dismissal from an academy program may not be  
98 conditionally employed as a law-enforcement officer for a period of five years from the date of  
99 dismissal and receiving approval from the subcommittee.

100           (e) Nothing in this article may be construed as prohibiting any governing body, Civil  
101 Service Commission, or chief executive of any West Virginia law-enforcement agency from  
102 requiring their law-enforcement officers to meet qualifications and satisfactorily complete a course  
103 of law-enforcement instruction which exceeds the minimum entry level law-enforcement  
104 qualification and training curricula promulgated by the subcommittee.

105           (f) The subcommittee, or its designee, may decertify or reactivate a law-enforcement  
106 officer pursuant to the procedure contained in this article and legislative rules promulgated by the  
107 subcommittee.

108           (g) Any person aggrieved by a decision of the subcommittee made pursuant to this article  
109 may contest the decision in accordance with the provisions of §29A-5-1 *et seq.* of this code.

110           (h) The subcommittee may issue subpoenas for the attendance of witnesses and the  
111 production of necessary evidence or documents in any proceeding, review, or investigation  
112 relating to certification or hearing before the subcommittee.

NOTE: The purpose of this bill is to change the term “motor carrier inspector” to “commercial vehicle enforcement officer” to reflect the additional training these officers are now required to receive, make them consistent with Division of Personnel classifications, and remove the inconsistency between code sections.

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