

HB 2670 S

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2007



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2670**

(By Delegates Brown, Miley, Burdiss,  
Talbot and Overington)



Passed March 10, 2007

In Effect from Passage

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**E N R O L L E D**

COMMITTEE SUBSTITUTE

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

FOR

**H. B. 2670**

(BY DELEGATES BROWN, MILEY, BURDISS,  
TALBOTT AND OVERINGTON)

[Passed March 10, 2007; in effect from passage.]

AN ACT to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, all relating generally to the promulgation of administrative rules by the Department of Commerce 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 Office of Miners Health, Safety and Training to promulgate a legislative rule relating to protective clothing and equipment; authorizing the Office of Miners Health, Safety and Training to promulgate a legislative rule relating to standards for certification of coal mine electricians; authorizing the Bureau of Employment Programs to promulgate a legislative rule

relating to requiring agencies to revoke or not grant issue or renew approval documents with employing units on the bureau's default list; authorizing the Division of Forestry to promulgate a legislative rule relating to ginseng; authorizing the Division of Natural Resources to promulgate a legislative rule relating to commercial whitewater outfitters; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special boating rules; authorizing the Division of Natural Resources to promulgate a legislative rule relating to deer hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to wildlife disease management; and authorizing the Division of Natural Resources to promulgate a legislative rule relating to public use of campgrounds and recreation areas in West Virginia state wildlife management areas under the Division of Natural Resources.

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

That article 10, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. AUTHORIZATION FOR BUREAU OF  
COMMERCE TO PROMULGATE  
LEGISLATIVE RULES.**

**§64-10-1. Office of Miners Health Safety and Training.**

1 (a) The legislative rule filed in the State Register on the  
2 twenty-seventh day of April, two thousand six, authorized  
3 under the authority of section six, article two, chapter twenty-  
4 two-a, section thirty-eight, article two, chapter twenty-two-a  
5 and section fifty-five, article two, chapter twenty-two-a of  
6 this code, modified by the Office of Miners Health Safety  
7 and Training to meet the objections of the Legislative Rule-  
8 Making Review Committee and refiled in the State Register  
9 on the eighteenth day of January, two thousand seven,  
10 relating to the Office of Miners Health Safety and Training  
11 (protective clothing and equipment, 56 CSR 4), is authorized  
12 with the following amendments:

13 On page one, subsection 1.1., by striking out the words  
14 "these emergency rules" and inserting in lieu thereof the  
15 words "this rule";

16 On page one, subsection 2.1., by striking out the word  
17 "State's" and inserting in lieu thereof the word "state's";

18 On page one, subsection 2.1., line four, by striking out  
19 the words “these legislative rules” and inserting in lieu  
20 thereof the words “this rule”;

21 On page two, subsection 2.2., by striking out the words  
22 “these rules” and inserting in lieu thereof the words “this  
23 rule”;

24 On page two, subsection 3.1., by striking out the words  
25 “as they are defined” and inserting in lieu thereof the word  
26 “used”;

27 On page two, subsection 3.2., by striking out the words  
28 “shall mean” and inserting in lieu thereof the word “means”;

29 On page two, subsection 3.3., by striking out the words  
30 “shall herein refer” and inserting in lieu thereof the word  
31 “means”;

32 On page three, subsection 4.1., by striking out the words  
33 “these rules” and inserting in lieu thereof the words “this  
34 rule”;

35 On page four, subsection 5.2., by striking out  
36 “department of labor” and inserting in lieu thereof  
37 “Department of Labor”;

38 On page four, subsection 5.2., after the word “Provided,”  
39 by striking out “However,”;

40 On page four, subsection 5.3., line three, after the word  
41 “training” by striking out the comma and the word  
42 “provided” and inserting in lieu thereof a colon and the words  
43 “Provided, That” and by striking out the word  
44 “manufacturers” and inserting in lieu thereof the word  
45 “manufacturers”;

46 On page four, subsection 5.3., after the words “limited  
47 to” by changing the semi-colon to a colon;

48 On page five, subsection 6.1., by striking out the words  
49 “these rules” and inserting in lieu thereof the words “this  
50 rule”;

51 On page five, subsection 6.2., by striking out the words  
52 “these rules” and inserting in lieu thereof the words “this  
53 rule”;

54 On page eight, subparagraph 6.10.4.a.1., by striking out  
55 §56-4-6" and inserting in lieu thereof "56 CSR 4-6";

56 On page nine, subsection 6.14., by striking out the words  
57 "these rules" and inserting in lieu thereof the words "this  
58 rule";

59 On page nine, by striking out subsection 6.15. in its  
60 entirety;

61 On pages ten and eleven, by striking out subsection 7.4.  
62 in its entirety;

63 On page eleven, by redesignating subdivision 8.1.1. as  
64 subsection 8.2. and redesignating the remaining subsections  
65 accordingly;

66 On page eleven, by redesignating subdivision 8.3.1. as  
67 subsection 8.5. and redesignating the remaining subsections  
68 accordingly;

69 On page fifteen, subsection 8.13., by striking out the  
70 words "these rules" and inserting in lieu thereof the words  
71 "this rule";

72 On pages fifteen and sixteen, by striking out subsection  
73 8.15. in its entirety;

74 On page seventeen, subsection 9.10., by striking out the  
75 words "these rules" and inserting in lieu thereof the words  
76 "this rule";

77 And,

78 On page twenty, by striking out subsection 9.18. in its  
79 entirety.

80 (b) The legislative rule filed in the State Register on the  
81 twenty-eighth day of July, two thousand six, authorized under  
82 the authority of sections six and thirty-eight, article one,  
83 chapter twenty-two-a of this code, modified by the Office of  
84 Miners Health Safety and Training to meet the objections of  
85 the Legislative Rule-Making Review Committee and refiled  
86 in the State Register on the eighteenth day of January, two  
87 thousand seven, relating to the Office of Miners Health  
88 Safety and Training (standards for certification of coal mine  
89 electricians, 48 CSR 7), is authorized, with the following  
90 amendments:

91 "On page three, subsection 4.1., by striking out the words  
92 "Section 8.2.1." and inserting in lieu thereof the words "8.3";

93 On page four, section five, by designating the last two  
94 paragraphs of the section as subsections 5.2. and 5.3.,  
95 respectively;

96 On page four, section six, by designating the second  
97 paragraph of the section as subsection 6.2. and by  
98 redesignating the following subsection accordingly;

99 On page five, section six, by designating the last  
100 paragraph of the section as subsection 6.4.;

101 On page five, subsection 8.1., by striking out the words  
102 "Section 8.2.1." and inserting in lieu thereof the words  
103 "Section 8.3";

104 On pages five and six, by striking out subdivision 8.2.1.  
105 in its entirety and inserting in lieu thereof the following:

106 "8.3. Criteria and standards for alternative electrical  
107 training programs must be adopted by unanimous approval of  
108 the Director and the Board of Miner Training, Education and  
109 Certification. An alternative electrical training program will  
110 not become effective until approved by the Secretary of State  
111 as an emergency rule or by the Legislature as an amendment  
112 to this rule." and redesignating the remaining subsection  
113 accordingly;

114 And,

115 On page six, section nine, by designating the last  
116 paragraph of the section as subsection 9.3.".

**§64-10-2. Bureau of Employment Programs.**

1 The legislative rule filed in the State Register on the  
2 twenty-sixth day of July, two thousand six, authorized under  
3 the authority of section six, article two, chapter twenty-one-a,  
4 of this code, modified by the Bureau of Employment  
5 Programs to meet the objections of the Legislative Rule-  
6 Making Review Committee and refiled in the State Register  
7 on the twelfth day of January, two thousand seven, relating  
8 to the Bureau of Employment Programs (requiring state  
9 agencies to revoke or not to grant, issue or renew approval  
10 documents with employing units on the bureau's default list,  
11 96 CSR 1), is authorized.

**§64-10-3. Division of Forestry.**

1 The legislative rule filed in the State Register on the  
2 twenty-second day of June, two thousand six, authorized  
3 under the authority of section three-a, article one-a, chapter  
4 nineteen, of this code, modified by the Division of Forestry  
5 to meet the objections of the Legislative Rule-Making  
6 Review Committee and refiled in the State Register on the  
7 twelfth day of January, two thousand seven, relating to the  
8 Division of Forestry (ginseng, 22 CSR 1), is authorized, with  
9 the following amendments:

10 On page two, section three, by striking out “3.1.”;

11 On page three, by redesignating subdivision 6.1.1. as  
12 subsection 6.2. and by redesignating the remaining  
13 subsections accordingly;

14 On page four, section seven, by striking out “7.1.”;

15 On page four, section eight, by striking out “8.1.”;

16 On page five, by redesignating subdivision paragraph  
17 9.2.2.1. as subdivision 9.2.2.;

18 On page five, section ten, by striking out “10.1.”;

19 On page six, section eleven, by striking out “11.1.”;

20 And,

21 On page six, subsection 13.2., after the words “Freedom  
22 of Information Act” by striking out the remainder of the  
23 subsection and inserting in lieu thereof the following: “as  
24 having a significant commercial value to the extent permitted  
25 by W. Va. Code §29B-1-4(1).”.

**§64-10-4. Division of Natural Resources.**

1 (a) The legislative rule filed in the State Register on the  
2 twenty-eighth day of July, two thousand six, authorized under  
3 the authority of section twenty-three-a, article two, chapter  
4 twenty, of this code, relating to the Division of Natural  
5 Resources (commercial whitewater outfitters, 58 CSR 12), is  
6 authorized.

7 (b) The legislative rule filed in the State Register on the  
8 twenty-eighth day of July, two thousand six, authorized under

9 the authority of section seven, article one, chapter twenty, of  
10 this code, relating to the Division of Natural Resources  
11 (special boating rules, 58 CSR 26), is authorized.

12 (c) The legislative rule filed in the State Register on the  
13 twenty-eighth day of July, two thousand six, authorized under  
14 the authority of section seven, article one, chapter twenty, of  
15 this code, modified by the Division of Natural Resources to  
16 meet the objections of the Legislative Rule-Making Review  
17 Committee and refiled in the State Register on the eighteenth  
18 day of December, two thousand six, relating to the Division  
19 of Natural Resources (deer hunting, 58 CSR 50), is  
20 authorized.

21 (d) The legislative rule filed in the State Register on the  
22 twenty-eighth day of July, two thousand six, authorized under  
23 the authority of section seven, article one, chapter twenty, of  
24 this code, modified by the Division of Natural Resources to  
25 meet the objections of the Legislative Rule-Making Review  
26 Committee and refiled in the State Register on the second day  
27 of November, two thousand six, relating to the Division of  
28 Natural Resources (wildlife disease management, 58 CSR  
29 69), is authorized, with the amendments:

30 On page 2, subsection 2.3, line eight, after the word  
31 “landscape” and the period, by striking the remainder of the  
32 subsection and inserting in lieu thereof, the following: “The  
33 Director shall, at least annually after the establishment of a  
34 containment area, review and evaluate any and all new  
35 information relating to wildlife disease epidemiology and  
36 surveillance to determine whether any such designation of a  
37 containment area should be modified or rescinded and shall  
38 report these findings to the Natural Resources Commission.  
39 Prior to the establishment of a containment area, the Director  
40 shall consult with:

41 2.3.a. wildlife biologists within the Wildlife Resources  
42 Section that are knowledgeable of wildlife diseases;

43 2.3.b. a Department of Agriculture veterinarian  
44 knowledgeable of wildlife diseases;

45 2.3.c. conservation officers familiar with local and  
46 regional landscape features; and

47 2.3.d. the Natural Resources Commission.”;

48           And,

49           One page 3, by striking subsection 4.1 and inserting the  
50 following, “4.1. It is illegal to feed cervids or other wildlife  
51 in a containment area as determined by the Director and  
52 established for the management, control or eradication of  
53 chronic wasting disease, bovine tuberculosis, avian influenza  
54 or other wildlife diseases. Provided, that song and  
55 insectivorous birds may be fed so long as the person or  
56 persons feeding the same shall not do so in a manner that  
57 causes a congregation of cervids or other wildlife or in a  
58 manner that said person or persons reasonably should have  
59 known would cause a congregation of cervids or other  
60 wildlife. Provided further, that captive cervids may be fed  
61 inside cervid facilities permitted by the Division of Natural  
62 Resources.”.

63           (c) The legislative rule filed in the State Register on the  
64 twenty-eighth day of July, two thousand six, authorized under  
65 the authority of section seven, article one, chapter twenty, of  
66 this code, modified by the Division of Natural Resources to  
67 meet the objections of the Legislative Rule-Making Review  
68 Committee and refiled in the State Register on the second day  
69 of November, two thousand six, relating to the Division of  
70 Natural Resources (public use of campgrounds and recreation  
71 areas in West Virginia state wildlife management areas under  
72 the Division of Natural Resources, 58 CSR 70), is authorized,  
73 with the following amendments:

74           On page one, subsection 2.2., by striking out the word  
75 “shall” and inserting in lieu thereof the word “may”;

76           On page two, section three, by striking out “3.1.”;

77           On page two, subsection 2.18., by striking out the word  
78 “shall” and inserting in lieu thereof the word “may”;

79           And,

80           On page two, by striking out subsection 3.2. in its  
81 entirety.

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

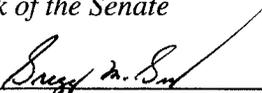
  
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Chairman Senate Committee

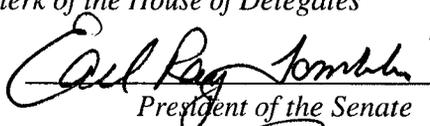
  
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Chairman House Committee

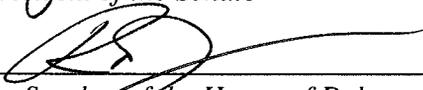
Originating in the House.

In effect from passage.

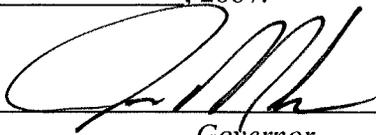
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 28<sup>th</sup>  
day of March, 2007.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 21 2007

Time 4:00 pm