WEST VIRGINIA CODE: §17-4-49

§17-4-49. Same -- Points of commercial, etc.; access to comply; plans, objections and procedures for new points; review of and changes in existing points; commissioner's preliminary determination; requiring notice.

(a) No new points of access to and from state highways from and to real property used or to be used for commercial, industrial or mercantile purposes may be opened, constructed or maintained without first complying with this section and sections forty-seven and forty-eight of this article. Access points opened, constructed or maintained without compliance are unauthorized.

(b) Plans for any new point of access shall be submitted to the Commissioner of Highways directly and the following rules shall apply:

(1) Notice of the proposed new point of access shall be filed with the commissioner, along with a plan of the proposed new point of access.

(2) The commissioner shall review the plan to ensure compliance with the policies stated in section forty-seven of this article and with any regulations issued by the commissioner under section forty-eight of this article.

(3) If the commissioner objects to a plan, he or she shall reduce his or her objections to the proposed new point of access to writing and promptly furnish notice of the objection to the owner or owners of the real property affected and advise the owner or owners of the right to demand a hearing on the proposed plan and the objections. If a plan is not objected to within six weeks from the time it is filed with the commissioner, it is considered approved by the commissioner.

(4) In any case where the commissioner objects to the proposed new point of access, the owner or owners of the real property affected shall have reasonable opportunity for a hearing on such objections.

(c) (1) Existing points of access to and from state highways from and to real property used for commercial, industrial or mercantile purposes may be reviewed by the commissioner to determine whether such points of access comply with the policies stated in section forty-seven of this article and with any regulations issued by the commissioner under section forty-eight of this article. The commissioner may direct reasonable changes in existing points of access to and from state highways from and to property used for commercial, industrial or mercantile purposes if he or she determines from accident reports or traffic surveys that the public safety is seriously affected by such points of access and that such reasonable changes would substantially reduce the hazard to public safety. When such changes require construction, reconstruction or repair, such work shall be done at state expense as any other construction, reconstruction or repair.

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(2) If the commissioner makes a preliminary determination that any changes should be made, the following rules apply:

(A) The commissioner shall reduce his or her preliminary determination to writing and promptly furnish notice of such preliminary determination to the owner or owners of the real property affected and of their right to demand a hearing on the preliminary determination. The commissioner's notice shall include a description of suggested changes suitable for reducing the hazard to the public safety.

(B) In any case where the commissioner makes a preliminary determination that any changes should be made, the owner or owners of the real property affected shall have reasonable opportunity for a hearing on the preliminary determination.

(d) For points of access existing on or before July 1, 2016, to and from state highways from and to real property used for commercial, industrial or mercantile purposes if the access is more than fifty feet wide, the access is along a state highway with a speed limit of more than forty-five miles per hour and the commissioner deems it appropriate due to heavy traffic or other circumstances, the commissioner shall either place “no parking” signs at each side of the driveway entrance fronting the state highway or clearly mark that right-of-way with yellow paint with the words "no parking" or both to provide notice that parking is prohibited.

(e) For points of access approved by the commissioner after July 1, 2016, to and from state highways from and to real property used for commercial, industrial or mercantile purposes if the access is more than fifty feet wide, the access is along a state highway with a speed limit of more than forty-five miles per hour and the commissioner deems it appropriate due to heavy traffic or other circumstances, the owner or owners of the real property shall be required to place “no parking” signs at each side of the driveway entrance fronting the state highway or clearly mark that right-of-way with yellow paint with the words "no parking" or both to provide notice that parking is prohibited. This subsection and subsection (d) of this section shall be known as "Sarah Nott's Law".

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