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WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

Committee Substitute for

SENATE BILL NO. 316

(By Senator Poss, et al)

PASSED March 7, 2003

In Effect from **Passage**

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 316

(SENATORS ROSS, MINARD, SNYDER, BOLEY
AND MINEAR, *original sponsors*)

[Passed March 7, 2003; 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; continuing rules previously promulgated by state agencies and boards; legislative mandate or authorization for the promulgation of certain legislative rules; 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 division of forestry to promulgate legislative rule relating to sediment control during commercial timber harvesting operations; logger certification; authorizing division of forestry to promulgate legislative rule relating to sediment control during commercial timber harvesting operation; licensing; authorizing development office to promulgate legislative rule relating to community development assessment and real property valuation procedures for office of coalfield development; authorizing manufactured housing construction and safety standards board to promulgate legislative rule relating to board; authorizing division of labor to promulgate legislative rule relating to elevator safety act; authorizing division of labor to promulgate legislative rule relating to regulation of trade-weights and measures; authorizing board of miner training, education and certification to promulgate legislative rule relating to standards for certification of coal mine electricians; authorizing division of natural resources to promulgate legislative rule relating to revocation of hunting and fishing licenses; authorizing division of natural resources to promulgate legislative rule relating to special boating; authorizing division of natural resources to promulgate legislative rule relating to prohibitions when hunting and trapping; authorizing division of natural resources to promulgate legislative rule relating to deer hunting; and authorizing division of natural resources to promulgate legislative rule relating to commercial sale of wildlife.

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. Development office.

1 The legislative rule filed in the state register on the
2 twenty-ninth day of July, two thousand two, authorized
3 under the authority of section twelve, article two-a,
4 chapter five-b of this code, modified by the department of
5 environmental protection to meet the objections of the
6 legislative rule-making review committee and refiled in
7 the state register on the fourteenth day of January, two
8 thousand three, relating to the department of environmen-
9 tal protection (community development assessment and
10 real property valuation procedures for office of coal field
11 development, 145 CSR 8), is authorized.

§64-10-2. Division of labor.

1 (a) The legislative rule filed in the state register on the
2 ninth day of July, two thousand two, authorized under the
3 authority of section eleven, article three-c, chapter twenty-
4 one of this code, modified by the division of labor to meet
5 the objections of the legislative rule-making review
6 committee and refiled in the state register on the eighth
7 day of November, two thousand two, relating to the
8 division of labor (elevator safety act, 42 CSR 21), is
9 authorized with the following amendments:

10 “On page two, subsection 5.1 following the first word
11 ‘No’, by striking out the word ‘elevator’ and inserting in
12 lieu thereof the word ‘elevators’ and following the second
13 words ‘certificate of operation’, by striking out the words
14 ‘shall be issued by the Division’ and after the word ‘success-
15 fully’, by striking out the word ‘pass’ and inserting in lieu
16 thereof the word ‘passed’;

17 On page three, subsection 6.2 following the word ‘Chair-
18 lifts’”, by striking out the word ‘is’ and inserting in lieu
19 thereof the word ‘are’;

20 And

21 On page four, subsection 6.4 following the words 'no
22 inspection fee will' by adding the word 'be'".

23 (b) The legislative rule filed in the state register on the
24 nineteenth day of July, two thousand two, authorized
25 under the authority of section three, article one, chapter
26 forty-seven of this code, modified by the division of labor
27 to meet the objections of the legislative rule-making
28 review committee and refiled in the state register on the
29 eighth day of November, two thousand two, relating to the
30 division of labor (regulation of trade-weights and mea-
31 sures, 42 CSR 22), is authorized.

**§64-10-3. Manufactured housing construction and safety stan-
dards board.**

1 The legislative rule filed in the state register on the
2 twenty-sixth day of July, two thousand two, authorized
3 under the authority of section four, article nine, chapter
4 twenty-one of this code, relating to the manufactured
5 housing construction and safety standards board (West
6 Virginia manufactured housing construction and safety
7 standards board, 42 CSR 19), is authorized.

§64-10-4. Division of natural resources.

1 (a) The legislative rule filed in the state register on the
2 twenty-sixth day of July, two thousand two, authorized
3 under the authority of section seven, article one, chapter
4 twenty of this code, modified by the division of natural
5 resources to meet the objections of the legislative rule-
6 making review committee and refiled in the state register
7 on the first day of October, two thousand two, relating to
8 the division of natural resources (revocation of hunting
9 and fishing licenses, 58 CSR 23), is authorized.

10 (b) The legislative rule filed in the state register on the
11 twenty-sixth day of July, two thousand two, authorized
12 under the authority of section twenty-two, article seven,
13 chapter twenty of this code, relating to the division of
14 natural resources (special boating, 58 CSR 26), is autho-
15 rized.

16 (c) The legislative rule filed in the state register on the
17 twenty-sixth day of July, two thousand two, authorized

18 under the authority of section seven, article one, chapter
19 twenty of this code, modified by the division of natural
20 resources to meet the objections of the legislature rule-
21 making review committee and refiled in the state register
22 on the twenty-seventh day of September, two thousand
23 two, relating to the division of natural resources (prohibi-
24 tions when hunting and trapping, 58 CSR 47), is autho-
25 rized with the following amendment:

26 “On page two, section three, by striking out all of
27 subdivision 3.6.1;

28 And,

29 On page 3, by striking out all of subdivision 3.15.2 and
30 inserting in lieu thereof a new subdivision 3.15.2, to read
31 as follows:

32 ‘3.15.2. The applicant shall authorize, by written release,
33 his or her medical provider to disclose to the director of
34 the Division of Natural Resources and the medical pro-
35 vider shall, upon receipt of the written release, disclose to
36 the director of the Division of Natural Resources, that
37 portion of the applicant’s medical records which substan-
38 tiates the applicant’s physical impairment qualifying the
39 applicant for the issuance of a special permit for use of a
40 modified bow. The director shall: restrict access to medical
41 records submitted to him or her; maintain the records in a
42 secure locked cabinet; and not share this information with
43 other federal, state or local agencies or entities, or any
44 register or data bank.’”

45 (d) The legislative rule filed in the state register on the
46 twenty-sixth day of July, two thousand two, authorized
47 under the authority of section seven, article one, chapter
48 twenty of this code, modified by the division of natural
49 resources to meet the objections of the legislative rule-
50 making review committee and refiled in the state register
51 on the twenty-seventh day of September, two thousand
52 two, relating to the division of natural resources (deer
53 hunting, 58 CSR 50), is authorized.

54 (e) The legislative rule filed in the state register on the
55 eighteenth day of November, two thousand two, autho-

56 rized under the authority of section eleven, article two,
57 chapter twenty of this code, modified by the division of
58 natural resources to meet the objections of the legislative
59 rule-making review committee and refiled in the state
60 register on the twenty-third day of December, two thou-
61 sand two, relating to the division of natural resources
62 (commercial sale of wildlife, 58 CSR 63), is authorized
63 with the following amendment:

64 "On page four, section sixty-three, by striking out all of
65 Subsections 4.7 and 4.8 and inserting in lieu thereof new
66 Subsections 4.7 and 4.8, to read as follows:

67 '4.7. In order to protect the public health and the welfare
68 of native wildlife, a licensee may not import cervids into
69 West Virginia. When the United States department of
70 agriculture implements rules and regulations on the
71 interstate transportation and sale of cervids, the interstate
72 movement of cervids into West Virginia will be governed
73 by the United State department of agriculture rules and
74 regulations. The Division of Natural Resources, however,
75 may import wildlife during the normal course of its
76 mission.

77 4.8. A licensee may sell or relocate cervids within West
78 Virginia until January 15, 2004, or until the United States
79 department of agriculture establishes rules and regulations
80 regarding the intrastate transportation and sale of cervids,
81 whichever comes later. When the United States depart-
82 ment of agriculture implements rules and regulations on
83 the intrastate transportation and sale of cervids, the
84 intrastate movement within West Virginia will be gov-
85 erned by the United States department of agriculture rules
86 and regulations.'"

§64-10-5. Division of forestry.

1 The legislative rule filed in the state register on the
2 twenty-third day of July, two thousand two, under the
3 authority of section four, article one-b, chapter nineteen of
4 this code, modified by the division of forestry to meet the
5 objections of the legislative rule-making review committee
6 and refiled in the state register on the fifth day of Decem-
7 ber, two thousand two, relating to the division of forestry

8 (sediment control during commercial timber harvesting
9 operations - licensing, 22 CSR 2), is authorized.

10 (b) The legislative rule filed in the state register on the
11 twenty-third day of July, two thousand two, under the
12 authority of section four, article one-b, chapter nineteen of
13 this code, modified by the division of forestry to meet the
14 objections of the legislative rule-making review committee
15 and refiled in the state register on the fifth day of Decem-
16 ber, two thousand two, relating to the division of forestry
17 (sediment control during commercial timber harvesting
18 operations - logger certification, 22 CSR 3), is authorized.

§64-10-6. Board of miner training, education and certification.

1 The legislative rule filed in the state register on the
2 thirteenth day of September, two thousand one, under the
3 authority of section five, article seven, chapter twenty-
4 two-a of this code, modified by the board of miner train-
5 ing, education and certification to meet the objections of
6 the legislative rule-making review committee and refiled
7 in the state register on the thirty-first day of May, two
8 thousand two, relating to the board of miner training,
9 education and certification (standards for certification of
10 coal mine electricians, 48 CSR 7), is authorized.

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

Carly M. Mc

.....
Chairman Senate Committee

Shan Cox

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Darrell G. Harris

.....
Clerk of the Senate

Gregory D. Cox

.....
Clerk of the House of Delegates

Carl Roy Tomblin

.....
President of the Senate

Robert Bliss

.....
Speaker House of Delegates

The within *is approved* this the *1st*
April Day of, 2003.

Bob Wise

.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/27/03

Time 10:10am