

1 **H. B. 3100**

2
3 (By Delegates Boggs, Manypenny, Fleischauer, Caputo
4 and Longstreth)

5
6 [Introduced March 25, 2013; referred to the
7 Committee on Roads and Transportation then the
8 Judiciary.]

9
10 A BILL to amend and reenact §24A-5-5 of the Code of West Virginia,
11 1931, as amended, relating to increasing the minimum amounts
12 of insurance necessary for commercial motor carriers in the
13 state.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §24A-5-5 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 5. POWERS AND DUTIES OF COMMISSION.**

18 **§24A-5-5. Further regulatory powers of the commission.**

19 (a) The commission shall prescribe rules of practice and
20 procedure including, the method and manner of holding hearings,
21 taking evidence, and entering orders. In the investigation,
22 preparation and hearing of cases, the commission is not bound by
23 the technical rules of pleading and evidence, but may exercise
24 discretion to facilitate its efforts to understand and learn all
25 the facts bearing upon the right and justness of the matters before

1 it.

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

11 (c) The commission shall prescribe a schedule of fees to
12 accompany: (i) Applications for certificates of convenience and
13 necessity; (ii) applications for permit; and (iii) other filings
14 and recordings of other papers with the commission. The commission
15 shall prescribe a schedule of fees to be charged for: (i) The
16 certification of all records and papers; (ii) the payment of
17 witnesses; and (iii) other costs necessary and incident to hearings
18 before it or its employees. Sums collected in accordance with this
19 subsection, except witness fees, are to be paid into the State
20 Treasury and credited to the Public Service Commission motor
21 carrier fund provided for in section six, article six of this
22 chapter. Witness fees are to be paid to the persons entitled to
23 them.

24 (d) The commission shall establish a system of accounts to be

1 kept by motor carriers; or classify motor carriers and establish a
2 system of accounts for each class. The commission shall prescribe
3 the manner in which the accounts are to be kept. It may prescribe
4 the form of accounts, records, and memoranda to be kept by the
5 motor carriers, including the accounts, records, and memoranda for
6 the movement of traffic, the receipts and expenditures of money,
7 and any other forms, records and memoranda which in the judgment of
8 the commission may be necessary to carry out any of the provisions
9 of this chapter.

10 (e) The commission shall require persons subject to the
11 provisions of this chapter to furnish any information in their
12 possession or obtainable from their accounting or other records,
13 respecting rates, charges, classifications or practices in
14 conducting their business. The commission has the authority to
15 inspect any books, papers or reports. Any statements required by
16 this subsection are to be under oath when required by the
17 commission. The form of all reports required under this chapter
18 are to be prescribed by the commission.

19 (f) The commission as a whole or any of its members or
20 designated employees, shall subpoena witnesses, take testimony and
21 administer oaths to any witness in any proceeding or examination
22 instituted before it or conducted by it with reference to any
23 matter within its jurisdiction. In all hearings or proceedings
24 before the commission or its designated employees, the evidence of

1 witnesses and the production of documentary evidence may be
2 required at any designated place of hearing within the state. In
3 the case of disobedience to a subpoena or other process, the
4 commission or any party to the proceedings before the commission
5 may invoke the aid of any circuit court in the state in requiring
6 the evidence and testimony of witnesses and the production of
7 papers, books, and documents. The court, in the case of a refusal
8 to obey the subpoena issued to any person or to any motor carrier
9 subject to the provisions of this chapter, shall issue an order
10 requiring the person or motor carrier to appear before the
11 commission or its designated employees and produce all requested
12 books and papers and give evidence relating to the matter in
13 question. Any failure to obey the order of the court may be
14 punished by the court as contempt. A claim that testimony or
15 evidence may tend to incriminate the person giving the testimony or
16 evidence does not excuse the person from testifying, but the person
17 may not be prosecuted for any offense concerning which he or she
18 has been compelled to testify.

19 (g) The commission shall require common carriers by motor
20 vehicle and contract carriers by motor vehicle subject to the
21 provisions of this chapter either to procure insurance from a
22 company authorized to write insurance in West Virginia, to qualify
23 as a self-insurer, or to deposit security upon terms and conditions
24 and for limits of liability as the commission shall determine to be

1 necessary for the reasonable protection of the traveling, shipping,
2 and general public against injury, loss, damage or default for
3 which the carrier may be liable. It shall prescribe rules and
4 regulations governing the filing of evidence of insurance and
5 security with the commission. In fixing the amount of the
6 insurance policy or policies, the qualifications as a self-insurer,
7 or the deposit of security, the commission shall give due
8 consideration to the character and amount of traffic, the value of
9 the property transported, the number of persons affected, and the
10 degree of danger involved in any motor carrier operation. The
11 commission shall set, at a minimum, the amount of the insurance
12 policies to be at least \$2 million because of bodily injury to or
13 death of one person in any one accident, and, subject to the limit
14 for one person, in the amount of at least \$5 million because of
15 bodily injury to or death of two or more persons in any one
16 accident, and in the amount of at least \$500,000 because of injury
17 to or destruction of property of others in any one accident, and in
18 the amount of at least \$5.5 million total combined single limit:
19 *Provided*, That the amount set by the commission for for-hire
20 vehicles, that haul nonhazardous property with a gross vehicle
21 weight of ten thousand or more pounds, shall be at least \$750,000
22 because of injury to or destruction of property of others in any
23 one accident.

24 (h) The commission shall cooperate with the federal government

1 or any other commission or organized delegated authority to
2 regulate interstate or foreign commerce by motor vehicles to ensure
3 that the transportation of persons and property by motor vehicles
4 in interstate and foreign commerce into and through the State of
5 West Virginia may be regulated and the laws of the United States
6 and the State of West Virginia enforced and administered
7 cooperatively in the public interest.

8 (i) The commission shall make agreements on behalf of the
9 State of West Virginia with any other state or states providing for
10 reciprocal rights, privileges, and courtesies between the licensees
11 or holders of certificates and permits of the state or states and
12 the State of West Virginia. These agreements may include
13 provisions regarding certificates and permits, fees, assessments,
14 and uniform vehicle identification cards, and the transportation of
15 either persons or property into or through the respective state or
16 states and the State of West Virginia. All existing agreements
17 between a state or states and the State of West Virginia for
18 reciprocal rights, privileges, and courtesies may, provided
19 Constitutional and contractual rights are not violated, be declared
20 void by the commission, and new agreements negotiated.

21 (j) The commission shall promulgate: (i) Safety rules
22 applicable to motor vehicles subject to the provisions of this
23 chapter; (ii) rules governing the qualifications and maximum hours
24 of service of drivers and chauffeurs of common and contract

1 carriers by motor vehicle of passengers and property subject to the
2 provisions of this chapter; and (iii) any other rules that the
3 commission may deem proper to carry out the provisions and intent
4 of this chapter.

NOTE: The purpose of this bill is to raise the minimum amounts of insurance for commercial motor carriers in the state. The bill requires those minimum amounts to be \$2 million for bodily injury to one person, \$5 million for bodily injury to two or two persons, \$500,000 for property damage and a total combined single limit of \$5.5 million.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.