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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2009



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2170**

(By Delegates Brown, D. Poling, Talbott,  
Miley, Overington and Sobonya)



Passed April 10, 2009

In Effect from Passage

HB 2170

**ENROLLED FILED**

COMMITTEE SUBSTITUTE 2009 APR 24 PM 1:51

FOR

**H. B. 2170**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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(BY DELEGATES BROWN, D. POLING, TALBOTT,  
MILEY, OVERINGTON AND SOBONYA)

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[Passed April 10, 2009; 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; 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; repealing certain legislative rules;

authorizing the Development Office to promulgate a legislative rule relating to brownfield economic development districts; authorizing the Division of Labor to repeal a legislative rule relating to packaging and labeling; authorizing the Division of Labor to repeal a legislative rule relating to a method of sale of commodities; authorizing the Division of Labor to promulgate a legislative rule relating to the West Virginia Manufactured Housing Construction and Safety Standards Board; authorizing the Division of Labor to promulgate a legislative rule relating to weights and measures calibration fees; authorizing the Division of Labor to promulgate a legislative rule relating to standards for weights and measures inspectors adoption of National Conference of Weights and Measures (NCWM) Handbook 130, 1987 edition; authorizing the Division of Labor to promulgate a legislative rule relating to the Amusement Rides and Attractions Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to the Elevator Safety Act; authorizing the Division of Labor to promulgate a legislative rule relating to the supervision of elevator mechanics and apprentices; authorizing the Division of Natural Resources to promulgate a legislative rule relating to boating; 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 lifetime hunting, trapping and fishing licenses; authorizing the Division of Natural Resources to promulgate a legislative rule relating to hunting, trapping and fishing license and stamp fees; authorizing the Division of Tourism to promulgate a legislative rule relating to the direct advertising grants program.

*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. Development Office.**

1 The legislative rule filed in the state register on the  
2 fifteenth day of August, two thousand eight, authorized under  
3 the authority of section six-a, article two, chapter five-b, of  
4 this code, modified by the Development Office to meet the  
5 objections of the legislative rule-making review committee  
6 and refiled in the state register on the twentieth day of  
7 February, two thousand nine, relating to the Development  
8 Office (brownfield economic development districts, 145 CSR  
9 11), is authorized.

**§64-10-2. Division of Labor.**

1 (a) The legislative rule filed in the state register on the  
2 twenty-seventh day of August, two thousand eight,  
3 authorized under the authority of section three, article one,  
4 chapter forty-seven, of this code, relating to the Division of  
5 Labor (packaging and labeling, 42 CSR 10), is authorized.

6 (b) The legislative rule filed in the state register on the  
7 twenty-seventh day of August, two thousand eight,  
8 authorized under the authority of section three, article one,  
9 chapter forty-seven, of this code, relating to the Division of  
10 Labor (method of sale of commodities, 42 CSR 11), is  
11 authorized.

12 (c) The legislative rule filed in the state register on the  
13 twenty-seventh day of August, two thousand eight,  
14 authorized under the authority of section four, article nine,  
15 chapter twenty-one, of this code, relating to the Division of  
16 Labor (West Virginia Manufactured Housing Construction  
17 and Safety Standards Board, 42 CSR 19), is authorized.

18 (d) The legislative rule filed in the state register on the  
19 twenty-seventh day of August, two thousand eight,  
20 authorized under the authority of section three, article one,  
21 chapter forty-seven, of this code, relating to the Division of  
22 Labor (weights and measures calibration fees, 42 CSR 26),  
23 is authorized.

24 (e) The legislative rule filed in the state register on the  
25 twenty-seventh day of August, two thousand eight,  
26 authorized under the authority of section three, article one,  
27 chapter forty-seven, of this code, modified by the Division of  
28 Labor to meet the objections of the legislative rule-making  
29 review committee and refiled in the state register on the  
30 twenty-first day of November, two thousand eight, relating to  
31 the Division of Labor (standards for weights and measures  
32 inspectors adoption of National Conference of Weights and  
33 Measures (NCWM) Handbook 130, 1987 edition, 42 CSR  
34 16), is authorized.

35 (f) The legislative rule filed in the state register on the  
36 twenty-seventh day of August, two thousand eight,  
37 authorized under the authority of section three, article ten,  
38 chapter twenty-one, of this code, modified by the Division of  
39 Labor to meet the objections of the legislative rule-making  
40 review committee and refiled in the state register on the  
41 twenty-first day of November, two thousand eight, relating to  
42 the Division of Labor (Amusement Rides and Attractions  
43 Safety Act, 42 CSR 17), is authorized.

44 (g) The legislative rule filed in the state register on the  
45 twenty-seventh day of August, two thousand eight, authorized  
46 under the authority of section eleven, article three-c, chapter  
47 twenty-one, of this code, modified by the Division of Labor to  
48 meet the objections of the legislative rule-making review  
49 committee and refiled in the state register on the twenty-first  
50 day of November, two thousand eight, relating to the Division  
51 of Labor (Elevator Safety Act, 42 CSR 21), is authorized.

52 (h) The legislative rule filed in the state register on the  
53 twenty-seventh day of August, two thousand eight,  
54 authorized under the authority of section eleven, article three-  
55 c, chapter twenty-one, of this code, modified by the Division  
56 of Labor to meet the objections of the legislative rule-making  
57 review committee and refiled in the state register on the  
58 twenty-sixth day of January, two thousand nine, relating to  
59 the Division of Labor (supervision of elevator mechanics and  
60 apprentices, 42 CSR 21A), is authorized, with the following  
61 amendment:

62 On page two, section four, subsection 4.1, after the word  
63 “Escalators” by inserting a comma and the words “issued or  
64 effective on October 6, 2007, October 5, 2007, and March 31,  
65 2006, respectively,”;

66 On page two, section four, subsection 4.1, after the word  
67 “Chairlifts” by inserting a comma and the words “published  
68 on August 28, 2008,”;

69 On page 3, paragraph 6.1.d.1., after the words “previous  
70 employers” by striking out the words “licensed to do business  
71 in this state”;

72 On page 4, subsection 7.3., after the words “An elevator  
73 mechanic” by reinserting the stricken word “may” and striking  
74 out the underlined word “shall”, and after the words “only under  
75 the” by striking out the word “direct”, and after the words  
76 “licensed elevator mechanic” by striking out the period and  
77 inserting in lieu thereof a comma and the words “as specifically  
78 set forth in *West Virginia Code* § 21-3C-10a(c).”;

79 On page 4, subdivisions 7.3.1. and 7.3.2, by striking out  
80 subdivisions 7.3.1 and 7.3.2 in their entirety;

81 On page 6, subdivision 10.3, after the words “the  
82 commissioner” by striking out the word “may”;

83 On page 6, subdivision 12.1, after the words “state that  
84 has” by inserting the words “requirements substantially  
85 equivalent to those provided for by *W. Va. Code* §21-3C-1 *et*  
86 *seq.* and this rule, and has”;

87 On page 7, subdivision 15.2, after the words “upon  
88 observing” by inserting the words “or learning of”;

89 On page 8, paragraph (a), after the words “The name” by  
90 striking out the words “and address”;

91 On page 8, paragraph (b), after the word “alleged” by  
92 striking out the words “unlawful act” and inserting in lieu  
93 thereof the word “infraction”;

94 On page 8, paragraph (c), after the word “alleged” by  
95 striking out the words “unlawful act” and inserting in lieu  
96 thereof the word “infraction”;

97 And,

98 On page 8, paragraph (d), after the word “alleged” by  
99 striking out the words “unlawful act” and inserting in lieu  
100 thereof the word “infraction”.

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

1 (a) The legislative rule filed in the state register on the  
2 thirtieth day of July, two thousand eight, authorized under the  
3 authority of section seven, article one, chapter twenty, of this  
4 code, relating to the Division of Natural Resources (boating,  
5 58 CSR 25), is authorized.

6 (b) The legislative rule filed in the state register on the  
7 thirtieth day of July, two thousand eight, authorized under the  
8 authority of section seven, article one, chapter twenty, of this  
9 code, relating to the Division of Natural Resources (deer  
10 hunting, 58 CSR 50), is authorized.

11 (c) The legislative rule filed in the state register on the  
12 twenty-ninth day of July, two thousand eight, authorized  
13 under the authority of section seven, article two-b, chapter  
14 twenty, of this code, relating to the Division of Natural  
15 Resources (lifetime hunting, trapping and fishing licenses, 58  
16 CSR 67), is authorized.

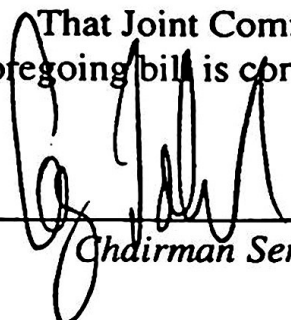
17 (d) The legislative rule filed in the state register on the  
18 twenty-ninth day of July, two thousand eight, authorized  
19 under the authority of section forty-two, article two, chapter  
20 twenty, of this code, modified by the Division of Natural  
21 Resources to meet the objections of the Legislative Rule-  
22 Making Review Committee and refiled in the State Register  
23 on the eighth day of September, two thousand eight, relating  
24 to the Division of Natural Resources (hunting, trapping and  
25 fishing license and stamp fees, 58 CSR 71), is authorized.

26 **§64-10-4. Division of Tourism.**

27 The legislative rule filed in the state register on the first  
28 day of August, two thousand eight, authorized under the  
29 authority of section nine, article two, chapter five-b, of this  
30 code, relating to the Division of Tourism (direct advertising  
31 grants program, 144 CSR 1), is authorized.



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

  
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Chairman Senate Committee

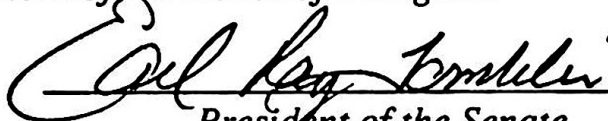
  
\_\_\_\_\_  
Chairman House Committee

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 24<sup>th</sup>  
day of April, 2009.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

APR 21 2009

Time 4:00 pm