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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

Com. Sub. for

HOUSE BILL No. 4268

(By Delegate *s Douglas, Linch, Compton,
Gallagher, Riggs, Fairclath*)



Passed *March 8* 1996

In Effect *From* Passage



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COMMITTEE SUBSTITUTE
FOR
H. B. 4268

(BY DELEGATES DOUGLAS, LINCH, COMPTON, GALLAGHER,
RIGGS AND FAIRCLOTH)

[Passed March 8, 1996; in effect from passage.]

AN ACT to amend and reenact article ten, 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 division of labor to promulgate legislative rules relating to commercial bungee jumping safety act, as modified; authorizing board of miner training to promulgate legislative rules relating to safety training program for prospective coal miners; authorizing division of natural resources to promulgate legislative rules relating to commercial sale of wildlife, as modified; authorizing division of natural resources to promulgate legislative rules relating to miscellaneous permits and licenses, as modified; authorizing division of natural resources to promulgate legislative rules

relating to boating, as modified; authorizing division of natural resources to promulgate legislative rules relating to special boating, as modified and amended; authorizing division of natural resources to promulgate legislative rules relating to wildlife damage control agents, as modified; authorizing division of natural resources to promulgate legislative rules relating to wildlife scientific collecting permits, as modified; authorizing division of natural resources to promulgate legislative rules relating to hunting and trapping prohibitions, as modified; authorizing division of natural resources to promulgate legislative rules relating to special waterfowl hunting, as modified; authorizing division of natural resources to promulgate legislative rules relating to public use of state parks, forests and wildlife management areas, as modified and amended; authorizing division of natural resources to promulgate legislative rules relating to public use of state campgrounds, as modified; authorizing division of natural resources to promulgate legislative rules relating to public use of state swimming areas, as modified.

Be it enacted by the Legislature of West Virginia:

That article ten, 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 10. AUTHORIZATION FOR BUREAU OF COMMERCE
TO PROMULGATE LEGISLATIVE RULES.**

§64-10-1. Division of labor.

1 (a) The legislative rules filed in the state register on
2 the thirty-first day of July, one thousand nine hundred
3 ninety-five, authorized under the authority of section
4 three, article twelve, chapter twenty-one, of this code, mod-
5 ified by the division of labor to meet the objections of the
6 legislative rule-making review committee and refiled in the
7 state register on the eighth day of November, one thou-
8 sand nine hundred ninety-five, relating to the division of
9 labor (commercial bungee jumping safety act, 42 CSR
10 23), are authorized.

11 (b) The legislative rules filed in the state register on
12 the twenty-seventh day of March, one thousand nine hun-

13 dred ninety-five, authorized under the authority of section
 14 six, article seven, chapter twenty-two-a, of this code, relat-
 15 ing to the board of miner training, education and certifica-
 16 tion (governing the safety training program for prospec-
 17 tive surface coal miners in West Virginia, 48 CSR 3), are
 18 authorized.

§64-10-2. Division of natural resources.

1 (a) The legislative rules filed in the state register on
 2 the twenty-second day of December, one thousand nine
 3 hundred ninety-four, authorized under the authority of
 4 section eleven, article two, chapter twenty, of this code,
 5 modified by the division of natural resources to meet the
 6 objections of the legislative rule-making review committee
 7 and refiled in the state register on the twentieth day of
 8 July, one thousand nine hundred ninety-five, relating to
 9 the division of natural resources (commercial sale of wild-
 10 life, 58 CSR 63), are authorized.

11 (b) The legislative rules filed in the state register on
 12 the twenty-second day of December, one thousand nine
 13 hundred ninety-four, authorized under the authority of
 14 section eleven, article two, chapter twenty, of this code,
 15 modified by the division of natural resources to meet the
 16 objections of the legislative rule-making review committee
 17 and refiled in the state register on the twentieth day of
 18 September, one thousand nine hundred ninety-five, relat-
 19 ing to the division of natural resources (miscellaneous
 20 permits and licenses, 58 CSR 64), are authorized.

21 (c) The legislative rules filed in the state register on
 22 the thirty-first day of July, one thousand nine hundred
 23 ninety-five, authorized under the authority of section
 24 twenty-two, article seven, chapter twenty, of this code,
 25 modified by the division of natural resources to meet the
 26 objections of the legislative rule-making review committee
 27 and refiled in the state register on the twentieth day of
 28 September, one thousand nine hundred ninety-five, relat-
 29 ing to the division of natural resources (boating, 58 CSR
 30 25), are authorized.

31 (d) The legislative rules filed in the state register on
 32 the thirty-first day of July, one thousand nine hundred

33 ninety-five, authorized under the authority of section
34 twenty-two, article seven, chapter twenty, of this code,
35 modified by the division of natural resources to meet the
36 objections of the legislative rule-making review committee
37 and refiled in the state register on the twenty-eighth day of
38 October, one thousand nine hundred ninety-five, relating
39 to the division of natural resources (special boating, 58
40 CSR 26), are authorized, with the following amendments:

41 On page two, six, eight and nine, sections 3.6, 3.65,
42 3.71, 3.87, 3.102 and 3.109 following, the words "must
43 have the propeller removed", by inserting the words "or
44 have the motor withdrawn to the maximum trailorable
45 limit".

46 (e) The legislative rules filed in the state register on
47 the thirty-first day of July, one thousand nine hundred
48 ninety-five, authorized under the authority of section
49 fifty-a, article two, chapter twenty, of this code, modified
50 by the division of natural resources to meet the objections
51 of the legislative rule-making review committee and re-
52 filed in the state register on the twentieth day of Septem-
53 ber, one thousand nine hundred ninety-five, relating to the
54 division of natural resources (wildlife damage control
55 agents, 58 CSR 41), are authorized.

56 (f) The legislative rules filed in the state register on the
57 thirty-first day of July, one thousand nine hundred
58 ninety-five, authorized under the authority of section
59 seven, article one, chapter twenty, of this code, modified
60 by the division of natural resources to meet the objections
61 of the legislative rule-making review committee and re-
62 filed in the state register on the twentieth day of Septem-
63 ber, one thousand nine hundred ninety-five, relating to the
64 division of natural resources (wildlife scientific collecting
65 permits, 58 CSR 42), are authorized.

66 (g) The legislative rules filed in the state register on
67 the thirty-first day of July, one thousand nine hundred
68 ninety-five, authorized under the authority of section
69 seven, article one, chapter twenty, of this code, modified
70 by the division of natural resources to meet the objections
71 of the legislative rule-making review committee and re-
72 filed in the state register on the twentieth day of Septem-

73 ber, one thousand nine hundred ninety-five, relating to the
74 division of natural resources (prohibitions when hunting
75 and trapping, 58 CSR 47) are authorized.

76 (h) The legislative rules filed in the state register on
77 the thirty-first day of July, one thousand nine hundred
78 ninety-five, authorized under the authority of section
79 seven, article one, chapter twenty, of this code, modified
80 by the division of natural resources to meet the objections
81 of the legislative rule-making review committee and re-
82 filed in the state register on the twentieth day of Septem-
83 ber, one thousand nine hundred ninety-five, relating to the
84 division of natural resources (special waterfowl hunting,
85 58 CSR 58), are authorized.

86 (i) The legislative rules filed in the state register on the
87 thirty-first day of July, one thousand nine hundred
88 ninety-five, authorized under the authority of section
89 seventeen-a, article one, chapter five-b, of this code, modi-
90 fied by the division of natural resources to meet the objec-
91 tions of the legislative rule-making review committee and
92 refiled in the state register on the twenty-fifth day of Octo-
93 ber, one thousand nine hundred ninety-five, relating to the
94 division of natural resources (public use of West Virginia
95 state parks, state forests, and state wildlife management
96 areas under the division of natural resources, 58 CSR 31),
97 are authorized,

98 "with the following amendment:

99 On page 4 section 2.22 by striking out section 2.22 in
100 its entirety and inserting in lieu thereof the following:

101 2.22. The Director of the Division of Natural Re-
102 sources is authorized to issue special use permits and enter
103 into written agreements with persons who demonstrate to
104 the satisfaction of the Director that they have good cause
105 to utilize a motor driven vehicle on the Greenbrier River
106 Trail or the North Bend Rail Trail. The Director may also
107 authorize persons with legitimate need to utilize motorized
108 vehicles on the trails as authorized in subdivision 2.22.3.

109 2.22.1. The director may, upon application in writing
110 and for good cause shown, issue a written special use per-
111 mit authorizing limited use of motorized vehicles on either

112 the North Bend Rail Trail or Greenbrier River Trail. A
113 separate permit is required for each use. Each permit shall
114 specify the limitation on access, including such things as
115 the date, time not to exceed three days, place, method and
116 distance the applicant will be allowed to have access to the
117 trail. As part of the permit process, the Director shall enter
118 into a written agreement to allow the use of motorized
119 vehicles on the trails. The agreement shall specify the
120 limitations of the use and require, in exchange for such
121 use, that the persons allowed to use motorized vehicles on
122 the trails shall maintain a specified area of the trail for a
123 specified length of time. The terms of the maintenance
124 portion of the agreement shall depend on the length and
125 nature of the use.

126 2.22.2. Good cause may be shown by (a) those per-
127 sons in need of limited access to adjacent land that the
128 applicant owns or leases for agriculture purposes and who
129 have demonstrated no other reasonable means to gain
130 entry to the adjacent land; (b) those persons who have a
131 vested right of ingress to and egress from the trail and (c)
132 those persons required by law to plug or reclaim oil or gas
133 wells.

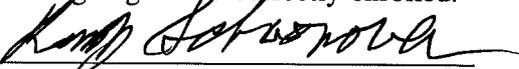
134 2.22.3. Persons with a legitimate need to use motor-
135 ized vehicles on the trails are exempt from the permit
136 requirements. A legitimate need is limited to (a) those
137 persons who are authorized by the Director to use motor-
138 ized vehicles in the management, construction, mainte-
139 nance and operation of the trails and facilities and (b)
140 persons and equipment to fight forest fires and handle
141 other emergencies."

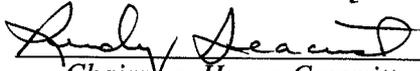
142 (j) The legislative rules filed in the state register on the
143 thirty-first day of July, one thousand nine hundred
144 ninety-five, authorized under the authority of section
145 seven, article one, chapter twenty, of this code, modified
146 by the division of natural resources to meet the objections
147 of the legislative rule-making review committee and re-
148 filed in the state register on the twenty-fifth day of Octo-
149 ber, one thousand nine hundred ninety-five, relating to the
150 division of natural resources (rules governing public use
151 of campgrounds in West Virginia state parks, state forests

152 and state wildlife management areas under the division of
153 natural resources, 58 CSR 32), are authorized.

154 (k) The legislative rules filed in the state register on
155 the thirty-first day of July, one thousand nine hundred
156 ninety-five, authorized under the authority of section
157 seven, article one, chapter twenty, of this code, modified
158 by the division of natural resources to meet the objections
159 of the legislative rule-making review committee and re-
160 filed in the state register on the twenty-fifth day of Octo-
161 ber, one thousand nine hundred ninety-five, relating to the
162 division of natural resources (rules governing public use
163 of swimming areas in West Virginia state parks, state for-
164 ests and state wildlife management areas under the division
165 of natural resources, 58 CSR 33), are authorized.

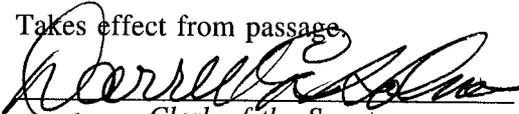
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

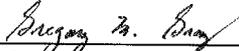

Chairman Senate Committee

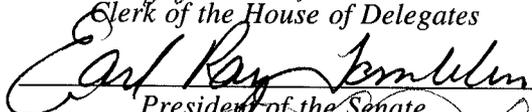

Chairman House Committee

Originating in the House.

Takes effect from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 28th
day of March, 1996.


Governor

PRESENTED TO THE

GVERNOR,

Date

3/22/96

Time

2:57 pm