

HB 4255

2008 MAR 27 PM 5:00

STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4255**

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

Passed March 6, 2008

In Effect from Passage

ENROLLED

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FOR

H. B. 4255

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STATE OF WEST VIRGINIA

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

[Passed March 6, 2008; 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; relating to authorizing the Division of Labor to promulgate a legislative rule relating to steam boiler inspection; authorizing the

Division of Labor to promulgate a legislative rule relating to verifying the legal employment status of workers; authorizing the Division of Labor to promulgate a legislative rule relating to the supervision of plumbing work; authorizing the Office of Miners' Health, Safety and Training to promulgate a legislative rule relating to the criteria and standards for alternative training programs for apprentice coal mine electricians; 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 the revocation of hunting and fishing licenses; 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 conditions upon which oil and gas operators may access state forests; and authorizing the Division of Natural Resources to promulgate a legislative rule relating to wildlife scientific collection permits.

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. Division of Labor.

1 (a) The legislative rule filed in the State Register on the
2 twenty-seventh day of July, two thousand seven, authorized
3 under the authority of section seven, article three, chapter
4 twenty-one, of this code, modified by the Division of Labor
5 to meet the objections of the Legislative Rule-Making
6 Review Committee and refiled in the State Register on the
7 seventh day of December, two thousand seven, relating to the

8 Division of Labor (steam boiler inspection, 42 CSR 3), is
9 authorized.

10 (b) The legislative rule filed in the State Register on the
11 twenty-seventh day of July, two thousand seven, authorized
12 under the authority of section three, article one-b, chapter
13 twenty-one, of this code, modified by the Division of Labor
14 to meet the objections of the Legislative Rule-Making
15 Review Committee and refiled in the State Register on the
16 seventh day of December, two thousand seven, relating to the
17 Division of Labor (verifying the legal employment status of
18 workers, 42 CSR 31), is authorized with the following
19 amendment:

20 On page one, subsection 3.8., after the word “employer”,
21 by striking out the words “as defined in this rule”;

22 On page two, section 4, by striking out the subsection
23 designation “4.1.”;

24 On page two, section 4 by striking out subsection 4.2 in
25 its entirety;

26 On page two, subsection 5.1., by striking out the word
27 “have” and inserting in lieu thereof the word “maintain”;

28 On page three, subsection 6.5., by striking out
29 subdivision 6.5.a. in its entirety and by striking out the
30 subdivision designation “b.”;

31 On page three, subsection 6.6. by striking out the
32 subdivision designation “a.” and by striking out subdivision
33 6.6.b. in its entirety;

34 On pages three and four, by striking out subsection 7.1.
35 in its entirety and inserting in lieu thereof the following:

36 “7.1. The Commissioner may ask the Bureau of
37 Employment programs, the Division of Motor Vehicles or
38 any other state agency for assistance in confirming the
39 validity of an employee’s legal status or authorization to
40 work.”;

41 And,

42 On page four, by striking out section 8 in its entirety.

43 (c) The legislative rule filed in the State Register on the
44 twenty-seventh day of July, two thousand seven, authorized
45 under the authority of section four, article fourteen, chapter
46 twenty-one, of this code, modified by the Division of Labor
47 to meet the objections of the Legislative Rule-Making
48 Review Committee and refiled in the State Register on the
49 seventh day of December, two thousand seven, relating to the
50 Division of Labor (supervision of plumbing work, 42 CSR
51 32), is authorized with the following amendment:

52 On page two, subsection 7.2, at the beginning of the first
53 sentence in the subsection, by inserting the words “Subject to
54 the provisions of subsection 6.2 of this rule,”;

55 On page three, subsection 8.1, at the end of the
56 subsection, by inserting the words: “The Commissioner may,
57 on his or her own motion, conduct an investigation to
58 determine whether there are any grounds for disciplinary
59 action against a licensee. The Commissioner shall, upon the
60 written complaint of any person, conduct an investigation to
61 determine whether there are any grounds for disciplinary
62 action against a licensee. The Commissioner may provide a
63 form for this purpose, but a complaint may be filed in any
64 form. The Commissioner shall provide a copy of the
65 complaint to the licensee.”;

66 On page four, section 9, by striking out the subsection in
67 its entirety and inserting in lieu thereof a new section 9, to
68 read as follows:

“§42-32-9. Cease and desist orders; penalties; appeals.

1 9.1 The Commissioner may issue a cease and desist
2 order to any person performing or offering to perform
3 plumbing work without a license issued by the
4 Commissioner. Any person continuing to engage in
5 plumbing work after the issuance of a cease and desist order
6 is subject to the penalties set forth in W. Va. Code §21-14-7.

7 9.2 Any person adversely affected by an action of the
8 Commissioner may appeal the action pursuant to the
9 provisions of W. Va. Code §29A-5.”; and

10 On page four, by renumbering section 12 as section 11.

§64-10-2. Office of Miners’ Health, Safety and Training.

1 The legislative rule filed in the State Register on the
2 twenty-seventh day of July, two thousand seven, authorized
3 under the authority of section five, article seven, chapter
4 twenty-two-a, of this code, modified by the Office of Miners’
5 Health, Safety and Training to meet the objections of the
6 Legislative Rule-Making Review Committee and refiled in
7 the State Register on the fourteenth day of December, two
8 thousand seven, relating to the Office of Miners’ Health,
9 Safety and Training (criteria and standards for alternative
10 training programs for apprentice coal mine electricians, 48
11 CSR 8), is authorized.

§64-10-3. Division of Natural Resources.

1 (a) The legislative rule filed in the State Register on the
2 twenty-seventh day of July, two thousand seven, authorized

3 under the authority of section twenty-three-a, article two,
4 chapter twenty, of this code, modified by the Division of
5 Natural Resources to meet the objections of the Legislative
6 Rule-Making Review Committee and refiled in the State
7 Register on the fifth day of November, two thousand seven,
8 relating to the Division of Natural Resources (commercial
9 whitewater outfitters, 58 CSR 12), is authorized with the
10 following amendments:

11 On page six, subsection 5.2, by striking out the
12 subsection in its entirety and inserting lieu there of the
13 following language:

14 "5.2 Fee Amount.

15 5.2.1. The study and improvement fee is thirty-five cents
16 (\$.35) for each customer transported on a commercial
17 whitewater trip in study zones on the Cheat, New,
18 Shenandoah and Tygart Valley Rivers.

19 5.2.2. The study and improvement fee is seventy cents
20 (\$.70) for each customer transported on a commercial
21 whitewater trip in study zones on the Gauley River.

22 5.2.3. If a commercial whitewater trip exceeds one day in
23 duration, the appropriate fee shall be collected for each day,
24 or part of a day, of the trip."

25 On page six, by striking out subsection 5.4, including
26 subdivisions 5.41 and 5.4.2, in their entirety, and inserting in
27 lieu thereof the following language:

28 "5.4. Gauley River Study and Improvement Fee:

29 5.4.1. For the purpose of improving and promoting the
30 whitewater industry on the Gauley River, one-half of all
31 study and improvement fees collected pursuant to subdivision

32 5.2.2 of this rule shall be used to stock the Gauley River with
33 trout during the spring and fall seasons of each year to
34 mitigate the loss of fishing opportunities resulting from the
35 additional water volume on the Gauley River. The
36 Whitewater Commission may hire a private contractor to
37 administer the trout stocking program.

38 5.4.2. The Whitewater Commission shall review the
39 amount of the study and improvement fee collected pursuant
40 to subdivision 5.2.2 of this rule every four years to determine
41 whether the fee is sufficient to assure adequate funding for
42 the trout stocking program.”

43 (b) The legislative rule filed in the State Register on the
44 twenty-seventh day of July, two thousand seven, authorized
45 under the authority of section seven, article one, chapter
46 twenty, of this code, modified by the Division of Natural
47 Resources to meet the objections of the Legislative Rule-
48 Making Review Committee and refiled in the State Register
49 on the fifth day of November, two thousand seven, relating
50 to the Division of Natural Resources (revocation of hunting
51 and fishing licenses, 58 CSR 23), is authorized.


52 (c) The legislative rule filed in the State Register on the
53 twenty-seventh day of July, two thousand seven, authorized
54 under the authority of section seven, article one, chapter
55 twenty, of this code, relating to the Division of Natural
56 Resources (special boating rules, 58 CSR 26), is authorized.

57 (d) The legislative rule filed in the State Register on the
58 twenty-seventh day of July, two thousand seven, authorized
59 under the authority of section seven, article one, chapter
60 twenty, of this code, modified by the Division of Natural
61 Resources to meet the objections of the Legislative Rule-
62 Making Review Committee and refiled in the State Register
63 on the fifteenth day of January, two thousand eight, relating
64 to the Division of Natural Resources (conditions upon which

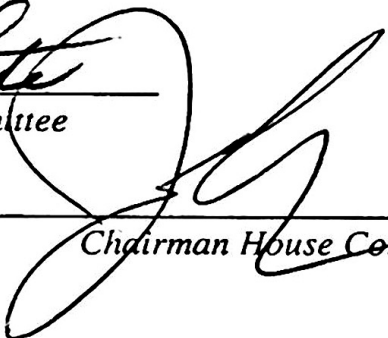
65 oil and gas operators may access state forests, 58 CSR 35), is
66 authorized.

67 (e) The legislative rule filed in the State Register on the
68 nineteenth day of July, two thousand seven, authorized under
69 the authority of section seven, article one, chapter twenty, of
70 this code, modified by the Division of Natural Resources to
71 meet the objections of the Legislative Rule-Making Review
72 Committee and refiled in the State Register on the fifth day
73 of November, two thousand seven, relating to the Division of
74 Natural Resources (wildlife scientific collection permits, 58
75 CSR 42), is authorized.

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



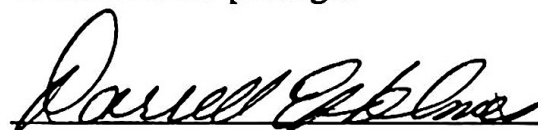
Chairman Senate Committee



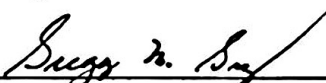
Chairman House Committee

Originating in the House.

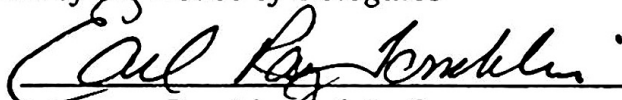
In effect from passage.



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 27th
day of March, 2008.



Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2008

Time 9:30am