WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2218

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

Passed April 11, 2009
In Effect from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2218

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

[Passed April 11, 2009; in effect from passage.]

AN ACT to amend and reenact article 8, chapter 64 of the Code of
West Virginia, 1931, as amended, all relating generally to the
promulgation of administrative rules by the Department of
Transportation; legislative mandate or authorization for the
promulgation of certain legislative rules by various executive
or administrative agencies of the Department of Transportation;
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
Division of Motor Vehicles to promulgate a legislative rule
relating to collection on the tax on the sale of a vehicle; authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to the denial, suspension, revocation, restriction or nonrenewal of driving privileges; authorizing the Commissioner of Highways to promulgate a legislative rule relating to the transportation of hazardous wastes upon the roads and highways; and authorizing the Commissioner of Highways to promulgate a legislative rule relating to the use of state road rights of way and adjacent areas.

Be it enacted by the Legislature of West Virginia:

That article 8, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. AUTHORIZATION FOR THE DEPARTMENT OF TRANSPORTATION TO PROMULGATE LEGISLATIVE RULES.

§64-8-1. Division of Motor Vehicles.

(a) The legislative rule filed in the state register on the eleventh day of August, two thousand eight, authorized under the authority of section three-c, article fifteen, chapter eleven, of this code, modified by the Division of Motor Vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of October, two thousand eight, relating to the Division of Motor Vehicles (collection on the tax on the sale of a vehicle, 91 CSR 9), is authorized, with the amendment set forth below:

On page 2, subsection 3.2a, beginning on line five, following the words “in accordance with”, by striking out the words “W. Va. Code §17A-3-4(b)(12)” and by inserting in lieu thereof the following words “W. Va. Code §17A-3-4(b)(14)”;
And,

On page 2, subsection 3.2a.2, on line twelve, following the words “in accordance with”, by striking out the words “W. Va. Code §17A-3-4(b)(12)” and by inserting in lieu thereof the following words “W. Va. Code §17A-3-4(b)(14)”.

(b) The legislative rule filed in the state register on the twenty-eighth day of August, two thousand eight, authorized under the authority of section nine, article two, chapter seventeen-a, of this code, modified by the Division of Motor Vehicles to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-second day of January, two thousand nine, relating to the Division of Motor Vehicles (denial, suspension, revocation, restriction or nonrenewal of driving privileges, 91 CSR 5), is authorized, with the following amendment:

On page 5, paragraph 3.4.b., line two, by striking out the words “both eyes” and inserting in lieu thereof the words “one eye”.

§64-8-2. Commissioner of Highways.

(a) The legislative rule filed in the state register on the twenty-ninth day of August, two thousand eight, authorized under the authority of section seven, article eighteen, chapter twenty-two, of this code, relating to the Commissioner of Highways (transportation of hazardous wastes upon the roads and highways, 157 CSR 7), is authorized.

(b) The legislative rule filed in the state register on the twenty-ninth day of August, two thousand eight, authorized under the authority of section one, article twenty, chapter seventeen, of this code, modified by the Commissioner of Highways and refiled in the state register on the nineteenth
day of February two thousand nine, relating to the
Commissioner of Highways (use of state road rights of way
and adjacent areas, 157 CSR 6), is authorized, with the
following amendment:

On page two, following "2.25" by striking out the words
"off premise";

On page two, following subsection 2.25, by inserting the
following:

2.25.a. An off-premise CMS may not include moving
video or scrolling messages. Off-premise CMS must comply
with all requirements for off-premise signs generally.

2.25.b. An on-premise CMS may scroll or change
message content, but may not contain flashing images. On-
Premise CMS must comply with all requirements for on-
premise signs generally.

2.25.c. No CMS sign, display or device, whether on-
premise or off premise, may be illuminated by any rapid
flashing intermittent light or lights.;

On page fourteen, paragraph 7.4.c.1. following the word
"Division." by inserting the following:

With the prior written approval of the Commissioner of
Highways, a county commission may enact and enforce
outdoor advertising ordinances which place limitations or
restrictions on outdoor advertising signs, displays or devices
which are in addition to or more restrictive than the
limitations or restrictions provided by the Commissioner of
Highways.;

On page eighteen, paragraph 7.8.d.2., following the word
"No" by inserting the words "off-premise";
41 On page eighteen, paragraph 7.8.d.4., following the word “No” by inserting the words “off-premise”;

42 On page eighteen, following “7.8.e.1.”, by inserting the words “Off-premise”;

43 On page eighteen, paragraph 7.8.e.1., following the word “No” by inserting the words “off-premise”;

44 On page eighteen, following “7.8.e.2.”, by inserting the words “Off-premise”;

45 On page eighteen, following “7.8.e.3.”, by inserting the words “Off-premise”;

46 On page eighteen, paragraph 7.8.e.3., following the word “another” by inserting the words “off-premise”;

47 On page nineteen, paragraph 7.8.e.4., following the words “may be modified to” by striking out the word “a” and inserting in lieu thereof the words “an off-premise”;

48 On page nineteen, paragraph 7.8.e.4., following the word “with” by inserting the words “off-premise”;

49 On page nineteen, paragraph 7.8.e.4., following the words “may not be modified to” by striking out the word “a”, and inserting in lieu thereof the words “an off-premise”;

50 On page nineteen, following “7.8.e.7.”, by inserting the words “Off-premise”;

51 On page nineteen, following “7.8.e.8.”, by inserting the words “Off-premise”;

52 On page nineteen, paragraph 7.8.e.8., following the word “way.” by inserting the words “Off-premise”;
On page nineteen, paragraph 7.8.e.9., following the word "on" by inserting the words "off-premise";

On page nineteen, paragraph 7.8.e.10., following the words "revised to" by striking out the word "a" and inserting the words "an off-premise";

On page nineteen, paragraph 7.8.e.10., following the word "become" by striking out the word "a" and inserting the words "an off-premise";

On page nineteen, paragraph 7.8.e.10., following the word "No" by inserting the words "off-premise";

On page nineteen, paragraph 7.8.e.11., following the word "No" by inserting the words "off-premise";

On page twenty, paragraph 7.9.d.8., by striking out the word "chapter" and inserting in lieu thereof the word "rule";

On page twenty, by striking out paragraph 7.9.d.9. in its entirety;

On pages twenty and twenty-one, by striking out subparagraph 7.9.d.9.A. in its entirety;

On page twenty-five, subparagraph 7.15.d.4.D, following the word "any" by inserting the word "rapid";

On page twenty-five, subparagraph 7.15.d.4.D, following the word "flashing" by striking out the words "intermittent or moving";

On page twenty-five, by striking out subparagraph 7.15.d.4.E. in its entirety and relettering the remaining subparagraphs;
On pages thirty-one and thirty-two, by striking out subdivision 9.5.h. in its entirety and inserting in lieu thereof a new subdivision, designated 9.5.h., to read as follows:

9.5.h. If an application for a roadside memorial sign is granted, the Commissioner shall so inform the applicant in writing. Upon the receipt of a non-refundable payment of two hundred dollars ($200), the Division shall procure and install the sign and shall notify the applicant in writing when the sign has been installed.

On page thirty-two, by striking out subdivision 9.5.i. in its entirety and inserting in lieu thereof a new subdivision, designated 9.5.i., to read as follows:

9.5.i. The initial payment of two hundred dollars ($200) shall compensate the Division for its review of the application, the installation of the roadside memorial sign and its maintenance for a period of three years from the date of installation. The applicant may make a second, optional payment of two hundred dollars ($200) to extend the display and maintenance of the sign for one additional three-year period. The Division will repair or replace the sign at its election, once during each three-year period if damaged or destroyed. At the end of the initial or renewal period, whichever come later, the sign will be removed and offered to the applicant(s).

And,

On page thirty-two, by striking out subdivision 9.5.j. in its entirety and inserting in lieu thereof a new subdivision, designated 9.5.j., to read as follows:

9.5.j. If at any time during the application and fabrication process another member of the victim's immediate family objects to the sign, the process shall be halted and the application, the two hundred dollar ($200) fee, and the
related documentation shall be returned to the applicant. If the sign has been installed, the Division shall remove it and furnish it to the applicant, and the Division shall retain the two hundred dollar ($200) fee.
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 7th day of May, 2009.

Governor