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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



# ENROLLED

*Com. Sub. for*  
HOUSE BILL No. *4123*

(By Delegates *Roop and Reed*)



Passed *March 7* 1992

In Effect *From* Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4123**  
(By DELEGATES ROOP AND REED)

[Passed March 7, 1992; in effect from passage.]

AN ACT to amend and reenact section seven, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of the secretary of the department of health and human resources to promulgate rules regulating the health and sanitary conditions of bed and breakfast inns and exempting certain bed and breakfast inns from certain food service requirements.

*Be it enacted by the Legislature of West Virginia:*

That section seven, article one, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 1. STATE BUREAU OF PUBLIC HEALTH.**

**§16-1-7. Promulgation of rules and regulations; references to board to mean secretary of department of health and human resources.**

1       The secretary of the department of health and human  
2 resources shall have the power to promulgate such rules  
3 and regulations, in accordance with the provisions of  
4 chapter twenty-nine-a of the code, as are necessary and  
5 proper to effectuate the purposes of this chapter and

6 prevent the circumvention and evasion thereof: *Pro-*  
7 *vided*, That no rules or regulations shall be promulgated  
8 or enforced restricting the subdivision or development  
9 of any parcel of land within which the individual tracts,  
10 lots or parcels exceed two acres each in total surface  
11 area and which individual tracts, lots or parcels have  
12 an average frontage of not less than one hundred fifty  
13 feet even though the total surface area of said tract, lot  
14 or parcel equals or exceeds two acres in total surface  
15 area, and which tracts are sold, leased or utilized only  
16 as single family dwelling units. The provisions next  
17 above notwithstanding, nothing in this section shall be  
18 construed to abate the authority of the department of  
19 health and human resources to: (1) Restrict the subdivi-  
20 sion or development of such tract for any more intense  
21 or higher density occupancy than such single family  
22 dwelling unit; (2) promulgate and enforce rules and  
23 regulations applicable to single family dwelling units  
24 for single family dwelling unit sanitary sewerage  
25 disposal systems; or (3) restrict any subdivision or  
26 development which might endanger the public health,  
27 the sanitary condition of streams, or sources of water  
28 supply. The secretary shall have the power to appoint  
29 or designate advisory councils of professionals in the  
30 areas of hospitals, nursing homes, barbers and beauti-  
31 cians, postmortem examinations, mental health and  
32 mental retardation centers and such other areas as it  
33 deems necessary to advise the secretary on rules and  
34 regulations. Such rules and regulations shall include,  
35 but not be limited to, the regulation of:

36 (1) The sanitary condition of all institutions and  
37 schools, whether public or private, public conveyances,  
38 dairies, slaughterhouses, workshops, factories, labor  
39 camps, all other places open to the general public and  
40 inviting public patronage or public assembly, or  
41 tendering to the public any item for human consump-  
42 tion, and places where trades or industries are  
43 conducted;

44 (2) Occupational and industrial health hazards, the  
45 sanitary conditions of streams, sources of water supply,  
46 sewerage facilities and plumbing systems, and the

47 qualifications of personnel connected with any of such  
48 facilities, without regard to whether such supplies or  
49 systems are publicly or privately owned; and the design  
50 of all water systems, plumbing systems, sewerage  
51 systems, sewage treatment plants, excreta disposal  
52 methods, swimming pools in this state, whether publicly  
53 or privately owned;

54 (3) Food and drug standards, including cleanliness,  
55 proscription of additives, proscription of sale, and other  
56 requirements in accordance with article seven of this  
57 chapter, as are necessary to protect the health of the  
58 citizens of this state;

59 (4) The training and examination requirements for  
60 emergency medical service attendants and mobile  
61 intensive care paramedics; the designation of the health  
62 care facilities, health care services, and the industries  
63 and occupations in the state which must have emergency  
64 medical service attendants and mobile intensive care  
65 paramedics employed, and the availability, communica-  
66 tions, and equipment requirements with respect thereto;

67 (5) The collection of data on health status, the health  
68 system and the costs of health care;

69 (6) Other health-related matters which the depart-  
70 ment of health is authorized to supervise, and for which  
71 the rule-making authority has not been otherwise  
72 assigned;

73 (7) The health and sanitary conditions of establish-  
74 ments commonly referred to as bed and breakfast inns.  
75 For purposes of this section, "bed and breakfast inn"  
76 means an establishment providing sleeping accommoda-  
77 tions and, at a minimum, a breakfast for a fee: *Provided,*  
78 That the secretary may not require an owner of a bed  
79 and breakfast providing sleeping accommodations of six  
80 or fewer rooms to install a restaurant style or commer-  
81 cial food service facility: *Provided, however,* That the  
82 secretary may not require an owner of a bed and  
83 breakfast providing sleeping accommodations of more  
84 than six rooms to install a restaurant-type or commer-  
85 cial food service facility if the entire bed and breakfast  
86 inn or those rooms numbering above six are used on an

87 aggregate of two weeks or less per year.

88 Notwithstanding any other provision of this code to  
89 the contrary, whenever in this code there is a reference  
90 to the state board of health, it shall be construed to mean  
91 and shall be a reference to the secretary of the state  
92 department of health and human resources.

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

*James Heck*

Chairman Senate Committee

*Ernest E. Moore*

Chairman House Committee

Originating in the House.

Takes effect from passage.

*David E. Adams*

Clerk of the Senate

*Donald G. Kopf*

Clerk of the House of Delegates

*Paul Fontette*

President of the Senate

*Robert Cole*

Speaker of the House of Delegates

The within is approved this the 30<sup>th</sup> day of March, 1992.

*Paul G. Patton*

Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/92

Time 11:40 am