

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Originating

House Bill 3132

BY DELEGATES CAPITO, KEATON, AND L. PACK

[Introduced March 11, 2021; originating in the
Committee on the Judiciary]

1 A BILL to amend and reenact §17A-11-4 of the Code of West Virginia, 1931 as mended; and to
2 amend and reenact §17C-6-10 of said Code; to amend and reenact §17C-17-10 of said Code;
3 to amend and reenact §17E-1-24 of said Code; to amend and reenact §24A-7-6 and §27A-7-7
4 of said Code; and to amend and reenact §30-29-1 and §30-29-5 of said Code; all relating to
5 changing the term “motor carrier inspectors” to “commercial vehicle enforcement officers”
6 throughout the Code; and removing linguistic inconsistencies.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,
CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

ARTICLE 11. PENALTIES.

**§17A-11-4. Authority of members of official highway department weighing crews and
Public Service Commission, motor carrier employees.**

1 Employees of the department of highways designated by the commissioner of highways
2 as weight enforcement officers and employees of the Public Service Commission designated by
3 the chairman as ~~motor carrier utility inspectors~~ commercial vehicle enforcement officers, shall,
4 during the course of their normal duties, have concurrent jurisdiction with police officers in the
5 enforcement of article nine of this chapter.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 6. SPEED RESTRICTIONS.

**§17C-6-10. Enforcement of article with respect to operations of commercial motor
vehicles.**

1 In addition to enforcement by officers and other persons authorized by law, ~~designated~~
2 ~~employees~~ commercial vehicle enforcement officers of the Public Service Commission of West
3 Virginia may enforce the provisions of this article as they relate to the operation of commercial
4 motor vehicles.

ARTICLE 17. SIZE, WEIGHT AND LOAD.

§17C-17-10. Officers may weigh, measure or examine vehicles and require removal or rearrangement of excess loads.

1 (a) Any police officer or employee of the Division of Highways or the Public Service
2 Commission designated as a commercial vehicle enforcement officer or member of an official
3 weighing crew by his or her representative agency may require the driver of any vehicle or
4 combination of vehicles located on or within one hundred feet of any public highway or right-of-
5 way, and whether moving or stopped, to submit the vehicle or combination of vehicles to a
6 weighing with portable or stationary weighing devices or submit the vehicle or combination of
7 vehicles to a measuring or to any other examination necessary to determine if the vehicle or
8 combination of vehicles is in violation of any of the provisions of this article or article seventeen-
9 a of this chapter, and may require that the vehicle or combination of vehicles be driven to the
10 nearest weighing device.

11 No vehicle or combination of vehicles may be detained for weighing unless a portable or
12 stationary weighing device is actually present at the location where, and at the time, the vehicle
13 or combination of vehicles is stopped or unless the vehicle or combination of vehicles is
14 escorted immediately after being stopped to the nearest portable or stationary weighing device.
15 In no case may a vehicle or combination of vehicles be detained more than one hour from the
16 time it is stopped for weighing unless the vehicle or combination of vehicles is impounded for
17 another violation or placed out of service for a safety violation.

18 (b) Whenever a police officer or a member of an official weighing crew or a commercial
19 vehicle enforcement officer determines that a vehicle or combination of vehicles is in violation of
20 any of the provisions of this article or article seventeen-a of this chapter, he or she may require
21 the driver to remain in place or be moved to a suitable location until the vehicle or combination
22 of vehicles is brought into conformity with the provisions violated.

23 In the case of a weight violation all material unloaded shall be cared for by the owner,
24 lessee or borrower of the vehicle or combination of vehicles at the risk of the owner, lessee or
25 borrower: *Provided*, That no criminal charge shall be preferred against any driver, operator or
26 owner of a vehicle when a rearrangement of the load upon the vehicle, without removal of the
27 load from the vehicle, reduces the axle loads of the vehicle to the limit permitted under this
28 chapter.

29 (c) Any driver of a vehicle or combination of vehicles who fails or refuses to comply with
30 any requirement or provision of this section shall be guilty of a misdemeanor, or in the case of
31 any driver of a vehicle engaged in the transportation of coal, any other additional penalties that
32 may be applicable under the provisions of article seventeen-a of this chapter.

CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-24. Enforcement.

1 In addition to the officers of the West Virginia State Police, any police officer, or any
2 ~~inspector~~commercial vehicle enforcement officer or weight enforcement officer of the Public
3 Service Commission, Motor Carrier Division, and any special agent of the Federal Motor Carrier
4 Safety Administration may enforce the provisions of this article.

CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.

ARTICLE 7. COMPLAINTS, DAMAGES AND VIOLATIONS.

**§24A-7-6. Duty of prosecuting attorneys and law-enforcement officers to enforce chapter;
regulatory authority of commission; qualifications of commission employees
designated as ~~motor carrier inspectors~~ commercial vehicle enforcement officers.**

1 It shall be the duty of the West Virginia state police and the sheriffs of the counties in
2 West Virginia to make arrests and the duty of the prosecuting attorneys of the several counties
3 to prosecute all violations of this chapter and of other chapters governing the regulatory

4 authority of the commission. The commission employees designated as ~~motor carrier inspectors~~
5 commercial vehicle enforcement officers shall have the same authority as law-enforcement
6 officers to enforce the provisions of this chapter and the provisions of other chapters of this code
7 governing the regulatory authority of the commission as such provisions apply to entities and
8 persons regulated by the commission in any county or city of this state. Notwithstanding any
9 provision of this code to the contrary, such ~~motor carrier inspectors~~ commercial vehicle
10 enforcement officers may carry handguns in the course of their official duties after meeting
11 specialized qualifications established by the Governor's committee on crime, delinquency and
12 correction, which qualifications shall include the successful completion of handgun training,
13 including a minimum of four hours training in handgun safety, paid for by the commission and
14 comparable to the handgun training provided to law-enforcement officers by the West Virginia
15 state police; *Provided*, That nothing in this section shall be construed to include ~~motor carrier~~
16 ~~inspectors~~ the commission within the meaning of law-enforcement officers within the meaning of
17 law-enforcement agency, as defined in section one, article twenty-nine, chapter thirty of this
18 code.

**§24A-7-7. Authority of motor carrier inspectors to enforce all traffic rules as to
commercial vehicles; use of radar as evidence.**

1 (a) The employees of the commission designated as ~~motor carrier inspectors~~
2 commercial vehicle enforcement officers have the same authority as law-enforcement officers
3 generally to enforce the provisions of chapter seventeen-c of this code with respect to
4 commercial motor vehicles owned or operated by motor carriers, exempt carriers or private
5 commercial carriers where vehicles have a gross vehicle weight rating of ten thousand pounds
6 or more.

7 The commission is authorized to delegate ~~motor carrier inspector~~ commercial vehicle
8 enforcement officer duties to weight enforcement officers as it considers appropriate, following
9 successful training and certification of individual officers, who shall then have the same authority

10 as ~~motor carrier inspectors~~ commercial vehicle enforcement officers under this section. The
11 commission is also authorized to delegate weight enforcement duties to ~~motor carrier inspectors~~
12 commercial vehicle enforcement officers.

13 (b) The speed of a commercial motor vehicle owned or operated by a motor carrier,
14 exempt carrier or private commercial carrier may be proved by evidence obtained by use of any
15 device designed to measure and indicate or record the speed of a moving object by means of
16 microwaves, when the evidence is obtained by employees of the commission designated as
17 ~~motor carrier inspectors~~ commercial vehicle enforcement officers. The evidence so obtained is
18 prima facie evidence of the speed of the vehicle.

19 (c) ~~Motor carrier inspectors~~ Commercial vehicle enforcement officers shall also perform
20 a ~~north~~ North American standard safety inspection of each commercial motor vehicle stopped
21 for enforcement purposes pursuant to this section.

22 (d) Before exercising the provisions of this section, the ~~motor carrier inspectors~~
23 commercial vehicle enforcement officers shall receive adequate training.

24 (e) Nothing in this section affects the existing authority of law-enforcement officers not
25 employed by the commission to enforce the provisions of chapter seventeen-c of this code.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

1 For the purposes of this article, unless a different meaning clearly appears in the
2 context:

3 (1) "Approved law-enforcement training academy" means any training facility which is
4 approved and authorized to conduct law-enforcement training as provided in this article;

5 (2) "Chief executive" means the Superintendent of the State Police; the chief Natural
6 Resources police officer of the Division of Natural Resources; the sheriff of any West Virginia

7 county; any administrative deputy appointed by the chief Natural Resources police officer of the
8 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement
9 agency;

10 (3) "County" means the 55 major political subdivisions of the state;

11 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or
12 above;

13 (5) "Governor's Committee on Crime, Delinquency, and Correction" or "Governor's
14 committee" means the Governor's Committee on Crime, Delinquency, and Correction
15 established as a state planning agency pursuant to §15-9-1 of this code;

16 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement
17 agency who is authorized to maintain public peace and order, prevent and detect crime, make
18 arrests, and enforce the laws of the state or any county or municipality thereof, other than
19 parking ordinances, and includes those persons employed as campus police officers at state
20 institutions of higher education in accordance with the provisions of §18B-4-5 of this code,
21 persons employed as hospital police officers in accordance with the provisions of §16-5B-19 of
22 this code, and persons employed by the Public Service Commission as ~~meter carrier inspectors~~
23 commercial vehicle enforcement officers and weight-enforcement officers charged with
24 enforcing commercial motor vehicle safety and weight restriction laws, although those
25 institutions and agencies may not be considered law-enforcement agencies. The term also
26 includes those persons employed as county litter control officers charged with enforcing litter
27 laws: *Provided*, That those persons have been trained and certified as law-enforcement officers
28 and that certification is currently active. The term also includes those persons employed as
29 rangers by resort area districts in accordance with the provisions of §7-25-23 of this code,
30 although no resort area district may be considered a law-enforcement agency: *Provided*,
31 *however*, That the subject rangers shall pay the tuition and costs of training. As used in this

32 article, the term “law-enforcement officer” does not apply to the chief executive of any West
33 Virginia law-enforcement agency or any watchman or special Natural Resources police officer;

34 (7) “Law-enforcement official” means the duly appointed chief administrator of a
35 designated law-enforcement agency or a duly authorized designee;

36 (8) “Municipality” means any incorporated town or city whose boundaries lie within the
37 geographic boundaries of the state;

38 (9) “Subcommittee” or “law-enforcement professional standards subcommittee” means
39 the subcommittee of the Governor’s Committee on Crime, Delinquency, and Correction created
40 by §30-29-2 of this code; and

41 (10) “West Virginia law-enforcement agency” means any duly authorized state, county,
42 or municipal organization employing one or more persons whose responsibility is the
43 enforcement of laws of the state or any county or municipality thereof: *Provided*, That neither
44 the Public Service Commission nor any state institution of higher education nor any hospital nor
45 any resort area district is a law-enforcement agency.

§30-29-5. Certification requirements and power to decertify or reinstate.

1 (a) Except as provided in subsections (b) and (e) of this section, a person may not be
2 employed as a law-enforcement officer by any West Virginia law-enforcement agency or by any
3 state institution of higher education or by a hospital or by the Public Service Commission of
4 West Virginia on or after the effective date of this article unless the person is certified, or is
5 certifiable in the manner specified in subsection (c) of this section, by the subcommittee as
6 having met the minimum entry level law-enforcement qualification and training program
7 requirements promulgated pursuant to this article: *Provided*, That the provisions of this section
8 do not apply to persons hired by the Public Service Commission as ~~motor-carrier-inspectors~~
9 commercial vehicle enforcement officers and weight enforcement officers before July 1, 2007.

10 (b) Except as provided in subsection (e) of this section, a person who is not certified, or
11 certifiable in the manner specified in subsection (c) of this section, may be conditionally

12 employed as a law-enforcement officer until certified: *Provided*, That within 90 calendar days of
13 the commencement of employment or the effective date of this article, if the person is already
14 employed on the effective date, he or she makes a written application to attend an approved
15 law-enforcement training academy and that the person satisfactorily completes the approved
16 law-enforcement training academy within 18 consecutive months of the commencement of his
17 or her employment: *Provided, however*, That the subcommittee may grant an extension, one-
18 time only, not to exceed six months, based upon a written request from the person justifying the
19 need for such an extension: *Provided further*, That the subcommittee, in its sole discretion, may
20 grant an additional extension upon demonstration of a hardship warranting it. The person's
21 employer shall provide notice, in writing, of the 90-day deadline to file a written application to the
22 academy within 30 calendar days of that person's commencement of employment. The
23 employer shall provide full disclosure as to the consequences of failing to file a timely written
24 application. The academy shall notify the applicant in writing of the receipt of the application and
25 of the tentative date of the applicant's enrollment. Any applicant who, as the result of
26 extenuating circumstances acceptable to his or her employing law-enforcement official, is
27 unable to attend the scheduled training program to which he or she was admitted may reapply
28 and shall be admitted to the next regularly scheduled training program. One year after the
29 effective date of this section, certification as a law-enforcement officer within this state of
30 persons who are not certifiable as provided in subsection (c) of this section shall, in addition to
31 graduation from an established academy in the state, be based on: Current employment as a
32 sworn law-enforcement officer by any West Virginia law-enforcement agency or any state
33 institution of higher education or the Public Service Commission; and the person's successful
34 completion of an approved entry level law-enforcement examination established by legislative
35 rule of the subcommittee, which shall include, at a minimum, written testing requirements,
36 medical standards, physical standards, and good moral character standards conducted in
37 accordance with such rule. The production of a record of successful passage of the approved

38 entry level law-enforcement examination shall indicate the applicant as qualified under the law-
39 enforcement training and certification standards within this state. An applicant who satisfactorily
40 completes the program and successfully passes the approved entry level law-enforcement
41 examination shall, within 30 days of completion, make written application to the subcommittee
42 requesting certification as having met the minimum entry level law-enforcement qualification and
43 training program requirements. Upon determining that an applicant has met the requirements for
44 certification as set forth in this section, the subcommittee shall forward to the applicant
45 documentation of certification. An applicant who fails to complete the training program to which
46 he or she is first admitted, or was admitted upon reapplication, or who fails to pass the approved
47 entry level law-enforcement examination, may not be certified by the subcommittee: *And*
48 *provided further*, That an applicant who has completed the minimum training and examination
49 required by the subcommittee may be certified as a law-enforcement officer, notwithstanding the
50 applicant's failure to complete additional training hours required in the training program to which
51 he or she originally applied. If more than 24 months but less than 60 months have passed since
52 the applicant for certification has successfully completed the approved entry level law-
53 enforcement examination, the person may be certified but must complete the additional training
54 set forth in legislative rules promulgated by the subcommittee addressing the recertification
55 requirements of certified officers. If more than 60 months have passed since the applicant for
56 certification has successfully completed the approved entry level law-enforcement examination,
57 the person must then attend a subcommittee-approved training program and successfully
58 complete a separate subcommittee entry level law-enforcement examination.

59 (c) Any person who begins employment on or after the effective date of this article as a
60 law-enforcement officer is certifiable as having met the minimum entry level law-enforcement
61 training program requirements and is exempt from attending a law-enforcement training
62 academy if the person has satisfactorily completed a course of instruction in law enforcement
63 equivalent to or exceeding the minimum applicable law-enforcement training curricula

64 promulgated by the subcommittee. To receive certification, the person shall make written
65 application within 90 calendar days following the commencement of employment to the
66 subcommittee requesting certification. The application shall include a notarized statement of the
67 applicant's satisfactory completion of the course of instruction in law enforcement, a notarized
68 transcript of the applicant's relevant scholastic records, and a notarized copy of the curriculum
69 of the completed course of instruction. The subcommittee shall review the application and, if it
70 finds the applicant has met the requirements for certification, shall forward to the applicant
71 documentation of certification. The subcommittee may set the standards for required records to
72 be provided by or on behalf of the applicant officer to verify his or her training, status, or
73 certification as a law-enforcement officer. The subcommittee may allow an applicant officer to
74 participate in the approved equivalent certification program to gain certification as a law-
75 enforcement officer in this state.

76 (d) Except as provided in subdivisions (1) through (3), inclusive, of this subsection, any
77 person who is employed as a law-enforcement officer on or after the effective date of this article
78 and fails to be certified shall be automatically terminated and no further emoluments shall be
79 paid to such officer by his or her employer. Any person terminated shall be entitled to reapply,
80 as a private citizen, to the subcommittee for training and certification, and upon being certified
81 may again be employed as a law-enforcement officer in this state: *Provided*, That if a person is
82 terminated under this subsection because an application was not timely filed to the academy,
83 and the person's employer failed to provide notice or disclosure to that person as set forth in
84 subsection (b) of this section, the employer shall pay the full cost of attending the academy if the
85 person's application to the subcommittee as a private citizen is subsequently approved.

86 (1) Any person who is employed as a law-enforcement officer on or after the effective
87 date of this article and fails to be certified as a result of hardship and/or circumstance beyond
88 his or her control may apply to the director of a training academy for reentry to the next available
89 academy.

90 (2) Any person who is employed as a law-enforcement officer on or after the effective
91 date of this article and fails to be certified as a result of voluntary separation from an academy
92 program shall be automatically terminated and no further emoluments may be paid to such
93 officer by his or her employer. Any person terminated as a result of voluntary separation from an
94 academy program may not be conditionally employed as a law-enforcement officer for a period
95 of two years from the date of voluntary separation.

96 (3) Any person who is employed as a law-enforcement officer on or after the effective
97 date of this article and fails to be certified as a result of dismissal from an academy program
98 shall be automatically terminated and no further emoluments may be paid to such officer by his
99 or her employer. Any person terminated as a result of dismissal from an academy program may
100 not be conditionally employed as a law-enforcement officer for a period of five years from the
101 date of dismissal and receiving approval from the subcommittee.

102 (e) Nothing in this article may be construed as prohibiting any governing body, Civil
103 Service Commission, or chief executive of any West Virginia law-enforcement agency from
104 requiring their law-enforcement officers to meet qualifications and satisfactorily complete a
105 course of law-enforcement instruction which exceeds the minimum entry level law-enforcement
106 qualification and training curricula promulgated by the subcommittee.

107 (f) The subcommittee, or its designee, may decertify or reactivate a law-enforcement
108 officer pursuant to the procedure contained in this article and legislative rules promulgated by
109 the subcommittee.

110 (g) Any person aggrieved by a decision of the subcommittee made pursuant to this
111 article may contest the decision in accordance with the provisions of §29A-5-1 *et seq.* of this
112 code.

113 (h) The subcommittee may issue subpoenas for the attendance of witnesses and the
114 production of necessary evidence or documents in any proceeding, review, or investigation
115 relating to certification or hearing before the subcommittee.

NOTE: The purpose of this bill is to change the term “motor carrier inspector” to “commercial vehicle enforcement officer” to reflect the additional training these officers are now required to receive, make them consistent with Division of personnel classifications, and remove the inconsistency between WVC 24A-7-6 and WVC 30-29-1, *et seq.*

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