

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 697

BY SENATORS HAMILTON AND DEEDS

[Reported February 12, 2026, from the Committee on
Agriculture]

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 §17-4-49a, relating to the state road
3 system; clarifying Commissioner of Highways' authority to review and direct changes in
4 points of access to and from state highways; providing legislative findings; defining terms;
5 establishing criteria for determining change of use to existing entrances to state highways;
6 providing exemptions for certain operations; providing that certain existing entrances shall
7 be treated as legally established by commissioner; authorizing certain improvements be
8 made to existing entrances without requiring permit; and providing for rulemaking.

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
2 to be used for commercial, industrial, or mercantile purposes may be opened, constructed, or
3 maintained without first complying with this section and §17-4-47 and §17-4-48 of this code.
4 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
10 in §17-4-47 of this code and with any regulations issued by the commissioner under §17-4-48 of
11 this code.

12 (3) If the commissioner objects to a plan, he or she shall reduce his or her objections to
13 the proposed new point of access to writing and promptly furnish notice of the objection to the

14 owner or owners of the real property affected and advise the owner or owners of the right to
15 demand a hearing on the proposed plan and the objections. If a plan is not objected to within six
16 weeks from the time it is filed with the commissioner, it is considered approved by the
17 commissioner.

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

21 (c) (1) Subject to the provisions of §17-4-49a of this code, existing points of access to and
22 from state highways from and to real property used for commercial, industrial, or mercantile
23 purposes may be reviewed by the commissioner to determine whether such points of access
24 comply with the policies stated in §17-4-47 of this code and with any regulations issued by the
25 commissioner under §17-4-48 of this code. The commissioner may, also subject to the provisions
26 of §17-4-49a of this code, direct reasonable changes in existing points of access to and from state
27 highways from and to property used for commercial, industrial, or mercantile purposes if he or
28 she determines from accident reports or traffic surveys that the public safety is seriously affected
29 by such points of access and that such reasonable changes would substantially reduce the hazard
30 to public safety. When such changes require construction, reconstruction, or repair, such work
31 shall be done at state expense as any other construction, 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
43 from and to real property used for commercial, industrial, or mercantile purposes if the access is
44 more than 50 feet wide, the access is along a state highway with a speed limit of more than 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 50 feet wide, the access is along a state highway with a speed limit of
52 more than 45 miles per hour and the commissioner deems it appropriate due to heavy traffic or
53 other circumstances, the owner or owners of the real property shall be required to place "no
54 parking" signs at each side of the driveway entrance fronting the state highway or clearly mark
55 that right-of-way with yellow paint with the words "no parking" or both to provide notice that parking
56 is prohibited. This subsection and subsection (d) of this section shall be known as Sarah Nott's
57 Law.

§17-4-49a. 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 to state highways which entrances were never intended to be restricted or
7 classified as new development.

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

10 (4) Establishing clear statutory thresholds for entrance permitting will ensure consistency,
11 prevent subjective enforcement, promote economic activity, and reduce regulatory conflict
12 between landowners and 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 point of access, driveway, private road, or other opening
18 connecting a state highway to real property used or to be used for commercial, industrial, or
19 mercantile purposes.

20 "Change of use" means a change in the traffic characteristics at an entrance that meets
21 or exceeds the thresholds established in subsection (c) of this section and which change is utilized
22 by the commissioner, pursuant to the provisions of this chapter or rules promulgated thereunder,
23 for purposes of requiring new permits for, or requiring the modification, relocation, or
24 reconstruction of, entrances or driveways to state highways.

25 "Peak hour" means the single hour within a typical day that carries the highest volume of
26 traffic using an entrance.

27 "Heavy vehicle" means a vehicle having a gross vehicle weight rating of 26,000 pounds
28 or more.

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

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

33 "Documented use" means a documented continuous use of an entrance for a period of at
34 least seven years, evidence of which may include sworn statements, photographs, business
35 records, tax documents, mapping evidence, or other proof deemed reliable by the commissioner.

36 (c) Standards for determining change of use. – A change of use shall be considered by
37 the commissioner to have occurred to an entrance only when one or more of the following
38 thresholds are met:

39 (1) Peak hour increase. – The entrance experiences an increase of 50 or more vehicle
40 trips during the peak hour and the increase represents a 20 percent or greater rise above the
41 traffic volume associated with the prior use of the entrance and the connected real property;

42 (2) Daily traffic increase. – The entrance experiences an increase of 500 or more vehicle
43 trips on a typical day and the increase represents a 20 percent or greater rise above the traffic
44 volume associated with the prior use of the entrance and the connected real property;

45 (3) Heavy vehicle increase. – The entrance experiences an increase of 10 or more daily
46 heavy vehicles beyond the traffic level associated with the prior use of the entrance and the
47 connected real property; or

48 (4) Documented safety or operational deficiency. – The division documents, using an
49 accepted engineering practice, that the entrance:

50 (A) Fails to meet minimum stopping sight distance for the posted speed limit of the state
51 highway accessed by the entrance;

52 (B) Conflicts with the functional area of an intersection or known conflict point;

53 (C) Experiences a crash pattern reasonably attributable to the entrance; or

54 (D) Creates a traffic operational condition that cannot be mitigated without modification of
55 the entrance.

56 A documented safety or operational deficiency under this subdivision shall not, by itself,
57 be sufficient to determine that a change of use has occurred to an entrance and may not, by itself,
58 be used by the commissioner as the basis for requiring the owner or owners of the real property
59 affected to obtain a new entrance or driveway permit or to otherwise modify, relocate, or
60 reconstruct the existing entrance. A documented safety or operational deficiency under this
61 subdivision shall only be sufficient to determine that a change of use has occurred if one or more
62 of the thresholds set forth in subdivision (1), (2), or (3) of this subsection are also met.

63 (d) Exemptions for certain operations. – The occurrence of either of the following types of
64 operations at an existing entrance shall not, by itself, be sufficient for the commissioner to
65 determine that a change of use has occurred to the entrance:

66 (1) Temporary forestry or logging operations, provided that the operations do not:

67 (A) Exceed 180 days within any 12-month period;

68 (B) Exceed an average of 50 vehicle trips per day; or

69 (C) Exceed 10 heavy vehicle trips per day.

70 (2) Routine agricultural operations, including seasonal movements, equipment access,
71 and crop or livestock activities, provided that the operations do not:

72 (A) Exceed an average of 50 vehicle trips per day; or

73 (B) Exceed 10 heavy vehicle trips per day.

74 (e) Grandfathering of certain entrances. –

75 (1) Any entrance with a documented use and which has been in existence for more than
76 40 years prior to the effective date of this section or for which the division is unable to locate or
77 produce the permit, file, or other records associated with the entrance's establishment shall be
78 treated by the commissioner as a legally established entrance. The commissioner shall not
79 require the owner or owners of real property with such an entrance to obtain a new entrance or
80 driveway permit, nor shall the commissioner require any modification, alteration, safety upgrade,
81 redesign, or change to the entrance, unless a change of use occurs to the entrance.

82 (2) Routine safety maintenance consistent with the historic use of an entrance covered by
83 subdivision (1) of this subsection may only be requested by the division when one or more of the
84 following conditions occurs:

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

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

87 (C) A hazardous condition was created by work performed by the division on the adjacent
88 roadway or drainage system.

89 (3) Under no circumstance may the division require safety maintenance, upgrades, or
90 redesign of an entrance covered by subdivision (1) of this subsection solely because current
91 American Association of State Highway and Transportation Officials (AASHTO) standards differ
92 from the standards in place at the time the entrance was established.

93 (f) Improvement of existing entrances without triggering new permit. –

94 (1) Any existing entrance, regardless of age, may be improved by the property owner to
95 approach or meet current design criteria in accordance with AASHTO standards applicable to that
96 type of entrance without the property owner being required to obtain a new entrance or driveway
97 permit from the division, provided the improvements do not amount to a change of use under this
98 section.

99 (2) Prior to beginning improvements to an existing entrance, the property owner shall notify
100 the division of the proposed work and provide a description of the intended scope of improvement.
101 The division shall acknowledge receipt of the notification but may not require a new entrance or
102 driveway permit unless the work amounts to a change of use under this section.

103 (3) The division shall not prohibit improvements that increase safety, sight distance,
104 drainage, surface condition, or geometric conformity with AASHTO standards when such
105 improvements do not amount to a change of use under this section.

106 (g) The commissioner may propose rules for legislative approval pursuant to §29A-3-1 et
107 seq. of this code to implement this section, which rules shall not impose any standards stricter
108 than those set forth in this section.