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)

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Passed April 12, 2001

In Effect from Passage
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
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 bicycles produced for export and imported bicycles; 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.

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

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

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

(d) The legislative rule filed in the state register on the twenty-fourth day of July, two thousand, under the authority of section five, article ten, chapter eleven, of this code, modified
by the tax commissioner to meet the objections of the legisla-
tive rule-making review committee and refiled in the state
register on the twentieth day of September, two thousand,
relating to the tax commissioner (cigarette excise tax, 110 CSR
17), is authorized.

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

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

§64-7-2. Insurance commissioner.

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

(b) The legislative rule filed in the state register on the first
day of September, two thousand, authorized under the authority
of section ten, article two, chapter thirty-three, of this code,
modified by the insurance commissioner to meet the objections
of the legislative rule-making review committee and refiled in the state register on the seventeenth day of November, two thousand, relating to the insurance commissioner (examiners' compensation, qualifications and classification, 114 CSR 15), is authorized.

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

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

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

5.9. The testing is required to be administered on a nondiscriminatory basis for all individuals in the same underwriting class. No proposed insured may be denied coverage or rated a substandard risk on the basis of HIV testing unless acceptable testing protocol is followed. The insurer may at its option use a urine HIV test as an initial screening device; provided that if the urine test yields a negative result for the purpose of HIV antibodies then HIV blood or OMT testing may
be required by the insurer. The proposed insured may not be
denied insurance coverage or rated a substandard risk on the
basis of a positive urine HIV test alone, including the use of
FDA-licensed tests. An applicant may not be denied coverage
on the basis of AIDS related testing unless:

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

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

c. A Western blot test is positive.’’

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

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

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

(a) The legislative rule filed in the state register on the
twenty-second day of February, two thousand, authorized under
the authority of section six, article three-a, chapter sixty, of this
code, modified by the alcohol beverage control commissioner
to meet the objections of the legislative rule-making review
committee and refiled in the state register on the twenty-ninth
day of January, two thousand one, relating to the alcohol
beverage control commissioner (licensing of retail liquor stores,
175 CSR 5), is authorized.

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

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

§64-7-4. Banking commissioner.

The legislative rule filed in the state register on the thirtieth
day of August, two thousand, under the authority of section
twenty-six, article four, chapter thirty-one-a, of this code,
modified by the commissioner of banking to meet the objec-
tions of the legislative rule-making review committee and
refiled in the state register on the twenty-sixth day of October,
two thousand, relating to the commissioner of banking (legal
lending limit, 106 CSR 9), is authorized.

§64-7-5. Racing commission.

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

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

2.1. "Accredited thoroughbred horse" means a horse that
is:

2.1.1. foaled in West Virginia; or

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

And,

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