

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 655

BY SENATOR SWOPE

[Originating in the Committee on the Judiciary;

reported on March 26, 2021]

1 A BILL to amend and reenact §24A-2-2b of the Code of West Virginia, 1931, as amended, relating
2 to rescheduling a review of Public Service Commission rules regarding recovering,
3 hauling, and storing wrecked or disabled vehicles; and changing a sunset requirement on
4 those rules.

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)~~ vehicles and the special equipment required to complete the
8 ~~recovery/tow~~ recovery or tow;

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

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

11 (D) Location of vehicle recovered or towed;

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

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

14 (G) Weather conditions; and

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

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

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

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

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

31 (d) The rules promulgated pursuant to this article shall sunset on ~~July 1, 2021~~ July 1, 2023,
32 unless reauthorized.

33 (e) On or before ~~December 31, 2020~~ December 31, 2022, the Legislative Auditor shall
34 review the rules promulgated by the Public Service Commission under this section. The audit
35 shall evaluate the rate-making policy for reasonableness, the complaint process for timeliness,
36 the penalties for effectiveness, and any other metrics the Legislative Auditor ~~deems~~ considers
37 appropriate. The Legislative Auditor may recommend that the rule be reauthorized, reauthorized
38 with amendment, or repealed.