

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No. *203*

(By Mr. *Singleton*, *Mr. Seibert*)

PASSED *February 23rd*, 1961

In Effect *July 1st*, 1961 Passage

Filed in Office of the Secretary of State
of West Virginia *March 3, 1961*

JOE F. BURDETT
SECRETARY OF STATE

203

ENROLLED

House Bill No. 203

(By MR. SPEAKER, MR. SINGLETON, and MR. SEIBERT)

[Passed February 23, 1961; in effect July 1, 1961.]

AN ACT to repeal section five, article six; and to amend and reenact section two, article one; section five, article five; and sections four and six, article six, all of chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to uniform regulation of public for hire motor vehicles by the public service commission.

Be it enacted by the Legislature of West Virginia:

That section five, article six, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section two, article one; section five, article five; sections four and six, article six, of said chapter be amended and reenacted to read as follows:

Article 1. Purposes, Definitions and Exemptions.

Section 2. *Definitions.*—When used in this chapter: (a)

2 the term "motor vehicle" means, and includes, any auto-
3 mobile, truck, tractor, truck tractor, trailer, semi-trailer,
4 motor bus, taxicab, any self-propelling motor-driven
5 motor vehicle, or any combination thereof, used upon
6 any public highway in this state for the purpose of trans-
7 porting persons or property; (b) the term "public high-
8 way" means any public street, alley, road, or highway,
9 or thoroughfare of any kind in this state used by the
10 public; (c) the term "commission" means the public serv-
11 ice commission of West Virginia; (d) the term "person"
12 means and includes any individual, firm, copartnership,
13 corporation, company, association, or joint stock associa-
14 tion, and includes any trustee, receiver, assignee or per-
15 sonal representative thereof; (e) the term "common car-
16 rier by motor vehicle" means any person who undertakes,
17 whether directly or by lease or any other arrangement,
18 to transport passengers or property, or any class or classes
19 of property, for the general public over the highways of
20 this state by motor vehicles for hire, whether over regular
21 or irregular routes, including such motor vehicle opera-
22 tions of carriers by rail, water or air and of express or

23 forwarding agencies, and leased or rented motor vehicles,
24 with or without drivers; (f) the term "contract carrier
25 by motor vehicle" means any person not included in sub-
26 section (e) of this section, who under special and indi-
27 vidual contracts or agreements, and whether directly or
28 by lease or any other arrangement, transports passengers
29 or property over the highways in this state by motor
30 vehicles for hire; (g) the term "motor carrier" includes
31 both a common carrier by motor vehicle and a contract
32 carrier by motor vehicle; (h) the term "exempt carrier"
33 means any person operating a motor vehicle exempt from
34 the provisions of this chapter under section three thereof;
35 (i) the term "power unit" means any vehicle which con-
36 tains within itself the engine, motor, or other source of
37 power by which said vehicle is propelled.

Article 5. Powers and Duties of Commission.

Section 5. *Further Regulatory Powers of the Commis-*
2 *sion.*—The commission shall:

3 (a) Prescribe rules of practice and procedure, the
4 method and manner of holding hearings, and for taking
5 evidence on all matters that may come before it, and

6 enter such orders as may be just and lawful. In the in-
7 vestigations, preparations, and hearings of cases, the com-
8 mission shall not be bound by the technical rules of
9 pleading and evidence, but in that respect it may exer-
10 cise such discretion as will facilitate its efforts to under-
11 stand and learn all the facts bearing upon the right and
12 justness of the matters before it.

13 (b) Appoint such employees as may be necessary to
14 carry out the provisions of this chapter, and shall fix
15 their respective salaries or compensation. Such employees
16 shall hold office during the pleasure of the commission.
17 The commission may designate such employees as it
18 deems necessary to take evidence at any hearing held
19 or required by the provisions of this chapter, which em-
20 ployees are hereby empowered to administer oaths in
21 all parts of the state so far as the exercise of such power
22 is properly incidental to the performance of their duties in
23 connection with the provisions of this chapter.

24 (c) Prescribe a schedule of fees to accompany applica-
25 tions for certificates of convenience and necessity and
26 permits and for the filing and recordation of other papers

27 with the commission. The commission shall likewise pre-
28 scribe a schedule of fees to be charged for the certifica-
29 tion of all records and papers and sums to be paid wit-
30 nesses and other costs necessary and incident to hearings
31 before it or its employees and order the same paid by
32 the unsuccessful party. Sums collected in this manner,
33 except witness fees, shall be paid into the state treasury
34 and be credited to the public service commission motor
35 carrier fund provided for in section six of article six of
36 this chapter. The witness fees shall be paid to the per-
37 sons who are entitled thereto.

38 (d) Establish a system of accounts to be kept by motor
39 carriers or classify motor carriers and establish a system
40 of accounts for each class, and prescribe the manner in
41 which such accounts shall be kept. It may also in its dis-
42 cretion prescribe the form of accounts, records, and mem-
43 oranda to be kept by such motor carriers, including the
44 accounts, records, and memoranda for the movement of
45 traffic as well as the receipts and expenditures of money,
46 and any other forms, records and memoranda which in

47 the judgment of the commission may be necessary to carry
48 out any of the provisions of this chapter.

49 (e) Require persons subject to the provisions of this
50 chapter, to furnish any information which may be in
51 their possession, or obtainable from their accounting or
52 other records, respecting rates, charges, classifications, or
53 practices in conducting their business, and to furnish the
54 commission at all times for inspection any books or papers
55 or reports and statements, which reports and statements
56 shall be under oath, when so required by the commission,
57 and the form of all reports required under this chapter
58 shall be prescribed by the commission.

59 (f) Either as a commission or by any of its members,
60 or by designated employees, subpoena witnesses and take
61 testimony, and administer oaths to any witness in any
62 proceeding or examination instituted before it or con-
63 ducted by it with reference to any matter within its
64 jurisdiction. In all hearings or proceedings before the
65 commission or its designated employees the evidence of
66 witnesses and the production of documentary evidence
67 may be required at any designated place of hearing with-

68 in the state; and in the case of disobedience to a subpoena
69 or other process the commission or any party to the pro-
70 ceedings before the commission may invoke the aid of
71 any circuit court in the state in requiring the evidence
72 and testimony of witnesses and the production of papers,
73 books, and documents. And such court, in case of re-
74 fusial to obey the subpoena issued to any person or to any
75 motor carrier subject to the provisions of this chapter,
76 shall issue an order requiring such motor carrier or any
77 person to appear before the commission or designated em-
78 ployees and produce all books and papers, if so ordered,
79 and give evidence touching the matter in question. Any
80 failure to obey such order of the court may be punished
81 by such court as contempt thereof. A claim that such
82 testimony or evidence may tend to incriminate the per-
83 son giving the same shall not excuse such witness from
84 testifying, but such witness shall not be prosecuted for
85 any offense concerning which he is compelled hereunder
86 to testify.

87 (g) Require common carriers by motor vehicle and
88 contract carriers by motor vehicle subject to the provi-

89 sions of this chapter either to procure insurance from a
90 company authorized to write such insurance in West
91 Virginia, or to qualify as a self-insurer, or to deposit such
92 security, upon such terms and conditions and for such
93 limits of liability as the commission shall determine to be
94 necessary for the reasonable protection of the traveling,
95 shipping, and general public against injury, loss, damage
96 or default for which such carrier may be liable, and pre-
97 scribe rules and regulations governing the filing of evi-
98 dence of such insurance and such security with the com-
99 mission. In fixing the amount of such insurance policy
100 or policies, the qualifications as a self-insurer, or the de-
101 posit of security, the commission shall give due considera-
102 tion to the character and amount of traffic, the value of
103 the property transported, the number of persons affected,
104 and the degree of danger involved in any such motor car-
105 rier operation.

106 (h) Cooperate with the federal government and the
107 interstate commerce commission of the United States or
108 any other commission or organized delegated authority
109 to regulate interstate or foreign commerce by motor ve-

110 hicles, and it shall be its duty so to do, to the end that the
111 transportation of persons and property by motor vehicles
112 in interstate and foreign commerce into and through the
113 state of West Virginia may be regulated and the laws of
114 the United States and of the state of West Virginia en-
115 forced and administered cooperatively in the public in-
116 terest.

117 (i) Make agreements on behalf of the state of West
118 Virginia with any other state or states providing for
119 reciprocal rights, privileges, and courtesies between the
120 licensees or holders of certificates and permits of the said
121 state or states and the state of West Virginia respecting
122 certificates and permits, fees, assessments, and uniform
123 vehicle identification cards, and the transportation of
124 either persons or property into or through the respective
125 state or states and the state of West Virginia, and all
126 existing agreements between a state or states and the state
127 of West Virginia for reciprocal rights, privileges, and
128 courtesies may, provided constitutional and contractual
129 rights are not violated, be declared void by the commis-
130 sion, and new agreements negotiated.

131 (j) Promulgate safety rules and regulations applicable
132 to motor vehicles subject to the provisions of this chapter
133 and promulgate regulations governing the qualifications
134 and maximum hours of service of drivers and chauffeurs
135 of common and contract carriers by motor vehicle of
136 passengers and property subject to the provisions of this
137 chapter, and promulgate any other rules and regulations
138 which the commission may deem proper to carry out the
139 provisions and intent of this chapter.

**Article 6. Duties and Privileges of Motor Carriers Subject to
Regulations of the Commission.**

Section 4. *Uniform Vehicle Identification Card.*—The
2 commission shall prescribe a uniform vehicle identifica-
3 tion card which shall be displayed within the cab of
4 each power unit operated by any motor carrier, showing
5 thereon the description and serial number of the vehicle
6 for which it is issued and the number given to the ve-
7 hicle by the commission, and may contain such other
8 information as may be required by the commission. Such
9 cards shall be issued annually and displayed in each such
10 power unit not later than July first of each year. It shall

11 be unlawful for any motor carrier to operate any power
12 unit within this state unless said identification card is
13 displayed within such vehicle. It shall be unlawful for
14 the motor carrier, his agent, servant, or employee, or
15 any other person to use or display said identification card
16 or other insignia of authority from the commission at any
17 time after the certificate or permit issued to said motor
18 carrier has expired or has been cancelled, suspended, re-
19 voked, or otherwise disposed of.

Sec. 6. *Motor Carrier Fund; Assessment; Collection;*
2 *Appropriation.*—In addition to the license fees, registra-
3 tion fees, or any other taxes required by law to be col-
4 lected from motor carriers subject to this chapter, each
5 such motor carrier shall be subject to, and shall pay to
6 the public service commission, a special annual assessment
7 for the purpose of paying the salaries, compensation, costs
8 and expenses of administering and enforcing this chapter.
9 All proceeds or funds derived from such assessment shall
10 be paid into the state treasury and credited to a special
11 fund designated public service commission motor carrier
12 fund, to be appropriated as provided by law for the pur-

13 poses herein stated. Each member of the commission shall
14 receive a salary of two thousand dollars per annum as
15 compensation for the administration of this chapter in ad-
16 dition to all other salary or compensation otherwise pro-
17 vided by law, to be paid in monthly installments from
18 said fund. The special assessment against each motor
19 carrier shall be apportioned upon the number and ca-
20 pacity of motor vehicles used by said carrier, computed
21 as hereinafter provided.

22 (a) For each uniform vehicle identification card \$3.00

23 (b) Upon each power unit of such carriers of

24 property in accordance with its capacity as rated

25 by its manufacturer, in addition to amount of sub-

26 section (a).

27 Of one ton or less capacity \$9.00

28 Of over one to one and one-half tons capacity 13.50

29 Of over one and one-half tons to two tons capacity 18.00

30 Of over two tons to three tons capacity 22.50

31 Of over three tons to four tons capacity 27.00

32 Of over four tons to five tons capacity 31.50

33 Of over five tons to six tons capacity 36.00

- 34 Of over six tons to seven tons capacity 40.50
- 35 Of over seven tons to eight tons capacity 45.00
- 36 Of over eight tons to nine tons capacity 49.50
- 37 Of over nine tons to ten tons capacity 54.00
- 38 Of over ten tons capacity, \$54.00 plus \$4.50 for each
- 39 additional ton of capacity in excess of ten tons.
- 40 (c) Upon each trailer and semi-trailer of such carriers
- 41 of property, in accordance with its capacity as rated by its
- 42 manufacturer, in an amount of two-thirds of the amount
- 43 provided for vehicles of its capacity in subsection (b) of
- 44 this section.
- 45 (d) Upon each power unit of such carriers of passen-
- 46 gers, in accordance with the seating capacity thereof, in
- 47 addition to amount in subsection (a).
- 48 Of ten passengers or less \$13.50
- 49 Of eleven to twenty passengers, inclusive 22.50
- 50 Of twenty-one to thirty passengers, inclusive 31.50
- 51 Of thirty-one to forty passengers, inclusive 45.00
- 52 Of over forty passengers 54.00
- 53 (e) The annual assessment of each motor carrier shall
- 54 be paid on or before the first day of July of each year.

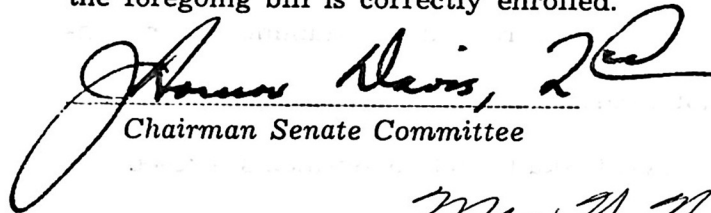
55 Additional assessments shall be collected upon the placing
56 in use of any additional motor vehicle: *Provided, That*
57 such additional assessments shall be subject to a reduc-
58 tion in the amounts shown in subsections (b), (c), and
59 (d) corresponding to the unexpired quarterly periods of
60 the fiscal year, but shall not in any event be less than
61 one-fourth of such amount plus the sum of three dollars
62 provided in subsection (a).

63 (f) Upon payment by any motor carrier of the assess-
64 ment provided for, the public service commission shall
65 advise the department of motor vehicles by notice in writ-
66 ing that such assessment has been paid, whereupon the
67 department of motor vehicles may issue motor vehicle
68 license for the vehicles described in said notice.

69 (g) Prior to the beginning of any fiscal year the public
70 service commission, after taking into consideration any
71 unexpended balance in the motor carrier fund, the prob-
72 able receipts to be received in the ensuing fiscal year, the
73 probable costs of administering and enforcing the motor
74 carrier act for the ensuing fiscal year, may fix the assess-
75 ments provided for in this section for the ensuing fiscal

76 year in amounts which, in the commission's judgment,
77 will produce sufficient revenue to administer and en-
78 force the motor carrier act for said fiscal year: *Provided,*
79 That in no event shall such assessments exceed the
80 amounts set up in this section.

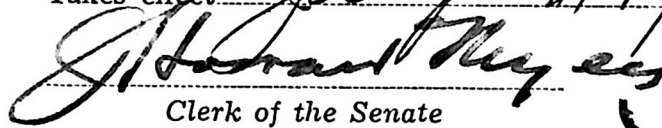
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

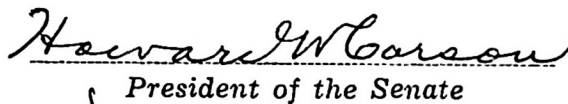

Chairman House Committee

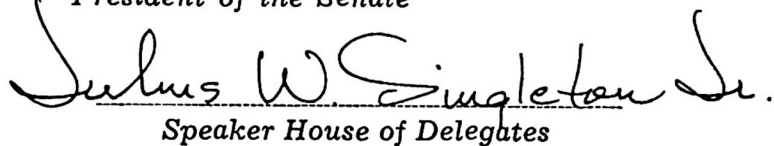
Originated in the House.

Takes effect July 1st, 1961 passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the third
day of March, 1961.


Governor

