

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Originating**

**House Bill 3130**

BY DELEGATES CAPITO, KEATON, AND L. PACK

[Originating in the Committee on Judiciary; reported

on March 11, 2021]



1 A BILL to amend §24A-2-2b of the Code of West Virginia, 1931, as amended, relating to  
2 eliminating the sunset provisions for rules promulgated concerning towing rates, and, to  
3 eliminating the provision relating to review of those rules by the legislative auditor.

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

**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.~~