

Veto-627

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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## ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 627

(By Senator Tamblin, et al)

—•—

PASSED March 8 1986

In Effect 90 days from Passage



# ENROLLED

## COMMITTEE SUBSTITUTE

### FOR

## Senate Bill No. 627

(SENATORS TOMBLIN, ROGERS AND FANNING, *original sponsors*)

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[Passed March 8, 1986; in effect ninety days from passage.]

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AN ACT to amend and reenact section ten, article seventeen, chapter seventeen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the weighing of motor vehicles; allowing vehicles or combinations of vehicles carrying certain products to move over the highways to the nearest scale without incurring penalties where vehicle does not exceed weight limitations by more than thirty percent; allowing vehicles which are overweight by less than thirty percent to obtain a permit to travel to destination or nearest facility to rearrange load; and providing criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

That section ten, article seventeen, 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.**

**§17C-17-10. Officers may weigh, measure, etc., vehicles and require removal or rearrangement of excess loads.**

- 1 (a) Any police officer or employee of the department
- 2 of highways designated by the commissioner of highways

3 as a member of an official weighing crew, except as pro-  
4 vided for by subsection (c), may require the driver of  
5 any vehicle or combination of vehicles on any highway  
6 to stop and submit such vehicle or combination of vehicles  
7 to a weighing with portable or stationary weighing de-  
8 vices or submit such vehicle or combination of vehicles  
9 to a measuring or to any other examination necessary to  
10 determine if such vehicle or combination of vehicles is in  
11 violation of any of the provisions of this article, and may  
12 require that such vehicle or combination of vehicles be  
13 driven to the nearest weighing device, but only if such  
14 weighing device is within two miles of the place where  
15 the vehicle or combination of vehicles is stopped.

16 No police officer or member of an official weighing crew  
17 may stop a vehicle or combination of vehicles for weigh-  
18 ing unless a portable or stationary weighing device is  
19 actually present at the location where, and at the time,  
20 the vehicle or combination of vehicles is stopped or unless  
21 the vehicle or combination of vehicles is escorted imme-  
22 diately after being stopped to a portable or stationary  
23 weighing device. In no case may a vehicle or combination  
24 of vehicles be detained more than one hour from the time  
25 the same is stopped for weighing unless the vehicle or  
26 combination of vehicles is impounded for a violation in  
27 accordance with the provisions of section fourteen of this  
28 article.

29 (b) Whenever an officer or a member of an official  
30 weighing crew determines that a vehicle or combination  
31 of vehicles is in violation of any of the provisions of this  
32 article, such officer or weighing crew, except as otherwise  
33 provided for in this section, may require the driver to  
34 stop such vehicle or combination of vehicles in a suitable  
35 place and to remain standing until such vehicle or com-  
36 bination of vehicles is brought into conformity with the  
37 provisions violated.

38 In the case of a weight violation, all material unloaded  
39 shall be cared for by the owner, lessee or borrower of  
40 such vehicle or combination of vehicles at the risk of such  
41 owner, lessee or borrower: *Provided*, That no criminal  
42 charge shall be preferred against any driver, operator or

43 owner of a vehicle when a rearrangement of the load  
44 upon the vehicle, without removal therefrom, reduces the  
45 axle loads of said vehicle to such limit as is permitted  
46 under this chapter: *Provided, however,* That the driver of  
47 a vehicle or combination of vehicles transporting coal,  
48 sand, gravel or like material or logs or bulk, unprocessed,  
49 agricultural products may move over the highways, ex-  
50 cluding interstate highway systems, and those specifically  
51 excluded by the commissioner of the department of high-  
52 ways, to the first open state scale, permanent or portable,  
53 without incurring any of the excess weight penalties con-  
54 tained in this article: *Provided further,* That the vehicle  
55 does not exceed allowable axle weight limitations by  
56 more than thirty percent and displays the proper authori-  
57 zation certificate issued by the department of motor  
58 vehicles.

59 In the event the vehicle or combination of vehicles is  
60 found to be overweight when weighed by the state scales,  
61 but does not exceed allowable axle weight limitations by  
62 more than thirty percent, and displays the proper authori-  
63 zation certificate, the employee of the department of  
64 highways designated by the commissioner of highways  
65 as being in charge of the weight crew shall issue a tem-  
66 porary permit for a fee of twenty-five dollars allowing  
67 said vehicle or combination of vehicles to move over the  
68 highways to the first facility where its load may be safely  
69 and lawfully adjusted or to its destination, as specified by  
70 the permit.

71 Such temporary permit may be issued only if the ve-  
72 hicle or combination of vehicles displays an authorization  
73 certificate previously issued by the commissioner of the  
74 department of motor vehicles. Said certificate is issued:  
75 (1) Upon payment of a fee to be determined by the com-  
76 missioner to be appropriate for use of the highways by  
77 such vehicles, which in no case shall be less than two  
78 hundred dollars; and (2) the vehicle or combination of  
79 vehicles is found to be properly licensed in accordance  
80 with the maximum weight classification as provided for  
81 in section nine of this article.

82 In the event the vehicle or combination of vehicles is

83 found to be overweight when weighed by the state scales  
84 and such vehicle or combination of vehicles does not  
85 display the proper certificate of authorization or exceeds  
86 allowable axle weight limitations by more than thirty  
87 percent, weight penalties set forth in section fourteen of  
88 this article shall apply.

89 (c) Any driver of a vehicle or combination of vehicles  
90 who refuses to have the vehicle weighed is guilty of a  
91 misdemeanor, and, upon conviction thereof, for a first  
92 offense shall be fined one hundred dollars and for each  
93 subsequent conviction occurring within the same calendar  
94 year shall be fined two hundred dollars.

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

Bruce O. Wilkinson  
Chairman Senate Committee

Floyd Fullen  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

John C. Hatch  
Clerk of the Senate

Donald L. Voss  
Clerk of the House of Delegates

Walter T. ...  
President of the Senate

Joseph P. Allright  
Speaker House of Delegates

The within disappeared this the 26th  
day of March, 1986.

Anna. ...  
Governor

PRESIDENT THE

GOVERNOR

Date 3/21/86

Time 4:26 p.m.

RECEIVED

ECG MAR 26 AM 10 59

SECRETARY OF STATE

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/26/86