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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4250

(By Delegates Hunt, Linch, Compton,
Jenkins, Faircloth and Riggs)



Passed March 10, 2000

In Effect from Passage

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STATE OF WEST VIRGINIA

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FOR

H. B. 4250

(BY DELEGATES HUNT, LINCH, COMPTON,
JENKINS, FAIRCLOTH AND RIGGS)

[Passed March 10, 2000; in effect from passage.]

AN ACT to amend and reenact article five, 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 by the various executive or administrative agencies and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or 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 certain legislative rules with various modifications presented to and recommended by the legislative rule-making review committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to

and recommended by the legislative rule-making review committee and as amended by the legislature; disapproving certain legislative rules; repealing certain legislative rules; authorizing the health care authority to promulgate a legislative rule relating to certificates of need; authorizing the health care authority to promulgate a legislative rule relating to health services offered by health professionals; authorizing the division of health to promulgate a legislative rule relating to behavioral health centers licensure; disapproving the division of health legislative rule relating to personal care homes; authorizing the division of health to promulgate a legislative rule relating to food establishments; authorizing the division of health to promulgate a legislative rule relating to fire department rapid response services; authorizing the division of health to promulgate a legislative rule relating to AIDS-related medical testing and confidentiality; authorizing the division of health to promulgate a legislative rule relating to the cancer registry; authorizing the division of health to promulgate a legislative rule relating to behavioral health consumer rights; authorizing the division of health to promulgate a legislative rule relating to public water systems design standards; authorizing the bureau for child support enforcement to promulgate a legislative rule relating to providing information to credit reporting agencies; and authorizing the bureau for child support enforcement to promulgate a legislative rule relating to guidelines for child support awards.

Be it enacted by the Legislature of West Virginia:

That article five, 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 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Health care authority.

1 (a) The legislative rule filed in the state register on the sixth
2 day of August, one thousand nine hundred ninety-nine, autho-
3 rized under the authority of section four, article two-d, chapter
4 sixteen, of this code, modified by the health care authority to
5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the twenty-third
7 day of September, one thousand nine hundred ninety-nine,
8 relating to the health care authority (certificate of need, 65 CSR
9 7), is authorized.

10 (b) The legislative rule filed in the state register on the sixth
11 day of August, one thousand nine hundred ninety-nine, autho-
12 rized under the authority of section four, article two-d, chapter
13 sixteen, of this code, modified by the health care authority to
14 meet the objections of the legislative rule-making review
15 committee and refiled in the state register on the twenty-third
16 day of September, one thousand nine hundred ninety-nine,
17 relating to the health care authority (health services offered by
18 health professionals, 65 CSR 17), is authorized with the
19 following amendments:

20 “On page two, section three, subsection 3.2, following the
21 words ‘regardless of the cost associated with the proposal’, by
22 striking out the remainder of the sentence and inserting in lieu
23 there of ‘unless cost is a factor for defining a diagnostic center
24 pursuant to subdivision 2.1.a of this rule.’”

§64-5-2. State board of health; division of health.

1 (a) The legislative rule filed in the state register on the sixth
2 day of August, one thousand nine hundred ninety-nine, autho-
3 rized under the authority of section one, article nine, chapter
4 twenty-seven, of this code, modified by the division of health
5 to meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the twenty-ninth
7 day of December, one thousand nine hundred ninety-nine,

8 relating to the division of health (behavioral health centers
9 licensure, 64 CSR 11), is authorized.

10 (b) The legislative rule filed in the state register on the sixth
11 day of August, one thousand nine hundred ninety-nine, autho-
12 rized under the authority of section five, article five-d, chapter
13 sixteen, of this code, modified by the division of health to meet
14 the objections of the legislative rule-making review committee
15 and refiled in the state register on the twenty-second day of
16 October, one thousand nine hundred ninety-nine, relating to the
17 division of health (personal care homes, 64 CSR 14), is
18 disapproved and not authorized for promulgation.

19 (c) The legislative rule filed in the state register on the
20 fourth day of August, one thousand nine hundred ninety-nine,
21 authorized under the authority of section seven, article one,
22 chapter sixteen, of this code, modified by the division of health
23 to meet the objections of the legislative rule-making review
24 committee and refiled in the state register on the twentieth day
25 of January, two thousand, relating to the division of health
26 (food establishments, 64 CSR 17), is authorized with the
27 following amendments:

28 “On page one, section 2.1.a., at the end of the sentence, by
29 inserting the words ‘and the definition of “whole-muscle, intact
30 beef” in subparagraph 1-201.10(B)(94)’;

31 On page two, section 2.1.b., after the words ‘Chapter 2’ by
32 inserting a comma and the words “except for paragraph 2-
33 103.11(H), Persons In Charge;”

34 On page two, section 2.1.c. after the word “paragraphs” by
35 inserting “3-201.11(E), Compliance With Food Law;”;

36 On page two, section 2.1.c. after the words “ 3-
37 401.11(D)(2)” by striking out the words “Cooking of”;

38 On page two, section 2.1.c. after the words “section 3-
39 603.11” by striking out the words “Consumer Advisory” and
40 inserting in lieu thereof the words “Consumption of Animal
41 Foods that are Raw, Undercooked, or Not Otherwise Processed
42 to Eliminate Pathogens”

43 On page three, section 2.1.i.1.C., after the words ‘in
44 compliance with’, by striking out the words ‘Chapter 6’ and
45 inserting in lieu thereof the words ‘Chapter 16’;

46 On page five, section 5.3, in two places, by striking out the
47 words ‘subsection 5.3’ and inserting in lieu thereof the words
48 ‘subsection 5.4’; and,

49 On page six, line three, immediately preceding the words
50 ‘Food Establishment Advisory Board’, by striking out the
51 words ‘§16-17-6’ and inserting in lieu thereof the words ‘§64-
52 17-6.’”

53 (d) The legislative rule filed in the state register on the
54 fourth day of August, one thousand nine hundred ninety-nine,
55 authorized under the authority of section twenty-three, article
56 four-c, chapter sixteen, of this code, modified by the division of
57 health to meet the objections of the legislative rule-making
58 review committee and refiled in the state register on the twenty-
59 second day of October, one thousand nine hundred ninety-nine,
60 relating to the division of health (fire department rapid response
61 services, 64 CSR 44), is authorized with the following amend-
62 ment:

63 “On page seven, following subsection 5.9, by inserting a
64 new subsection, designated subsection 5.10, to read as follows:

65 ‘5.10. Public Access. Each fire department rapid response
66 system shall provide for a publicly listed telephone number to
67 receive calls for service from the public within its regular
68 operating area, except as specified in subdivision 5.10.b of this
69 rule.

70 5.10.a. The number shall be answered on a twenty-four-
71 hour basis.

72 5.10.b. Exception. Any fire department rapid response
73 system that, according to its written policy, does not respond to
74 calls from the general public but responds only to calls from a
75 unique population, such as the population of a state institution,
76 an industrial plant, between specified health care facilities, or
77 a university, is not required to provide a publicly listed tele-
78 phone number. The agency shall provide for a telephone
79 number and shall make that number known to the unique
80 population it services. The number shall be required to be
81 answered during all periods when that population may require
82 service.”

83 (e) The legislative rule filed in the state register on the first
84 day of December, one thousand nine hundred ninety-eight,
85 authorized under the authority of section eight, article three-c,
86 chapter sixteen, of this code, modified by the division of health
87 to meet the objections of the legislative rule-making review
88 committee and refiled in the state register on the twenty-ninth
89 day of April, one thousand nine hundred ninety-nine, relating
90 to the division of health (AIDS-related medical testing and
91 confidentiality, 64 CSR 64), is authorized with the following
92 amendment:

93 “On page six, subsection 5.1, following the words ‘initial
94 period of time’, by striking the words ‘not to exceed three (3)
95 months’.”

96 (f) The legislative rule filed in the state register on the
97 fourth day of August, one thousand nine hundred ninety-nine,
98 authorized under the authority of section two-a, article five-a,
99 chapter sixteen, of this code, modified by the division of health
100 to meet the objections of the legislative rule-making review
101 committee and refiled in the state register on the twenty-second

102 day of October, one thousand nine hundred ninety-nine, relating
103 to the division of health (cancer registry, 64 CSR 68), is
104 authorized with the following amendment:

105 “On page five, immediately following subsection 5.4, by
106 adding a new subsection, designated subsection 5.5, to read as
107 follows:

108 ‘5.5. The West Virginia Cancer Registry may release case
109 data to cancer researchers for the purposes of cancer prevention,
110 control and research.’”

111 (g) The legislative rule filed in the state register on the
112 fourth day of August, one thousand nine hundred ninety-nine,
113 authorized under the authority of section nine, article one,
114 chapter sixteen, of this code, modified by the division of health
115 to meet the objections of the legislative rule-making review
116 committee and refiled in the state register on the twenty-ninth
117 day of December, one thousand nine hundred ninety-nine,
118 relating to the division of health (behavioral health consumer
119 rights, 64 CSR 74), is authorized.

120 (h) The legislative rule filed in the state register on the fifth
121 day of August, one thousand nine hundred ninety-nine, autho-
122 rized under the authority of section nine-a, article one, chapter
123 sixteen, of this code, modified by the division of health to meet
124 the objections of the legislative rule-making review committee
125 and refiled in the state register on the nineteenth day of January,
126 two thousand, relating to the division of health (public water
127 systems design standards, 64 CSR 77), is authorized.

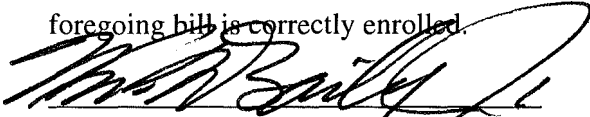
§64-5-3. Child support enforcement division.

1 (a) The legislative rule filed in the state register on the sixth
2 day of August, one thousand nine hundred ninety-nine, under
3 the authority of section nine, article two, chapter forty-eight-a,
4 of this code, relating to the bureau for child support enforce-

5 ment (providing information to credit reporting agencies, 78
6 CSR 14), is repealed.

7 (b) The legislative rule filed in the state register on the sixth
8 day of August, one thousand nine hundred ninety-nine, under
9 the authority of section nine, article two, chapter forty-eight-a,
10 of this code, relating to the bureau for child support enforce-
11 ment (guidelines for child support awards, 78 CSR 16), is
12 repealed.

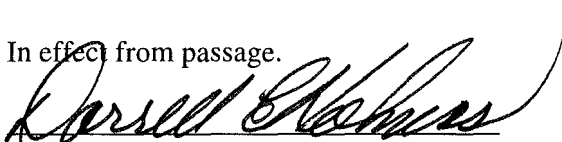
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee

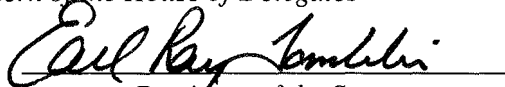

Chairman House Committee

Originating in the House.

In effect from passage.

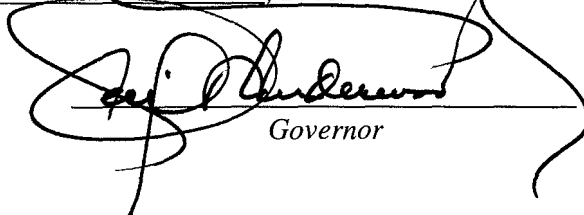

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 28th
day of March, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/00

Time 3:45 pm