WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Com. Sub. for
HOUSE BILL No. 4268

(By Delegate Douglas, Linch, Compton, Gallagher, Riggs, Faircloth)

Passed March 8 1996

In Effect from Passage
ENROLLED
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.

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

(b) The legislative rules filed in the state register on the twenty-seventh day of March, one thousand nine hun-
dred ninety-five, authorized under the authority of section
six, article seven, chapter twenty-two-a, of this code, relat-
ing to the board of miner training, education and certifica-
tion (governing the safety training program for prospec-
tive surface coal miners in West Virginia, 48 CSR 3), are
authorized.

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

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

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

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

(d) The legislative rules filed in the state register on
the thirty-first day of July, one thousand nine hundred
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ninety-five, authorized under the authority of section
twenty-two, article seven, chapter twenty, of this code,
modified by the division of natural resources to meet the
objections of the legislative rule-making review committee
and refiled in the state register on the twenty-eighth day of
October, one thousand nine hundred ninety-five, relating
to the division of natural resources (special boating, 58
CSR 26), are authorized, with the following amendments:

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

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

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

(g) The legislative rules filed in the state register on
the thirty-first day of July, one thousand nine hundred
ninety-five, authorized under the authority of section
seven, article one, chapter twenty, of this code, modified
by the division of natural resources to meet the objections
of the legislative rule-making review committee and re-
filed in the state register on the twentieth day of Septem-
(h) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section seven, article one, chapter twenty, of this code, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twentieth day of September, one thousand nine hundred ninety-five, relating to the division of natural resources (prohibitions when hunting and trapping, 58 CSR 47) are authorized.

(i) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section seventeen-a, article one, chapter five-b, of this code, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of October, one thousand nine hundred ninety-five, relating to the division of natural resources (public use of West Virginia state parks, state forests, and state wildlife management areas under the division of natural resources, 58 CSR 31), are authorized,

"with the following amendment:

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

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

2.22.1. The director may, upon application in writing and for good cause shown, issue a written special use permit authorizing limited use of motorized vehicles on either
the North Bend Rail Trail or Greenbrier River Trail. A separate permit is required for each use. Each permit shall specify the limitation on access, including such things as the date, time not to exceed three days, place, method and distance the applicant will be allowed to have access to the trail. As part of the permit process, the Director shall enter into a written agreement to allow the use of motorized vehicles on the trails. The agreement shall specify the limitations of the use and require, in exchange for such use, that the persons allowed to use motorized vehicles on the trails shall maintain a specified area of the trail for a specified length of time. The terms of the maintenance portion of the agreement shall depend on the length and nature of the use.

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

2.22.3. Persons with a legitimate need to use motorized vehicles on the trails are exempt from the permit requirements. A legitimate need is limited to (a) those persons who are authorized by the Director to use motorized vehicles in the management, construction, maintenance and operation of the trails and facilities and (b) persons and equipment to fight forest fires and handle other emergencies."

(j) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section seven, article twenty, of this code, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of October, one thousand nine hundred ninety-five, relating to the division of natural resources (rules governing public use of campgrounds in West Virginia state parks, state forests
and state wildlife management areas under the division of natural resources, 58 CSR 32), are authorized.

(k) The legislative rules filed in the state register on the thirty-first day of July, one thousand nine hundred ninety-five, authorized under the authority of section seven, article one, chapter twenty, of this code, modified by the division of natural resources to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-fifth day of October, one thousand nine hundred ninety-five, relating to the division of natural resources (rules governing public use of swimming areas in West Virginia state parks, state forests and state wildlife management areas under the division 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 20th
day of March 1996.

Governor
PRESENTED TO THE
GOVERNOR
Date
3/22/96
Time
2:57 pm