

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENGROSSED

House Bill 5437

By Delegates Howell, W. Clark, Miller, Linville,
Cannon, Campbell, and Lucas

[Introduced February 5, 2024; Referred to the
Committee on Technology and Infrastructure]

1 A BILL to amend and reenact §17-16-6 of the Code of West Virginia, 1931, as amended, relating to
2 imposing a time limit for the Department of Highways to grant an entrance permit for work
3 on a highway; describing the time limit for requested changes; and describing when a
4 permit shall be considered approved.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. OBSTRUCTIONS.

§17-16-6. Permit by commission or county court for openings in or structures on public roads; franchises and easements of oil, etc., transportation companies.

1 (a) No opening shall be made in any state or county-district road or highway, nor shall any
2 structure be placed therein or thereover, nor shall any structure, which has been so placed, be
3 changed, or removed, except in accordance with a permit from the state road commission or
4 county court, as the case may be. No road or highway shall be dug up for laying or placing pipes,
5 sewers, poles or wires, or for other purposes, and no trees shall be planted or removed or
6 obstructions placed thereon, without the written permit of the commission or county court, or its
7 duly authorized agent, and then only in accordance with the regulations of the commission or
8 court. The work shall be done under the supervision and to the satisfaction of the commission or
9 court; and the entire expense of replacing the highway in as good condition as before shall be paid
10 by the persons to whom the permit was given, or by whom the work was done: *Provided, however,*
11 That nothing herein contained shall be so construed as to prevent any oil or gas company or
12 person having a proper permit or franchise from transporting oil or gasoline along any of the public
13 highways of this state, nor to give such company a franchise without paying to the landowners
14 through whose lands such road passes the usual and customary compensation paid or to be paid
15 to the landowners for such right of way. Any grant or franchise when made shall be construed to
16 give to such company or person only the right to use the easement in such public road.

17 (b) When such a permit is requested, the Department of Highways (DOH) shall have 60
18 days from the time of application to approve or deny the requested permit. If no answer to the

19 permit request is given from the DOH within that 60 days, then the permit is considered approved.
20 If changes are requested by a commercial, industrial, utility, residential development or other
21 business, based on the application for the permit, this request for changes may be done only once
22 and the request for changes shall be considered satisfied if all changes from the first request are
23 completed. If a matter concerning the application or request for changes is contested, the DOH
24 has 30 days to respond and, if they do not respond in that 30 days, the original permit request shall
25 be considered approved. If the application for a permit is rejected by the DOH within the time frame
26 listed in this subsection, the denial must be contested in magistrate court in the county in which the
27 permit was requested within 30 days of the denial.

28 (c) A violation of any provision of this section shall be a misdemeanor and, the person or
29 corporation violating the same shall, upon conviction thereof, be fined not less than \$25 nor more
30 than \$100 for each offense.