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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984



ENROLLED

Com. Sub. for
HOUSE BILL No. 1017

(By ~~THE~~ Del. Spencer)



Passed March 10, 1984

In Effect From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1017
(By DELEGATE SPENCER)

[Passed March 10, 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.

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

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

16 If any person engaging in or prosecuting any business, or
17 trade, contrary to any other provisions of this article, whether
18 without obtaining a business certificate therefor before com-
19 mencing the same, or by continuing the same after the termina-
20 tion of the effective period of any such business certificate,
21 the circuit court or the judge thereof in vacation, of the
22 county in which such violation occurred, shall, upon proper
23 application in the name of the state, and after ten days'
24 written notice thereof to such person, grant an injunction
25 prohibiting such person from continuing such business, activity
26 or trade until he has fully complied with the provisions of this
27 article. The remedy provided in this section shall be in addi-
28 tion to all other penalties and remedies provided by law.

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

32 The tax commissioner shall deliver to the commissioner of
33 employment security and the department of workers' compen-
34 sation, the information contained in the business franchise

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

53 Notwithstanding the provisions of section five, article ten
 54 of this chapter, the tax commissioner may enter into a recipro-
 55 cal agreement with the governor's office of economic and com-
 56 munity development and other departments or agencies of
 57 this state for the exchange of information contained in the
 58 application for a business franchise registration certificate
 59 filed under section four of this article, when the purpose
 60 for the exchange is to implement and administer a single-point
 61 registration program for persons engaging in business in this
 62 state. Such other departments and agencies shall have authority
 63 to enter into a reciprocal exchange agreement for this pur-
 64 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.

1 (a) Notwithstanding the provisions of any other statute
 2 in this code, specifically, but not exclusively, section five,
 3 article ten, chapter eleven of this code, the state tax commis-

4 sioner shall deliver to the commissioner of employment se-
5 curity, the following information: The names, addresses and
6 other identifying information of all businesses receiving a busi-
7 ness franchise registration certificate.

8 (b) All information acquired by the employment security
9 commissioner pursuant to subsection (a) of this section shall
10 be used to implement and administer a single point of registra-
11 tion program as created in section seven, article twelve, chap-
12 ter eleven of this code. The commissioner of employment se-
13 curity, upon receiving the business franchise certificate infor-
14 mation made available pursuant to subsection (a) of this
15 section, shall contact all businesses receiving a business fran-
16 chise registration certificate and provide all necessary forms to
17 register the business under the provisions of article five of this
18 chapter.

19 (c) Any officer or employee of this state who uses the
20 aforementioned information in any manner other than the one
21 stated herein or authorized elsewhere in this code or who di-
22 vulges or makes known in any manner any of the aforemen-
23 tioned information shall be guilty of a misdemeanor, and,
24 upon conviction thereof, shall be fined not more than one
25 thousand dollars or imprisoned in the county jail for not more
26 than one year, or both, together with cost of prosecution.

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

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

CHAPTER 23. WORKERS' COMPENSATION.

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAP- TER; 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.

1 (a) Every employer shall furnish the commissioner, upon
2 request, all information required by him to carry out the pur-
3 poses of this chapter. The commissioner, or any person em-
4 ployed by the commissioner for that purpose, shall have the
5 right to examine under oath any employer or officer, agent
6 or employee of any employer.

7 (b) Notwithstanding the provisions of any other statute,
8 specifically, but not exclusively, section five, article ten, chap-
9 ter eleven of this code, and section eleven, article ten, chapter
10 twenty-one-a of this code, the commissioner of workers' com-
11 pensation may receive the following information:

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

16 (2) Upon written application to the commissioner of the
17 department of employment security: the names, addresses and
18 other identifying information of all employing units filing re-
19 ports and information pursuant to section eleven, article ten,
20 chapter twenty-one-a of this code as well as information con-
21 tained in those reports regarding the number of employees em-
22 ployed and the gross quarterly wages paid by each employing
23 unit.

24 (c) All information acquired by the workers' compensation
25 commissioner pursuant to subsection (b) of this section shall be
26 used only for auditing premium payments and registering busi-
27 nesses under the single point of registration program as de-
28 fined in section two, article one, chapter eleven of this code.
29 The workers' compensation commissioner upon receiving the
30 business franchise certificate information made available pur-
31 suant to subsection (b) of this section, shall contact all busi-
32 nesses receiving a business franchise registration certificate and
33 provide all necessary forms to register the business under the
34 provisions of this article. Any officer or employee of this state

35 who uses the aforementioned information in any manner other
36 than the one stated herein or elsewhere authorized in this code,
37 or who divulges or makes known in any manner any of the
38 aforementioned information shall be guilty of a misdemeanor,
39 and, upon conviction thereof, shall be fined not more than one
40 thousand dollars or imprisoned in the county jail for not more
41 than one year, or both, together with cost of prosecution.

42 (d) Reasonable costs of compilation and production of any
43 information made available pursuant to subsection (b) of this
44 section shall be charged to the department of workers' com-
45 pensation.

46 (e) Information acquired by the workers' compensation
47 commissioner pursuant to subsection (b) of this section shall
48 not be subject to disclosure under the provisions of chapter
49 twenty-nine-b of this code.

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

Harold E. Holmes

Chairman Senate Committee

Ronald Anello

Chairman House Committee

Originating in the House.

Takes effect from passage.

Ladd C. Wilkes

Clerk of the Senate

Donald L. Hogg

Clerk of the House of Delegates

Warren R. McKee

President of the Senate

W. M. Seelye, Jr.

Speaker House of Delegates

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

John D. Stryker

Governor

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