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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

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# ENROLLED

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 2717**

(By Delegates Mahan, Wills, Cann, Kominar,  
Faircloth and Riggs)

—●—

Passed April 12, 2001

In Effect from Passage

**FILED**

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COMMITTEE SUBSTITUTE

FOR

**H. B. 2717**

(BY DELEGATES MAHAN, WILLS, CANN, KOMINAR,  
FAIRCLOTH AND RIGGS)

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[Passed April 12, 2001; in effect from passage.]

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AN ACT to amend and reenact article seven, 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; 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

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and recommended by the legislative rule-making review committee and as amended by the legislature; authorizing the tax commissioner to promulgate a legislative rule relating to the valuation of public utility property for ad valorem property tax purposes; authorizing the tax commissioner to promulgate a legislative rule relating to the valuation of the percentage of completion of improvements and infrastructure development in a recorded plan or plat; authorizing the tax commissioner to promulgate a legislative rule relating to bingo; authorizing the tax commissioner to promulgate a legislative rule relating to the cigarette excise tax; authorizing the tax commissioner to promulgate a legislative rule relating to charitable raffles; authorizing the tax commissioner to promulgate a legislative rule relating to the exchange of information agreement between the state tax division and the alcohol beverage control commission; authorizing the insurance commissioner to promulgate a legislative rule relating to standards for uniform health care administration; authorizing the insurance commissioner to promulgate a legislative rule relating to examiners' compensation, qualifications and classification; authorizing the insurance commissioner to promulgate a legislative rule relating to Medicare supplement insurance; authorizing the insurance commissioner to promulgate a legislative rule relating to AIDS; authorizing the insurance commissioner to promulgate a legislative rule relating to continuing education for insurance agents; authorizing the alcohol beverage control commissioner to promulgate a legislative rule relating to the licensing of retail liquor stores; authorizing the alcohol beverage control commissioner to promulgate a legislative rule relating to cigarettes produced for export and imported cigarettes; authorizing the alcohol beverage control commissioner to promulgate a legislative rule relating to prohibiting the sale of tobacco products in vending machines; authorizing the commissioner of banking to promulgate a legislative rule relating to the legal lending limit; and authorizing the racing commission to promulgate a legislative rule relating to thoroughbred racing.

*Be it enacted by the Legislature of West Virginia:*

That article seven, 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 7. AUTHORITY FOR DEPARTMENT OF TAX AND REVENUE  
TO PROMULGATE LEGISLATIVE RULES.**

**§64-7-1. Tax commissioner.**

1 (a) The legislative rule filed in the state register on the  
2 eleventh day of July, two thousand, under the authority of  
3 section five, article one-c, chapter eleven, of this code, relating  
4 to the tax commissioner (valuation of public utility property for  
5 ad valorem property tax purposes, 110 CSR 1M), is authorized.

6 (b) The legislative rule filed in the state register on the  
7 twenty-fourth day of July, two thousand, under the authority of  
8 section one-b, article three, chapter eleven, of this code,  
9 modified by the tax commissioner to meet the objections of the  
10 legislative rule-making review committee and refiled in the  
11 state register on the fifteenth day of December, two thousand,  
12 relating to the tax commissioner (valuation of percentage of  
13 completion of improvements and infrastructure development in  
14 a recorded plan or plat, 110 CSR 4), is authorized.

15 (c) The legislative rule filed in the state register on the  
16 thirty-first day of August, two thousand, under the authority of  
17 section twenty-three, article twenty, chapter forty-seven, of this  
18 code, modified by the tax commissioner to meet the objections  
19 of the legislative rule-making review committee and refiled in  
20 the state register on the twenty-seventh day of October, two  
21 thousand, relating to the tax commissioner (bingo, 110 CSR  
22 16), is authorized.

23 (d) The legislative rule filed in the state register on the  
24 twenty-fourth day of July, two thousand, under the authority of  
25 section five, article ten, chapter eleven, of this code, modified

26 by the tax commissioner to meet the objections of the legisla-  
27 tive rule-making review committee and refiled in the state  
28 register on the twentieth day of September, two thousand,  
29 relating to the tax commissioner (cigarette excise tax, 110 CSR  
30 17), is authorized.

31 (e) The legislative rule filed in the state register on the  
32 thirty-first day of August, two thousand, under the authority of  
33 section twenty-one, article twenty, chapter forty-seven, of this  
34 code, modified by the tax commissioner to meet the objections  
35 of the legislative rule-making review committee and refiled in  
36 the state register on the twenty-seventh day of October, two  
37 thousand, relating to the tax commissioner (charitable raffles,  
38 110 CSR 37), is authorized.

39 (f) The legislative rule filed in the state register on the  
40 eighteenth day of August, two thousand, under the authority of  
41 section five, article ten, chapter eleven, of this code, modified  
42 by the tax commissioner to meet the objections of the legisla-  
43 tive rule-making review committee and refiled in the state  
44 register on the twentieth day of September, two thousand,  
45 relating to the tax commissioner (exchange of information  
46 agreement between the state tax division and the alcohol  
47 beverage control commission, 110 CSR 50B), is authorized.

**§64-7-2. Insurance commissioner.**

1 (a) The legislative rule filed in the state register on the first  
2 day of October, two thousand, authorized by section three,  
3 article fifteen-b, chapter thirty-three of this code, relating to the  
4 insurance commissioner (standards for uniform health care  
5 administration, 114 CSR 16), is authorized.

6 (b) The legislative rule filed in the state register on the first  
7 day of September, two thousand, authorized under the authority  
8 of section ten, article two, chapter thirty-three, of this code,  
9 modified by the insurance commissioner to meet the objections

10 of the legislative rule-making review committee and refiled in  
11 the state register on the seventeenth day of November, two  
12 thousand, relating to the insurance commissioner (examiners'  
13 compensation, qualifications and classification, 114 CSR 15),  
14 is authorized.

15 (c) The legislative rule filed in the state register on the first  
16 day of September, two thousand, authorized by section ten,  
17 article two, chapter thirty-three of this code, modified by the  
18 insurance commissioner to meet the objections of the legislative  
19 rule-making review committee and refiled in the state register  
20 on the seventeenth day of November, two thousand, relating to  
21 the insurance commissioner (Medicare supplement insurance,  
22 114 CSR 24), is authorized.

23 (d) The legislative rule filed in the state register on the first  
24 day of September, two thousand, authorized under the authority  
25 of section ten, article two, chapter thirty-three, of this code,  
26 modified by the insurance commissioner to meet the objections  
27 of the legislative rule-making review committee and refiled in  
28 the state register on the seventeenth day of November, two  
29 thousand, relating to the insurance commissioner (AIDS, 114  
30 CSR 27), is authorized with the following amendment:

31 "On page six of the rule, subsection 5.9, by striking  
32 subdivision 5.9 in its entirety and inserting in lieu thereof, the  
33 following:

34 '5.9. The testing is required to be administered on a  
35 nondiscriminatory basis for all individuals in the same under-  
36 writing class. No proposed insured may be denied coverage or  
37 rated a substandard risk on the basis of HIV testing unless  
38 acceptable testing protocol is followed. The insurer may at its  
39 option use a urine HIV test as an initial screening device;  
40 provided that if the urine test yields a negative result for the  
41 purpose of HIV antibodies then HIV blood or OMT testing may

42 be required by the insurer. The proposed insured may not be  
43 denied insurance coverage or rated a substandard risk on the  
44 basis of a positive urine HIV test alone, including the use of  
45 FDA-licensed tests. An applicant may not be denied coverage  
46 on the basis of AIDS related testing unless:

47 a. An initial enzyme linked immunosorbent assay (ELISA)  
48 test is administered to the proposed insured, and it indicates the  
49 presence of HIV antibodies,

50 b. The initially reactive specimen is retested by ELISA in  
51 duplicate and at least one of the repeat tests is reactive. The  
52 specimen considered repeatedly reactive, is examined in a  
53 Western blot test to confirm the ELISA test results; and

54 c. A Western blot test is positive.”

55 If an initial ELISA test is negative, or both repeat-duplicate  
56 tests are negative, the testing ceases and the proposed insured  
57 cannot be denied coverage based on AIDS-related testing. If the  
58 initial and at least one of the repeat-duplicate LISA tests is  
59 positive but the Western blot test is negative, for purposes of  
60 insurability, the results are negative.

61 (e) The legislative rule filed in the state register on the first  
62 day of September, two thousand, authorized by section ten,  
63 article two, chapter thirty-three of this code, modified by the  
64 insurance commissioner to meet the objections of the legislative  
65 rule-making review committee and refiled in the state register  
66 on the seventeenth day of November, two thousand, relating to  
67 the insurance commissioner (continuing education for insurance  
68 agents, 114 CSR 42), is authorized.

**§64-7-3. Alcohol beverage control commissioner.**

1 (a) The legislative rule filed in the state register on the  
2 twenty-second day of February, two thousand, authorized under

3 the authority of section six, article three-a, chapter sixty, of this  
4 code, modified by the alcohol beverage control commissioner  
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 January, two thousand one, relating to the alcohol  
8 beverage control commissioner (licensing of retail liquor stores,  
9 175 CSR 5), is authorized.

10 (b) The legislative rule filed in the state register on the first  
11 day of September, two thousand, authorized under the authority  
12 of section five, article nine, chapter sixty, of this code, modified  
13 by the alcohol beverage control commissioner to meet the  
14 objections of the legislative rule-making review committee and  
15 refiled in the state register on the twenty-first day of February,  
16 two thousand one, relating to the alcohol beverage control  
17 commissioner (cigarettes produced for export; imported  
18 cigarettes, 175 CSR 8), is authorized.

19 (c) The legislative rule filed in the state register on the first  
20 day of September, two thousand, authorized under the authority  
21 of section eight, article nine-a, chapter sixteen, of this code,  
22 modified by the alcohol beverage control commissioner to meet  
23 the objections of the legislative rule-making review committee  
24 and refiled in the state register on the twenty-first day of  
25 February, two thousand one, relating to the alcohol beverage  
26 control commissioner (prohibiting the sale of tobacco products  
27 in vending machines, 175 CSR 9), is authorized.

**§64-7-4. Banking commissioner.**

1 The legislative rule filed in the state register on the thirtieth  
2 day of August, two thousand, under the authority of section  
3 twenty-six, article four, chapter thirty-one-a, of this code,  
4 modified by the commissioner of banking to meet the objec-  
5 tions of the legislative rule-making review committee and  
6 refiled in the state register on the twenty-sixth day of October,



7 two thousand, relating to the commissioner of banking (legal  
8 lending limit, 106 CSR 9), is authorized.

**§64-7-5. Racing commission.**

1 The legislative rule filed in the state register on the twenty-  
2 second day of August, two thousand, under the authority of  
3 section six, article twenty-three, chapter nineteen of this code,  
4 modified by the racing commission to meet the objections of  
5 the legislative rule-making review committee and refiled in the  
6 state register on the seventeenth day of October, two thousand,  
7 relating to the racing commission (thoroughbred racing, 178  
8 CSR 1), is authorized, with the amendment set forth below:

9 On page one, section 178-1-2, beginning on line eleven, by  
10 striking out section 178-1-2.1 in its entirety and inserting in lieu  
11 thereof a new section 178-1-2.1 as follows:

12 “2.1. “Accredited thoroughbred horse” means a horse that  
13 is:

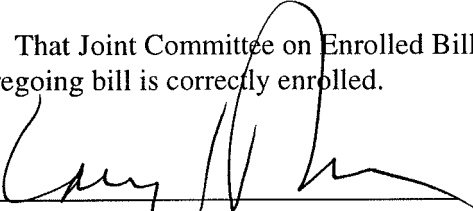
14 2.1.1. foaled in West Virginia; or

15 2.1.2. sired by an accredited West Virginia sire.”.

16 And,

17 On page thirty-one, section 178-1-31.2, line twenty-one,  
18 following the words “Racing Commission” and the period, by  
19 striking out the words “All moneys won by a horse shall be  
20 forfeited and redistributed when the horse is administrated to as  
21 described in this section”, and inserting in lieu thereof the  
22 words “All moneys won by a horse found to have been adminis-  
23 tered to as described in this section shall be forfeited and  
24 redistributed.”.

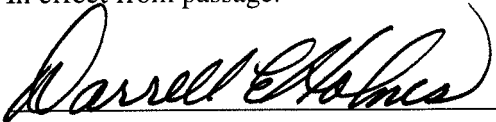
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

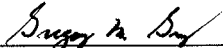
  
Chairman Senate Committee

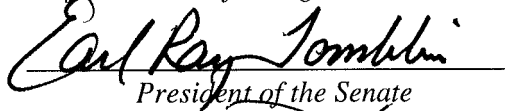
  
Chairman House Committee

Originating in the House.

In effect from passage.

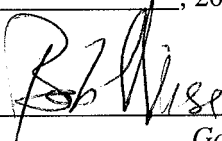
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 25th  
day of April, 2001.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/21/01

Time 2:05 pm