

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENGROSSED

House Bill 3130

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[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 prohibiting the Public Service Commission from promulgating rules or regulations requiring
3 wrecker companies to permit the registered owner of a towed vehicle to access the vehicle
4 without a fee to retrieve his or her personal property; to restricting the Public Service
5 Commission from promulgating rules requiring wrecker companies to destroy abandoned
6 vehicles in lieu of selling such vehicles; eliminating the sunset provisions for rules
7 promulgated concerning towing rates; to eliminating the provision relating to review of
8 those rules by the legislative auditor; and other technical corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. COMMON CARRIER 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: Provided, that no rules which are promulgated under the authority
3 granted in this section may require a wrecker company to:

4 (1) Permit the registered owner or any other person to access the towed vehicle in any
5 manner whatsoever unless and until the registered owner or his or her designee has remitted to
6 the wrecker company all fees and charges which have been lawfully assessed by the wrecker
7 company and for which the registered owner is responsible; or

8 (2) Destroy or otherwise dispose of a vehicle which has been abandoned by its owner.

9 Provided, however, That the Commission may promulgate rules governing the procedures by
10 which a wrecker company may sell a vehicle which has been abandoned by its owner.

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

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

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

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

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

18 (D) Location of vehicle recovered or towed;

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

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

21 (G) Weather conditions; and

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

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

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

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

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

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

40 ~~(e) On or before December 31, 2020, the Legislative Auditor shall review the rules~~
41 ~~promulgated by the Public Service Commission under this section. The audit shall evaluate the~~
42 ~~rate-making policy for reasonableness, the complaint process for timeliness, the penalties for~~
43 ~~effectiveness, and any other metrics the Legislative Auditor deems appropriate. The Legislative~~
44 ~~Auditor may recommend that the rule be reauthorized, reauthorized with amendment, or repealed.~~