WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED
SENATE BILL NO. 145
(By Senator Manchin, et al.)

PASSED March 10, 1994
In Effect from Passage
ENROLLED

Senate Bill No. 145

(By Senators Manchin, Anderson, Grubb and Minard)

[Passed March 10, 1994; in effect from passage.]

AN ACT to amend and reenact sections one, three, twenty-four and twenty-nine, article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating generally to the promulgation of administrative rules and regulations by the various executive or administrative agencies and the procedures relating thereof; the legislative mandate or authorization for the promulgation of certain legislative rules by various executive and administrative agencies of the state; authorizing certain of the agencies to promulgate legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing the commissioner of agriculture to promulgate legislative rules relating to animal disease control, as modified; authorizing the commissioner of agriculture to promulgate legislative rule relating to auctioneers, as modified; authorizing the attorney general
to promulgate legislative rule relating to the West Virginia consumer goods rental protection act, as modified; authorizing the secretary of state to promulgate legislative rules relating to official election forms and vendor authorization, as modified; and authorizing the board of accountancy to promulgate legislative rules relating to board rules and rules of professional conduct, as modified.

Be it enacted by the Legislature of West Virginia:

That sections one, three, twenty-four and twenty-nine, article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Commissioner of agriculture.

1. (a) The legislative rules filed in the state register on the sixth day of April, one thousand nine hundred eighty-three, relating to the commissioner of agriculture (schedule of charges for inspection services: fruit), are authorized.

2. (b) The legislative rules filed in the state register on the third day of August, one thousand nine hundred eighty-three, relating to the commissioner of agriculture (licensing of auctioneers), are authorized.

3. (c) The legislative rules filed in the state register on the eighth day of February, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (conduct of beef industry self-improvement assessment program referendum), are authorized.

4. (d) The legislative rules filed in the state register on the fourth day of June, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (feeding untreated garbage to swine), are authorized.

5. (e) The legislative rules filed in the state register on the fourth day of June, one thousand nine hundred eighty-four, relating to the commissioner of agriculture
(registration, taxation and control of dogs), are authorized.

(f) The legislative rules filed in the state register on the first day of November, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (public markets), are authorized.

(g) The legislative rules filed in the state register on the tenth day of September, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (noxious weed rules), are authorized.

(h) The legislative rules filed in the state register on the fourth day of June, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (animal disease control), are authorized.

(i) The legislative rules filed in the state register on the fifth day of January, one thousand nine hundred eighty-four, relating to the commissioner of agriculture (use of certain picloram products), are authorized.

(j) The legislative rules filed in the state register on the eighth day of March, one thousand nine hundred eighty-five, relating to the commissioner of agriculture (increasing certain fees by rules and regulations), are authorized.

(k) The legislative rules filed in the state register on the thirteenth day of January, one thousand nine hundred eighty-six, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirty-first day of January, one thousand nine hundred eighty-six, relating to the commissioner of agriculture (licensing of livestock dealers), are authorized.

(l) The legislative rules filed in the state register on the eighteenth day of June, one thousand nine hundred eighty-six, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the
fifth day of January, one thousand nine hundred eighty-seven, relating to the commissioner of agriculture (West Virginia pesticide use and application act), are authorized.

(m) The legislative rules filed in the state register on the eighteenth day of August, one thousand nine hundred eighty-six, modified by the director of the division of forestry of the department of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of January, one thousand nine hundred eighty-seven, relating to the director of the division of forestry of the department of agriculture (ginseng), are authorized.

(n) The legislative rules filed in the state register on the tenth day of April, one thousand nine hundred eighty-seven, relating to the commissioner of agriculture (schedule of charges for inspection services: fruit), are authorized.

(o) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred eighty-seven, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of September, one thousand nine hundred eighty-seven, relating to the commissioner of agriculture (animal disease control), are authorized.

(p) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred eighty-eight, relating to the commissioner of agriculture (sale and distribution of commercial fertilizer), are authorized.

(q) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred eighty-eight, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of October, one thousand nine hundred
eighty-eight, relating to the commissioner of agriculture (animal disease control), are authorized.

(r) The legislative rules filed in the state register on the fifteenth day of May, one thousand nine hundred eighty-nine, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of August, one thousand nine hundred eighty-nine, relating to the commissioner of agriculture (production of milk and cream for manufacturing purposes), are authorized.

(s) The legislative rules filed in the state register on the seventh day of August, one thousand nine hundred eighty-nine, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of October, one thousand nine hundred eighty-nine, relating to the commissioner of agriculture (animal disease control), are authorized.

(t) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifth day of October, one thousand nine hundred ninety, relating to the commissioner of agriculture (meat inspection), are authorized.

(u) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the third day of October, one thousand nine hundred ninety, relating to the commissioner of agriculture (agricultural liming materials), are authorized.

(v) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety,
modified by the commissioner of agriculture to meet the
objections of the legislative rule-making review
commitee and refiled in the state register on the third
day of October, one thousand nine hundred ninety,
relating to the commissioner of agriculture (public
markets), are authorized.

(w) The legislative rules filed in the state register on
the nineteenth day of September, one thousand nine
hundred ninety, modified by the commissioner of
agriculture to meet the objections of the legislative
rule-making review committe and refiled in the state
register on the ninth day of November, one thousand
nine hundred ninety, relating to the commissioner of
agriculture (animal disease control), are authorized.

(x) The legislative rules filed in the state register on the
eighth day of August, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-fourth day of September, one thousand nine
hundred ninety-one, relating to the commissioner of
agriculture (commercial feed), are authorized with the
amendments set forth below:

On page two, after subsection 3.3., by adding a new
subsection, designated subsection 3.4., to read as follows:

“3.4. The commissioner will not assess a tonnage fee on
any commercial feed or feed ingredients used in the
manufacture of poultry contract feed.”;

On page five, after subsection 4.3.m., by adding a new
subsection, designated subsection 4.3.n., to read as
follows:

“4.3.n. The commissioner will consider poultry
contract feed to be customer-formula feed.”;

And,

On page eight, after subsection 5.5., by adding a new
subsection, designated subsection 5.6., to read as follows:
“5.6. Poultry contract feed labels shall conform to the requirements of W. Va. Code §19-14-8(d), except that:

5.6.a. The name of the grower or feeder will substitute for the requirements for the name of the purchaser; and,

5.6.b. The net weight (avoirdupois) of the commercial feed and each feed ingredient used in the feed shall not be required to be listed.”

(y) The legislative rules filed in the state register on the fourth day of June, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the second day of August, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (wood destroying insect treatment standards), are authorized.

(z) The legislative rules filed in the state register on the twentieth day of December, one thousand nine hundred ninety, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of April, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (fee structure for the pesticide control act of 1990), are authorized.

(aa) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of November, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (animal disease control), are authorized.

(bb) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the
tenth day of September, one thousand nine hundred
ninety-one, relating to the commissioner of agriculture
(West Virginia plant pest act), are authorized.

(cc) The legislative rules filed in the state register on
the twenty-sixth day of July, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
sixteenth day of October, one thousand nine hundred
ninety-one, relating to the commissioner of agriculture
(licensing of pesticide businesses), are authorized.

(dd) The legislative rules filed in the state register on
the eighth day of August, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
second day of October, one thousand nine hundred
ninety-one, relating to the commissioner of agriculture
(certified pesticide applicators), are authorized.

(ee) The legislative rules filed in the state register on
the eighth day of August, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-fourth day of September, one thousand nine
hundred ninety-one, relating to the commissioner of
agriculture (assessment of civil penalties and procedures
for consent agreements and negotiated settlements), are
authorized.

(ff) The legislative rules filed in the state register on
the eighth day of August, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-fourth day of September, one thousand nine
hundred ninety-one, relating to the commissioner of
agriculture (aerial application of herbicides to rights-
of-way), are authorized.
(gg) The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (frozen desserts and imitation frozen desserts), are authorized, with the amendment set forth below:

On page twelve, by striking out all of section 15 and substituting a new section 15, to read as follows:


15.1. The commissioner may assess a violation of W. Va. Code §19-11B-1 et seq. or of these rules against the manufacturer of product and/or the distributor of the mix used to manufacture the product.

15.2. The commissioner will assess any violations of W. Va. Code §19-11B-1 et seq. or of this rule to the distributor for mix sampled from unopened containers. The company will not be assessed additional cumulative notices of violations until the commissioner has determined that the firm has had adequate notice of the previous notice, generally 10 days from the mailing of the notice of violation.

15.3. Whenever one of the last five consecutive official product sample(s) taken on separate days within a one year period are found to be adulterated or misbranded, the commissioner shall send a written "First Notice" to the manufacturer or distributor whichever is appropriate. This notice shall notify the manufacturer or distributor of the violation of W. Va. Code §19-11B-1 et seq. or of these rules and the enforcement policy established by this section of the rule.

15.4. Whenever two of the last five consecutive official product sample(s) taken on separate days within a one year period are found to be adulterated or misbranded
the commissioner shall send a written “Second Notice”
to the manufacturer or distributor whichever is
appropriate.

15.4.a. The commissioner shall collect additional
official product sample(s) within 21 days of the sending
of a Second Notice to the manufacturer or distributor,
but shall not collect product samples before the lapse of
7 days from the sending of a Second Notice.

15.5. Whenever three of the last five consecutive
official product sample(s) taken on separate days within
a one year period are found to be adulterated or
misbranded the commissioner shall send a written
“Third Notice” to the manufacturer or distributor
whichever is appropriate.

15.5.a. The commissioner shall collect additional
official product sample(s) within 21 days of the sending
of the Third Notice to the manufacturer or distributor,
but shall not collect additional product samples before
the lapse of 7 days from the date of sending of the notice.

15.6. The commissioner will issue a “Shut-down
Order” for a period of 24 hours to a manufacturer or
distributor when the record of the firm indicates that
effective action has not been taken to correct the causes
of the violations, for instance when three out of the last
five samples from the same machine are violative. The
“Shut-down Order” will normally be issued with the
“Third Notice”. The “Shut-down Order” will give the
reasons for the order, state the portion of the manufac-
turing or distributing operation that is prohibited from
operating while the order is in effect, give conditions of
the order, state the length of time that the Shut-down
Order will be in effect and specify a time and place for a
hearing to be held in this matter. Except that in the case
where the public health, safety or welfare is at risk, the
commissioner will issue an immediate Shut-down Order
and give notice to the manufacturer or distributor under
the provisions of subdivision 15.6.a. of this rule.
15.6.a. The commissioner will issue an immediate Shut-down Order without giving the manufacturer or distributor the opportunity to be heard where there is a hazard to the public health, safety or welfare. In these cases, the manufacturer or distributor will be given the opportunity to request a hearing before the commissioner after the notification of the order is received by the manufacturer or distributor. All Shut-down Orders issued due to noncompliance with subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule are considered to involve a risk to the public health, safety or welfare.

15.6.b. The manufacturer or distributor will be responsible for causing all operations covered by the Shut-down Order to cease and follow all other conditions of the order. At the end of the period of the order, the manufacturer or distributor may resume operations without further action by the commissioner.

15.7. If after a Shut-down Order has been issued the commissioner finds that effective corrective action has not been taken, he may issue a suspension of the Frozen Desserts Manufacturer Permit. The suspension shall state the time that the suspension will become effective, give the reasons for the suspension and specify a time and place for a hearing to be held in this matter. Except that in the case of a summary suspension the commissioner will give the manufacturer the opportunity to request a hearing in this matter subsequent to the notification of the suspension.

15.7.a. All suspensions due to nonconformance to subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule are summary suspensions.

15.7.b. A suspension of the Frozen Desserts Manufacturer Permit remains in effect until the manufacturer submits and the commissioner accepts a written plan of correction and a request for a reinstatement of the permit.

15.7.c. The commissioner has seven days from the date
of receipt of this application to respond to a suspension in the case of violations of subdivisions 8.1.c., 8.1.d. or 8.1.g. of this rule and fourteen days to respond for all other violations of W. Va. Code §19-11B-1 et seq. or these rules. The commissioner will accept or deny the application for a reinstatement of the permit and will give the terms and conditions under which the permit will be reinstated.

15.8. If the commissioner finds that after the firm has resumed production following a suspension of their Frozen Desserts Manufacturer Permit that effective corrective action has not been taken, then the commissioner will hold a hearing to determine if the Frozen Desserts Manufacturer Permit should be revoked.

15.9. Persons who manufacture a product on an intermittent or infrequent basis, so that the standard enforcement policy cannot apply, will enter into a consent agreement with the commissioner for correction of all items found to be not in conformance with W. Va. Code §19-11B-1 et seq. or these rules.

15.10. Whenever an antibiotic or pesticide residue test is found to be above tolerance, the commissioner shall notify the manufacturer and/or distributor immediately of this fact and shall begin an investigation to determine the cause of the residue. The commissioner shall require that any person found to be responsible for the residue shall correct the cause of the residue prior to the resumption of the manufacturing or distribution of the product.

15.11. A person who performs a recall by voluntarily removing product from sale and distribution in an effective manner so as to limit the potential harm to the health and well-being of the public may be eligible for exemptions from the normal enforcement policy. The commissioner shall consider the facts of each case when making a decision on an exemption.

15.12. The commissioner may apply the enforcement
policy in a liberal manner in cases where all official
product sample results that involve a product in the form
actually sold to the public have been found to be in
conformance with W. Va. Code §19-11B-1 et seq. or these
rules.

15.13. The commissioner may suspend the standard
enforcement policy in cases where such action is
necessary to protect the public health, safety or welfare.

15.14. Resamples will only be taken from machines
that were shown to be producing violative product the
previous visit, except for resamples needed to check that
the nonviolative status is being maintained according to
the following schedule:

15.14.a. After a first notice and one nonviolative
sample, resamples will be taken between 5 to 6 months
after the nonviolative sample.

15.14.b. After a second notice and one nonviolative
sample, resamples will be taken between 3-4 months
after the nonviolative sample.

15.14.c. Other resamples may be considered necessary
to determine that the nonviolative status is being
maintained.”

(hh) The legislative rules filed in the state register on
the eighth day of August, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-fourth day of September, one thousand nine
hundred ninety-one, relating to the commissioner of
agriculture (West Virginia apiary law of 1991), are
authorized.

(ii) The legislative rules filed in the state register on
the eighth day of August, one thousand nine hundred
ninety-one, modified by the commissioner of agriculture
to meet the objections of the legislative rule-making
review committee and refiled in the state register on the
twenty-fourth day of September, one thousand nine
hundred ninety-one, relating to the commissioner of
agriculture (disposal of dead poultry), are authorized
with the amendments set forth below:

On page two, section two, by adding a new subsection
to read as follows:

"2.8 "Disposal pit" means an opening dug in the
ground to a minimum depth of six feet, containing a
minimum capacity of 150 cubic feet, covered with a
minimum of 12 inches of dirt, and provided with one or
more openings for the introduction of poultry. The
openings shall be a minimum size of eight inches square
and equipped with tight lids. A disposal pit shall be
located in a site which will prevent contamination of the
groundwater or the surface water. This site should
conform to the standards established in this rule."

On page two, subsection 3.1 after the word "incinera-
tor," by adding the words "disposal pit,"

And,

On page two, by adding a new section, designated
section 4, to read as follows:

"§61-1C-4. Standards for Site Location for Disposal
Pits.

4.1 No part of a disposal pit system shall be located in
a poorly drained or filled area, or in any area where
seasonal flooding occurs.

4.2 No part of a disposal pit system shall be located
within 10 feet of a building, foundation or property line.

4.3 No part of a disposal pit system shall be located
within 50 feet of a public water supply line or within 10
feet of a private water supply system.

4.4 A disposal pit shall be located at least 50 feet from
a private well or groundwater supply.

4.5 There shall be a minimum of three feet between the
461 bottom of a disposal pit and seasonal groundwater or
462 rock, shale or any other impermeable layer.

463 4.6 The evaluation of the site for installation of a
464 disposal pit shall be based upon percolation test results.
465 Percolation tests shall be performed in the following
466 manner:

467 4.6.1 Location - At least two holes shall be placed over
468 the selected site. The results of these two test holes will
469 be averaged.

470 4.6.2 Holes shall be dug or bored from six to eight
471 inches in diameter at the site where the disposal pit will
472 be installed. The holes should be at least 24 inches in
473 depth.

474 4.6.3 The bottom and sides of the holes shall be
475 scratched with a sharp pointed instrument or wire brush
476 to remove any smeared soil surfaces which interfere with
477 the absorption of water into the soil.

478 4.6.4 Loose dirt shall be removed from the bottom of
479 the test holes and two inches of coarse sand or fine
480 gravel shall be placed into the holes to prevent sealing.

481 4.6.5 An eight or ten penny nail shall be placed in the
482 wall of each hole exactly six inches above the level of
483 sand or gravel.

484 4.6.6 The test hole shall be completely filled with
485 water to ground level. Water in the hole shall be kept to
486 a depth of at least 12 inches for a minimum period of
487 four hours before beginning the percolation rate
488 measurement.

489 4.7 Percolation rate measurement - Upon completion
490 of the above, the water depth in the holes shall be
491 adjusted to the level of the nail. The number of minutes
492 it takes for this six inches of water (all the water) to be
493 absorbed into the soil shall be accurately determined.
494 This time in minutes, divided by six, gives the rate of fall
495 per inch. The average rate of fall must be between five
496 minutes and 60 minutes.”
The legislative rules filed in the state register on the eighth day of August, one thousand nine hundred ninety-one, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of September, one thousand nine hundred ninety-one, relating to the commissioner of agriculture (licensing of livestock dealers), are authorized.

The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighteenth day of November, one thousand nine hundred ninety-two, relating to the commissioner of agriculture (commercial feed), are authorized.

The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (general groundwater protection rules for fertilizers and manures), are authorized.

The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (primary and secondary containment of fertilizers), are authorized with the amendments set forth below:

"On page five, by striking out all of subsection 5.5 and
inserting in lieu thereof a new subsection 5.5 to read as follows: 'The operator or his licensed representative shall sign and date each application under oath.'; and

On page eighteen, by striking out all of subsection 14.1 and inserting in lieu thereof a new subsection 14.1 to read as follows:

'All moneys for the purpose of the enforcement and administration of this rule shall come from general revenue funds appropriated by the Legislature for that purpose. The net proceeds of civil penalties collected pursuant to W. Va. Code §20-5M-10a or any civil administrative penalties collected pursuant to W. Va. Code §20-5M-10c will be deposited in the groundwater remediation fund established in W. Va. Code §20-5M-1 et seq.'

(nn) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (general groundwater protection rules for pesticides), are authorized.

(oo) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (bulk pesticide operational rules), are authorized.

(pp) The legislative rules filed in the state register on the fifteenth day of September, one thousand nine hundred ninety-two, modified by the commissioner of agriculture to meet the objections of the legislative
rule-making review committee and refiled in the state register on the nineteenth day of February, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (non-bulk pesticide rules for permanent operational areas), are authorized.

(qq) The legislative rules filed in the state register on the sixteenth day of April, one thousand nine hundred ninety-three, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of July, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (animal disease control), are authorized.

(rr) The legislative rules filed in the state register on the third day of August, one thousand nine hundred ninety-three, modified by the commissioner of agriculture to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth day of October, one thousand nine hundred ninety-three, relating to the commissioner of agriculture (auctioneers), are authorized.


(a) The legislative rules filed in the state register on the sixth day of December, one thousand eight hundred eighty-four, relating to the attorney general (third party dispute mechanisms), are authorized.

(b) The legislative rules filed in the state register on the ninth day of January, one thousand eight hundred eighty-five, relating to the attorney general (fair treatment of crime victims and witnesses), are authorized.

(c) The legislative rules filed in the state register on the nineteenth day of September, one thousand nine hundred eighty-six, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of December, one thousand nine hundred eighty-six,
relating to the attorney general (prevention of unfair or
deceptive acts or practices in home improvement and
home construction transactions), are authorized. These
rules were proposed by the attorney general pursuant to
section one hundred three, article six and section one
hundred two, article seven of chapter forty-six-a of this
code with the following amendments:

"Amending the title to the proposed legislative rule
wherever said title may appear, on lines three and four
thereof, by striking the words 'and home construction'.

On the index page following '3.' by striking the words
'and home construction'."

On page 1, §1.2, line three, after the first word
"transactions" on line three, by striking the comma and
the words "and home construction transactions" and on
line five, by striking the period and inserting the words
"but shall not cover new construction of single-family
dwellings or rebuilding all or substantially all of an
existing or preexisting single-family dwelling."

Page 2, section 2.2 by striking all of lines seven and
eight and inserting in lieu thereof the following:

'unless: (a) it appears in printed or typed face larger
than the largest type used in the written contract, apart'.

On page 2, section 2.4, by striking all of section 2.4 and
inserting in lieu thereof a new section 2.4, to read as
follows:

"2.4 'Home Construction' means, for the purpose of
this Rule, the repair, remodeling or the building of
additions to existing single-family dwelling units,
including single-family homes, condominium units or
any other dwelling unit to be used by any person
primarily for personal or family use, but shall not
include new single-family home construction or the
rebuilding of all or substantially all of an existing or
preexisting single-family dwelling."

Page 3, section 2.6, on line two thereof, after the second
comma by inserting the word “replacement.”

Page 3, section 3, by striking the words “and home construction” from the section heading.

Page 3, section 3.1, lines one and two, by striking the words “or home construction.”

Page 4, section 3.1.4, on lines one and two thereof, by striking the words “or home construction.”

Page 4, section 3.1.8, on line two thereof, by striking the words “or home construction.”

Page 4, section 3.1.9, on lines two and three thereof, by striking the words “or home construction.”

Page 5, section 3.1.12, on lines one and two thereof, by striking the words “or home construction.”

Page 6, section 3.1.26, by striking all of section 3.1.26 and renumbering the subsequent subsections.

Page 7, section 3.1.29, on lines one and two thereof, by striking the words “or home construction.”

Page 7, section 3.1.29, on line six thereof, following the word “contract” by inserting a period and striking the remainder of the section.

Page 7, following section 3.1.29 by adding a new section to be designated section 3.1.29, to read as follows:

“failed to file a certificate in the office of the Clerk of the County Commission in the county in which the principal place of business of the seller is located, setting forth the assumed name in or by which the business is being conducted in conformity with the provisions of Chapter 47, Article 8, Section 2 of the Code of West Virginia, 1931, as amended.”

Page 7, section 3.2, on lines two and three thereof, by striking the words, “or home solicitation sale of home construction” and the comma on line three.

Page 9, section 4.1, on line eight thereof, by deleting
the period and inserting the following:

‘to the extent permitted by statute’.

Page 10, section 4.2, on line 9 thereof, by striking the period and inserting the following:

‘to the extent permitted by statute’.

(d) The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-six, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the first day of December, one thousand nine hundred eighty-six, relating to the attorney general (prevention of unfair or deceptive acts or practices in the sale of damaged goods or products), are authorized.

(e) The legislative rules filed in the state register on the twenty-third day of September, one thousand nine hundred eighty-seven, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of November, one thousand nine hundred eighty-seven, relating to the attorney general (administration of preneed burial contracts), are authorized with the following amendments set forth below:

On page 9, section 8.2, by striking the words “within thirty days after the death of a contract beneficiary,” and inserting in lieu thereof the following: “On or before the first day of January and the first day of July of each year,” and after the word “provided” by striking the comma and inserting in lieu thereof “after the death of any contract beneficiary during the previous six-month period.”;

On page 12, section 9.7, by striking all of 9.7;

Beginning on page 15, by striking the entirety of section 15;
And,

Beginning on page 18, by striking the entirety of section 16, and by renumbering the remaining sections.

(f) The legislative rules filed in the state register on the eleventh day of August, one thousand nine hundred eighty-nine, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-sixth day of October, one thousand nine hundred eighty-nine, relating to the attorney general (allowing persons who are indirectly injured by violations of the West Virginia antitrust act to recover damages), are authorized.

(g) The legislative rules filed in the state register on the fourteenth day of August, one thousand nine hundred eighty-nine, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of December, one thousand nine hundred eighty-nine, relating to the attorney general (health spas), are authorized.

(h) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, relating to the attorney general (authorizing the attorney general to require persons upon whom subpoenas are served to answer written questions under oath), are authorized.

(i) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, relating to the attorney general (obtaining assistance of public officials in investigations and the commencement of proceedings to compel compliance), are authorized.

(j) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of
November, one thousand nine hundred ninety, relating to the attorney general (limitation of action and recovery of investigative costs and a reasonable attorney's fee by the attorney general in an enforcement action), are authorized.

(k) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of January, one thousand nine hundred ninety-one, relating to the attorney general (regulated business exemption under the West Virginia antitrust act), are authorized.

(l) The legislative rules filed in the state register on the tenth day of August, one thousand nine hundred ninety, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of January, one thousand nine hundred ninety-one, relating to the attorney general (defining the term "federal antitrust laws" and prohibiting tying and reciprocity), are authorized.

(m) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, modified by the attorney general to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fourth day of January, one thousand nine hundred ninety-four, relating to the attorney general (West Virginia consumer goods rental protection act), are authorized.


(a) The legislative rules filed in the state register on the fifteenth day of April, one thousand nine hundred eighty-five, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the eighth
day of October, one thousand nine hundred eighty-five, relating to the secretary of state (standard size and format for rules and related documents filed in the secretary of state's office), are authorized.

(b) The legislative rules filed in the state register on the seventeenth day of August, one thousand nine hundred eighty-seven, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of September, one thousand nine hundred eighty-seven, relating to the secretary of state (standard size and format for rules and procedures for publication of the state register or parts of the state register), are authorized.

(c) The legislative rules filed in the state register on the first day of September, one thousand nine hundred eighty-nine, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of November, one thousand nine hundred eighty-nine, relating to the secretary of state (West Virginia farm product lien central filing system), are authorized.

(d) The legislative rules filed in the state register on the thirteenth day of August, one thousand nine hundred ninety, relating to the secretary of state (guidelines for the use of nicknames and other designations on the ballot), are authorized.

(e) The legislative rules filed in the state register on the fourteenth day of November, one thousand nine hundred ninety, relating to the secretary of state (absentee voting by military voters who are members of reserve units called to active duty), are authorized.

(f) The legislative rules filed in the state register on the seventh day of October, one thousand nine hundred ninety-one, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of September, one thousand nine hundred ninety-one, relating to the secretary of state (standard size and format for rules and procedures for publication of the state register or parts of the state register), are authorized.
committee and refiled in the state register on the twenty-eighth day of May, one thousand nine hundred ninety-two, relating to the secretary of state (filing fee for credit service organizations), are authorized.

(g) The legislative rules filed in the state register on the seventh day of October, one thousand nine hundred ninety-one, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of May, one thousand nine hundred ninety-two, relating to the secretary of state (combined voter registration and driver licensing programs), are authorized.

(h) The legislative rules filed in the state register on the sixteenth day of August, one thousand nine hundred ninety-three, modified by the secretary of state to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-third day of November, one thousand nine hundred ninety-three, relating to the secretary of state (official election forms and vendor authorization), are authorized.

§64-9-29. Board of accountancy.

(a) The legislative rules filed in the state register on the fifth day of December, one thousand nine hundred ninety, modified by the board of accountancy to meet the objections of the legislative rule-making review committee and refiled in the state register on the fourth day of June, one thousand nine hundred ninety-one, relating to the board of accountancy (professional conduct), are authorized.

(b) The legislative rules filed in the state register on the twelfth day of August, one thousand nine hundred ninety-three, modified by the board of accountancy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-seventh day of October, one thousand nine
hundred ninety-three, relating to the board of accounting (board rules and rules of professional conduct), are authorized.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ................. this the .......... day of .........., 1994.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/25/94
Time 9:46 AM