

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

104

ENROLLED

HOUSE BILL No. . . . 104 . . .

(By Mr. Barker)

PASSED March 11, 1961

In Effect ninety days from Passage

Filed in Office of the Secretary of State
of West Virginia

~~MAR 17 1961~~
JOE F. BURDETT
SECRETARY OF STATE

ENROLLED

House Bill No. 104

(By MR. BARKER)

[Passed March 11, 1961; in effect ninety days 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:

Section 14. *Penalties for Violation of Weight Laws;*

2 *Impounding Vehicles.*—(a) Any owner, lessee or bor-
3 rower who permits a vehicle or combination of vehicles
4 owned by him to be operated with an axle load in
5 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
8 this article, plus a tolerance of five per cent, shall be
9 guilty of a misdemeanor and upon conviction thereof
10 shall be punished as provided in paragraphs (b) and (c)
11 of this 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
15 twenty-five dollars nor more than one hundred dollars
16 and in addition thereto shall pay either a fine of one
17 cent per pound for any weight in excess of two thousand
18 pounds over the legal weight for each axle or a fine of
19 one cent per pound for any weight in excess of two
20 thousand pounds over the permissible gross weight for
21 such vehicle or combination of vehicles, whichever is the
22 greater; and any owner, lessee or borrower of a vehicle
23 who shall be convicted of a second offense for a violation
24 of this section shall be punished by a fine of not less than
25 fifty dollars nor more than one hundred dollars and in
26 addition thereto shall pay either a fine of two cents per

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

47 of the additional fine per pound heretofore in this section
48 provided.

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

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

**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
14 negligent 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 vio-
22 lating section fourteen, article seventeen of this chapter
23 relating to weight violations; except as otherwise pro-
24 vided 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.

Howard Davis, Jr.
Chairman Senate Committee

Mr. A. N. Withers
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Thomas Hays
Clerk of the Senate

C. B. Blankenship
Clerk of the House of Delegates

Howard Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within approved this the 17th
day of March, 1961.

Howard Carson
Governor

Filed in Office of the Secretary of State
of West Virginia MAR 17 1961

JOE F. BURDETT
SECRETARY OF STATE