WEST VIRGINIA LEGISLATURE

Regular Session, 2005

ENROLLED

Committee Substitute for

SENATE BILL NO. 357

(By Senator Minard, et al)

PASSED April 9, 2005

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 357

(SENATORS MINARD, FANNING, PREZIOSO, UNGER, BOLEY AND MINEAR, original sponsors)

[Passed April 9, 2005; in effect from passage.]

AN ACT to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, 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
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by the Legislative Rule-Making Review Committee and as
amended by the Legislature; authorizing Alcohol Beverage
Control Commissioner to promulgate a legislative rule
relating to retail liquor operations; authorizing Alcohol
Beverage Control Commissioner to promulgate a legislative
rule relating to private club licensing; authorizing Alcohol
Beverage Control Commissioner to promulgate a legislative
rule relating to bailment policies and procedures; authorizing
Insurance Commission to promulgate a legislative rule
relating to examiners and examinations; authorizing Insur-
ance Commissioner to promulgate a legislative rule relating
to surplus lines insurance; authorizing Insurance Commis-
sioner to promulgate a legislative rule relating to cancella-
tion and nonrenewal of automobile liability policies; author-
izing Insurance Commissioner to promulgate a legislative
rule relating to continuing education for individual insurance
producers; authorizing Insurance Commissioner to promul-
gate a legislative rule relating to valuation of life insurance
policies; authorizing Insurance Commissioner to promulgate
a legislative rule relating to recognition of 2001 CSO Mortal-
ity Table for use in determining minimum reserve liabilities
and nonforfeiture benefits; authorizing Insurance Commis-
sioner to promulgate a legislative rule relating to insurance
fraud prevention; authorizing Insurance Commissioner to
promulgate a legislative rule relating to small employer
eligibility requirements; authorizing Racing Commission to
promulgate legislative rule relating to thoroughbred racing;
authorizing Tax Department to promulgate a legislative rule
relating to consumers sales and service tax and use tax -
executive orders and certain declarations and exemptions;
authorizing Tax Department to promulgate a legislative rule
relating to valuation of active and reserve coal for ad
valorem property tax purposes; and authorizing Tax Depart-
ment to promulgate a legislative rule relating to valuation of
producing and reserve oil and gas for ad valorem property
tax purposes.

Be it enacted by the Legislature of West Virginia:
That article 7, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Alcohol Beverage Control Commissioner.

(a) The legislative rule filed in the State Register on the twenty-seventh day of August, two thousand four, authorized under the authority of section six, article three-a, chapter sixty of this code relating to the Alcohol Beverage Control Commissioner (retail liquor operations, 175 CSR 1) is authorized.

(b) The legislative rule filed in the State Register on the twenty-seventh day of August, two thousand four, authorized under the authority of section ten, article seven, chapter sixty of this code relating to the Alcohol Beverage Control Commissioner (private club licensing, 175 CSR 2) is authorized, with the following amendment:

On page six, subdivision 3.1.6.a, the first line, after the word "shall", by striking out the words "establish procedures for conducting" and by inserting in lieu thereof the word "conduct".

(c) The legislative rule filed in the State Register on the twenty-seventh day of August, two thousand four, authorized under the authority of section sixteen, article two, chapter sixty of this code relating to the Alcohol Beverage Control Commissioner (bailment policies and procedures, 175 CSR 6) is authorized.

§64-7-2. Insurance Commissioner.

(a) The legislative rule filed in the State Register on the twenty-sixth day of August, two thousand four, under the authority of section ten, article two, chapter thirty-three of this code relating to the Insurance Commissioner (examiners and examinations, 114 CSR 15) is authorized.
(b) The legislative rule filed in the State Register on the twenty-sixth day of August, two thousand four, under the authority of section ten, article two, chapter thirty-three of this code relating to the Insurance Commissioner (surplus lines insurance, 114 CSR 20) is authorized.

(c) The legislative rule filed in the State Register on the twenty-sixth day of August, two thousand four, under the authority of section ten, article two, chapter thirty-three of this code relating to the Insurance Commissioner (cancellation and nonrenewal of automobile liability policies, 114 CSR 3) is authorized.

(d) The legislative rule filed in the State Register on the twenty-sixth day of August, two thousand four, under the authority of section ten, article two, chapter thirty-three of this code relating to the Insurance Commissioner (continuing education for individual insurance producers, 114 CSR 42) is authorized.

(e) The legislative rule filed in the State Register on the twenty-sixth day of August, two thousand four, under the authority of section ten, article two, chapter thirty-three of this code relating to the Insurance Commissioner (valuation of life insurance policies, 114 CSR 68) is authorized.

(f) The legislative rule filed in the State Register on the twenty-sixth day of August, two thousand four, under the authority of section ten, article two, chapter thirty-three of this code relating to the Insurance Commissioner (recognition of the 2001 CSO Mortality Table for use in determining minimum reserve liabilities and nonforfeiture benefits, 114 CSR 69) is authorized, with the following amendment:

On page one, subsection 1.1., by striking out “§§33-7-9(d)(1)(C)(iii)” and by inserting in lieu thereof “§§33-7-9(d)(1)(C)(ii)”;
On page two, subsection 3.1, by striking out the words "January 1, 2006", and by inserting in lieu thereof the words "the effective date of this rule";

On page two, subsection 3.1, by striking out §§33-9-7(d)(1)(C)(iii) and by inserting in lieu thereof §§33-7-9(d)(1)(C)(iii);

On page two, subsection 3.2, by striking out §§33-9-7(d)(1)(C)(iii) and inserting in lieu thereof §§33-7-9(d)(1)(C)(iii);

And,

On page four, subsection 6.1, by striking out the words "January 1, 2006", and by inserting in lieu thereof the words "the effective date of this rule".

(g) The legislative rule filed in the State Register on the twenty-sixth day of August, two thousand four, 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 twentieth day of December, two thousand four, relating to the Insurance Commissioner (insurance fraud prevention, 114 CSR 71) is authorized.

(h) The legislative rule filed in the State Register on the twenty-seventh day of August, two thousand four, 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 twentieth day of December, two thousand four, relating to the Insurance Commissioner (small employer eligibility requirements, 114 CSR 73) is authorized.

§64-7-3. Racing Commission.

The legislative rule filed in the State Register on the twenty-seventh day of August, two thousand four, 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 twentieth day of December, two thousand four, relating to the Racing Commission (thoroughbred racing, 178 CSR 1) is authorized, with the following amendment:

On page twenty-eight, paragraph 39.41.3.a., by striking out the word “entry” and inserting in lieu thereof the word “start”;

And,

On page twenty-eight, paragraph 39.41.3.b., by striking out the word “entry” and inserting in lieu thereof the word “start”.

§64-7-4. Tax Commissioner.

(a) The legislative rule filed in the State Register on the sixteenth day of August, two thousand four, under the authority of section five, article ten, chapter eleven of this code modified by the Tax Department to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-ninth day of November, two thousand four, relating to the Tax Department (Consumers Sales and Service Tax and Use Tax - executive orders declaring emergency and exempting from tax mobile homes and similar units and building materials used and consumed in repair or replacement of residences and businesses damaged in a disaster, 110 CSR 151) is authorized.

(b) The legislative rule filed in the State Register on the twenty-twenty-fifth day of August, two thousand four, under the authority of section eleven, article one-a, chapter eleven of this code modified by the Tax Department to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on the twenty-first day of December, two thousand
four, relating to the Tax Department (valuation of active and reserve coal for ad valorem property tax purposes, 110 CSR 1J) is authorized.

(c) The legislative rule filed in the State Register on the twenty-seventh day of July, two thousand four, under the authority of section eleven, article one-a, chapter eleven of this code and section five-a, article one-c, chapter eleven of this code modified by the Tax Department to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on the twenty-ninth day of November, two thousand four, relating to the Tax Department (valuation of producing and reserve oil and gas for ad valorem property tax purposes, 110 CSR 1J) is authorized, with the following amendment:

On page ten, subsection 4.14., by striking out the word "July" and inserting in lieu thereof the word "August";

And,

On page ten, subsection 4.16., by striking out the entire subsection and inserting in lieu thereof the following

"4.16. Valuation of the Producer's Personal Property at Non-Producing or Shut-In Wells - The valuation of the producer's personal property that is part of a non-producing or shut-in well's appraisal will be assigned to the producer at the same value applied to home use only wells.".
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 21st Day of April 2005.

Governor