

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 697

**FISCAL
NOTE**

By Senators Hamilton and Deeds

[Introduced February 2, 2026; referred
to the Committee on Agriculture; and then to the
Committee on Finance]

1 A BILL to amend and reenact §17-4-49 of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding a new section, designated §17-4-56, relating to the state road
3 system; providing legislative findings; providing definitions; creating standards in
4 determining a change of use of existing entrances; providing exemptions and a
5 grandfather clause; removing permit requirements; clarifying the Division of Highways
6 authority; and authorizing rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4. STATE ROAD SYSTEM.

**§17-4-49. Same -- Points of commercial, etc.; access to comply; plans, objections and
procedures for new points; review of and changes in existing points;
commissioner's preliminary determination; requiring notice.**

1 (a) No new points of access to and from state highways from and to real property used or to
2 be used for commercial, industrial or mercantile purposes may be opened, constructed or
3 maintained without first complying with this section and sections forty-seven and forty-eight of this
4 article. Access points opened, constructed or maintained without compliance are unauthorized.

5 (b) Plans for any new point of access shall be submitted to the Commissioner of Highways
6 directly and the following rules shall apply:

7 (1) Notice of the proposed new point of access shall be filed with the commissioner, along
8 with a plan of the proposed new point of access.

9 (2) The commissioner shall review the plan to ensure compliance with the policies stated in
10 section forty-seven of this article and with any regulations issued by the commissioner under
11 section forty-eight of this article.

12 (3) If the commissioner objects to a plan, he or she shall reduce his or her objections to the
13 proposed new point of access to writing and promptly furnish notice of the objection to the owner
14 or owners of the real property affected and advise the owner or owners of the right to demand a
15 hearing on the proposed plan and the objections. If a plan is not objected to within six weeks from

16 the time it is filed with the commissioner, it is considered approved by the commissioner.

17 (4) In any case where the commissioner objects to the proposed new point of access, the
18 owner or owners of the real property affected shall have reasonable opportunity for a hearing on
19 such objections.

20 (c) (1) Subject to the provisions of section §17-4-56 of this code, Existing ~~existing~~ points of
21 access to and from state highways from and to real property used for commercial, industrial or
22 mercantile purposes may be reviewed by the commissioner to determine whether such points of
23 access comply with the policies stated in section forty-seven of this article and with any regulations
24 issued by the commissioner under section forty-eight of this article. Subject to the provisions of
25 section §17-4-56 of this code, The ~~the~~ commissioner may direct reasonable changes in existing
26 points of access to and from state highways from and to property used for commercial, industrial or
27 mercantile purposes if he or she determines from accident reports or traffic surveys that the public
28 safety is seriously affected by such points of access and that such reasonable changes would
29 substantially reduce the hazard to public safety. When such changes require construction,
30 reconstruction or repair, such work shall be done at state expense as any other construction,
31 reconstruction or repair.

32 (2) If the commissioner makes a preliminary determination that any changes should be
33 made, the following rules apply:

34 (A) The commissioner shall reduce his or her preliminary determination to writing and
35 promptly furnish notice of such preliminary determination to the owner or owners of the real
36 property affected and of their right to demand a hearing on the preliminary determination. The
37 commissioner's notice shall include a description of suggested changes suitable for reducing the
38 hazard to the public safety.

39 (B) In any case where the commissioner makes a preliminary determination that any
40 changes should be made, the owner or owners of the real property affected shall have reasonable
41 opportunity for a hearing on the preliminary determination.

42 (d) For points of access existing on or before July 1, 2016, to and from state highways from
43 and to real property used for commercial, industrial or mercantile purposes if the access is more
44 than fifty 50 feet wide, the access is along a state highway with a speed limit of more than forty-five
45 45 miles per hour and the commissioner deems it appropriate due to heavy traffic or other
46 circumstances, the commissioner shall either place "no parking" signs at each side of the driveway
47 entrance fronting the state highway or clearly mark that right-of-way with yellow paint with the
48 words "no parking" or both to provide notice that parking is prohibited.

49 (e) For points of access approved by the commissioner after July 1, 2016, to and from
50 state highways from and to real property used for commercial, industrial or mercantile purposes
51 if the access is more than fifty 50 feet wide, the access is along a state highway with a speed
52 limit of more than forty-five 45 miles per hour and the commissioner deems it appropriate due to
53 heavy traffic or other circumstances, the owner or owners of the real property shall be required
54 to place "no parking" signs at each side of the driveway entrance fronting the state highway or
55 clearly mark that right-of-way with yellow paint with the words "no parking" or both to provide
56 notice that parking is prohibited. This subsection and subsection (d) of this section shall be
57 known as "Sarah Nott's Law".

§17-4-56. Existing entries and access management to state highways.

1 (a) Legislative Findings. - The Legislature finds that:

2 (1) West Virginia is a largely rural state whose citizens depend on safe and reliable access
3 to state highways for farming, forestry, natural resource development, and rural business
4 operations.

5 (2) Temporary activities such as logging and agricultural harvests make use of long
6 established entrances which were never intended to be restricted or classified as new
7 development.

8 (3) The thresholds adopted in this section are reasonable, predictable, and comparable to
9 those used in other states, reflecting accepted transportation engineering principles.

10 (4) Establishing clear statutory thresholds will ensure consistency, prevent subjective
11 enforcement, promote economic activity, and reduce regulatory conflict between landowners and
12 the Division of Highways.

13 (5) Forestry and agricultural operations are temporary by nature, essential to rural
14 economies, and should not be subjected to change of use reviews unless the activity creates a
15 demonstrable safety hazard.

16 (b) Definitions - For purposes of this section:

17 "Entrance" means any existing access point, driveway, private road, or other opening
18 connecting real property to a state maintained highway.

19 "Change of use" means an alteration in the traffic characteristics at an entrance that meets
20 or exceeds the thresholds established in this section.

21 "Peak hour" means the single hour within a typical day that carries the highest volume of
22 traffic entering or exiting the property.

23 "Heavy vehicle" means a vehicle having a gross vehicle weight rating of 26000 pounds or
24 more.

25 "Temporary forestry or logging operation" includes timber harvesting, timber removal,
26 staging, or related activities that are not permanent industrial uses and occur for a limited duration.

27 "Routine agricultural operations" includes crop production, seasonal harvest, livestock
28 movement, equipment access, and other customary agricultural activities.

29 "Documented use" means evidence of continuous use of the entrance for a period of at
30 least 7 seven years, which may include sworn statements, photographs, business records, tax
31 documents, mapping evidence, or other reliable proof.

32 (c) Standards for Determining a Change of Use of an Existing Entrance - An existing
33 entrance shall be considered to have a change of use only when 4 one or more of the following
34 thresholds are met:

35 (1) Peak Hour Increase. - The entrance experiences an increase of 50 or more vehicle trips
36 during the peak hour and the increase represents a 20 percent or greater rise above the traffic
37 volume associated with the prior use of the property;

38 (2) Daily Traffic Increase. - The entrance experiences an increase of 500 or more vehicle
39 trips on a typical day and the increase represents a 20 percent or greater rise above the traffic
40 volume associated with the prior use of the property;

41 (3) Heavy Vehicle Increase. -The entrance experiences an increase of 10 or more daily
42 heavy vehicles beyond the traffic level associated with the prior use of the property; or

43 (4) Documented Safety or Operational Deficiency. -The Division of Highways may
44 document, using accepted engineering practice, that the entrance:

45 (A) Fails to meet minimum stopping sight distance for the posted speed of the highway;
46 (B) Conflicts with the functional area of an intersection or known conflict point;
47 (C) Experiences a crash pattern reasonably attributable to the entrance; or
48 (D) Creates a traffic operational condition that cannot be mitigated without modification of
49 the entrance.

50 A documented safety or operational deficiency under this subsection does not, by itself,
51 constitute a change of use and may not be used to require the landowner to modify, relocate, or
52 reconstruct the entrance unless 1 or more of the thresholds in paragraphs (A), (B), or (C) are also
53 met.

54 If none of the above conditions are met, the entrance does not constitute a change of use.

55 (d) Exemptions for Temporary Forestry, Logging, and Agricultural Operations. - The
56 following activities shall not be considered a change of use of an existing entrance:

57 (1) Temporary Forestry or Logging Operations - Temporary forestry or logging operations
58 using an existing entrance, provided that:

59 (A) The activity does not exceed 180 days within any 12 month period;

60 (B) The activity does not exceed an average of 50 vehicle trips per day; and

61 (C) The activity does not exceed 10 heavy vehicles per day.

62 (2) *Routine Agricultural Operations*- Routine agricultural operations, including seasonal
63 movements, equipment access, and crop or livestock activities, shall not constitute a change of
64 use when:

65 (A) Total traffic does not exceed 50 vehicle trips per day, or

66 (B) Heavy vehicle traffic does not exceed 10 vehicles per day.

67 (e) *Grandfathering of Entrances Older than 40 Years or Lacking Division Records*. -

68 (1) Any entrance in existence for more than 40 years prior to the effective date of this
69 section, or for which the Division of Highways cannot produce the permit, file, or records
70 associated with the establishment of the entrance and the entrance has documented use for
71 seven years or longer, shall be deemed legally established for its current use.

72 (2) Failure of the Division of Highways to retain, produce, or locate records for an entrance
73 shall not be construed as evidence that the entrance was unpermitted or unlawfully constructed.
74 When Division records cannot be located and the entrance has documented use for seven years
75 or longer, the entrance shall be treated as a legally established entrance.

76 (3) No entrance covered by subdivision (1) shall be required to obtain a new permit or
77 comply with any new entrance design standards unless the property owner voluntarily requests a
78 change of use as defined in this section.

79 (4) The Division of Highways may not require any modification, alteration, safety upgrade,
80 redesign, or change to a grandfathered entrance unless a change of use occurs as defined in this
81 section.

82 (5) Routine safety maintenance consistent with the historic use of the entrance may only
83 be requested by the Division of Highways when 4 one or more of the following conditions occurs:

84 (A) A change of use as defined in this section;

85 (B) The property owner voluntarily proposes improvements; or

86 (C) A hazardous condition was created by work performed by the Division of Highways on
87 the adjacent roadway or drainage system.

88 (6) Under no circumstance may the Division of Highways require safety maintenance,
89 upgrades, or redesign of a grandfathered entrance solely because current American Association
90 of State Highway and Transportation Officials (AASHTO) standards differ from the standards in
91 place at the time the entrance was established.

92 (f) Improvement of Existing Entrances Without Triggering a New Permit. -

93 (1) Any existing entrance, regardless of age, may be improved by the property owner to
94 approach or meet current design criteria in accordance with AASHTO standards applicable to that
95 type of entrance without obtaining a new entrance permit, provided the use of the entrance does
96 not meet the definition of a change of use under this section.

97 (2) Prior to beginning improvements, the property owner shall notify the Division of
98 Highways of the proposed work and provide a description of the intended scope of improvement.
99 The Division shall acknowledge receipt of the notification but may not require a permit or impose
100 additional conditions unless the work constitutes a change of use.

101 (3) The Division of Highways shall not prohibit improvements that increase safety, sight
102 distance, drainage, surface condition, or geometric conformity with AASHTO standards when
103 such improvements do not alter the permitted use of the entrance.

104 (g) Proportionality and Limitation of Division Authority. -

105 (1) The Division of Highways may not require any entrance improvement, permit condition,
106 or geometric redesign that is disproportionate to the actual traffic impact generated by the
107 entrance, in accordance with AASHTO standards.

108 (2) The Division of Highways may not require construction of turning lanes, widening, or
109 other commercial level upgrades unless the thresholds in this section are met.

110 (3) The Division of Highways may not impose any requirement that exceeds or conflicts
111 with the standards and limitations established in this section.

112 (h) *Rulemaking Authority.* - The Division of Highways may propose rules for legislative
113 approval pursuant to §29A-3-1 *et seq.* of this code to implement this section. Any rule adopted
114 shall be consistent with the thresholds and exemptions established herein and shall not impose
115 stricter standards than those set forth in statute.

NOTE: The purpose of this bill is to creating standards in determining a change of use of existing entrances.

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