

HB 4296 S

FILED

2006 MAR 31 P 2:44

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 4296

(By Delegates Craig, Amores, Morgan and Leach)



Passed March 11, 2006

In Effect Ninety Days from Passage

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**H. B. 4296**

(BY DELEGATES CRAIG, AMORES, MORGAN AND LEACH)

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-18a, relating to providing employers with qualified immunity from liability for disclosing to a prospective employer job-related information reasonably believed to be adverse concerning a current or former employee; requiring written disclosure of the job-related information; and providing for the correction of false or misleading information.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §55-7-18a, to read as follows:

**ARTICLE 7. ACTIONS FOR INJURIES.**

**§55-7-18a. Employer immunity from liability; disclosure of information regarding former employees.**

1 (a) Any employer or his or her designated agent who  
2 discloses job-related information that may be reasonably  
3 considered adverse about a former or current employee to a  
4 prospective employer of the former or current employee is  
5 presumed to be acting in good faith and is immune from civil  
6 liability for the disclosure or its consequences: *Provided*, That  
7 the disclosure of such information pursuant to this subsection  
8 shall be in writing and a copy of any such disclosure shall be  
9 provided to the former or current employee at the time of  
10 disclosure.

11 (b) For the purposes of this section, the presumption of  
12 good faith is rebutted upon a showing, by a preponderance of  
13 the evidence, that the information disclosed was:

14 (1) Knowingly false;

15 (2) Disclosed with reckless disregard for the truth;

16 (3) Deliberately misleading;

17 (4) Rendered with malicious purpose toward the former or  
18 current employee; or

19 (5) Disclosed in violation of a nondisclosure agreement or  
20 applicable law.

21 (c) For purposes of this section, “job-related information”  
22 means information concerning a person’s education, training,  
23 experience, qualifications, conduct and job performance which  
24 is offered for the purpose of providing criteria to evaluate the  
25 person’s suitability for employment.

26       (d) If an employer disclosed job-related information to a  
27 prospective employer of a former or current employee that was  
28 false or misleading, and if the current or former employee  
29 requests, then the employer shall give corrected information to  
30 every person or entity that is in the employer's records as  
31 having received the original information, with a copy thereof to  
32 the former or current employee.

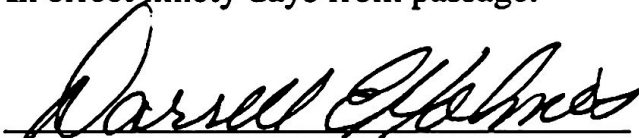
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

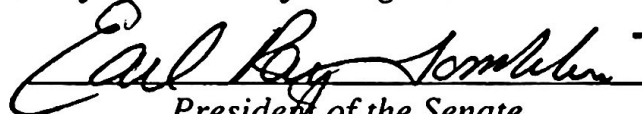
  
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Chairman House Committee


Originating in the House.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 31<sup>st</sup>  
day of March 2006.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 29 2006

Time 10:40am