

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2156**

By Delegate G. Howell

[Originating in the Committee on Energy and Public

Works; Reported on March 25, 2025]



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; describing when a permit  
4 shall be considered approved; and improving obsolete language.

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

**ARTICLE 16. OBSTRUCTIONS.**

**§17-16-6. Permit by ~~commission~~Department of Highways or county ~~court~~ commission 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~~  
4 Department of Highways or county ~~court~~ commission, as the case may be. No road or highway  
5 shall be dug up for laying or placing pipes, sewers, poles or wires, or for other purposes, and no  
6 trees shall be planted or removed or obstructions placed thereon, without the written permit of the  
7 Department of Highways or county ~~court~~ commission or its duly authorized agent, and then only in  
8 accordance with the regulations of the ~~commission~~Department of Highways or ~~court~~ commission.  
9 The work shall be done under the supervision and to the satisfaction of the ~~commission~~  
10 Department of Highways or ~~court~~ commission; and the entire expense of replacing the highway in  
11 as good condition as before shall be paid by the persons to whom the permit was given, or by  
12 whom the work was done: *Provided, however,* That nothing herein contained shall be so construed  
13 as to prevent any oil or gas company or person having a proper permit or franchise from  
14 transporting oil or gasoline along any of the public highways of this state, nor to give such  
15 company a franchise without paying to the landowners through whose lands such road passes the  
16 usual and customary compensation paid or to be paid to the landowners for such right of way. Any

grant or franchise when made shall be construed to give to such company or person only the right to use the easement in such public road.

(b) When such a permit is requested from the Department of Highways, the Department of Highways shall have 30 days from the time of application to approve or deny the requested permit. If no answer to the permit request is given from the Department of Highways within those 30 days, then the permit is considered approved. If changes are requested by a commercial, industrial, utility, residential development or other business, based on the application for the permit, this request for changes may be done only once and the request for changes shall be considered satisfied if all changes from the first request are completed. If a matter concerning the application or request for changes is contested, the Department of Highways has 15 days to respond and, if they do not respond in those 15 days, the original permit request shall be considered approved. If the application for a permit is rejected by the Department of Highways within the time frame listed in this subsection, the denial must be contested in magistrate court in the county in which the permit was requested within 15 days of the denial.

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

(d) If the opening onto a state or county-district road or highway is temporary access for an operation such as timbering, the DOH shall have 30 days from the time of application to approve or deny the requested permit. If no answer to the permit request is given by the DOH within 30 days, then the permit is considered approved. If changes are requested based on the application for the permit, this request for changes may be made only once and the request for changes shall be considered satisfied if all changes from the first request are completed. If the matter concerning the application or request for changes is contested, the DOH has 15 days to respond and, if they do not respond in those 15 days, the original permit request shall be considered approved. If the application for a permit is rejected by the DOH within the timeframe listed in this subsection, the

42 denial must be contested in magistrate court in the county in which the permit was requested  
43 within 15 days of the denial.

44 (1) If the applicant complies with the guidelines above, there will be no application fee  
45 charged.

46 (2) If the applicant requests emergency access or a shorter timeframe than outlined in this  
47 subsection, at their discretion, the DOH may require a \$500 application fee.

48 (3) If the DOH requires a surety for a temporary entrance, that bond shall pertain only to  
49 damage caused by the entrance area and must be in the immediate proximity of the temporary  
50 entrance.