

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4186

(BY DELEGATES CADLE, COOPER, FOSTER, AMBLER,
HOWELL, BUTLER, HOUSEHOLDER, MOFFATT, SMITH, R.,
WESTFALL AND HAMRICK)

[Passed March 12, 2016; in effect from passage.]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2016 MAR 25 P 3:29

FILED

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1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §24A-2-2b, relating to Public Service Commission; requiring the Public Service
3 Commission promulgate rules related to rates charged by a carrier for the recovery,
4 towing, hauling, carrying or storing of a wrecked or disabled vehicle; establishing a
5 complaint review process; developing a process for aggrieved parties to recover charges;
6 providing the burden of proof be on the carrier; establishing factors for Public Service
7 Commission to consider in determining whether rates are fair, effective and reasonable;
8 requiring carriers to list rates on invoices; providing for promulgated rules to sunset; and
9 requiring a review of rules by the Legislative Auditor.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §24A-2-2b, to read as follows:

**CHAPTER 24A. MOTOR CARRIERS OF PASSENGERS AND PROPERTY
FOR HIRE.**

ARTICLE 2. COMMON CARRIERS BY MOTOR VEHICLES.

**§24A-2-2b. Rule-making authority; establishing rates for recovering, towing, hauling,
carrying, or storing wrecked or disabled vehicles; complaint process; and
required Legislative Audit.**

1 (a) On or before July 1, 2016, the Commission shall promulgate rules to effectuate the
2 provisions of this article.

3 (b) The rules promulgated pursuant to the provisions of this section shall describe:

4 (1) Factors determining the fair, effective and reasonable rates levied by a carrier for
5 recovering, towing, hauling, carrying or storing a wrecked or disabled vehicle. The commission
6 shall consider, but shall not be limited to:

7 (A) Tow vehicle(s) and special equipment required to complete recovery/tow;

8 (B) Total time to complete the recovery or tow;

9 (C) Number of regular and extra employees required to complete the recovery or tow;

10 (D) Location of vehicle recovered or towed;

11 (E) Materials or cargo involved in recovery or tow;

12 (F) Comparison with reasonable prices in the region;

13 (G) Weather conditions; and

14 (H) Any other relevant information having a direct effect on the pricing of the recovery,
15 towing and storage of a recovered or towed vehicle;

16 (2) The process for filing a complaint, the review and investigation process to ensure it is
17 fair, effective and timely: *Provided*, That in any formal complaint against a carrier relating to a
18 third-party tow, the burden of proof to show that the carrier's charges are just, fair and reasonable
19 shall be upon the carrier;

20 (3) The process for aggrieved parties to recover the cost, from the carrier, for the charge
21 or charges levied by a carrier for recovering, towing, hauling, carrying or storing a wrecked or
22 disabled vehicle where the commission determines that such charge or charges are not otherwise
23 just, fair or reasonable; and

24 (4) The process to review existing maximum statewide wrecker rates and special rates for
25 the use of special equipment in towing and recovery work to ensure that rates are just, fair and
26 reasonable: *Provided*, That the commission shall generally disapprove hourly and flat rates for
27 ancillary equipment.

28 (c) All carriers regulated under this article shall list their approved rates, fares and charges
29 on every invoice provided to an owner, operator or insurer of a wrecker or disabled motor vehicle.

30 (d) The rules promulgated pursuant to this article shall sunset on July 1, 2021, unless
31 reauthorized.

32 (e) On or before December 31, 2020, the Legislative Auditor shall review the rules
33 promulgated by the Public Service Commission under this section. The audit shall evaluate the

34 rate-making policy for reasonableness, the complaint process for timeliness, the penalties for
35 effectiveness and any other metrics the Legislative Auditor deems appropriate. The Legislative
36 Auditor may recommend that the rule be reauthorized, reauthorized with amendment or repealed.

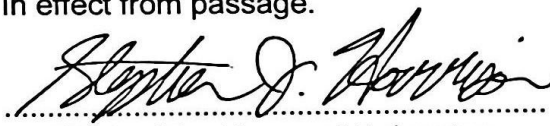
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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Chairman, House Committee


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Chairman, Senate Committee

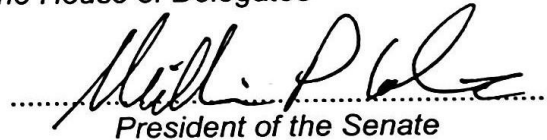
Originating in the House.

In effect from passage.


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Clerk of the House of Delegates


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Clerk of the Senate


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Speaker of the House of Delegates


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President of the Senate

The within *is* approved this the *25th* day of *March*, 2016.


.....
Governor

PRESENTED TO THE GOVERNOR

MAR 24 2015

Time 3:44 pm