

SB 0064

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Committee Substitute for
SENATE BILL NO. 64

(By Senator MAUCHIN, ET AL)



PASSED MARCH 11, 1995

In Effect FROM Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 64

(SENATORS MANCHIN, ANDERSON, BOLEY,
GRUBB AND MACNAUGHTAN, *original sponsors*)

[Passed March 11, 1995; in effect from passage.]

AN ACT to amend and reenact article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the promulgation of administrative rules by the various executive or administrative agencies and the procedures relating thereto; 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 certain legislative rules in the form that the rules were filed in the state register; authorizing certain of the agencies to promulgate legislative rules as amended by the Legislature; 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 West Virginia aquaculture farm rules, as modified and amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to animal disease control, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to the inspection of nontraditional, domesticated animals, as amended; authorizing the commissioner of agriculture to promulgate legislative rules relating to the labeling of dairy products for rBST or rBGH, as modified; authorizing the commissioner of agriculture to promulgate legislative rules relating to West Virginia fish processing rules, as modified; authorizing the secretary of state to promulgate legislative rules relating to the combined voter registration and driver licensing fund, as modified; authorizing the governor's committee on crime, delinquency and correction to promulgate legislative rules relating to the protocol for law-enforcement response to domestic violence as modified and amended; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules relating to fees for services rendered by the board, as modified; authorizing the West Virginia board of examiners for licensed practical nurses to promulgate legislative rules relating to policies regulating licensure of the licensed practical nurse, as modified; authorizing the board of medicine to promulgate legislative rules relating to fees for services rendered by the board of medicine, as modified; authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to continuing education, as modified; authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to requirements for licensure and registration, as modified; authorizing the board of examiners for registered professional nurses to promulgate legislative rules relating to policies and criteria for the evaluation and accreditation of colleges and departments or schools of nursing, as modified; and authorizing the real estate commission to promulgate legislative rules relating to

requirements in licensing real estate brokers, associate brokers and salespersons and the conduct of a brokerage business, as modified.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter sixty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted 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
2 fifteenth day of August, one thousand nine hundred
3 ninety-four, modified by the commissioner of agriculture
4 to meet the objections of the legislative rule-making
5 review committee and refiled in the state register on the
6 fourteenth day of October, one thousand nine hundred
7 ninety-four, relating to the commissioner of agriculture
8 (West Virginia aquaculture farm rules, 61 CSR 23), are
9 authorized with the amendments set forth below:

10 On page 1, section 61-23-1, by striking out section 1.1
11 and substituting in lieu thereof the following:

12 "1.1 The commissioner will inspect aquaculture
13 production on a voluntary basis for a period of three
14 years. At the end of this three year period the Aquacul-
15 ture Farm Rule shall be reviewed to determine whether
16 the rule should become mandatory. Aquaculture pro-
17 ducers wishing to participate in the voluntary inspection
18 program must apply in writing to the commissioner.
19 Once a producer enters the voluntary program they will
20 be required to produce fish according to all of the
21 provisions of this rule for the remaining portion of the
22 three year period. The inspections will be conducted on
23 a risk assessment basis with the purpose of educating
24 farmers and assuring the production of wholesome,
25 unspoiled and unadulterated fish and fishery products."

26 On page 4, section 61-23-3, by striking out section 3.1

27 and substituting in lieu thereof the following:

28 “3.1 All producers of fish participating in the volun-
29 tary inspection program outlined in this rule shall have
30 and implement a written Hazard Analysis Critical
31 Control Point Plan, approved by the commissioner, for
32 each location where fish are grown. The commissioner
33 shall furnish a model Hazard Analysis Critical Control
34 Point Plan to the producers for them to follow.”

35 On page 5, section 61-23-3, by striking out section 3.4.

36 On page 6, section 61-23-4, by striking out all of
37 section 4.6 and substituting in lieu thereof the following:

38 “4.6 Septic tanks, home aeration units, vault privy, or
39 other sewage tanks shall not be located within 50 feet of
40 a well or groundwater supply used as an aquaculture
41 water source, or aquaculture production areas in order
42 to prevent fecal and other contamination of water where
43 fish are raised for human consumption, except that tanks
44 or other aquaculture production systems with a barrier
45 preventing possible contamination may be located
46 closer.”

47 On page 8, section 61-23-7, by striking out section 7.1
48 and substituting in lieu thereof the following:

49 “7.1 All fish transported for sale and/or processing by
50 producers participating in this voluntary program shall
51 be.”

52 On page 8, section 61-23-7, by striking out section 7.5
53 and substituting in lieu thereof the following:

54 “7.5 All shipments of human food fish to other pro-
55 ducers, wholesalers, retailers, and/or processors required
56 to operate under a HACCP plan shall be accompanied by
57 a written notification stating that any and all drugs, feed
58 and color additives, pesticides and/or medicated feeds
59 have been legally administered and withdrawal periods
60 have been followed. This notification shall include the
61 name, address, and telephone number of the grower; date
62 of sale; and the lot number of fish. This notification

63 shall be signed by the grower. Except that:"

64 On page 8, section 61-23-7, by striking out section
65 7.5.a. and substituting in lieu thereof the following:

66 "7.5.a. Shipments of fish to other producers before the
67 completion of a required withdrawal period shall be
68 accompanied by a written notification including the
69 name and dose of the drug, feed, color additive, pesti-
70 cide, and/or medicated feed; date administered and
71 length of required withdrawal period; date of sale; and
72 lot number of the fish. This notification shall be signed
73 by the grower."

74 On page 9, section 61-23-9, by striking out section 9.1
75 and substituting in lieu thereof the following:

76 "9.1 It is prohibited to:"

77 On page 10, section 61-23-10, by striking out section
78 61-23-10 in its entirety, and renumbering the remaining
79 sections.

80 On page 11, section 61-23-12, by striking out section
81 12.1.a and substituting in lieu thereof the following:

82 "12.1.a. Enter and inspect, during reasonable hours,
83 any aquaculture production area participating in the
84 voluntary inspection program, where fish are produced,
85 sold, stored, or transported. The inspection includes, but
86 is not limited to, photographing, video taping, verifying,
87 copying and auditing computer files, records and papers
88 relating to the production of fish, as is necessary to
89 determine compliance with this rule and to investigate
90 consumer complaints. The inspection also includes, but
91 is not limited, to photographing, video taping, observing
92 and verifying the premises, vehicles, personnel and
93 activities;"

94 On page 12, section 61-23-12, by striking out section
95 12.1.i.

96 On page 13, section 61-23-13, by striking out section
97 13.3.

98 And,

99 On page 13, section 61-23-13, by striking out section
100 13.4.

101 (b) The legislative rules filed in the state register on the
102 twenty-second day of July, one thousand nine hundred
103 ninety-four, modified by the commissioner of agriculture
104 to meet the objections of the legislative rule-making
105 review committee and refiled in the state register on the
106 ninth day of August, one thousand nine hundred
107 ninety-four, relating to the commissioner of agriculture
108 (animal disease control, 61 CSR 1), are authorized.

109 (c) The legislative rules filed in the state register on the
110 fifteenth day of August, one thousand nine hundred
111 ninety-four, modified by the commissioner of agriculture
112 to meet the objections of the legislative rule-making
113 review committee and refiled in the state register on the
114 eleventh day of October, one thousand nine hundred
115 ninety-four, relating to the commissioner of agriculture
116 (inspection of nontraditional, domesticated animals, 61
117 CSR 23D), are authorized.

118 (d) The legislative rules filed in the state register on the
119 fifteenth day of August, one thousand nine hundred
120 ninety-four, modified by the commissioner of agriculture
121 to meet the objections of the legislative rule-making
122 review committee and refiled in the state register on the
123 fourteenth day of October, one thousand nine hundred
124 ninety-four, relating to the commissioner of agriculture
125 (labeling of dairy products for rBST or rBGH, 61 CSR
126 4D), are authorized.

127 (e) The legislative rules filed in the state register on the
128 fifteenth day of August, one thousand nine hundred
129 ninety-four, modified by the commissioner of agriculture
130 to meet the objections of the legislative rule-making
131 review committee and refiled in the state register on the
132 fourteenth day of October, one thousand nine hundred
133 ninety-four, relating to the commissioner of agriculture
134 (West Virginia fish processing rules, 61 CSR 23D), are

135 authorized.

§64-9-2. Secretary of state.

1 The legislative rules filed in the state register on the
2 fifteenth day of August, one thousand nine hundred
3 ninety-four, modified by the secretary of state to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the four-
6 teenth day of November, one thousand nine hundred
7 ninety-four, relating to the secretary of state (combined
8 voter registration and driver licensing fund, 153 CSR 28),
9 are authorized.

**§64-9-3. Governor's committee on crime, delinquency and
correction.**

1 The legislative rules filed in the state register on the
2 second day of August, one thousand nine hundred
3 ninety-four, modified by the governor's committee on
4 crime, delinquency and correction to meet the objections
5 of the legislative rule-making review committee and
6 refiled in the state register on the sixth day of Septem-
7 ber, one thousand nine hundred ninety-four, relating to
8 the governor's committee on crime, delinquency and
9 correction (protocol for law-enforcement response to
10 domestic violence, 149 CSR 3), are authorized.

§64-9-4. Board of examiners for licensed practical nurses.

1 (a) The legislative rules filed in the state register on
2 the fourteenth day of July, one thousand nine hundred
3 ninety-four, modified by the West Virginia board of
4 examiners for licensed practical nurses to meet the
5 objections of the legislative rule-making review commit-
6 tee and refiled in the state register on the fifteenth day
7 of August, one thousand nine hundred ninety-four,
8 relating to the West Virginia board of examiners for
9 licensed practical nurses (fees for services rendered by
10 the board, 10 CSR 4), are authorized.

11 (b) The legislative rules filed in the state register on the
12 fourteenth day of July, one thousand nine hundred

13 ninety-four, modified by the West Virginia board of
14 examiners for licensed practical nurses to meet the
15 objections of the legislative rule-making review commit-
16 tee and refiled in the state register on the fifteenth day
17 of August, one thousand nine hundred ninety-four,
18 relating to the West Virginia board of examiners for
19 licensed practical nurses (policies regulating licensure of
20 the licensed practical nurse, 10 CSR 2), are authorized.

§64-9-5. Board of medicine.

1 The legislative rules filed in the state register on the
2 fourteenth day of July, one thousand nine hundred
3 ninety-four, modified by the board of medicine to meet
4 the objections of the legislative rule-making review
5 committee and refiled in the state register on the twelfth
6 day of October, one thousand nine hundred ninety-four,
7 relating to the board of medicine (fees for services
8 rendered by the board of medicine, 11 CSR 4), are
9 authorized.

**§64-9-6. Board of examiners for registered professional
nurses.**

1 (a) The legislative rules filed in the state register on the
2 fifteenth day of August, one thousand nine hundred
3 ninety-four, modified by the board of examiners for
4 registered professional nurses to meet the objections of
5 the legislative rule-making review committee and refiled
6 in the state register on the twenty-eighth day of Novem-
7 ber, one thousand nine hundred ninety-four, relating to
8 the board of examiners for registered professional nurses
9 (continuing education, 19 CSR 11), are authorized.

10 (b) The legislative rules filed in the state register on the
11 fifteenth day of August, one thousand nine hundred
12 ninety-four, modified by the board of examiners for
13 registered professional nurses to meet the objections of
14 the legislative rule-making review committee and refiled
15 in the state register on the twenty-eighth day of Novem-
16 ber, one thousand nine hundred ninety-four, relating to
17 the board of examiners for registered professional nurses

18 (requirements for licensure and registration, 19 CSR 3),
19 are authorized.

20 (c) The legislative rules filed in the state register on the
21 fifteenth day of August, one thousand nine hundred
22 ninety-four, modified by the board of examiners for
23 registered professional nurses to meet the objections of
24 the legislative rule-making review committee and refiled
25 in the state register on the twenty-eighth day of Novem-
26 ber, one thousand nine hundred ninety-four, relating to
27 the board of examiners for registered professional nurses
28 (policies and criteria for the evaluation and accreditation
29 of colleges, departments or schools of nursing, 19 CSR 1),
30 are authorized.

§64-9-7. Real estate commission.

1 The legislative rules filed in the state register on the
2 fifteenth day of August, one thousand nine hundred
3 ninety-four, modified by the real estate commission to
4 meet the objections of the legislative rule-making review
5 committee and refiled in the state register on the twelfth
6 day of October, one thousand nine hundred ninety-four,
7 relating to the real estate commission (requirements in
8 licensing real estate brokers, associate brokers, and
9 salespersons and the conduct of brokerage business, 174
10 CSR 1), are authorized.

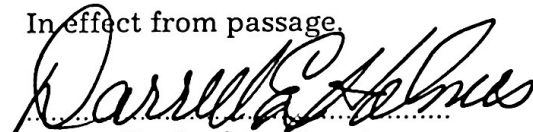
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee



.....
Chairman House Committee

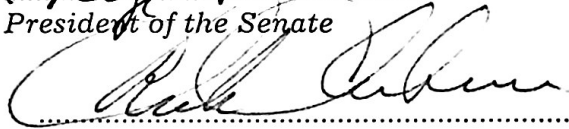
Originated in the Senate.

In effect from passage.


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Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved..... this the 23rd.....

day of March....., 1995.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/95

Time 4:40 pm