

HB 2218
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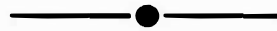
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2009 MAY -7 PM 3: 31

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2218

(By Delegates Brown, D. Poling, Talbott, Miley, Overington and Sobonya)



Passed April 11, 2009

In Effect from Passage

E N R O L L E D

FILED
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COMMITTEE SUBSTITUTE

FOR

H. B. 2218

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY DELEGATES BROWN, D. POLING, TALBOTT,
MILEY, OVERINGTON AND SOBONYA)

[Passed April 11, 2009; in effect from passage.]

AN ACT to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by the Department of Transportation; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the Department of Transportation; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Motor Vehicles to promulgate a legislative rule

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relating to collection on the tax on the sale of a vehicle; authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to the denial, suspension, revocation, restriction or nonrenewal of driving privileges; authorizing the Commissioner of Highways to promulgate a legislative rule relating to the transportation of hazardous wastes upon the roads and highways; and authorizing the Commissioner of Highways to promulgate a legislative rule relating to the use of state road rights of way and adjacent areas.

Be it enacted by the Legislature of West Virginia:

That article 8, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 8. AUTHORIZATION FOR THE DEPARTMENT
OF TRANSPORTATION TO
PROMULGATE LEGISLATIVE RULES.**

§64-8-1. Division of Motor Vehicles.

1 (a) The legislative rule filed in the state register on the
2 eleventh day of August, two thousand eight, authorized under
3 the authority of section three-c, article fifteen, chapter eleven,
4 of this code, modified by the Division of Motor Vehicles to
5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the twenty-first
7 day of October, two thousand eight, relating to the Division
8 of Motor Vehicles (collection on the tax on the sale of a
9 vehicle, 91 CSR 9), is authorized, with the amendment set
10 forth below:

11 On page 2, subsection 3.2a, beginning on line five,
12 following the words "in accordance with", by striking out the
13 words "*W. Va. Code* §17A-3-4(b)(12)" and by inserting in
14 lieu thereof the following words "*W. Va. Code* §17A-3-
15 4(b)(14)";

16 And,

17 On page 2, subsection 3.2a.2, on line twelve, following
18 the words “in accordance with”, by striking out the words
19 “*W. Va. Code* §17A-3-4(b)(12)” and by inserting in lieu
20 thereof the following words “*W. Va. Code* §17A-3-4(b)(14)”.

21 (b) The legislative rule filed in the state register on the
22 twenty-eighth day of August, two thousand eight, authorized
23 under the authority of section nine, article two, chapter
24 seventeen-a, of this code, modified by the Division of Motor
25 Vehicles to meet the objections of the legislative rule-making
26 review committee and refiled in the state register on the
27 twenty-second day of January, two thousand nine, relating to
28 the Division of Motor Vehicles (denial, suspension,
29 revocation, restriction or nonrenewal of driving privileges, 91
30 CSR 5), is authorized, with the following amendment:

31 On page 5, paragraph 3.4.b., line two, by striking out the
32 words “both eyes” and inserting in lieu thereof the words
33 “one eye”.

§64-8-2. Commissioner of Highways.

1 (a) The legislative rule filed in the state register on the
2 twenty-ninth day of August, two thousand eight, authorized
3 under the authority of section seven, article eighteen, chapter
4 twenty-two, of this code, relating to the Commissioner of
5 Highways (transportation of hazardous wastes upon the roads
6 and highways, 157 CSR 7), is authorized.

7 (b) The legislative rule filed in the state register on the
8 twenty-ninth day of August, two thousand eight, authorized
9 under the authority of section one, article twenty, chapter
10 seventeen, of this code, modified by the Commissioner of
11 Highways and refiled in the state register on the nineteenth

12 day of February two thousand nine, relating to the
13 Commissioner of Highways (use of state road rights of way
14 and adjacent areas, 157 CSR 6), is authorized, with the
15 following amendment:

16 On page two, following "2.25" by striking out the words
17 "off premise";

18 On page two, following subsection 2.25, by inserting the
19 following:

20 2.25.a. An off-premise CMS may not include moving
21 video or scrolling messages. Off-premise CMS must comply
22 with all requirements for off-premise signs generally.

23 2.25.b. An on-premise CMS may scroll or change
24 message content, but may not contain flashing images. On-
25 Premise CMS must comply with all requirements for on-
26 premise signs generally.

27 2.25.c. No CMS sign, display or device, whether on-
28 premise or off premise, may be illuminated by any rapid
29 flashing intermittent light or lights.;

30 On page fourteen, paragraph 7.4.c.1. following the word
31 "Division." by inserting the following:

32 With the prior written approval of the Commissioner of
33 Highways, a county commission may enact and enforce
34 outdoor advertising ordinances which place limitations or
35 restrictions on outdoor advertising signs, displays or devices
36 which are in addition to or more restrictive than the
37 limitations or restrictions provided by the Commissioner of
38 Highways.;

39 On page eighteen, paragraph 7.8.d.2., following the word
40 "No" by inserting the words "off-premise";

41 On page eighteen, paragraph 7.8.d.4., following the word
42 “No” by inserting the words “off-premise”;

43 On page eighteen, following “7.8.e.1.”, by inserting the
44 words “Off-premise”;

45 On page eighteen, paragraph 7.8.e.1., following the word
46 “No” by inserting the words “off-premise”;

47 On page eighteen, following “7.8.e.2.”, by inserting the
48 words “Off-premise”;

49 On page eighteen, following “7.8.e.3.”, by inserting the
50 words “Off-premise”;

51 On page eighteen, paragraph 7.8.e.3., following the word
52 “another” by inserting the words “off-premise”;

53 On page nineteen, paragraph 7.8.e.4., following the
54 words “may be modified to” by striking out the word “a” and
55 inserting in lieu thereof the words “an off-premise”;

56 On page nineteen, paragraph 7.8.e.4., following the word
57 “with” by inserting the words “off-premise”;

58 On page nineteen, paragraph 7.8.e.4., following the
59 words “may not be modified to” by striking out the word “a”,
60 and inserting in lieu thereof the words “an off-premise”;

61 On page nineteen, following “7.8.e.7.”, by inserting the
62 words “Off-premise”;

63 On page nineteen, following “7.8.e.8.”, by inserting the
64 words “Off-premise”;

65 On page nineteen, paragraph 7.8.e.8., following the word
66 “way.” by inserting the words “Off-premise”;

67 On page nineteen, paragraph 7.8.e.9., following the word
68 "on" by inserting the words "off-premise";

69 On page nineteen, paragraph 7.8.e.10., following the
70 words "revised to" by striking out the word "a" and inserting
71 the words "an off-premise";

72 On page nineteen, paragraph 7.8.e.10., following the
73 word "become" by striking out the word "a" and inserting the
74 words "an off-premise";

75 On page nineteen, paragraph 7.8.e.10., following the
76 word "No" by inserting the words "off-premise";

77 On page nineteen, paragraph 7.8.e.11., following the
78 word "No" by inserting the words "off-premise";

79 On page twenty, paragraph 7.9.d.8., by striking out the
80 word "chapter" and inserting in lieu thereof the word "rule";

81 On page twenty, by striking out paragraph 7.9.d.9. in its
82 entirety;

83 On pages twenty and twenty-one, by striking out
84 subparagraph 7.9.d.9.A. in its entirety;

85 On page twenty-five, subparagraph 7.15.d.4.D, following
86 the word "any" by inserting the word "rapid";

87 On page twenty-five, subparagraph 7.15.d.4.D, following
88 the word "flashing" by striking out the words "intermittent or
89 moving";

90 On page twenty-five, by striking out subparagraph
91 7.15.d.4.E. in its entirety and relettering the remaining
92 subparagraphs;

93 On pages thirty-one and thirty-two, by striking out
94 subdivision 9.5.h. in its entirety and inserting in lieu thereof
95 a new subdivision, designated 9.5.h., to read as follows:

96 9.5.h. If an application for a roadside memorial sign is
97 granted, the Commissioner shall so inform the applicant in
98 writing. Upon the receipt of a non-refundable payment of
99 two hundred dollars (\$200), the Division shall procure and
100 install the sign and shall notify the applicant in writing when
101 the sign has been installed.;

102 On page thirty-two, by striking out subdivision 9.5.i. in
103 its entirety and inserting in lieu thereof a new subdivision,
104 designated 9.5.i., to read as follows:

105 9.5.i. The initial payment of two hundred dollars (\$200)
106 shall compensate the Division for its review of the
107 application, the installation of the roadside memorial sign and
108 its maintenance for a period of three years from the date of
109 installation. The applicant may make a second, optional
110 payment of two hundred dollars (\$200) to extend the display
111 and maintenance of the sign for one additional three-year
112 period. The Division will repair or replace the sign at its
113 election, once during each three year period if damaged or
114 destroyed. At the end of the initial or renewal period,
115 whichever come later, the sign will be removed and offered
116 to the applicant(s).;

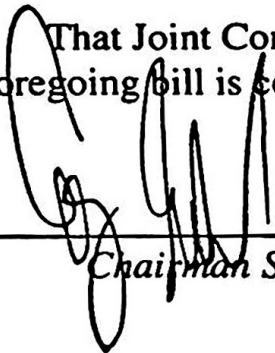
117 And,

118 On page thirty-two, by striking out subdivision 9.5.j. in
119 its entirety and inserting in lieu thereof a new subdivision,
120 designated 9.5.j., to read as follows:

121 9.5.j. If at any time during the application and fabrication
122 process another member of the victim's immediate family
123 objects to the sign, the process shall be halted and the
124 application, the two hundred dollar (\$200) fee, and the

125 related documentation shall be returned to the applicant. If
126 the sign has been installed, the Division shall remove it and
127 furnish it to the applicant, and the Division shall retain the
128 two hundred dollar (\$200) fee.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

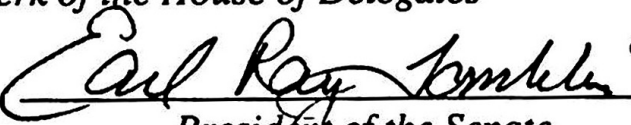
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 7th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

MAY - 6 2009

Time 3:45 pm