

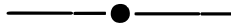
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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# **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

# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## H. B. 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  
2 otherwise provided, do not apply to:

3       (1) Motor vehicles operated exclusively in the transporta-  
4 tion of United States mail or in the transportation of newspa-  
5 pers: *Provided*, That the vehicles and their operators are subject  
6 to the safety rules promulgated by the commission;

7       (2) Motor vehicles owned and operated by the United States  
8 of America, the state of West Virginia or any county, municipi-  
9 pality or county board of education, urban mass transportation  
10 authority established and maintained pursuant to article  
11 twenty-seven, chapter eight of this code, or by any of their  
12 departments, and any motor vehicles operated under a contract  
13 with a county board of education exclusively for the transporta-  
14 tion of children to and from school or other legitimate transpor-  
15 tation for the schools as the commission may specifically  
16 authorize;

17       (3) Motor vehicles used exclusively in the transportation of  
18 agricultural or horticultural products, livestock, poultry and  
19 dairy products from the farm or orchard on which they are  
20 raised or produced to markets, processing plants, packing  
21 houses, canneries, railway shipping points and cold storage  
22 plants, and in the transportation of agricultural or horticultural  
23 supplies to farms or orchards where they are to be used:  
24 *Provided*, That the vehicles that are exempted by this subdivi-  
25 sion and are also operated by common carriers by motor vehicle  
26 or contract carriers by motor vehicle, and their operators are  
27 subject to the safety and insurance rules promulgated by the  
28 commission;

29 (4) Motor vehicles used exclusively in the transportation of  
30 human or animal excreta;

31 (5) Motor vehicles used exclusively in ambulance service  
32 or duly chartered rescue squad service;

33 (6) Motor vehicles used exclusively for volunteer fire  
34 department service;

35 (7) Motor vehicles used exclusively in the transportation of  
36 coal from mining operations to loading facilities for further  
37 shipment by rail or water carriers: *Provided*, That the vehicles  
38 and their operators are subject to the safety rules promulgated  
39 by the commission and the vehicles that are exempted by this  
40 subdivision and are also operated by common carriers by motor  
41 vehicle or contract carriers by motor vehicle, and their opera-  
42 tors are subject to the insurance rules promulgated by the  
43 commission;

44 (8) Motor vehicles used by petroleum commission agents  
45 and oil distributors solely for the transportation of petroleum  
46 products and related automotive products when the transporta-  
47 tion is incidental to the business of selling the products:  
48 *Provided*, That the vehicles and their operators are subject to  
49 the safety rules promulgated by the commission and the  
50 vehicles that are exempted by this subdivision and are also  
51 operated by common carriers by motor vehicle or contract  
52 carriers by motor vehicle, and their operators are subject to the  
53 insurance rules promulgated by the commission;

54 (9) Motor vehicles owned, leased by or leased to any person  
55 and used exclusively for the transportation of processed  
56 source-separated recycled materials, generated by commercial,  
57 institutional and industrial customers, transported free of charge  
58 from the customers to a facility for further processing: *Pro-*  
59 *vided*, That the vehicles and their operators shall be subject to  
60 the safety rules promulgated by the commission and the  
61 vehicles that are exempted by this subdivision and are also

62 operated by common carriers by motor vehicle or contract  
63 carriers by motor vehicle, and their operators are subject to the  
64 insurance rules promulgated by the commission;

65 (10)(A) Motor vehicles specifically preempted from state  
66 economic regulation of intrastate motor carrier operations by  
67 the provisions of 49 U. S. C. §14501 as amended by title I,  
68 section 103 of the federal "Interstate Commerce Commission  
69 Termination Act of 1995": *Provided*, That the vehicles and their  
70 operators are subject to the safety regulations promulgated by  
71 the commission and the vehicles that are exempted by this  
72 subdivision and are also operated by common carriers by motor  
73 vehicle or contract carriers by motor vehicle, and their opera-  
74 tors are subject to the insurance rules promulgated by the  
75 commission;

76 (11) Motor vehicles designated by the West Virginia bureau  
77 of senior services for use and operation by local county aging  
78 programs: *Provided*, That the vehicles and their operators are  
79 subject to the safety rules promulgated by the commission;

80 (12) Motor vehicles designated by the West Virginia  
81 division of public transit operated by organizations that receive  
82 federal grants from the federal transit administration: *Provided*,  
83 That the vehicles and their operators are subject to the safety  
84 and insurance rules promulgated by the commission.

**§24A-5-5. Further regulatory powers of the commission.**

1 (a) The commission shall prescribe rules of practice and  
2 procedure including, the method and manner of holding  
3 hearings, taking evidence, and entering orders. In the investiga-  
4 tion, preparation and hearing of cases, the commission is not  
5 bound by the technical rules of pleading and evidence, but may  
6 exercise discretion to facilitate its efforts to understand and  
7 learn all the facts bearing upon the right and justness of the  
8 matters before it.

9 (b) The commission shall employ personnel as may be  
10 necessary to carry out the provisions of this chapter and fix  
11 their respective salaries or compensation. The commission may  
12 designate employees as it deems necessary to take evidence at  
13 any hearing held or required by the provisions of this chapter.  
14 These employees are empowered to administer oaths in all parts  
15 of the state so far as the exercise of this power is properly  
16 incidental to the performance of their duties in accordance with  
17 the provisions of this chapter.

18 (c) The commission shall prescribe a schedule of fees to  
19 accompany (i) applications for certificates of convenience and  
20 necessity, (ii) applications for permits, and (iii) other filings and  
21 recordings of other papers with the commission. The commis-  
22 sion shall prescribe a schedule of fees to be charged for (i) the  
23 certification of all records and papers (ii) the payment of  
24 witnesses and (iii) other costs necessary and incident to  
25 hearings before it or its employees. Sums collected in accor-  
26 dance with this subsection, except witness fees, are to be paid  
27 into the state treasury and credited to the public service  
28 commission motor carrier fund provided for in section six,  
29 article six of this chapter. Witness fees are to be paid to the  
30 persons entitled to them.

31 (d) The commission shall establish a system of accounts to  
32 be kept by motor carriers; or classify motor carriers and  
33 establish a system of accounts for each class. The commission  
34 shall prescribe the manner in which the accounts are to be kept.  
35 It may prescribe the form of accounts, records, and memoranda  
36 to be kept by the motor carriers, including the accounts,  
37 records, and memoranda for the movement of traffic, the  
38 receipts and expenditures of money, and any other forms,  
39 records and memoranda which in the judgment of the commis-  
40 sion may be necessary to carry out any of the provisions of this  
41 chapter.

42 (e) The commission shall require persons subject to the  
43 provisions of this chapter to furnish any information in their  
44 possession or obtainable from their accounting or other records,  
45 respecting rates, charges, classifications or practices in conduct-  
46 ing their business. The commission has the authority to inspect  
47 any books, papers or reports. Any statements required by this  
48 subsection are to be under oath when required by the commis-  
49 sion. The form of all reports required under this chapter are to  
50 be prescribed by the commission.

51 (f) The commission as a whole or any of its members or  
52 designated employees, shall subpoena witnesses, take testimony  
53 and administer oaths to any witness in any proceeding or  
54 examination instituted before it or conducted by it with refer-  
55 ence to any matter within its jurisdiction. In all hearings or  
56 proceedings before the commission or its designated employ-  
57 ees, the evidence of witnesses and the production of documen-  
58 tary evidence may be required at any designated place of  
59 hearing within the state. In the case of disobedience to a  
60 subpoena or other process, the commission or any party to the  
61 proceedings before the commission may invoke the aid of any  
62 circuit court in the state in requiring the evidence and testimony  
63 of witnesses and the production of papers, books, and docu-  
64 ments. The court, in the case of a refusal to obey the subpoena  
65 issued to any person or to any motor carrier subject to the  
66 provisions of this chapter, shall issue an order requiring the  
67 person or motor carrier to appear before the commission or its  
68 designated employees and produce all requested books and  
69 papers and give evidence relating to the matter in question. Any  
70 failure to obey the order of the court may be punished by the  
71 court as contempt. A claim that testimony or evidence may tend  
72 to incriminate the person giving the testimony or evidence does  
73 not excuse the person from testifying, but the person may not  
74 be prosecuted for any offense concerning which he or she has  
75 been compelled to testify.

76 (g) The commission shall require common carriers by  
77 motor vehicle and contract carriers by motor vehicle subject to  
78 the provisions of this chapter either to procure insurance from  
79 a company authorized to write insurance in West Virginia, to  
80 qualify as a self-insurer, or to deposit security upon terms and  
81 conditions and for limits of liability as the commission shall  
82 determine to be necessary for the reasonable protection of the  
83 traveling, shipping, and general public against injury, loss,  
84 damage or default for which the carrier may be liable. It shall  
85 prescribe rules and regulations governing the filing of evidence  
86 of insurance and security with the commission. In fixing the  
87 amount of the insurance policy or policies, the qualifications as  
88 a self-insurer, or the deposit of security, the commission shall  
89 give due consideration to the character and amount of traffic,  
90 the value of the property transported, the number of persons  
91 affected, and the degree of danger involved in any motor carrier  
92 operation: *Provided*, That the amount set by the commission for  
93 for-hire vehicles, that haul nonhazardous property with a gross  
94 vehicle weight of ten thousand or more pounds, shall be at least  
95 seven hundred and fifty thousand dollars.

96 (h) The commission shall cooperate with the federal  
97 government or any other commission or organized delegated  
98 authority to regulate interstate or foreign commerce by motor  
99 vehicles to ensure that the transportation of persons and  
100 property by motor vehicles in interstate and foreign commerce  
101 into and through the state of West Virginia may be regulated  
102 and the laws of the United States and the state of West Virginia  
103 enforced and administered cooperatively in the public interest.

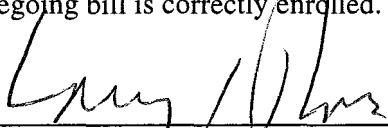
104 (i) The commission shall make agreements on behalf of the  
105 state of West Virginia with any other state or states providing  
106 for reciprocal rights, privileges, and courtesies between the  
107 licensees or holders of certificates and permits of the state or  
108 states and the state of West Virginia. These agreements may  
109 include provisions regarding certificates and permits, fees,



110 assessments, and uniform vehicle identification cards, and the  
111 transportation of either persons or property into or through the  
112 respective state or states and the state of West Virginia. All  
113 existing agreements between a state or states and the state of  
114 West Virginia for reciprocal rights, privileges, and courtesies  
115 may, provided constitutional and contractual rights are not  
116 violated, be declared void by the commission, and new agree-  
117 ments negotiated.

118 (j) The commission shall promulgate (i) safety rules  
119 applicable to motor vehicles subject to the provisions of this  
120 chapter, (ii) rules governing the qualifications and maximum  
121 hours of service of drivers and chauffeurs of common and  
122 contract carriers by motor vehicle of passengers and property  
123 subject to the provisions of this chapter and (iii) any other rules  
124 that the commission may deem proper to carry out the provi-  
125 sions and intent of this chapter.

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

  
\_\_\_\_\_  
Chairman Senate Committee

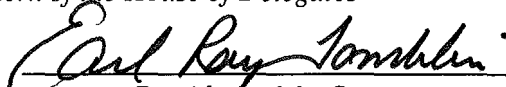
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

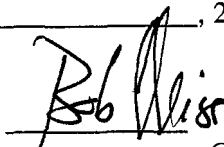
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within approved this the 2<sup>ND</sup>  
day of May, 2001.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/27/01

Time 11:35 am