

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 480

(By Mr. BARKER & Mr. BACHMAN)

PASSED March 13, 1959

In Effect from Passage



Filed in Office of the Secretary of State
of West Virginia MAR 20 1959

JOE F. BURDETT
SECRETARY OF STATE

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House Bill No. 480

(By MR. BARKER and MR. BACHMANN)

[Passed March 13, 1959; in effect from passage.]

AN ACT to amend and reenact section fourteen, article seventeen, and section three, article nineteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to penalties for overloading or violating other restrictions on vehicles.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article seventeen, and section three, article nineteen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 17. Size, Weight and Load.

Section 14. *Penalties for Violation of Weight Laws; Impounding Vehicles.*—(a) Any owner, lessee or borrower who permits a vehicle or combination of vehicles owned by him to be operated with any axle load

5 in excess of that permitted by section eight of this article,
6 plus a tolerance of five per cent, or with a total gross
7 weight in excess of that permitted by section nine of this
8 article, plus a tolerance of five per cent, shall be guilty
9 of a misdemeanor and upon conviction thereof shall be
10 punished as provided in paragraphs (b) and (c) of this
11 section.

12 (b) Any owner, lessee or borrower of a vehicle who
13 shall be convicted of a first offense for a violation of this
14 section shall be punished by a fine of not less than twenty-
15 five dollars nor more than one hundred dollars and in
16 addition thereto shall pay either a fine of one cent per
17 pound for any weight in excess of two thousand pounds
18 over the legal weight for each axle or a fine of one cent
19 per pound for any weight in excess of two thousand
20 pounds over the permissible gross weight for such ve-
21 hicle or combination of vehicles, whichever is the greater;
22 and any owner, lessee or borrower of a vehicle who shall
23 be convicted of a second offense for a violation of this
24 section shall be punished by a fine of not less than fifty
25 dollars nor more than one hundred dollars and in addi-

26 tion thereto shall pay either a fine of two cents per pound
27 for any weight in excess of two thousand pounds over
28 the legal weight for each axle or a fine of two cents per
29 pound for any weight in excess of two thousand pounds
30 over the permissible gross weight for such vehicle or
31 combination of vehicles, whichever is the greater; and
32 any owner, lessee or borrower who shall be convicted of
33 a third or subsequent violation of this section shall be
34 punished by a fine of not less than seventy-five dollars
35 nor more than one hundred dollars and in addition there-
36 to shall pay either a fine of three cents per pound for any
37 weight in excess of two thousand pounds over the legal
38 weight for each axle or a fine of three cents per pound
39 for any weight in excess of two thousand pounds over the
40 permissible gross weight for such vehicle or combination
41 of vehicles, whichever is the greater and in any case where
42 the gross weight exceeds the statutory limit by five thou-
43 sand pounds or more, the owner, lessee or borrower of
44 such vehicle shall be fined five cents per pound for each
45 pound of excess gross weight over the said statutory limit,

46 which fine shall be in lieu of the additional fine per pound
47 heretofore in this section provided.

48 (c) In the event any owner, lessee or borrower of a
49 vehicle is charged with violating this section, the ve-
50 hicle which is charged to be overloaded shall be im-
51 pounded by the arresting officer and shall not be released
52 to such owner, lessee or borrower unless and until such
53 owner, lessee or borrower either shall have been found
54 guilty and paid any fine assessed against such owner,
55 lessee or borrower, or shall have furnished cash or surety
56 bond in at least double the amount of the fine which may
57 be assessed against such owner, lessee or borrower for
58 such violation of this section and conditioned upon the
59 payment of any such fine and costs assessed for such
60 violation, or shall have been acquitted of such charge.
61 Such owner, lessee or borrower shall be liable for any
62 reasonable storage costs incurred in storing such vehicles:
63 *Provided, however,* That if the owner of such vehicle is a
64 resident of or has its principal place of business located in
65 this state, and said vehicle has been duly licensed in the
66 state, then said vehicle shall not be impounded but the

67 arresting officer shall deliver to the driver a written notice
68 stating such violation; the place, date and time; the license
69 number of said vehicle; the title number and name and
70 address of the owner; the driver's name, address, and the
71 number of his operator's or chauffeur's card or permit;
72 and the court, place, date and time for hearing, which
73 shall be within five days of such violation (Saturdays,
74 Sundays, and holidays, excluded). A copy of such notice
75 shall within twenty-four hours be mailed to the owner of
76 said vehicle. Upon the failure by such owner or his or its
77 agent to appear at the designated place and time, or upon
78 failure to pay the fine and costs assessed for such violation,
79 unless such owner shall have been acquitted of such
80 charge, the court shall order a bond or the impounding
81 of said vehicle as provided in this subsection.

**Article 19. Parties, Procedure Upon Arrest, and Reports in
Criminal Cases.**

Section 3. *When Person Arrested Must Be Taken Im-*
2 *mediately before a Justice of the Peace or Court.*—When-
3 ever any person is arrested for any violation of this chap-
4 ter punishable as a misdemeanor, the arrested person

5 shall be immediately taken before a justice of the peace
6 or court within the county in which the offense charged
7 is alleged to have been committed and who has jurisdic-
8 tion of such offense and is nearest or most accessible with
9 reference to the place where said arrest is made, in any
10 of the following cases:

11 (1) When a person arrested demands an immediate
12 appearance before such justice or court;

13 (2) When the person is arrested upon a charge of neg-
14 ligent homicide;

15 (3) When the person is arrested upon a charge of driv-
16 ing while under the influence of intoxicating liquor or
17 narcotic drugs;

18 (4) When the person is arrested upon a charge of
19 failure to stop in the event of an accident causing death,
20 personal injuries, or damage to property;

21 (5) When the person is arrested upon a charge of
22 violating section fourteen, article seventeen of this chap-
23 ter relating to weight violations; except as otherwise
24 provided in that section.

25 In any other event when the person arrested refuses to
26 give his written promise to appear in court as hereinafter
27 provided.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Wm. Jasper Jr.
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the House of Delegates.

Takes effect *from* _____ passage.

D. Howard Keely
Clerk of the Senate

C. G. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

H. R. Pauley
Speaker House of Delegates

The within *enacted* this the *20th*
day of *March*, 1959.

Governor