

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2890

BY DELEGATES STEELE, FOSTER AND J. PACK

[Passed April 7, 2021; in effect ninety days from passage.]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2021 APR 26 P 5: 04

FILED

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1 AN ACT to amend and reenact §24A-1-2 and §24A-1-3 of the Code of West Virginia, 1931, as
2 amended, all relating to clarifying the authority of the Public Service Commission of West
3 Virginia over luxury limousine services; defining terms; and creating exemption from
4 certain contract and common carrier laws for luxury limousine services.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. PURPOSES, DEFINITIONS AND EXEMPTIONS.

§24A-1-2. Definitions.

1 As used in this chapter:

2 "Commission" means the Public Service Commission of West Virginia;

3 "Common carrier by motor vehicle" means any person who undertakes, whether directly
4 or by lease or any other arrangement, to transport passengers or property, or any class or classes
5 of property, for the general public over the highways of this state by motor vehicles for hire,
6 whether over regular or irregular routes, including such motor vehicle operations of carriers by
7 rail, water, or air, and of express or forwarding agencies, and leased or rented motor vehicles,
8 with or without drivers;

9 "Contract carrier by motor vehicle" means any person not included within the definition of
10 "common carrier by motor vehicle", who under special and individual contracts or agreements,
11 and whether directly or by lease or any other arrangement, transports passengers or property
12 over the highways in this state by motor vehicles for hire;

13 "Driveaway operation" means an operation in which any vehicle or vehicles, operated
14 singly or in lawful combinations, new or used, not owned by the transporting motor carrier,
15 constitute the commodity being transported;

16 "Emergency substitute carrier" means a common carrier by motor vehicle or a contract
17 carrier by motor vehicle that is authorized by the Public Service Commission to provide service
18 on a temporary basis outside of its certificated territory or its contract because of commission

19 suspension of a motor carrier certificate of convenience and necessity, or contract carrier by motor
20 vehicle permit;

21 "Exempt carrier" means any person operating a motor vehicle exempt from the provisions
22 of §24A-1-3 of this code;

23 "I.C.C." means the Interstate Commerce Commission;

24 "Luxury limousine service" means passenger motor carrier service by pre-arranged
25 appointment with a minimum charge of no less than \$60.00, with a formally dressed chauffeur,
26 using a large and luxurious sedan, sport utility vehicle, or van, or an antique vehicle: *Provided*,
27 That "luxury limousine service" does not include a passenger motor carrier that is serving railroad
28 crews for railroad purposes or used for nonemergency medical transportation other than Medicaid
29 members.

30 "Motor carrier" includes both a common carrier by motor vehicle and a contract carrier by
31 motor vehicle;

32 "Motor vehicle" means, and includes, any automobile, truck, tractor, truck-tractor, trailer,
33 semitrailer, motorbus, taxicab, any self-propelling motor-driven motor vehicle, or any combination
34 thereof used upon any public highway in this state for the purpose of transporting persons or
35 property;

36 "NARUC" means the National Association of Regulatory Utility Commissioners;

37 "Operations within the borders of this state" means interstate or foreign operations to,
38 from, within, or traversing this state;

39 "Person" means and includes any individual, firm, copartnership, corporation, company,
40 association, or joint-stock association, and includes any trustee, receiver, assignee, or personal
41 representative thereof;

42 "Planting and harvesting season" means January 1 through December 31 of each
43 calendar year only as it relates to the administration of rules promulgated pursuant to §24A-5-5(j)
44 of this code;

45 "Private commercial carrier" means and includes any person who undertakes, whether
46 directly or by lease or other arrangement, to transport property, including hazardous materials as
47 defined in rules and regulations promulgated by the commission, for himself or herself over the
48 public highways of this state, in interstate or intrastate commerce, for any commercial purpose,
49 by motor vehicle with a gross vehicle weight rating of 10,001 pounds or more, by motor vehicle
50 designed to transport more than 15 passengers, including the driver; or by any motor vehicle used
51 to transport hazardous materials in a quantity requiring placarding under federal hazardous
52 material regulations as adopted by the commission;

53 "Power unit" means any vehicle which contains within itself the engine, motor, or other
54 source of power by which said vehicle is propelled; and

55 "Public highway" means any public street, alley, road or highway, or thoroughfare of any
56 kind in this state used by the public.

§24A-1-3. Exemptions from chapter.

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

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

6 (2) Motor vehicles owned and operated by the United States of America, the State of West
7 Virginia or any county, municipality or county board of education, urban mass transportation
8 authority established and maintained pursuant to §8-27-1 *et seq.* of this code or by any of their
9 departments, and any motor vehicles operated under a contract with a county board of education
10 exclusively for the transportation of children to and from school or other legitimate transportation
11 for the schools as the commission may specifically authorize;

12 (3) Motor vehicles used exclusively in the transportation of agricultural or horticultural
13 products, livestock, poultry and dairy products from the farm or orchard on which they are raised

14 or produced to markets, processing plants, packing houses, canneries, railway shipping points
15 and cold storage plants, and in the transportation of agricultural or horticultural supplies to farms
16 or orchards where they are to be used: *Provided*, That the vehicles that are exempted by this
17 subdivision and are also operated by common carriers by motor vehicle or contract carriers by
18 motor vehicle, and their operators are subject to the safety and insurance rules promulgated by
19 the commission;

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

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

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

24 (7) Motor vehicles used exclusively in the transportation of coal from mining operations to
25 loading facilities for further shipment by rail or water carriers: *Provided*, That the vehicles and their
26 operators are subject to the safety rules promulgated by the commission and the vehicles that are
27 exempted by this subdivision and are also operated by common carriers by motor vehicle or
28 contract carriers by motor vehicle, and their operators are subject to the insurance rules
29 promulgated by the commission;

30 (8) Motor vehicles used by petroleum commission agents and oil distributors solely for the
31 transportation of petroleum products and related automotive products when the transportation is
32 incidental to the business of selling the products: *Provided*, That the vehicles and their operators
33 are subject to the safety rules promulgated by the commission and the vehicles that are exempted
34 by this subdivision and are also operated by common carriers by motor vehicle or contract carriers
35 by motor vehicle, and their operators are subject to the insurance rules promulgated by the
36 commission;

37 (9) Motor vehicles owned, leased by or leased to any person and used exclusively for the
38 transportation of processed source-separated recycled materials generated by commercial,
39 institutional and industrial customers, transported free of charge or by a nonprofit recycling

40 cooperative association in accordance with §19-4-1(d)(1) of this code from the customers to a
41 facility for further processing: *Provided*, That the vehicles and their operators shall be subject to
42 the safety rules promulgated by the commission and the vehicles that are exempted by this
43 subdivision and are also operated by common carriers by motor vehicle or contract carriers by
44 motor vehicle, and their operators are subject to the insurance rules promulgated by the
45 commission;

46 (10) Motor vehicles specifically preempted from state economic regulation of intrastate
47 motor carrier operations by the provisions of 49 U. S. C. §14501 as amended by Title I, Section
48 103 of the federal Interstate Commerce Commission Termination Act of 1995: *Provided*, That the
49 vehicles and their operators are subject to the safety regulations promulgated by the commission
50 and the vehicles that are exempted by this subdivision and are also operated by common carriers
51 by motor vehicle or contract carriers by motor vehicle, and their operators are subject to the
52 insurance rules promulgated by the commission;

53 (11) Motor vehicles designated by the West Virginia Bureau of Senior Services for use
54 and operation by local county aging programs: *Provided*, That the vehicles and their operators
55 are subject to the safety rules promulgated by the commission;

56 (12) Motor vehicles designated by the West Virginia Division of Public Transit operated by
57 organizations that receive federal grants from the Federal Transit Administration: *Provided*, That
58 the vehicles and their operators are subject to the safety and insurance rules promulgated by the
59 commission;

60 (13) Motor vehicles used exclusively in the nonemergency medical transportation of
61 Medicaid members including those under contract with any broker authorized by the Bureau for
62 Medical Services: *Provided*, That these vehicles and their operators shall be subject to the safety
63 rules promulgated by the commission;

64 (14) Common carriers or contract carriers engaged in the business of transporting
65 household goods and motor vehicles used exclusively in the transportation of household goods;

66 (15) Common carriers or contract carriers engaged in the business of transporting scrap
67 tires, waste tires, or other used tires to storage, disposal, or recycling locations; or

68 (16) Motor vehicles operated under a contract with the West Virginia Department of
69 Environmental Protection exclusively for the cleanup and transportation of waste tires generated
70 from state authorized waste tire remediation or cleanup projects: *Provided*, That the vehicles that
71 are exempted by this subdivision, and their operators, are subject to the safety and insurance
72 rules promulgated by the commission.

73 (17) Luxury limousine service: *Provided*, That luxury limousine service vehicles and their
74 operators are subject to the safety rules and insurance requirements promulgated by the
75 commission.

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

Dean Jappone
.....
Chairman, House Committee

Mark Warner
.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Steve Harris
.....
Clerk of the House of Delegates

Joe Lamm
.....
Clerk of the Senate

Les Young
.....
Speaker of the House of Delegates

C. P. Bell
.....
President of the Senate

FILED
2021 APR 26 P 5:04
OFFICE WEST VIRGINIA
SECRETARY OF STATE

The within *is approved* this the *26th*
day of *April*, 2021.

James Eastman
.....
Governor

PRESENTED TO THE GOVERNOR

APR 22 2021

Time 1:53 pm