WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED
Committee Substitute for
SENATE BILL NO. 64

(By Senator MARCHAND ET AL.)

PASSED March 11, 1995
In Effect ____________
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.

(a) The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, 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 fourteenth day of October, one thousand nine hundred ninety-four, relating to the commissioner of agriculture (West Virginia aquaculture farm rules, 61 CSR 23), are authorized with the amendments set forth below:

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

"1.1 The commissioner will inspect aquaculture production on a voluntary basis for a period of three years. At the end of this three year period the Aquaculture Farm Rule shall be reviewed to determine whether the rule should become mandatory. Aquaculture producers wishing to participate in the voluntary inspection program must apply in writing to the commissioner. Once a producer enters the voluntary program they will be required to produce fish according to all of the provisions of this rule for the remaining portion of the three year period. The inspections will be conducted on a risk assessment basis with the purpose of educating farmers and assuring the production of wholesome, unspoiled and unadulterated fish and fishery products."

On page 4, section 61-23-3, by striking out section 3.1
and substituting in lieu thereof the following:

3.1 All producers of fish participating in the voluntary inspection program outlined in this rule shall have and implement a written Hazard Analysis Critical Control Point Plan, approved by the commissioner, for each location where fish are grown. The commissioner shall furnish a model Hazard Analysis Critical Control Point Plan to the producers for them to follow.”

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

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

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

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

7.1 All fish transported for sale and/or processing by producers participating in this voluntary program shall be:”

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

7.5 All shipments of human food fish to other producers, wholesalers, retailers, and/or processors required to operate under a HACCP plan shall be accompanied by a written notification stating that any and all drugs, feed and color additives, pesticides and/or medicated feeds have been legally administered and withdrawal periods have been followed. This notification shall include the name, address, and telephone number of the grower; date of sale; and the lot number of fish. This notification
shall be signed by the grower. Except that:

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

"7.5.a. Shipments of fish to other producers before the completion of a required withdrawal period shall be accompanied by a written notification including the name and dose of the drug, feed, color additive, pesticide, and/or medicated feed; date administered and length of required withdrawal period; date of sale; and lot number of the fish. This notification shall be signed by the grower."

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

"9.1 It is prohibited to:

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

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

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

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

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

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

(b) The legislative rules filed in the state register on the twenty-second day of July, one thousand nine hundred ninety-four, 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 ninth day of August, one thousand nine hundred ninety-four, relating to the commissioner of agriculture (animal disease control, 61 CSR 1), are authorized.

c) The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, 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 eleventh day of October, one thousand nine hundred ninety-four, relating to the commissioner of agriculture (inspection of nontraditional, domesticated animals, 61 CSR 23D), are authorized.

d) The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, 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 fourteenth day of October, one thousand nine hundred ninety-four, relating to the commissioner of agriculture (labeling of dairy products for rBST or rBGH, 61 CSR 4D), are authorized.

e) The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, 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 fourteenth day of October, one thousand nine hundred ninety-four, relating to the commissioner of agriculture (West Virginia fish processing rules, 61 CSR 23D), are
§64-9-2. Secretary of state.

The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, 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 fourteenth day of November, one thousand nine hundred ninety-four, relating to the secretary of state (combined voter registration and driver licensing fund, 153 CSR 28), are authorized.

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

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

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

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

(b) The legislative rules filed in the state register on the fourteenth day of July, one thousand nine hundred ninety-four, modified by the West Virginia board of examiners for licensed practical nurses to meet the objections of the legislative rule-making review committee and refiled in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, relating to the West Virginia board of examiners for licensed practical nurses (fees for services rendered by the board, 10 CSR 4), are authorized.
§64-9-5. Board of medicine.

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

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

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

(b) The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, modified by the board of examiners for registered professional nurses to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-eighth day of November, one thousand nine hundred ninety-four, relating to the board of examiners for registered professional nurses
(requirements for licensure and registration, 19 CSR 3), are authorized.

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


The legislative rules filed in the state register on the fifteenth day of August, one thousand nine hundred ninety-four, modified by the real estate commission to meet the objections of the legislative rule-making review committee and refiled in the state register on the twelfth day of October, one thousand nine hundred ninety-four, relating to the real estate commission (requirements in licensing real estate brokers, associate brokers, and salespersons and the conduct of brokerage business, 174 CSR 1), are authorized.
That Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
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 is approved... this the 23rd

day of March, 1995.

Governor