WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1017

(By Del. Spencer)

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Passed March 19, 1984

In Effect from Passage
AN ACT to amend and reenact section seven, article twelve, chapter eleven; to amend article two, chapter twenty-one-a; by adding thereto a new section, designated section six-b; and to amend and reenact section two, article two, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to reciprocal exchange of business franchise registration information for the purpose of joint registration of business; creating a single point of registration program within the tax department and the departments of employment security and workers' compensation; providing for the exchange of information among these departments; mandating that the commissioners of employment security and workers' compensation initiate contact with new business; making it a misdemeanor to misuse information received pursuant to the single point of registration program; and allocating costs of the exchange of information to the receiving department.

Be it enacted by the Legislature of West Virginia:

That section seven, article twelve, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article two, chapter twenty-one-a, be amended by adding thereto a new section, designated section six-b; and that section two, article two, chapter twenty-three be amended and reenacted, all to read as follows:
CHAPTER 11. TAXATION.

ARTICLE 12. BUSINESS FRANCHISE REGISTRATION TAX.

§11-12-7. Display of registration certificate; injunction; public information, reciprocal exchange of information.

Any person to whom a certificate of registration shall be issued under the provisions of section four of this article shall keep such certificate posted in a conspicuous position in the place where the privilege of such business is exercised. Such certificate of registration shall be produced for inspection whenever required by the tax commissioner or by any law-enforcement officers of this state, county or municipality where-in the privileges to conduct business are exercised.

No injunction shall issue from any court in the state enjoining the collection of any business registration certificate tax required herein; and any person claiming that any business certificate is not due, for any reason, shall pay the same under protest and petition the tax commissioner for a refund in accordance with the provisions of section fourteen, article ten of this chapter.

If any person engaging in or prosecuting any business, or trade, contrary to any other provisions of this article, whether without obtaining a business certificate therefor before commencing the same, or by continuing the same after the termination of the effective period of any such business certificate, the circuit court or the judge thereof in vacation, of the county in which such violation occurred, shall, upon proper application in the name of the state, and after ten days' written notice thereof to such person, grant an injunction prohibiting such person from continuing such business, activity or trade until he has fully complied with the provisions of this article. The remedy provided in this section shall be in addition to all other penalties and remedies provided by law.

The tax commissioner shall make available, when requested, information as to whether a person is registered to do business in the state of West Virginia.

The tax commissioner shall deliver to the commissioner of employment security and the department of workers' compensation, the information contained in the business franchise
registration certificate, when this information is used to im-
plement and administer a single point of registration program
for persons engaging in any business activity in the state of
West Virginia. The single point of registration program shall
provide that, once an individual has received a business fran-
chise registration certificate, the tax commissioner shall notify
the commissioners of the department of workers' compensation
and the department of employment security of the names, ad-
dresses and other identifying information of that individual
or entity. Upon receiving this information the commissioners
of the department of workers' compensation and the depart-
ment of employment security shall contact all businesses re-
ceiving a business franchise registration certificate and provide
all necessary forms and paperwork to register the business
within their respective departments, pursuant to subsection
(a), section six-b, article two, chapter twenty-one-a and sub-
section (c), section two, article two, chapter twenty-three of
this code.

Notwithstanding the provisions of section five, article ten
of this chapter, the tax commissioner may enter into a recipro-
cal agreement with the governor's office of economic and com-
munity development and other departments or agencies of
this state for the exchange of information contained in the
application for a business franchise registration certificate
filed under section four of this article, when the purpose
for the exchange is to implement and administer a single-point
registration program for persons engaging in business in this
state. Such other departments and agencies shall have authority
to enter into a reciprocal exchange agreement for this pur-
pose notwithstanding any provision of this code to the contrary.

CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

ARTICLE 2. THE COMMISSIONER OF EMPLOYMENT SECURITY.

§21A-2-6b. Commissioner to be furnished information by state
tax commissioner; secrecy of information; violation
a misdemeanor.

(a) Notwithstanding the provisions of any other statute
in this code, specifically, but not exclusively, section five,
article ten, chapter eleven of this code, the state tax commis-
sioner shall deliver to the commissioner of employment security, the following information: The names, addresses and other identifying information of all businesses receiving a business franchise registration certificate.

(b) All information acquired by the employment security commissioner pursuant to subsection (a) of this section shall be used to implement and administer a single point of registration program as created in section seven, article twelve, chapter eleven of this code. The commissioner of employment security, upon receiving the business franchise certificate information made available pursuant to subsection (a) of this section, shall contact all businesses receiving a business franchise registration certificate and provide all necessary forms to register the business under the provisions of article five of this chapter.

(c) Any officer or employee of this state who uses the aforementioned information in any manner other than the one stated herein or authorized elsewhere in this code or who divulges or makes known in any manner any of the aforementioned information shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars or imprisoned in the county jail for not more than one year, or both, together with cost of prosecution.

(d) Reasonable cost of compilation and production of any information made available pursuant to subsection (a) of this section shall be charged to the department of employment security.

(e) Information acquired by the employment security commissioner pursuant to subsection (a) of this section shall not be subject to disclosure under the provisions of chapter twenty-nine-b of this code.

CHAPTER 23. WORKERS’ COMPENSATION.

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER; EXTRATERRITORIAL COVERAGE.

§23-2-2. Commissioner to be furnished information by employers, state tax commissioner and commissioner of the depart-
ment of employment security; secrecy of information; examination of employers, etc.; violation a misdemeanor.

(a) Every employer shall furnish the commissioner, upon request, all information required by him to carry out the purposes of this chapter. The commissioner, or any person employed by the commissioner for that purpose, shall have the right to examine under oath any employer or officer, agent or employee of any employer.

(b) Notwithstanding the provisions of any other statute, specifically, but not exclusively, section five, article ten, chapter eleven of this code, and section eleven, article ten, chapter twenty-one-a of this code, the commissioner of workers' compensation may receive the following information:

(1) Upon written request to the state tax commissioner: the names, addresses and other identifying information of all businesses filing state business and occupation tax returns and/or receiving a business franchise registration certificate.

(2) Upon written application to the commissioner of the department of employment security: the names, addresses and other identifying information of all employing units filing reports and information pursuant to section eleven, article ten, chapter twenty-one-a of this code as well as information contained in those reports regarding the number of employees employed and the gross quarterly wages paid by each employing unit.

(c) All information acquired by the workers' compensation commissioner pursuant to subsection (b) of this section shall be used only for auditing premium payments and registering businesses under the single point of registration program as defined in section two, article one, chapter eleven of this code. The workers' compensation commissioner upon receiving the business franchise certificate information made available pursuant to subsection (b) of this section, shall contact all businesses receiving a business franchise registration certificate and provide all necessary forms to register the business under the provisions of this article. Any officer or employee of this state
who uses the aforementioned information in any manner other than the one stated herein or elsewhere authorized in this code, or who divulges or makes known in any manner any of the aforementioned information shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars or imprisoned in the county jail for not more than one year, or both, together with cost of prosecution.

(d) Reasonable costs of compilation and production of any information made available pursuant to subsection (b) of this section shall be charged to the department of workers' compensation.

(e) Information acquired by the workers' compensation commissioner pursuant to subsection (b) of this section shall not be subject to disclosure under the provisions of chapter twenty-nine-b of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Anello

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Donald L. Lingo

Clerk of the House of Delegates

Warren R. Smith

President of the Senate

Speaker House of Delegates

The within is approved this the 30th day of March, 1984.

Governor