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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2004

ENROLLED

SENATE BILL NO. 673

(By Senator Ross)

PASSED MARCH 13, 2004

In Effect 90 Days From Passage

SB673

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED
Senate Bill No. 673

(BY SENATOR ROSS)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §17C-17-8a, §17C-17-9 and §17C-17-11d of the code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §17C-17-9a; and to amend and reenact §17C-17A-1, §17C-17A-3, §17C-17A-6 and §17C-17A-12 of said code, all relating generally to regulating the weights of vehicles on roads and highways; authorizing tolerances for certain gross weight vehicle loads; requiring compliance with weight load limits on the national system of interstate and defense highways; providing tolerance limits for maximum gross vehicle weights; adding roads and highways eligible to qualify as part of the coal resource transportation road system; limiting certain reporting requirements relating to coal hauled on coal resource transportation roads; requiring certain receivers to report receiving vehicles transporting coal in excess of eighty-eight thousand pounds on noncoal transportation highways to the public service commission; and authorizing the commissioner of the division of highways to designate certain public roads, highways and bridges as

feeder roads and designate them on a temporary basis as being qualified for inclusion in the coal resource transportation system.

Be it enacted by the Legislature of West Virginia:

That §17C-17-8a, §17C-17-9 and §17C-17-11d of the code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §17C-17-9a; and that §17C-17A-1, §17C-17A-3, §17C-17A-6 and §17C-17A-12 of said code be amended and reenacted, all to read as follows:

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-17-8a. Tandem-axle load limit for the national system of interstate and defense highways.

1 (a) The gross weight imposed on the national system of
2 interstate and defense highways by the wheels of a
3 tandem-axle of a vehicle shall not exceed thirty-four
4 thousand pounds.

5 (b) For the purpose of this article a tandem-axle load
6 shall be defined as the total load transmitted to the road
7 by two or more consecutive axles whose centers may be
8 included between parallel transverse vertical planes
9 spaced more than forty inches and not more than ninety-
10 six inches apart, extending the full width of the vehicle.

§17C-17-9. Gross weight of vehicles and loads for the national system of interstate and defense highways.

1 (a) It shall be unlawful for any owner, lessee or borrower
2 of a vehicle or combination of vehicles to operate on any
3 national system of interstate and defense highways such
4 vehicle or combination of vehicles with a gross weight in
5 excess of the gross weight for which such vehicle or
6 combination of vehicles is registered or in excess of any
7 weight limitation set forth in this chapter, whether such
8 limitation be specifically stated in this chapter or set by
9 express authority granted in this chapter.

10 (b) Subject to the limit upon the weight imposed upon
 11 the highway through any one axle as set forth in section
 12 eight of this article, or the limit imposed upon the highway
 13 through any tandem-axle as set forth in section eight-a of
 14 this article, the total gross weight with load imposed upon
 15 the highway by any one group of two or more consecutive
 16 axles of a vehicle or combination of vehicles shall not
 17 exceed the gross weight given for the respective distance
 18 between the first and last axle of the total group of axles
 19 measured longitudinally to the nearest foot as set forth in
 20 the following table:

21	22 Distance in feet 23 between the 24 extremes of any 25 groups of two 26 or more 27 consecutive		28 Maximum load in pounds			
			29 carried on any group of 30 two or more consecutive axles			
	axles	2 axles	3 axles	4 axles	5 axles	6 axles
31	4	34000				
32	5	34000				
33	6	34000				
34	7	34000				
35	8	34000	34000			
36	9	39000	42500			
37	10	40000	43500			
38	11		44000			
39	12		45000	50000		
40	13		45500	50500		
41	14		46500	51500		
42	15		47000	52000		
43	16		48000	52500	58000	
44	17		48500	53500	58500	
45	18		49500	54000	59000	
46	19		50000	54500	60000	
	20		51000	55500	60500	66000
	21		51500	56000	61000	66500
	22		52500	56500	61500	67000

47	23	53000	57500	62500	68000
48	24	54000	58000	63000	68500
49	25	54500	58500	63500	69000
50	26	55500	59500	64000	69500
51	27	56000	60000	65000	70000
52	28	57000	60500	65500	71000
53	29	57500	61500	66000	71500
54	30	58500	62000	66500	72000
55	31	59000	62500	67500	72500
56	32	60000	63500	68000	73000
57	33		64000	68500	74000
58	34		64500	69000	74500
59	35		65500	70000	75000
60	36		66000	70500	75500
61	37		66500	71000	76000
62	38		67500	72000	77000
63	39		68000	72500	77500
64	40		68500	73000	78000
65	41		69500	73500	78500
66	42		70000	74000	79000
67	43		70500	75000	80000
68	44		71500	75500	80500
69	45		72000	76000	81000
70	46		72500	76500	81500
71	47		73500	77500	82000
72	48		74000	78000	83000
73	49		74500	78500	83500
74	50		75500	79000	84000
75	51		76000	80000	84500
76	52		76500	80500	85000
77	53		77500	81000	86000
78	54		78000	81500	86500
79	55		78500	82500	87000
80	56		79500	83000	87500
81	57		80000	83500	88000
82	58			84000	89000
83	59			85000	89500
84	60			85500	90000

85 *Provided*, That no vehicle or combination of vehicles
86 shall have a gross weight, including the load, in excess of
87 sixty-five thousand pounds, except that the maximum
88 gross weight of vehicles operating on the national system
89 of interstate and defense highways and any highway
90 providing reasonable access to and from terminals and
91 facilities for food, fuel, repairs and rest within the state
92 shall not be in excess of eighty thousand pounds and
93 except as otherwise provided in this article. Notwith-
94 standing the limits prescribed in this subsection, two
95 consecutive sets of tandem-axles may carry a gross load of
96 thirty-four thousand pounds each providing the overall
97 distance between the first and last axles of such consecu-
98 tive sets of tandem- axles is thirty-six feet or more:
99 *Provided, however*, That the limits prescribed in this
100 subsection shall not prohibit the operation of any vehicle
101 or combination of vehicles of a type which could be
102 lawfully operated in accordance with gross vehicle weights
103 in effect on the first day of January, one thousand nine
104 hundred seventy-five: *Provided further*, That no maxi-
105 mum weight in excess of or in conflict with any weight
106 limitations prescribed by or pursuant to any act of con-
107 gress shall be permitted on the national system of inter-
108 state and defense highways.

§17C-17-9a. Gross weight of vehicles and loads.

1 (a) It shall be unlawful for any owner, lessee or borrower
2 of a vehicle or combination of vehicles to operate on any
3 highway other than the national system of interstate and
4 defense highways such vehicle or combination of vehicles
5 with a gross weight in excess of the gross weight for which
6 such vehicle or combination of vehicles is registered or in
7 excess of any weight limitation set forth in this chapter,
8 whether such limitation be specifically stated in this
9 chapter or set by express authority granted this chapter.

10 (b) Subject to the limit upon the weight imposed upon
11 the highway through any one axle as set forth in section
12 eight of this article, the total gross weight on vehicles or

13 combination of vehicles operated on any highway other
14 than the national system of interstate and defense high-
15 ways shall be as follows:

16 (1) A single unit truck having one steering axle and two
17 axles in tandem shall be limited to a maximum gross
18 weight of sixty thousand pounds with a tolerance of ten
19 percent.

20 (2) A single unit truck having one steering axle and three
21 axles in tridem arrangement shall be limited to a maxi-
22 mum gross weight of seventy thousand pounds with a
23 tolerance of ten percent.

24 (3) A tractor-semitrailer combination with five axles
25 shall be limited to a maximum gross weight of eighty
26 thousand pounds with a tolerance of ten percent.

27 (4) A tractor-semitrailer combination with six or more
28 axles shall be limited to a maximum gross weight of eighty
29 thousand pounds with a tolerance of ten percent.

§17C-17-11d. Establishing maximum road highway weights.

1 Effective the first day of July, two thousand four, the
2 maximum gross vehicle weight on existing state-main-
3 tained roads and public highways designated for gross
4 weight vehicle load of sixty-five thousand pounds,
5 seventy-three thousand five hundred pounds and eighty
6 thousand pounds shall have a tolerance of ten percent. All
7 requirements for vehicle design and axle weights other-
8 wise established under this code remain applicable. In no
9 case may the commissioner authorize weight limits on any
10 state-maintained road or public highway that would
11 jeopardize or otherwise limit federal highway fund
12 appropriations to this state. The commissioner of high-
13 ways shall, by the thirty-first day of December, two
14 thousand four, review and revise, as the commissioner
15 deems appropriate, weight limits for all state-maintained
16 roads and public highways and provide to the joint
17 committee on government and finance a report denoting

18 all weight limits as they have been designated on state-
19 maintained roads and public highways.

**ARTICLE 17A. REGULATION OF THE COMMERCIAL TRANSPORTATION
OF COAL.**

§17C-17A-1. Legislative findings and creation of program.

1 (a) The Legislature finds and declares that:

2 (1) No other economic undertaking in the history of West
3 Virginia has had a greater impact upon the citizens of this
4 state, providing such an economic force and affecting the
5 social construct and day-to-day life and environment of
6 the people and communities of this state, than the activi-
7 ties associated with the extraction, transportation and
8 consumption of coal or its byproducts. In areas of this
9 state where the coal industry exists, the economic benefits
10 of coal production are an indispensable part of the local
11 community's vitality.

12 (2) The historic progression of the coal industry has
13 resulted in an increasing use of the public highways of this
14 state for the transportation of coal to river ports, power
15 generators or rail loading facilities. Roads where coal is
16 transported are mainly two-lane rural roads and highways
17 of varying grades and conditions. The daily presence of
18 large commercial motor vehicles on these roads and
19 highways causes significant impact to local communities
20 and the local transportation infrastructure. Local resi-
21 dents are exposed on a daily basis to the dangers associ-
22 ated with sharing the road with a large number of these
23 vehicles.

24 (3) The increased capacity and ability of coal-hauling
25 vehicles, tied with increased economic pressures to reduce
26 industry transportation costs, have created economic
27 incentives for transporting coal at higher than legal limits
28 and for drivers to drive long hours and operate these
29 vehicles at higher rates of speed. Consequently, average
30 vehicle weights have increased and many coal transport

31 vehicles regularly exceed the lawful limit by more than
32 one hundred percent. The excessive weights of these
33 vehicles have also resulted in the rapid deterioration of
34 state roads and bridges, creating significant costs to the
35 state of millions of dollars in lost road and bridge use and
36 life.

37 (4) Advances in truck stability, braking and safety
38 technology have made modern coal transporters much
39 safer conveyances than those used by the industry when
40 the state's current weight laws were enacted. Further
41 advances in technology have made tracking and recording
42 individual vehicles, their operators and loads significantly
43 more efficient.

44 (5) Enforcement of truck safety and driver safety laws
45 has been divided between various jurisdictions such as
46 local and state law enforcement, the division of highways
47 and the public service commission. As a result, local and
48 state enforcement of those comprehensive laws has not
49 been uniform, with the result that many of these laws have
50 not been enforced.

51 (6) The resulting need for a remedy for hauling these
52 additional amounts of coal is most severe in a limited and
53 discrete geographic area of the state where the limited
54 access to rail and river transportation options and eco-
55 nomic conditions require a regulatory program that allows
56 a greater weight allowance for coal-hauling vehicles to
57 address the unique economic circumstances of that region.

58 (7) That this limited highway system must include
59 additional safety protections for the public sharing the
60 roads with a large coal-hauling vehicle fleet and special-
61 ized training for operators of these vehicles, requiring the
62 program be designed to assure that state weight and safety
63 requirements be effectively administered and enforced.

64 (b) A special regulatory program with administrative
65 enforcement authority over all vehicles hauling coal in

66 West Virginia is created. This program is designed to
67 address the economic needs of the state coal industry
68 within the confines of the ability of the transportation
69 infrastructure to accommodate these needs and in careful
70 consideration for road safety and maintenance require-
71 ments of these vehicles by providing for coal truck weight
72 reporting requirements on coal resource transportation
73 roads and allowing a limited statewide increase in weights
74 for commercial vehicles and an additional, limited increase
75 for vehicles hauling coal where the greater increase is
76 required.

**§17C-17A-3. Authority of the division of highways and public
service commission generally.**

1 (a) The division of highways shall establish all legal
2 vehicle weight limits for all public highways including
3 roads within the coal resource transportation road system.
4 Public highways shall be designated as coal resource
5 transportation roads by the commissioner of the division
6 of highways pursuant to this article. Only state-main-
7 tained roads and public highways found in the following
8 areas: Boone; Fayette; Lincoln; Logan; McDowell; Mercer;
9 Mingo; Raleigh; Wayne and Wyoming counties; in
10 Greenbrier County, routes west of Sam Black Church and
11 southwest to the Summers County line; in Clay County,
12 routes 4 and 16; in Nicholas County, routes 16, 19, 20, 39,
13 41, 55 and 82; in Webster County, routes 9, 20 and 82; and
14 all state-maintained roads and public highways found in
15 Washington, Malden, Loudon and Cabin Creek districts,
16 Kanawha County, are eligible to qualify as part of the coal
17 resource transportation road system. The division shall
18 post signs on roads informing the public of the designation
19 and shall also list a toll free telephone line for public
20 reporting of poor driving or law violations by special
21 permit operators. The division shall provide periodic
22 reports to the commercial motor vehicle weight and safety
23 enforcement advisory committee as established in section
24 two, article one-a, chapter twenty-four-a of this code

25 relating to the study of coal resource transportation roads.
26 The periodic reports shall include the following at a
27 minimum: (1) Citations issued for violations of this
28 chapter; (2) disposition of the violations; (3) road condi-
29 tions and maintenance; and (4) the amount of undue road
30 damage attributable to coal resource transportation road
31 system permit use.

32 (b) The public service commission shall administer the
33 coal resource transportation road permitting program and
34 otherwise enforce the provisions of this article. The
35 commission shall establish requirements for vehicle
36 operators holding coal resource transportation road
37 permits pursuant to section five of this article consistent
38 with federal statutory and regulatory requirements.

39 (1) The commission may, during normal business hours,
40 conduct inspections of all trucking related records of
41 shippers, vehicle operators, vehicle owners and receivers
42 engaged in the transportation of coal. Copies of records
43 shall be provided to commission employees upon request.
44 This provision may not be construed to authorize the
45 commission to reveal trade secrets or other confidential
46 financial information of those persons inspected; however
47 the commission may use any weight measurement records
48 as evidence of a violation of this article.

49 (2) The commission shall establish and maintain a toll
50 free telephone line for public reporting of poor driving or
51 law violations by special permit operators. In addition,
52 the commission shall require all vehicles operating under
53 a permit issued pursuant to the provisions of this article to
54 clearly display on the vehicle the toll-free telephone
55 number.

56 (3) The commission shall implement a study of commer-
57 cial vehicle safety-related issues, including using higher
58 education institutions and other research organizations.
59 The commission shall provide periodic reports to the
60 commercial motor vehicle weight and safety enforcement

61 advisory committee as established in section two, article
62 one-a, chapter twenty-four-a of this code relating to the
63 study of motor vehicle weight and safety enforcement.

64 (4) The commission shall establish procedures to use
65 electronic real time reporting of coal vehicle weights on
66 coal resource transportation roads by shippers and receivers.
67 The commission may require daily certified reports
68 from shippers or receivers if electronic reporting methods
69 are not used. The commission may authorize alternative
70 measures of reporting that require same-day reporting of
71 weight measurements by shippers and receivers.

72 (5) The commission shall impose and collect from ship-
73 pers of coal on the coal resource transportation road
74 system through the use of the special permit, issued
75 pursuant to section five of this article, for the privilege of
76 loading coal in excess of eighty-eight thousand pounds for
77 transport on a coal resource transportation road. The fee
78 shall be assessed in the amount of five cents per ton of coal
79 hauled over the road. Revenue from the fees shall be
80 deposited in the coal resource transportation fund created
81 in said section.

82 (c) Notwithstanding the provisions of section three,
83 article one, chapter twenty-nine-a of this code, the com-
84 mission and the division shall each propose legislative
85 rules for promulgation in accordance with the provisions
86 of article three of said chapter to carry out their duties and
87 responsibilities pursuant to the provisions of this article.

**§17C-17A-6. Reporting requirements for shippers, vehicle
owners and receivers of coal transported on
public highways.**

1 (a) Every shipper of coal for transport on a coal resource
2 transportation road in this state that loads vehicles shall
3 be required to report to the commission weight and other
4 transport-related data as required in this article. The
5 commission shall by rule establish special recording and

6 reporting methods for timely and accurate disclosure of all
7 shipments of coal made upon any coal resource transporta-
8 tion road of this state. The rules shall provide for adminis-
9 trative penalties to be imposed for failure to timely or
10 accurately report weight or other required data.

11 (b) Every vehicle owner who transports coal on a coal
12 resource transportation road of this state is subject to the
13 provisions of this article and any rules established by the
14 commission requiring reporting, monitoring or removal
15 from service of any unsafe vehicle or driver.

16 (c) Every receiver of coal transported on a coal resource
17 transportation road in this state that unloads or causes to
18 be unloaded any shipment of coal shall report to the
19 commission the weight of the shipment and other data
20 related to the shipment as required by rules promulgated
21 by the commission. The rules shall provide for administra-
22 tive penalties to be imposed for failure to timely or
23 accurately report the weight or other data. Compliance
24 with the reporting requirements shall cause the receiver to
25 be immune from any and all criminal, civil and adminis-
26 trative liability, damages, costs, fines and penalties based
27 on, arising out of or resulting from the receiver's receipt or
28 acceptance of the shipment.

29 (d) The commission shall by rule establish special
30 recording and reporting methods for timely and accurate
31 disclosure of all shipments of coal made by commercial
32 motor vehicles upon a coal resource transportation road of
33 this state.

34 (e) Any receiver receiving any vehicle transporting coal
35 in excess of eighty-eight thousand pounds, on any non-
36 coal transportation highways shall file a report with the
37 public service commission, identifying the vehicle and its
38 driver within twenty-four hours of being received. The
39 reports shall be subject to freedom of information requests
40 in accordance with chapter twenty-nine-b of this code.
41 Nothing contained in this subsection shall be construed to

42 restrict application of any other provision of this chapter
43 or any rules promulgated pursuant to this chapter.

**§17C-17A-12. Designating special coal resource transportation
roads, highways and bridges.**

1 (a) From those counties and districts described in
2 subdivision (a), section two of this article, the commis-
3 sioner of the division of highways shall identify those
4 public roads, highways and bridges used during the
5 previous twelve-month period for transportation of
6 quantities of coal in excess of fifty thousand tons or
7 projected to be used for transporting quantities of coal in
8 excess of fifty thousand tons during the ensuing year. The
9 identification process shall include the following as to
10 each discretely identifiable section of the public highway:

11 (1) The current condition of the public roads, highways
12 and bridges;

13 (2) The estimated quantities of coal transported;

14 (3) Any planned or necessary maintenance or improve-
15 ment;

16 (4) The number of truck loads of coal transported in an
17 average day;

18 (5) Any anticipated increase or decrease in the quantity
19 of coal being transported; and

20 (6) Other information determined by the commissioner to
21 be relevant.

22 (b) Upon completion of the identification process, but in
23 no event later than the first day of July, two thousand
24 three, the commissioner shall designate by order an
25 interim coal resource transportation road system consist-
26 ing of those public roads, highways, bridges or segments
27 thereof which may be used as special coal haulage roads
28 consistent with the authority contained in this article. The
29 commissioner shall establish a process for the receipt and

30 evaluation of public comment on the designations con-
31 tained within the interim coal resource transportation
32 road system, and designate weight limits and other
33 conditions for use of the coal resource transportation road
34 system as public interest so provides. The commissioner
35 shall publish a directory, including supporting maps and
36 other documents, of the interim coal resource transporta-
37 tion road system.

38 (c) By no later than the first day of January, two thou-
39 sand four, the commissioner shall designate by order the
40 coal resource transportation road system and shall publish
41 a directory, including supporting maps and other docu-
42 ments, of that road system.

43 (d) The commissioner shall establish a process for
44 periodic evaluation of the designations contained in the
45 coal resource transportation road system in order to add to
46 or delete from the road system certain additional sections
47 of public highways: *Provided*, That the evaluations and
48 modifications of the road system shall be completed at a
49 minimum on an annual basis.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 7th
Day of April, 2004.
[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR
DATE 3/31/04
TIME 10:45am