WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2001

ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 2310

(By Delegates Amores, Staton, Beane and Mahan)

Passed April 14, 2001

In Effect Ninety Days from Passage
AN ACT to amend and reenact section three, article one, chapter twenty-four-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section five, article five of said chapter, all relating to the public service commission; making certain motor vehicles subject to the safety and insurance rules of the public service commission; exempting certain vehicles from certain regulation of the public service commission; providing a minimum amount of required insurance for certain vehicles; eliminating the requirement of costs being assessed against the losing party; and clarifying the employment status of certain employees of the public service commission.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.

§24A-1-3. Exemptions from chapter.

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

3 (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;

7 (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 article twenty-seven, chapter eight 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;

17 (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;

(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 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)(A) 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 opera-
tors 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.

§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 investiga-
tion, 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 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 seven hundred and fifty thousand dollars.

(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.

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 2nd day of March, 2001.

Governor