WEST VIRGINIA CODE: §17-2A-26

§17-2A-26. Private installation of cattle guards on certain public roads; rule-making authority.

(a) Notwithstanding any provision of this code to the contrary, the Division of Highways may permit the installation of cattle guards on certain public roads in accordance with the provisions of this section.

(b) Cattle guards authorized under this section may be installed only on public roads that:

(1) Are classified as local access roads, farm-to-market roads, or dead-end public roads;

(2) Are not part of the interstate highway system, a United States route, or a primary or secondary state highway;

(3) Are located in areas of active agricultural or livestock operations; and

(4) Meet any additional eligibility criteria established by the Division of Highways by legislative rule.

(c) Any cattle guard installed pursuant to this section shall:

(1) Be designed, constructed, and installed in strict accordance with specifications established by the Division of Highways, including, but not limited to, the providing of required signage;

(2) Be installed entirely at the expense of the applicant;

(3) Be maintained, repaired, replaced, and removed at the expense of the applicant, or of the applicant’s heirs, devisees, and assigns, for the life of the installation; and

(4) Not unreasonably interfere with snow removal, roadway maintenance, or emergency vehicle access, as determined by the Division of Highways.

(d) Prior to installation, an applicant shall:

(1) Submit an application in a form prescribed by the Division of Highways;

(2) Demonstrate a bona fide agricultural or livestock-related need for the cattle guard;

(3) Execute an indemnification agreement holding harmless the State of West Virginia and the Division of Highways from any claims, damages, or liabilities arising from the installation, maintenance, or presence of the cattle guard; and

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(4) Comply with any bonding or insurance requirements imposed by the Division of Highways.

(e) The Division of Highways retains sole discretion to approve, deny, condition, suspend, or revoke authorization for any cattle guard installed pursuant to this section if it determines that the installation:

(1) Poses a risk to public safety;

(2) Interferes with highway operations, including snow removal or maintenance activities; or

(3) Results in damage to state equipment or infrastructure.

(f) Upon revocation of authorization, the applicant, or the applicant's heirs, devisees, and assigns, shall promptly remove the cattle guard and restore the roadway to its original condition at no cost to the state.

(g) The Division of Highways shall propose legislative rules in accordance with §29A-3-1 *et seq.* of this code to implement and administer the provisions of this section, including, but not limited to, application procedures, design specifications, eligibility standards, maintenance requirements, and enforcement provisions.

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