# WEST VIRGINIA CODE CHAPTER 24A

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## §24A-1-1. Purposes.

It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter to confer upon the Public Service Commission of West Virginia, in addition to all other powers conferred and duties imposed upon it by law, the power, authority and duty to supervise and regulate the transportation of persons and property for hire by motor vehicles upon or over the public highways of this state so as to: (a) Protect the safety and welfare of the traveling and shipping public in their use of transportation agencies by motor vehicle; (b) preserve, foster and regulate transportation and permit the coordination of transportation facilities; (c) provide the traveling and shipping public transportation agencies rendering stabilized service at just and reasonable rates. This chapter shall apply to persons and motor vehicles engaged in interstate commerce and to private commercial carriers by motor vehicle as defined in section two of this article, to the extent permitted by the Constitution and laws of the United States.

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## §24A-1-2. Definitions.

As used in this chapter:

"Commission" means the Public Service Commission of West Virginia;

"Common carrier by motor vehicle" means any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers or property, or any class or classes of property, for the general public over the highways of this state by motor vehicles for hire, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail, water, or air, and of express or forwarding agencies, and leased or rented motor vehicles, with or without drivers;

"Contract carrier by motor vehicle" means any person not included within the definition of "common carrier by motor vehicle", who under special and individual contracts or agreements, and whether directly or by lease or any other arrangement, transports passengers or property over the highways in this state by motor vehicles for hire;

"Driveaway operation" means an operation in which any vehicle or vehicles, operated singly or in lawful combinations, new or used, not owned by the transporting motor carrier, constitute the commodity being transported;

"Emergency substitute carrier" means a common carrier by motor vehicle or a contract carrier by motor vehicle that is authorized by the Public Service Commission to provide service on a temporary basis outside of its certificated territory or its contract because of commission suspension of a motor carrier certificate of convenience and necessity, or contract carrier by motor vehicle permit;

"Exempt carrier" means any person operating a motor vehicle exempt from the provisions of §24A-1-3 of this code;

"I.C.C." means the Interstate Commerce Commission;

"Luxury limousine service" means passenger motor carrier service by pre-arranged appointment with a minimum charge of no less than $60.00, with a formally dressed chauffeur, using a large and luxurious sedan, sport utility vehicle, or van, or an antique vehicle: *Provided*, That "luxury limousine service" does not include a passenger motor carrier that is serving railroad crews for railroad purposes or used for nonemergency medical transportation other than Medicaid members.

"Motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle;

"Motor vehicle" means, and includes, any automobile, truck, tractor, truck-tractor, trailer, semitrailer, motorbus, taxicab, any self-propelling motor-driven motor vehicle, or any combination thereof used upon any public highway in this state for the purpose of

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transporting persons or property;

“NARUC” means the National Association of Regulatory Utility Commissioners;

“Operations within the borders of this state” means interstate or foreign operations to, from, within, or traversing this state;

“Person” means and includes any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

“Planting and harvesting season” means January 1 through December 31 of each calendar year only as it relates to the administration of rules promulgated pursuant to §24A-5-5(j) of this code;

“Private commercial carrier” means and includes any person who undertakes, whether directly or by lease or other arrangement, to transport property, including hazardous materials as defined in rules and regulations promulgated by the commission, for himself or herself over the public highways of this state, in interstate or intrastate commerce, for any commercial purpose, by motor vehicle with a gross vehicle weight rating of 10,001 pounds or more, by motor vehicle designed to transport more than 15 passengers, including the driver; or by any motor vehicle used to transport hazardous materials in a quantity requiring placarding under federal hazardous material regulations as adopted by the commission;

“Power unit” means any vehicle which contains within itself the engine, motor, or other source of power by which said vehicle is propelled; and

“Public highway” means any public street, alley, road or highway, or thoroughfare of any kind in this state used by the public.

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**§24A-1-3. Exemptions from chapter.**

The provisions of this chapter, except where specifically otherwise provided, do not apply to:

(1) Motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission;

(2) Motor vehicles owned and operated by the United States of America, the State of West Virginia or any county, municipality or county board of education, urban mass transportation authority established and maintained pursuant to §8-27-1 *et seq*. of this code or by any of their departments, and any motor vehicles operated under a contract with a county board of education exclusively for the transportation of children to and from school or other legitimate transportation for the schools as the commission may specifically authorize;

(3) Motor vehicles used exclusively in the transportation of agricultural or horticultural products, livestock, poultry and dairy products from the farm or orchard on which they are raised or produced to markets, processing plants, packing houses, canneries, railway shipping points and cold storage plants, and in the transportation of agricultural or horticultural supplies to farms or orchards where they are to be used: *Provided*, That the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the safety and insurance rules promulgated by the commission;

(4) Motor vehicles used exclusively in the transportation of human or animal excreta;

(5) Motor vehicles used exclusively in ambulance service or duly chartered rescue squad service;

(6) Motor vehicles used exclusively for volunteer fire department service;

(7) Motor vehicles used exclusively in the transportation of coal from mining operations to loading facilities for further shipment by rail or water carriers: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(8) Motor vehicles used by petroleum commission agents and oil distributors solely for the transportation of petroleum products and related automotive products when the transportation is incidental to the business of selling the products: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

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(9) Motor vehicles owned, leased by or leased to any person and used exclusively for the transportation of processed source-separated recycled materials generated by commercial, institutional and industrial customers, transported free of charge or by a nonprofit recycling cooperative association in accordance with §19-4-1(d)(1) of this code from the customers to a facility for further processing: *Provided*, That the vehicles and their operators shall be subject to the safety rules promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(10) Motor vehicles specifically preempted from state economic regulation of intrastate motor carrier operations by the provisions of 49 U. S. C. §14501 as amended by Title I, Section 103 of the federal Interstate Commerce Commission Termination Act of 1995: *Provided*, That the vehicles and their operators are subject to the safety regulations promulgated by the commission and the vehicles that are exempted by this subdivision and are also operated by common carriers by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the insurance rules promulgated by the commission;

(11) Motor vehicles designated by the West Virginia Bureau of Senior Services for use and operation by local county aging programs: *Provided*, That the vehicles and their operators are subject to the safety rules promulgated by the commission;

(12) Motor vehicles designated by the West Virginia Division of Public Transit operated by organizations that receive federal grants from the Federal Transit Administration: *Provided*, That the vehicles and their operators are subject to the safety and insurance rules promulgated by the commission;

(13) Motor vehicles used exclusively in the nonemergency medical transportation of Medicaid members including those under contract with any broker authorized by the Bureau for Medical Services: *Provided*, That these vehicles and their operators shall be subject to the safety rules promulgated by the commission;

(14) Common carriers or contract carriers engaged in the business of transporting household goods and motor vehicles used exclusively in the transportation of household goods;

(15) Common carriers or contract carriers engaged in the business of transporting scrap tires, waste tires, or other used tires to storage, disposal, or recycling locations; or

(16) Motor vehicles operated under a contract with the West Virginia Department of Environmental Protection exclusively for the cleanup and transportation of waste tires generated from state authorized waste tire remediation or cleanup projects: *Provided*, That the vehicles that are exempted by this subdivision, and their operators, are subject to the safety and insurance rules promulgated by the commission.

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(17) Luxury limousine service: *Provided*, That luxury limousine service vehicles and their operators are subject to the safety rules and insurance requirements promulgated by the commission.

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## §24A-1A-1. Regulation of commercial vehicle weights.

(a) Effective July 1, 2003, the commission has jurisdiction over the enforcement of this code and rules promulgated under this code, including, but not limited to, applicable provisions of article seventeen-a, chapter seventeen-c of this code relating to vehicular weight.

(b) Effective January 1, 2003, the commission has jurisdiction over the issuance of permits for excess vehicular weight.

(c) Effective January 1, 2003, employees of the Division of Highways, Department of Transportation, whose primary governmental duties as of June 30, 2002, included the administration and enforcement of state statutes and rules relating to vehicular weight or the issuance of permits for excess vehicular weight shall be transferred from the Division of Highways and Department of Transportation to the commission.

(d) The commission shall implement and administer the provisions of this section and of articles six, six-a and six-b of this chapter.

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**§24A-1A-2. Creation of advisory committee; purpose; members; terms.**

(a) There is continued the Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee, the purpose of which is to study the implementation of the commercial motor vehicle weight and safety enforcement program set forth in this article.

(b) The committee consists of the following members:

(1) One member who is an employee of the Division of Highways, to be appointed by the Commissioner of Highways;

(2) One member who is an employee of the Public Service Commission, to be appointed by the Chairman of the Public Service Commission;

(3) One member who is a State Police officer, to be appointed by the Superintendent of the State Police;

(4) One member who is an employee of the Division of Motor Vehicles, to be appointed by the Commissioner of Motor Vehicles;

(5) One member who is an employee of the Development Office, to be appointed by the Governor;

(6) One member who is representative of the coal industry, to be appointed by the Governor;

(7) One member of the Senate, to be appointed by the President of the Senate;

(8) One member of the House of Delegates, to be appointed by the Speaker of the House of Delegates;

(9) Two citizen members, to be appointed by the Governor;

(10) One member of the largest organization representing coal miners, to be appointed by the Governor; and

(11) One member of the largest organization representing natural resource transportation drivers, to be appointed by the Governor.

(c) Members shall serve for terms of three years. No member may be appointed to serve more than two consecutive terms.

(d) The committee shall annually nominate from its members a chair, who shall hold office for one year.

(e) The committee shall hold at least four meetings each year or more often as may, in the discretion of the chair, be necessary to effectuate the purposes of this article.

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(f) The public members of the committee may receive compensation for attendance at official meetings, not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law.

(g) Committee members may be reimbursed for actual and necessary expenses incurred for each day or portion of a day engaged in the discharge of committee duties in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.

(h) On or before January 1 of each year the committee shall submit to the Governor and to the Legislature a report of its recommendations for improving the effectiveness of the commercial vehicle weight and safety enforcement program.

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## §24A-2-1. Subject to public utility and common carrier laws.

All common carriers by motor vehicle are hereby declared to be affected with a public interest and subject to the laws of this state now in force or that hereafter may be enacted pertaining to public utilities and common carriers as far as applicable, and not in conflict herewith.

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## §24A-2-2. Provisions of chapter to govern; common carrier certificate and contract carrier permit.

No common carrier by motor vehicle shall operate any motor facility for transportation of either persons or property for hire or any public highway in this state except in accordance with the provisions of this chapter, and no person, after January 1, 1940, shall, at the same time, hold under this chapter a certificate as a common carrier and a permit as a contract carrier authorizing operations for the transportation of property by motor vehicles over the same route or within the same territory unless for good cause shown and the commission determines that such certificate and permit may be held consistent with the public interest and the policy stated in section one, article one of this chapter.

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## §24A-2-2a. Regulation of business of towing, hauling or carrying wrecked or disabled vehicles.

(a) On and after July 1, 1982, common carriers by motor vehicles engaged in the business of towing, hauling or carrying wrecked or disabled vehicles shall, notwithstanding any other provision of the laws of the State of West Virginia to the contrary, be regulated by the provisions of this section and this section shall not be applicable to said carriers until such date.

(b) No common carrier by motor vehicle engaged in the business of towing, hauling or carrying wrecked or disabled vehicles and mobile homes shall be required to obtain a common carrier certificate or other certificate of authority from the commission prior to engaging in such business, however, such carrier shall not engage in such business unless and until such carrier shall have registered as a carrier with the commission in accordance with the provisions of this section.

(c) A person may not act as a common carrier by motor vehicle by engaging in the business of towing, hauling or carrying wrecked or disabled motor vehicles for hire unless that person has registered as a carrier with the Public Service Commission as provided in this section; nor, may a person continue to act as a carrier by engaging in the business of towing, hauling or carrying wrecked or disabled motor vehicles for hire if his registration is revoked or suspended by the commission. A person registered as a carrier under the provisions of this section may not charge, demand, collect or receive a greater remuneration for the towing, hauling or carrying of any wrecked or disabled motor vehicle than the rates, fares and charges established by the provisions of this section.

The commission shall register all carriers as may make application for registration as a common carrier by motor vehicle for the purpose of engaging in the business of towing, hauling or carrying wrecked or disabled motor vehicles for hire upon satisfactory evidence to the commission that the carrier has complied with all applicable requirements of this chapter and all applicable rules and regulations of the commission. The commission shall by general order, applicable to all carriers registered under this section, fix, alter and determine just, fair, reasonable and sufficient maximum statewide or regional schedules of rates, fares and charges, and it shall establish reasonable classifications of carriers for which the schedules are applicable, but before the rates, fares and charges are fixed, altered or determined, the commission shall hold hearings in order to give all interested parties an opportunity to be heard, and it shall give reasonable notice of the hearings in the manner as the commission shall by rule prescribe. Carriers registered under the provisions of this section are subject to the regulatory powers of the commission as provided in section three of this article.

Upon the complaint of any aggrieved party, the commission may suspend or revoke the registration of any person registered with the commission under the provisions of this section for the violation of any rule or regulation established by the commission and applicable to that person or for the violation of any provision of this article applicable to

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persons registered under the provisions of this section: Provided, That for the first violation, suspension of registration shall be for a period of not more than thirty days; and, for a second violation the commission may revoke the registration for a period of one year; and, for a third violation the commission may revoke the registration permanently. But before any suspension or revocation is effected, the person registered under this section shall first be given reasonable notice of the charges against him and shall be granted an opportunity to be heard by the commission or its designee in accordance with the rules and regulations for hearings as may be by rule established by the commission.

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## §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.

**NOTE: West Virginia Code §24A-2-2b was amended by two bills passed during the 2021 Regular Session of the Legislature. When two acts of the Legislature amend the same section of the Code without express recognition in the bill of the action of the other bill, the Legislative Manager makes no determination as to the appropriate, legal effect of the two acts. Therefore, BOTH versions of this section are set out below.**

**The later of the two acts, House Bill 3130 (passed on April 10 2021), amended West Virginia Code §24A-2-2b to read as follows:**

(a) On or before July 1, 2016, the Commission shall promulgate rules to effectuate the provisions of this article.

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

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

(A) Tow vehicle or vehicles and the special equipment required to complete recovery or tow;

(B) Total time to complete the recovery or tow;

(C) Number of regular and extra employees required to complete the recovery or tow;

(D) Location of vehicle recovered or towed;

(E) Materials or cargo involved in recovery or tow;

(F) Comparison with reasonable prices in the region;

(G) Weather conditions; and

(H) Any other relevant information having a direct effect on the pricing of the recovery, towing, and storage of a recovered or towed vehicle;

(2) The process for filing a complaint, and the review and investigation process to ensure it is fair, effective, and timely: *Provided*, That in any formal complaint against a carrier relating to a third-party tow, the burden of proof to show that the carrier's charges are just, fair, and reasonable is on the carrier;

(3) The process for aggrieved parties to recover the cost, from the carrier, for the charge or charges levied by a carrier for recovering, towing, hauling, carrying, or storing a wrecked or disabled vehicle where the commission determines that such charge or charges are not otherwise just, fair, or reasonable; and

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(4) The process to review existing maximum statewide wrecker rates and special rates for the use of special equipment in towing and recovery work to ensure that rates are just, fair, and reasonable: *Provided*, That the commission shall generally disapprove hourly and flat rates for ancillary equipment.

(c) All carriers regulated under this article shall list their approved rates, fares, and charges on every invoice provided to an owner, operator, or insurer of a wrecker or disabled motor vehicle.

(d) The rules promulgated pursuant to this section shall sunset on July 1, 2023, unless reauthorized.

(e) On or before December 31, 2022, the Legislative Auditor shall review the rules promulgated by the Public Service Commission under this section. The audit shall evaluate the rate-making policy for reasonableness, the complaint process for timeliness, the penalties for effectiveness, and any other metrics the Legislative Auditor deems appropriate. The Legislative Auditor may recommend that the rule be reauthorized, reauthorized with amendment, or repealed.

**The earlier act, Senate Bill 655 (passed on April 9, 2021) amended West Virginia Code §24A-2-2b to read as follows:**

(a) On or before July 1, 2016, the commission shall promulgate rules to effectuate the provisions of this article.

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

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

(A) Tow vehicles and the special equipment required to complete the recovery or tow;

(B) Total time to complete the recovery or tow;

(C) Number of regular and extra employees required to complete the recovery or tow;

(D) Location of vehicle recovered or towed;

(E) Materials or cargo involved in recovery or tow;

(F) Comparison with reasonable prices in the region;

(G) Weather conditions; and

(H) Any other relevant information having a direct effect on the pricing of the recovery,

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towing, and storage of a recovered or towed vehicle;

(2) The process for filing a complaint, the review and investigation process to ensure it is fair, effective, and timely: *Provided*, That in any formal complaint against a carrier relating to a third-party tow, the burden of proof to show that the carrier's charges are just, fair, and reasonable is on the carrier;

(3) The process for aggrieved parties to recover the cost, from the carrier, for the charge or charges levied by a carrier for recovering, towing, hauling, carrying, or storing a wrecked or disabled vehicle where the commission determines that the charge or charges are not otherwise just, fair, or reasonable; and

(4) The process to review existing maximum statewide wrecker rates and special rates for the use of special equipment in towing and recovery work to ensure that rates are just, fair, and reasonable: *Provided*, That the commission shall generally disapprove hourly and flat rates for ancillary equipment.

(c) All carriers regulated under this article shall list their approved rates, fares, and charges on every invoice provided to an owner, operator, or insurer of a wrecker or disabled motor vehicle.

(d) The rules promulgated pursuant to this article shall sunset on July 1, 2023, unless reauthorized.

(e) On or before December 31, 2022, the Legislative Auditor shall review the rules promulgated by the Public Service Commission under this section. The audit shall evaluate the rate-making policy for reasonableness, the complaint process for timeliness, the penalties for effectiveness, and any other metrics the Legislative Auditor considers appropriate. The Legislative Auditor may recommend that the rule be reauthorized, reauthorized with amendment, or repealed.

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## §24A-2-3. Regulatory powers of commission.

The commission is vested with power and authority to supervise and regulate all common carriers by motor vehicle and to fix, alter, regulate, and determine just, fair, reasonable, and sufficient rates, joint rates, charges and classifications; to regulate the facilities, accounts, service and safety of operations of each such carrier, to regulate operating and time schedules so as to meet the reasonable needs of any community, so as to provide adequate transportation service to the territory traversed by such carriers, and so as to prevent unnecessary multiplication of service among common carriers by motor vehicle and between them and steam and electric railroads, to require the coordination of the service facilities and schedules of competing common carriers by motor vehicle or electric and steam railroads; to require the filing of annual and other reports, tariff, schedules, and other data by such common carriers, in all matters affecting the relation between such carriers and the public and between such carriers and other common carriers. The commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter applicable to any and all such common carriers by motor vehicle and to do all things necessary to carry out and enforce the provisions of this chapter.

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## §24A-2-4. Rates, fares and charges.

All rates, fares and charges made by any common carrier by motor vehicle shall be just and reasonable, and shall not be unlawfully discriminatory, prejudicial nor preferential. No such carrier shall charge, demand, collect, or receive a greater or less or different remuneration for the transportation of passengers or property, or for any service in connection therewith, than the rates, fares, and charges which have been legally established and filed with the commission; nor shall any such carrier refund, remit, discount or rebate in any manner or by any device any portion of the rates, fares, and charges required to be collected by the tariffs on file with or ordered by the commission.

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## §24A-2-4a. Motor carriers transporting solid waste; pass through of landfill tip fees as rate surcharge.

Any common carrier transporting solid waste in this state pursuant to authority granted under section five, article two, chapter twenty-four-a of the Code of West Virginia, 1931, as amended, may make application to the commission for approval of a rate surcharge to pass through any increase in the disposal rate charged by the landfill at which solid waste is disposed by the motor carrier, commonly known as the tip fee, to commercial and residential customers, including increases which are the direct result of fees, charges, taxes, or any other assessment imposed upon the landfill by a governmental body. The commission shall within fourteen days of receipt of said application notify the motor carrier of approval of the requested rate surcharge, or approval of a rate surcharge other than in the amount requested and the reason therefor. The effective date of the approved rate surcharge shall be the same date as the effective date of the increase in the tip fee to which the surcharge relates; except that in the event the application for approval of the rate surcharge is received by the commission more than sixty days after the effective date of the tip fee increase, then the effective date of the approved rate surcharge shall be the date said application was received by the commission.

The commission shall immediately promulgate emergency rules which set forth the procedures for the filing of the tip fee rate surcharge application. It is the purpose of this statute to provide an expedited process which will allow the subject motor carriers to pass through tip fee increases to all customers. Only that data necessary to review in accordance with this statute may be required by the commission to be submitted by the motor carrier.

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## §24A-2-4b. Motor carriers transporting solid waste; origin of waste disclosure; penalties.

(a) The operator-driver of every solid waste motor carrier vehicle which arrives at a commercial solid waste facility, including, but not limited to, commercial landfills and transfer stations, in this state is required to declare, in writing and under oath, the name of the county and state of origin of the solid waste being deposited at the commercial solid waste facility. The operator-driver of the solid waste motor carrier vehicle shall give a copy of this completed declaration form to the operator of the commercial landfill or of the transfer station, to the West Virginia Public Service Commission and to the county solid waste authority.

(b) The Public Service Commission shall prepare and provide commercial solid waste facility operators with a uniform disclosure form for use in effecting this provision.

(c) Any operator-driver of a solid waste motor carrier vehicle who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 nor more than $500.

(d) Any owner of a solid waste motor carrier vehicle which deposits solid waste in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined $1,000.

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## §24A-2-5. Certificate of convenience and necessity.

(a) Required; application; hearing; granting. — It shall be unlawful for any common carrier by motor vehicle to operate within this state without first having obtained from the commission a certificate of convenience and necessity unless the common carrier is an emergency substitute carrier. Upon the filing of an application for such certificate, the commission shall set a time and place for a hearing on the application: *Provided*, That the commission may, after giving proper notice and if no protest is received, waive formal hearing on the application. Notice shall be by publication which shall state that a formal hearing may be waived in the absence of a protest to such application. The notice shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code and the publication area for such publication shall be the proposed area of operation. The notice shall be published at least 10 days prior to the date of the hearing. After the hearing or waiver by the commission of the hearing, if the commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof, it shall issue the certificate as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require, and if the commission shall be of the opinion that the service rendered by any common carrier holding a certificate of convenience and necessity over any route or routes in this state is in any respect inadequate or insufficient to meet the public needs, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy or insufficiency before any certificate shall be granted to an applicant proposing to operate over such route or routes as a common carrier. Before granting a certificate to a common carrier by motor vehicle, the commission shall take into consideration existing transportation facilities in the territory for which a certificate is sought, and in case it finds from the evidence that the service furnished by existing transportation facilities is reasonably efficient and adequate, the commission shall not grant such certificate.

(b) Rules and regulations; taking evidence at hearings; burden of proof. — The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section, and in establishing that public convenience and necessity do exist, the burden of proof shall be upon the applicant. The commission may designate any of its employees to take evidence at the hearing of any application for a certificate and submit findings of fact as a part of a report or reports to be made to the commission.

(c) Certificate not franchise, etc.; assignment or transfer. — No certificate issued in accordance with the terms of this chapter shall be construed to be either a franchise or irrevocable, or to confer any proprietary or property rights in the use of the public highways. No certificate issued under this chapter shall be assigned or otherwise transferred without the approval of the commission. Upon the death of a person holding a certificate, his or her personal representative or representatives may operate under such certificate while the same remains in force and effect and, with the consent of the commission, may transfer such certificate.

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(1) Upon the death of a person holding a certificate, his or her personal representative or representatives may operate under such certificate while the same remains in force and effect and, with the consent of the commission, may transfer such certificate; and

(2) An application by a motor carrier to transfer a certificate of convenience and necessity, or a portion thereof, to another motor carrier possessing one or more certificates of public convenience and necessity for the same commodity shall be affirmed or denied within 90 days of the submission of a complete application for transfer. The commission shall make a determination within ten business days of receiving a transfer application if the application is complete and notify the applicant if additional information is required. If the commission shall fail to act on a complete application within 90 days, the application to transfer the certificate shall be deemed approved.

(d) Suspension, revocation or amendment. — The commission may at any time, for good cause, suspend a common carrier certificate of convenience and necessity, and upon suspension, authorize an emergency substitute carrier to provide temporary replacement service until further order of the commission: *Provided*, That an emergency substitute carrier may continue to operate during the pendency of its application for a certificate of convenience and necessity filed pursuant to §24A-2-5(a) of this code. Upon not less than 15 days' notice to the grantee of any certificate and an opportunity to be heard, the commission may revoke or amend any certificate.

(e) Reinstitution of certificated service. — No sooner than 30 days after a suspension of authority, a common carrier may petition the commission to end the suspension and terminate the authority of an emergency substitute carrier. Upon notice to the emergency substitute carrier and an opportunity to be heard, the commission shall issue its order granting or denying the petition.

(f) The commission shall have the authority, after hearing, to ratify, approve, and affirm those orders issued pursuant to this section. For the purposes of this subsection, the commission may give notice by a Class I legal advertisement of such hearing in any newspaper or newspapers of general circulation in this state, and such other newspapers as the commission may designate.

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## §24A-2-6. For hire common carriers of passengers; definitions; driving time; rules.

(a) When used in this section, the following words and phrases have the following meanings, unless the context clearly indicates a different meaning:

(1) "Driving time" means all time spent at the driving controls of a commercial for-hire vehicle designed to transport passengers;

(2) "Eight consecutive days" means the period of eight consecutive days beginning on any day at the time designated by the for-hire carrier for a twenty-four-hour period;

(3) "On duty time" means all time from the time a driver begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work; and

(4) "Twenty-four-hour period" means any twenty-four- consecutive-hour period beginning at the time designated by the for-hire carrier for the terminal from which the driver is normally dispatched.

(b) The provisions of this section apply only to for-hire carriers operated by an on board driver which is designed to transport passengers exclusively on any public highway or road in this state. The provisions of this section apply only to intrastate commerce and do not apply where preempted by federal regulation.

(c) Drivers of for-hire carriers may not:

(1) Engage in driving time of a for-hire vehicle for more than ten consecutive hours without eight consecutive hours off duty;

(2) Engage in driving time of a for-hire vehicle after the driver has on duty time of fifteen hours without eight consecutive hours off duty; or

(3) Engage in driving time of a for-hire vehicle after the driver has been on duty for a total of seventy consecutive hours within eight consecutive days.

(d) For-hire carrier companies shall keep time records, for six months, indicating the time all for-hire drivers report for duty, the time of relief from duty, hours driven, hours on duty, and hours off duty. These records shall be made available to the State Police and the Public Service Commission.

(e) The Public Service Commission may promulgate rules necessary to implement the provisions of this section.

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## §24A-3-1. Regulation required.

It is hereby declared that the business of contract carriers by motor vehicle is affected with a public interest and that the safety and welfare of the public, the preservation and maintenance of the public highways, and the integrity of the regulation of common carriers require the regulation of contract carriers by motor vehicle to the extent herein provided.

WV Legislature

## §24A-3-2. Provisions of chapter to govern.

No contract carrier by motor vehicle or emergency substitute carrier shall operate any motor vehicle for the transportation of either persons or property for hire on any public highway in this state except in accordance with the provisions of this chapter.

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**§24A-3-3. Permit.**

(a) Required; application; hearing; granting. — It shall be unlawful for any contract carrier by motor vehicle to operate within this state without first having obtained from the commission a permit unless the contract carrier is an emergency substitute carrier. Upon the filing of an application for such permit, the commission shall fix a time and place for hearing thereon: Provided, That the commission may, after giving notice as hereinafter provided and if no protest is received, waive formal hearing on such application. Said notice shall be by publication which shall state that formal hearing may be waived in the absence of protest to such application. Such notice shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for such publication shall be the area of operation. Such notice shall be published at least 10 days prior to the date of hearing, but not more than 30 days after the filing of the completed application. After hearing or waiver of hearing as aforesaid, as the case may be, the commission shall grant or deny the permit prayed for or grant it for the partial exercise only of the privilege sought, and may attach to the exercise of the privilege granted by such permit such terms and conditions as in its judgment are proper and will carry out the purposes of this chapter. No permit shall be granted unless the applicant has established to the satisfaction of the commission that the privilege sought will not endanger the safety of the public or unduly interfere with the use of the highways or impair unduly the condition or unduly increase the maintenance cost of such highways, directly or indirectly, or impair the efficient public service of any authorized common carrier or common carriers adequately serving the same territory.

(b) *Rules and regulations; evidence at hearing.* — The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section and may designate any of its employees to take evidence at the hearing on any application for a permit and submit findings of fact as a part of report or reports to be made to the commission.

(c) *Permit not franchise, etc.; assignment or transfer.* — No permit issued in accordance with the terms of this chapter shall be construed to be either a franchise or irrevocable or to confer any proprietary or property rights in the use of the public highways. No permit issued under this chapter shall be assigned or otherwise transferred without the approval of the commission. Upon the death of a person holding a permit, his or her personal representative or representatives may operate under such permit while the same remains in force and effect and, with the consent of the commission, may transfer such permit.

(d) *Suspension, revocation or amendment.* — The commission may, at any time, for good cause, suspend a motor carrier permit and upon suspension authorize an emergency substitute carrier to provide temporary replacement service until further order of the commission: *Provided,* That an emergency substitute carrier may continue to operate during the pendency of its application for a permit filed pursuant to §24A-3-3(a) of this code. Upon not less than 15 days' notice to the grantee of any permit and an opportunity to be heard, the commission may revoke or amend any permit.



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(e) *Reinstitution of permit.* — No sooner than 30 days after a suspension of authority, a grantee of a permit may petition the commission to end the suspension and terminate the authority of an emergency substitute carrier. Upon notice to the emergency substitute carrier and an opportunity to be heard, the commission shall issue its order granting or denying the petition.

(f) *Notice of cessation or abandonment.* — Every contract carrier by motor vehicle who shall cease operation or abandon his or her rights under a permit issued shall notify the commission within 30 days of such cessation or abandonment.

WV Legislature

## §24A-3-4. Regulatory powers of commission.

The commission is hereby vested with power and authority, and it shall be its duty, to supervise and regulate contract carriers by motor vehicle for the purpose of promoting safety of their operation as transportation agencies upon the highways; to regulate and supervise the accounts and method of keeping the same; to prescribe such rules and regulations as it may deem necessary to carry out the provisions of this chapter; and to supervise and regulate contract carriers by motor vehicle in all matters affecting the relationship between such carriers and the traveling and shipping public.

WV Legislature

## §24A-3-5. Undue preference prohibited.

Every contract carrier by motor vehicle is hereby forbidden to give or cause any undue or unreasonable advantage or preference to those whom it serves as compared with the patrons of any common carrier by motor vehicle as that term is used in this chapter, or the patrons of any other common carrier, or to subject the patrons of any such common carriers to any undue or unreasonable discrimination or disadvantage; or by unfair competition to destroy or impair the service or business of any common carrier by motor vehicle, or of any other common carrier, or the integrity of the state's regulation of any such service or business; and, to the end that the said commission may enforce these provisions, each such contract carrier by motor vehicle shall maintain on file with the commission a statement of its charges, and of such other matters as the commission may require.

WV Legislature

## §24A-3-6. Rules and regulations; minimum rates, fares and charges.

The commission is hereby vested with power and authority, and it is hereby made its duty, to prescribe rules and regulations covering the operations of contract carriers by motor vehicles in competition with common carriers of this state, and the commission shall prescribe minimum rates, fares, and charges to be collected by such contract carriers by motor vehicle, which shall not be less than the rates prescribed for common carriers by motor vehicles for substantially the same service.

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## §24A-4-1. Vehicular and operational safety.

Every private commercial carrier, as defined in section two (n), article one of this chapter, shall establish, maintain and operate its motor vehicles in a safe manner and condition as prescribed by the safety rules and regulations promulgated by the commission under subsection (j), section five, article five of this chapter.

WV Legislature

## §24A-5-1. Powers of commission as to rates, schedules, etc.

The commission shall have power to originate, establish, promulgate, change, investigate and enforce tariffs, rates, joint rates, classifications and schedules for all motor carriers, except urban mass transportation authorities established and maintained pursuant to article twenty-seven, chapter eight of this code, and the practices, services and facilities of all motor carriers. And whenever the commission shall, after hearing, find any existing rates, tariffs, joint rates, classifications, schedules, practices, services or facilities unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall, by order, fix and require reasonable rates, joint rates, tariffs, classifications, schedules, practices, services or facilities to be followed or established in the future in lieu of those found to be unjust, unreasonable, insufficient or unjustly discriminatory or otherwise in violation of any provisions of law.

WV Legislature

## §24A-5-2. Procedure for changing rates, etc.

Except for motor carriers collecting and hauling solid waste who elect to increase rates under section 2a of this chapter, no motor carrier subject to this chapter shall change, suspend, or annul any individual rate, joint rate, fare, charge, or classification for the transportation of passengers or property except after thirty days' notice to the commission and the public, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates or charges shall go into effect. The commission may enter an order suspending the proposed rate and prohibiting such motor carrier from putting such proposed new rate into effect pending the hearing and final decision of the matter, in which case the proposed new rate shall stand suspended until it is determined by the commission whether or not the same is just or reasonable. The proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: *Provided*, however, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

Whenever there shall be filed with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, the commission shall have authority, either upon complaint or upon its own initiative without complaint, to enter upon a hearing concerning the propriety of such rate, charge, classification, regulation or practice; and, if the commission so orders, it may proceed without answer or other form of pleading by the interested parties, but upon reasonable notice, and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the motor carrier affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred and twenty days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation, or practice goes into effect, the commission may make such order in reference to such rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided*, That if any such hearing cannot be conducted within the period of suspension, as above stated, the commission may in its discretion extend the time of suspension for a further period, not exceeding six months. At any hearing involving a rate sought to be increased or involving the change of any fare, charge, classification, regulation or practice, the burden of proof to show that the increased rate or proposed increased rate, or the proposed change of fare, charge, classification, regulation or practice, is just and reasonable, shall be upon the motor carrier making application for such change. When in any case pending before the commission all evidence shall have been taken, and the hearing completed, the commission shall, within

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three months, render a decision in such case.

The commission shall prescribe such rules and regulations as to the giving of notice of a change in rates as are reasonable and are deemed proper in the public interest.

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**§24A-5-2a. Procedure for changing rates for collection and hauling of solid waste by motor carriers; rural rates.**

(a) Unless a motor carrier collecting and hauling solid waste elects to increase rates under §24A-5-2 and the commission's existing rules and regulations, effective July 1, 2020, no solid waste motor carrier subject to this chapter shall change, suspend, or annul any individual rate, joint rate, fare, charge, or classification for the collection or hauling of solid waste, except after 30 days' notice to the commission and the carrier's customers, with such notice to customers being sent as a bill insert or separately mailed statement that plainly states the changes proposed to be made in the schedule then in force and the time when the changed rates or charges will go into effect. The motor carrier shall file its proposed public notice with the commission for review. Within five business days of the filing of the notice with the commission, the commission shall issue an order approving the notice.

(b) Any proposed rate changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

(c) Whenever a solid waste motor carrier shall file with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, except as set forth in subsection (d) below, the commission shall have authority, on its own initiative, or upon substantial protest filed with the commission within 30 days' notice of the proposed increase or change demonstrated by the complaints submitted by the lesser of: (i) 25 percent of the customers impacted by the proposed change in rates or charges; or (ii) 750 customers impacted by the proposed change in rates or charges to suspend the rates pending a hearing and final determination that the rate, charge, classification, regulation or practice is just, reasonable, and based primarily on the cost of service. At any hearing involving a rate sought to be increased or involving the change of any fare, charge, classification, regulation, or practice, the burden of proof to show that the increased rate or proposed increased rate, or the proposed change of fare, charge, classification, regulation or practice, is just, reasonable, and based primarily on the cost of service, shall be upon the motor carrier making application for such change. Any suspension of a rate, charge classification, regulation, or practice under this subsection shall not extend beyond such time that the commission enters a final decision in the case or 120 days from the date notice was first given. The commission may extend the time in which a final decision is due by an additional 30 days if a motor carrier fails to provide material information requested by the commission more than 30 days in advance of the hearing.

(d) Urban Consumer Garbage Trash Collection Index rate change – Effective July 1, 2020, solid waste motor carriers shall be permitted to increase rates for the collection and hauling of solid waste once on or after January 1 of each year, without the filing of an application for



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approval by the commission and such increase shall be considered just and reasonable and not unfairly discriminatory, prejudicial, or preferential if: (1) the percentage increase over the prior rate is equal to or less than the percentage increase in the United States Department of Labor Bureau of Labor Statistics Garbage and Trash Collection Index (the "Index") between September of the year preceding the effective date of the requested rate increase and September of the year prior to the year preceding the effective date of the requested rate increase (the "relevant time period"); (2) the carrier files a revised tariff in compliance with the commission's rules and regulations; and (3) notice is provided as directed by the commission. After September 30 of each year, the commission shall issue a general order stating the percentage increase in the Index and the inflation factor to apply to the rates currently in effect to calculate the maximum rate increase authorized under this subsection. Any rate increase that a motor carrier believes is at or below the aforementioned increase in the Index shall be identified as such when filed with the commission. Such rate increases shall be subject to challenge by the commission only if it determines that the increase is in fact in excess of the amount of the increase in the Index for the relevant time period. If the commission determines a rate increase filed pursuant to this subsection is in excess of the increase in the Index for the relevant time period, it may enter an order suspending the rate increase. If such an order is entered, the motor carrier shall be entitled to a hearing pursuant to the process authorized in subsection (c) of this section or it may correct its requested rates, in which case the suspension will be lifted and the rates may go into effect as of the original requested effective date or the date that the carrier corrects its rates, whichever comes later. Notwithstanding any provision to the contrary, the fact that a solid waste motor carrier has already raised its rates in a given year pursuant to this subsection shall not preclude that carrier from applying for and receiving from the commission a rate increase pursuant to subsection (c) of this section: *Provided*, That the commission shall take into account the prior rate increase taken pursuant to this subsection when considering the carrier's application to increase rates. A motor carrier may implement up to four annual indexed rate increases under this subsection before filing for a rate increase under chapter 24A of this code: *Provided*, That the commission shall not engage in retroactive rate making.

(e) The commission shall prescribe such rules and regulations as to the giving of notice of a change in rates pursuant to this section as are reasonable and are deemed proper in the public interest.

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## §24A-5-2b. Authorizing Public Service Commission to approve alternative pick-up due to adverse conditions.

Every motor carrier of solid waste in residential service shall provide and maintain regularly scheduled pickup service. Exceptions to the regularly scheduled pickup service may be made for reasons beyond the motor carrier's control, including, but not limited to, dangerous road conditions, inclement weather, flooding, road closures. Exceptions to the regularly scheduled pickup service based on such conditions will be at the motor carrier's discretion: Provided, That nothing herein changes the universal service obligation of any motor carrier. Any interruption of service in this regard that lasts beyond five days shall be reported by the motor carrier to the commission and the motor carrier and the staff of the commission shall establish a contingency pickup arrangement for the affected customers that the motor carrier shall implement until the condition causing the service interruption is alleviated.

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## §24A-5-2c. Agreements between solid waste motor carriers and commercial customers.

All agreements between a solid waste motor carrier and a commercial customer shall be in writing and shall be drafted in accordance with the commission's rules and general orders governing such agreements: *Provided,* That such agreements may have a term of more than one year.

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## §24A-5-3. Through rates; joint rates and service.

The commission shall have power and authority to require a common carrier by motor vehicle, railroad, express, air, or water to establish reasonable through rates with other common carriers by motor vehicle, railroad, express, air, or water and to provide safe and adequate service, equipment, and facilities for the transportation of passengers and property; to establish and enforce just and reasonable individual and joint rates, charges, and classifications, and just and reasonable regulations and practices relating thereto; and in case of such joint rates, fares, and charges to establish just and reasonable divisions thereof as between the carriers participating therein which shall not unduly prefer or prejudice any of such participating carriers.

WV Legislature

## §24A-5-4. Merger, consolidation or joint ownership.

(a) It shall be lawful, under the conditions specified below, but under no other conditions, for two or more motor carriers to consolidate or merge their property, or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore owned, managed, and operated separately; or for any such motor carrier or two or more such carriers jointly, to purchase, lease or contract to operate the properties, or any part thereof, of another such carrier; or for any such motor carrier or two or more such carriers jointly, to acquire control of another such carrier through purchase of its stock; or for a person, not a motor carrier, to acquire control of two or more motor carriers through ownership of their stock; or for any person in control of one or more motor carriers to acquire control of another such carrier through ownership of its stock; or for a carrier by railroad, express, air, or water to consolidate or merge with, purchase, or acquire control of, any motor carrier, or lease or contract to operate its properties or any part thereof.

(b) When a consolidation, merger, purchase, lease, operating contract, or acquisition of control is proposed under this section the carrier, or carriers, or person, seeking authority therefor shall present an application to the commission and, after hearing, if the commission deems a hearing necessary, if the commission finds that the transaction proposed will be consistent with the public interest, it shall enter such order as it may deem proper and as the circumstances may require, attaching thereto such conditions as it may deem proper, consenting to the entering into or doing of the things hereinabove provided without approving the terms and conditions thereof, and thereupon it shall be lawful to do the things provided for in such order.

(c) Every consolidation, merger, purchase, lease, operating contract, or acquisition of control, or other transaction referred to in this section made otherwise than as hereinabove provided, shall be void.

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**§24A-5-5. Further regulatory powers of the commission.**

(a) The commission shall prescribe rules of practice and procedure including, the method and manner of holding hearings, taking evidence, and entering orders. In the investigation, preparation and hearing of cases, the commission is not bound by the technical rules of pleading and evidence, but may exercise discretion to facilitate its efforts to understand and learn all the facts bearing upon the right and justness of the matters before it.

(b) The commission shall employ personnel as may be necessary to carry out the provisions of this chapter and fix their respective salaries or compensation. The commission may designate employees as it deems necessary to take evidence at any hearing held or required by the provisions of this chapter. These employees are empowered to administer oaths in all parts of the state so far as the exercise of this power is properly incidental to the performance of their duties in accordance with the provisions of this chapter.

(c) The commission shall prescribe a schedule of fees to accompany (i) applications for certificates of convenience and necessity, (ii) applications for permits, and (iii) other filings and recordings of other papers with the commission. The commission shall prescribe a schedule of fees to be charged for (i) the certification of all records and papers (ii) the payment of witnesses and (iii) other costs necessary and incident to hearings before it or its employees. Sums collected in accordance with this subsection, except witness fees, are to be paid into the State Treasury and credited to the Public Service Commission motor carrier fund provided for in section six, article six of this chapter. Witness fees are to be paid to the persons entitled to them.

(d) The commission shall establish a system of accounts to be kept by motor carriers; or classify motor carriers and establish a system of accounts for each class. The commission shall prescribe the manner in which the accounts are to be kept. It may prescribe the form of accounts, records, and memoranda to be kept by the motor carriers, including the accounts, records, and memoranda for the movement of traffic, the receipts and expenditures of money, and any other forms, records and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this chapter.

(e) The commission shall require persons subject to the provisions of this chapter to furnish any information in their possession or obtainable from their accounting or other records, respecting rates, charges, classifications or practices in conducting their business. The commission has the authority to inspect any books, papers or reports. Any statements required by this subsection are to be under oath when required by the commission. The form of all reports required under this chapter are to be prescribed by the commission.

(f) The commission as a whole or any of its members or designated employees, shall subpoena witnesses, take testimony and administer oaths to any witness in any proceeding or examination instituted before it or conducted by it with reference to any matter within its jurisdiction. In all hearings or proceedings before the commission or its designated employees, the evidence of witnesses and the production of documentary evidence may be

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required at any designated place of hearing within the state. In the case of disobedience to a subpoena or other process, the commission or any party to the proceedings before the commission may invoke the aid of any circuit court in the state in requiring the evidence and testimony of witnesses and the production of papers, books, and documents. The court, in the case of a refusal to obey the subpoena issued to any person or to any motor carrier subject to the provisions of this chapter, shall issue an order requiring the person or motor carrier to appear before the commission or its designated employees and produce all requested books and papers and give evidence relating to the matter in question. Any failure to obey the order of the court may be punished by the court as contempt. A claim that testimony or evidence may tend to incriminate the person giving the testimony or evidence does not excuse the person from testifying, but the person may not be prosecuted for any offense concerning which he or she has been compelled to testify.

(g) The commission shall require common carriers by motor vehicle and contract carriers by motor vehicle subject to the provisions of this chapter either to procure insurance from a company authorized to write insurance in West Virginia, to qualify as a self-insurer, or to deposit security upon terms and conditions and for limits of liability as the commission shall determine to be necessary for the reasonable protection of the traveling, shipping, and general public against injury, loss, damage or default for which the carrier may be liable. It shall prescribe rules and regulations governing the filing of evidence of insurance and security with the commission. In fixing the amount of the insurance policy or policies, the qualifications as a self-insurer, or the deposit of security, the commission shall give due consideration to the character and amount of traffic, the value of the property transported, the number of persons affected, and the degree of danger involved in any motor carrier operation: Provided, That the amount set by the commission for for-hire vehicles, that haul nonhazardous property with a gross vehicle weight of ten thousand or more pounds, shall be at least $750,000.

(h) The commission shall cooperate with the federal government or any other commission or organized delegated authority to regulate interstate or foreign commerce by motor vehicles to ensure that the transportation of persons and property by motor vehicles in interstate and foreign commerce into and through the State of West Virginia may be regulated and the laws of the United States and the State of West Virginia enforced and administered cooperatively in the public interest.

(i) The commission shall make agreements on behalf of the State of West Virginia with any other state or states providing for reciprocal rights, privileges, and courtesies between the licensees or holders of certificates and permits of the state or states and the State of West Virginia. These agreements may include provisions regarding certificates and permits, fees, assessments, and uniform vehicle identification cards, and the transportation of either persons or property into or through the respective state or states and the State of West Virginia. All existing agreements between a state or states and the State of West Virginia for reciprocal rights, privileges, and courtesies may, provided Constitutional and contractual rights are not violated, be declared void by the commission, and new agreements negotiated.

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(j) The commission shall promulgate (i) safety rules applicable to motor vehicles subject to the provisions of this chapter, (ii) rules governing the qualifications and maximum hours of service of drivers and chauffeurs of common and contract carriers by motor vehicle of passengers and property subject to the provisions of this chapter and (iii) any other rules that the commission may deem proper to carry out the provisions and intent of this chapter.

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## §24A-6-1. Adequate facilities; safety appliances; discontinuance or change; interchange of traffic; joint use of terminal facilities.

Every motor carrier subject to this chapter shall establish and maintain adequate and suitable facilities, safety appliances, and other suitable appliances and shall perform such service in respect thereto as shall be reasonably safe and sufficient for the security and convenience of the public, and the safety and comfort of its employees and in all respects just and fair, and without any unjust discrimination or preference. Every motor carrier may be required by the commission to establish and maintain such suitable public service facilities and conveniences as may be reasonable and just. No motor carrier shall discontinue any regular passenger or other public service facility, or change any passenger schedule or timetable without first obtaining authority from the commission so to do, unless the same be done under uniform rules and regulations filed by such motor carrier with the Public Service Commission and approved by said commission. All motor carriers subject to this chapter shall, according to their respective powers and facilities, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivery of passengers and property to and from their several lines, and those connecting therewith, including common carriers not subject to this chapter, and shall not discriminate in their rates and charges or methods or manner of service between such connecting lines. The commission may require such interchange of traffic and the joint use of terminal facilities as may be reasonable and just.

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## §24A-6-2. Rate schedules and reports.

Every motor carrier subject to the provisions of this chapter shall file with the commission, and keep open to public inspection, schedules showing all the rates and charges for service to be rendered by it or by other persons in connection with it: Provided, however, That the reports and tariffs filed by an interstate motor carrier with the commission may be copies of its reports and tariffs filed with the interstate commerce commission, but nothing herein shall preclude the commission from requiring interstate motor carriers to furnish information bearing upon any complaint or question before said commission and with which it has a right to deal.

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## §24A-6-3. Procedure as to certificates of convenience and necessity and permits issued prior to chapter.

Certificates of convenience and necessity and permits issued to motor carriers by state authorities under the authority of the laws of this state in effect prior to the date this chapter becomes effective shall remain in effect until confirmed, revoked or suspended by the commission, but persons who are the holders of such certificates and permits shall be subject to all provisions of this chapter. The procedure for confirming such certificates and permits shall be the same as is herein provided for issuing certificates and permits in the first instance: Provided, That if any common or contract carrier by motor vehicle of passengers, except by taxicab, was in operation on or prior to March 1, 1937, and any common or contract carrier by motor vehicle of property and of passengers by taxicab for hire was in operation on or prior to January 1, 1939, over the route or routes or within the territory for which application is made and has so operated since the respective dates, except as to interruptions over which the applicant has no control, the commission shall issue such certificate or permit without requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings if application for such certificate or permit to operate is made to the commission within ninety days from the effective date of this chapter: Provided, however, That the applicant in the case of a common carrier or contract carrier by motor vehicle of passengers, except by taxicab, shall be required to submit proof of operation on or prior to March 1, 1937, and in the case of a common or contract carrier by motor vehicle of property and of passengers by taxicab, of operation on or prior to January 1, 1939, and continuously thereafter: Provided further, That pending determination of any application hereunder, the continuance of operation in which a common or contract carrier by motor vehicle of passengers, except by taxicab, was so engaged on or prior to March 1, 1937, and the continuance of operation in which any common or contract carrier by motor vehicle of property and of passengers by taxicab was so engaged on or prior to January 1, 1939, shall be lawful.

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## §24A-6-4. Uniform vehicle identification card.

The commission shall prescribe a uniform vehicle identification card which shall be displayed within the cab of each power unit operated by any motor carrier, showing thereon the description and serial number of the vehicle for which it is issued and the number given to the vehicle by the commission, and may contain such other information as may be required by the commission. Such cards shall be issued annually and displayed in each such power unit not later than July first of each year. It shall be unlawful for any motor carrier to operate any power unit within this state unless said identification card is displayed within such vehicle. It shall be unlawful for the motor carrier, his agent, servant, or employee, or any other person to use or display said identification card or other insignia of authority from the commission at any time after the certificate or permit issued to said motor carrier has expired or has been cancelled, suspended, revoked, or otherwise disposed of.

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**§24A-6-5.**

Repealed.

Acts, 1961 Reg. Sess., Ch. 117.

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## §24A-6-6. Special annual assessment against motor carriers for expenses of administering chapter; Public Service Commission Motor Carrier Fund.

In addition to the license fees, registration fees, or any other taxes required by law to be collected from motor carriers subject to this chapter, each such motor carrier shall be subject to, and shall pay to the Public Service Commission, a special annual assessment for the purpose of paying the salaries, compensation, costs and expenses of administering and enforcing this chapter. All proceeds or funds derived from such assessment shall be paid into the State Treasury and credited to a special fund, designated Public Service Commission Motor Carrier Fund, to be appropriated as provided by law for the purposes herein stated. Each member of the commission shall receive a salary in the amount set forth in section three, article one, chapter twenty-four of this code as compensation for the administration of this chapter in addition to all other salary or compensation otherwise provided by law, to be paid from said fund at least twice per month. The special assessment against each motor carrier shall be apportioned upon the number and capacity of motor vehicles used by said carrier, computed as hereinafter provided.

(a) For each uniform identification card $ 3.00

(b) Upon each power unit of such carriers of property, in accordance with its capacity as rated by its manufacturer, in addition to amount of subdivision (a):

of one ton or less capacity. $ 9.00

of over one to one and one-half tons capacity 13.50

of over one and one-half tons to two tons capacity 18.00

of over two tons to three tons capacity 22.50

of over three tons to four tons capacity 27.00

of over four tons to five tons capacity 31.50

of over five tons to six tons capacity 36.00

of over six tons to seven tons capacity .40.50

of over seven tons to eight tons capacity 45.00

of over eight tons to nine tons capacity 49.50

of over nine tons to ten tons capacity 54.00

of over ten tons capacity, $54.00 plus $4.50 for each additional ton of capacity in

excess of ten tons.



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(c) Upon each trailer and semitrailer of such carriers of property, in accordance with its capacity as rated by its manufacturer, in an amount of two thirds of the amount provided for vehicles of its capacity in subdivision (b) of this section.

(d) Upon each power unit of such carriers of passengers, in accordance with the seating capacity thereof, in addition to amount in subdivision (a):

of ten passengers or less $13.50

of eleven to twenty passengers, inclusive 22.50

of twenty-one to thirty passengers, inclusive 31.50

of thirty-one to forty passengers, inclusive 45.00

of over forty passengers 54.00

(e) The annual assessment of each motor carrier shall be paid on or before July 1 of each year. Additional assessments shall be collected upon the placing in use of any additional motor vehicle: Provided, That such additional assessments shall be subject to a reduction in the amounts shown in subdivisions (b), (c) and (d) of this section corresponding to the unexpired quarterly periods of the fiscal year, but shall not in any event be less than one fourth of such amount plus the sum of $3 provided in subdivision (a) of this section.

(f) Upon payment by any motor carrier of the assessment provided for, the Public Service Commission shall advise the Division of Motor Vehicles by notice in writing that such assessment has been paid, whereupon the Division of Motor Vehicles may issue motor vehicle license for the vehicles described in said notice.

(g) Prior to the beginning of any fiscal year the Public Service Commission, after taking into consideration any unexpended balance in the Motor Carrier Fund, the probable receipts to be received in the ensuing fiscal year, and the probable costs of administering and enforcing this chapter for the ensuing fiscal year, may fix the assessments provided for in this section for the ensuing fiscal year in amounts which, in the commission’s judgment, will produce sufficient revenue to administer and enforce this chapter for said fiscal year: Provided, That in no event shall such assessments exceed the amounts set up in this section.

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## §24A-6-7. Indemnity agreement in motor carrier transportation contracts void.

(a) Notwithstanding any provision of law to the contrary, a provision, clause, covenant or agreement contained in, collateral to or affecting a motor carrier transportation contract entered into on or after July 1, 2006, that purports to indemnify, defend or hold harmless, or has the effect of indemnifying, defending or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee is against the public policy of this state and is void and unenforceable.

(b) In this section:

(1) "Motor carrier transportation contract" means a contract, agreement or understanding covering:

(A) The transportation of property for compensation or hire by the motor carrier;

(B) Entrance on property by the motor carrier for the purpose of loading, unloading or transporting property for compensation or hire; or

(C) A service incidental to activity described in paragraph (A) or (B), including, but not limited to, storage of property.

(2) "Promisee" means the promisee and any agents, employees, servants or independent contractors who are directly responsible to the promisee except for motor carriers party to a motor carrier transportation contract with promisee and such motor carrier's agents, employees, servants or independent contractors directly responsible to such motor carrier.

(3) The term "motor carrier transportation contract" shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as that agreement may be amended by the Intermodal Interchange Executive Committee, or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment.

WV Legislature

## §24A-6A-1. Filing of interstate commerce commission authority required; exception.

No motor carrier shall operate within the borders of this state under authority issued by the interstate commerce commission (hereinafter referred to as I.C.C.) unless and until it shall have filed with this commission a copy of such authority. However, a motor carrier shall only be required to file with this commission that portion of its authority permitting operation within the borders of this state. A motor carrier shall not be required to file with this commission an emergency or temporary operating authority having a duration of thirty consecutive days or less if such carrier has: (a) Registered its other authority and identified its vehicles or driveaway operation under the provisions of this chapter, and (b) furnished to this commission a telegram or other written communication describing such emergency or temporary operating authority and stating that operation thereunder shall be in full accord with the requirements of this chapter. Each motor carrier shall file with the commission its designation of a local agent service of process on the uniform application for registration of interstate operating authority as promulgated by the ICC; except that such form need not be filed if the designation has been filed with the commission pursuant to 49 U.S.C., Section 10330(b).

WV Legislature

## §24A-6A-2. Prior registration.

A motor carrier need not register under the provisions of this article any authority issued by the I.C.C. permitting operation within the borders of this state, when the same was properly filed with the commission at the time this article became effective.

WV Legislature

## §24A-6A-3. When registration of vehicles required.

No motor carrier subject to the provisions of section one of this article shall operate any motor vehicle within the borders of this state unless and until such vehicle, other than one used in driveaway operation, shall have been registered with this commission in accordance with the provisions of this article.

WV Legislature

**§24A-6A-4. Application for, issuance and use of identification stamps and cab cards; expiration of registration and identification.**

(a) On or before December 31, of each calendar year, but not earlier than the preceding first day of October, such motor carrier shall apply to the commission for the issuance of an identification stamp or stamps for the registration and identification of the vehicle or vehicles which it intends to operate, or driveaway operations which it intends to conduct, within the borders of this state during the ensuing year. Such motor carrier may thereafter file one or more supplemental applications for additional stamps if the need therefor arises or is anticipated.

(b) If the commission determines that the motor carrier has complied with all applicable provisions of this chapter, the commission shall issue to the motor carrier the number of identification stamps requested.

(c) An identification stamp issued under the provisions of this article shall be used for the purpose of registering and identifying a vehicle or driveaway operation as being operated or conducted by a motor carrier under authority issued by the I.C.C., and shall not be used for the purpose of distinguishing between the vehicles operated by the same motor carrier. A motor carrier receiving an identification stamp under the provisions of this article shall not knowingly permit the use of same by any other person or organization.

(d) The commission shall require the motor carrier to accompany such application with a list identifying each vehicle (other than one to be used in driveaway operations) which it intends to operate within the borders of this state during the ensuing year. The commission shall further require the motor carrier to keep such list current by filing with it an identification of each vehicle acquired for operation within the borders of this state and each vehicle whose operation is discontinued therein after the filing of such list. The filing of an identification of such newly acquired or discontinued vehicle shall be made with the commission on or before the sixteenth day after the motor carrier initiates or discontinues operation of the vehicle within the borders of this state.

(e) On or before December 31, of each calendar year, but not earlier than the preceding first day of October, such motor carrier shall apply to the national association of regulatory utility commissioners (hereinafter referred to as NARUC) for the issuance of a sufficient supply of uniform identification cab cards for use in connection with the registration and identification of the vehicle or vehicles which it intends to operate, or driveaway operations which it intends to conduct, within the borders of this state during the ensuing year.

(f) A motor carrier receiving a cab card under the provisions of this article shall not knowingly permit the use of same by any other person or organization. Prior to operating a vehicle, or conducting a driveaway operation, within the borders of this state during the ensuing year, the motor carrier shall place one of such identification stamps on the back of a cab card in the square bearing the name of this state in such a manner that the same cannot be removed without defacing it. The motor carrier shall thereupon duly complete and

WV Legislature

execute the form or certificate printed on the front of the cab card so as to identify itself and such vehicle or driveaway operation.

(g) The registration and identification of a vehicle or driveaway operation under the provisions of this article and the identification stamp evidencing same and the cab card prepared therefor shall become void on January 1, in the succeeding calendar year, unless such registration is terminated prior thereto.

WV Legislature

**§24A-6A-5. Form and execution of application for identification stamp; fee; option of commission to issue stamp, card or combination thereof.**

The application for the issuance of such identification stamp or stamps shall be in the form prescribed by the commission. The application shall be duly completed and executed by an official of the motor carrier, and shall be accompanied by a $3 fee for the issuance of each identification stamp. However, the fee for each vehicle identification issued for the period beginning July 1, 1971, and expiring February 1, 1973, shall be $5. For the period beginning July 1, 1971, and expiring February 1, 1973, the commission shall have the option to issue either a vehicle identification stamp or a vehicle identification card as presently authorized under subdivision (a), section six, article six of this chapter or a combination of such stamp and such card.

WV Legislature

## §24A-6A-6. Form of identification stamp.

Any identification stamp issued under the provisions of this article by the commission shall bear its name or symbol and such other distinctive markings or information, if any, as the commission deems appropriate. The stamp shall be in the shape of a square and shall not exceed one inch in diameter.

WV Legislature

## §24A-6A-7. Form of cab card.

The cab card shall be in the form prescribed by the NARUC and the commission.

WV Legislature

**§24A-6A-8. Use of cab cards in connection with vehicles not used in driveaway operations.**

In the case of a vehicle not used in a driveaway operation, the cab card shall be maintained in the cab of such vehicle for which prepared whenever the vehicle is operated under the authority of the carrier identified in the cab card. Such cab cards shall not be used for any vehicle except the vehicle for which it was originally prepared. A motor carrier shall not prepare two or more cab cards which are effective for the same vehicle at the same time.

WV Legislature

## §24A-6A-9. Use of cab cards in driveaway operations.

In the case of a driveaway operation, the cab card shall be maintained in the cab of the vehicle furnishing the motive power for the driveaway operation whenever such an operation is conducted under the authority of the carrier identified in the cab card.

WV Legislature

## §24A-6A-10. Inspection of cab cards.

A cab card shall, upon demand, be presented by the driver to any authorized commission personnel for inspection.

WV Legislature

## §24A-6A-11. Destruction or nullification of cab cards.

(a) Each motor carrier shall destroy a cab card immediately upon its expiration.

(b) If a motor carrier permanently discontinues the use of a vehicle for which a cab card has been prepared, it shall nullify the cab card at the time of such discontinuance.

WV Legislature

## §24A-6A-12. Alteration, loss, mutilation, etc., of cab cards.

(a) Any erasure, improper alteration or unauthorized use of a cab card shall render it void.

(b) If a cab card is lost, destroyed, mutilated or becomes illegible, a new cab card may be prepared and new identification stamps may be issued therefor upon application by the motor carrier and upon payment of the same fee prescribed for the original issuance thereof.

WV Legislature

## §24A-6A-13. Collection of state taxes and fees not affected.

Nothing in this article shall be construed to affect the collection or method of collection of taxes or fees by this state from motor carriers for the operation of vehicles within the borders of this state.

WV Legislature

## §24A-6A-14. Participation in the single state registration system.

(a) Notwithstanding any other provision of this article to the contrary, on or before December 31, 1993, the commission shall promulgate rules implementing a single state registration system, in lieu of the identification stamp and cab card system provided in this article, for motor carriers operating within the borders of this state pursuant to authority granted, or exempt status conferred, by the interstate commerce commission. The single state registration system shall be instituted pursuant to the Intermodal Surface Transportation Efficiency Act of 1991, as implemented by the interstate commerce commission.

(b) The commission is further authorized to employ ten persons, who shall be in the classified exempt service, to facilitate enforcement of duties imposed upon the commission in this chapter.

WV Legislature

## §24A-6A-15. Unified Carrier Registration System.

(a) The Public Service Commission is designated as the appropriate state agency to implement and enforce the Unified Carrier Registration System established by the Federal Unified Carrier Registration Act of 2005, 49 U.S.C. §14504a, as amended.

(b) The commission is authorized to promulgate rules pursuant to its general rule-making authority, if necessary, including emergency rules, to implement the federal law and regulations established under the Unified Carrier Registration Act of 2005.

WV Legislature

## §24A-6B-1. Participation in the hazardous materials transportation registration system.

(a) The commission shall have power and authority to promulgate rules implementing a hazardous materials transportation registration and permitting program for operators of motor vehicles transporting hazardous materials upon or over the public highways within the borders of this state. Rules adopted under this section shall be consistent with, and equivalent in scope, coverage, and content to, the report submitted by the alliance for uniform hazardous material transportation procedures to the secretary of transportation, United States Department of Transportation, pursuant to paragraph (c) of section twenty-two of the "Hazardous Materials Transportation Uniform Safety Act of 1990", Public Law 101-615.

(b) The hazardous materials transportation registration and permitting program established in this section shall be coordinated with hazardous materials regulations enforced by other agencies of the state, and shall preempt and supersede hazardous materials transportation regulation and permitting programs administered or enforced by any municipality, county or other political subdivision of this state.

(c) The funds for the program established in this section shall be obtained from fees paid by registrants hereunder. Those fees shall be established by rulemaking and shall be apportioned; by the percentage of the registrant's activity in this state; by the percentage of a registrant's business that is related to hazardous materials; and by the number of motor vehicles operated in this state by a registrant. Rulemaking may also establish fees for processing and registration: Provided, That said fees established in this section shall not exceed $50 per registrant per annum, nor $50 per vehicle per annum: Provided, however, That said apportioned vehicle fee shall not be required under this program sooner than the registration year beginning on July 1, 1995.

(d) The commission may enter into agreements with other states, a national repository or federal agencies as necessary to implement the program established under this section.

(e) To achieve the purposes of this section, the commission may, through its inspectors or other authorized employees, inspect any facilities or motor vehicles of any person who transports hazardous materials subject to this program.

(f) It shall be unlawful for any person to operate, or cause to be operated, a motor vehicle transporting hazardous materials upon or over the public highways within this state without first having complied with the requirements of the registration and permitting program, as established by the commission. Failure to comply with the program requirements, as determined by the commission after notice and opportunity to be heard, may be sufficient cause for suspension or revocation of permits and registration under the program.

WV Legislature

## §24A-7-1. Complaints against motor carriers; statement of charges; satisfaction or investigation of complaint.

Any person, firm, association of persons, corporation, municipality, or county, complaining of anything done or omitted to be done by any motor carrier subject to this chapter, in contravention of the provisions thereof, or any duty owing by it under the provisions of this chapter, may present to the commission a petition which shall succinctly state all the facts. Whereupon, if there shall be any reasonable ground to investigate such complaint, a statement of the charges thus made shall be forwarded by the commission to such motor carrier, which shall be called upon to satisfy such complaint or to answer the same in writing within a reasonable time to be specified by the commission. If such motor carrier of property by motor vehicle within the time specified shall make reparations for the injury alleged to have been done or to correct the practice complained of and obey the law and discharge its duties in the premises, then it shall be relieved of liability to the complainant for the particular violation of law or duty complained of. If such motor carrier shall not satisfy the complaint within the time specified it shall be the duty of the commission to investigate the same in such manner and by such means as it shall deem proper.

WV Legislature

## §24A-7-2. Falsifying records, etc.

Any person, officer, agent or employee of any motor carrier subject to this chapter who will knowingly or wilfully make any false entries in the accounts, account books, records, or memoranda kept by any motor carrier, or who shall knowingly or wilfully destroy or mutilate any account book, record, or memorandum useful for the enforcement or administration of this chapter by the commission, or who shall alter or by any other means or device falsify the record of any such accounts, account books, records, or memoranda, or who shall knowingly or wilfully neglect or fail to make full, true, and correct entries of or in such account, account book, record, or memorandum of all the facts and transactions appertaining to such motor carrier, or who shall falsely make any statement required to be made to the commission, shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one year nor more than five years.

WV Legislature

## §24A-7-3. Continuing offenses.

Every day during which any person shall fail to observe and comply with any order or direction of the commission or to perform any duty enjoined by this chapter shall constitute a separate and distinct violation of the order or direction under this chapter.

WV Legislature

## §24A-7-4. Penalty for violation of chapter; concurrent jurisdiction of justices.

Every officer, agent, employee, or stockholder of any motor carrier, or any motor carrier, and every person who violates, procures, aids, or abets in the violation of any of the provisions of this chapter, or who fails to obey any order, decision, requirement, rule, or regulation of the commission or procures, aids, or abets any person in his failure to obey such order, decision, requirement, rule, or regulation, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not exceeding $1,000 or confined in jail for not less than thirty days nor more than one year, or both, in the discretion of the court. Justices of the peace shall have concurrent jurisdiction with the circuit, criminal and intermediate courts of proceedings to enforce the penalties prescribed by this section.

WV Legislature

## §24A-7-5. Second offenses.

When any person is convicted for a violation of any provision of this chapter or any order, decision, requirement, rule, or regulation of the commission and it is alleged in the indictment upon which he is convicted and it is admitted, or by jury found, that he has been before convicted of a violation of any provision of this chapter or order, decision, requirement, rule, or regulation of the commission, committed prior to the violation for which the indictment upon trial was found, then he shall be fined not less than $500 nor more than $5,000 and shall, in addition thereto, be confined in the county jail for not less than three months nor more than one year.

WV Legislature

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

It shall be the duty of the West Virginia State Police and the sheriffs of the counties in West Virginia to make arrests and the duty of the prosecuting attorneys of the several counties to prosecute all violations of this chapter and of other chapters governing the regulatory authority of the commission. The commission employees designated as commercial vehicle enforcement officers shall have the same authority as law-enforcement officers to enforce the provisions of this chapter and the provisions of other chapters of this code governing the regulatory authority of the commission as such provisions apply to entities and persons regulated by the commission in any county or city of this state. Notwithstanding any provision of this code to the contrary, such commercial vehicle enforcement officers may carry handguns in the course of their official duties after meeting specialized qualifications established by the Governor's committee on crime, delinquency and correction, which qualifications shall include the successful completion of handgun training, including a minimum of four hours training in handgun safety, paid for by the commission and comparable to the handgun training provided to law-enforcement officers by the West Virginia State Police: *Provided*, That nothing in this section shall be construed to include the commission within the meaning of law-enforcement officers within the meaning of law-enforcement agency, as defined in section one, article twenty-nine, chapter thirty of this code.

WV Legislature

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

(a) The employees of the commission designated as commercial vehicle enforcement officers have the same authority as law-enforcement officers generally to enforce the provisions of chapter seventeen-c of this code with respect to commercial motor vehicles owned or operated by motor carriers, exempt carriers or private commercial carriers where vehicles have a gross vehicle weight rating of ten thousand pounds or more.

The commission is authorized to delegate commercial vehicle enforcement officer duties to weight enforcement officers as it considers appropriate, following successful training and certification of individual officers, who shall then have the same authority as commercial vehicle enforcement officers under this section. The commission is also authorized to delegate weight enforcement duties to commercial vehicle enforcement officers.

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

(c) Commercial vehicle enforcement officers shall also perform a North American standard safety inspection of each commercial motor vehicle stopped for enforcement purposes pursuant to this section.

(d) Before exercising the provisions of this section, the commercial vehicle enforcement officers shall receive adequate training.

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

WV Legislature

## §24A-8-1. Appeal from commission's action.

Any party feeling aggrieved by the entry of a final order by the commission, affecting him or it, may present a petition in writing to the Supreme Court of Appeals, or to a judge thereof in vacation, within thirty days after the entry of such order, praying for the suspension of such final order. The applicant shall deliver a copy of such petition to the secretary of the commission before presenting the same to the court or the judge. The court or judge shall fix a time for the hearing on the application, but such hearing, unless by agreement of the parties, shall not be held, sooner than five days after its presentation; and notice of the time and place of such hearing shall be forthwith delivered to the secretary of the commission, so that the commission may be represented at such hearing by one or more of its members or by counsel. If the court or the judge after such hearing be of the opinion that a suspending order should issue, the court or the judge may require bond, upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner, as are just and reasonable. For such hearing the commission shall file with the clerk of said court all papers, documents, evidence, and records or certified copies thereof as were before the commission at the hearing or investigation resulting in the entry of the order from which the petitioner appeals. The commission shall file with the court before the day fixed for the final hearing a written statement of its reasons for the entry of such order, and after arguments by counsel the court shall decide the matter in controversy as may seem to be just and right.

WV Legislature

## §24A-8-2. Inconsistent laws repealed.

All parts of chapter seventeen of the Code of West Virginia as amended and reenacted by chapter sixty, acts of the West Virginia Legislature, first extraordinary session, one thousand nine hundred thirty-three, inconsistent or in conflict with this chapter, are hereby expressly repealed, and the provisions of any other act of said Legislature, or the Code of West Virginia, 1931, as amended, which is inconsistent with the provisions of this chapter, are hereby expressly repealed.

WV Legislature