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OFFICE OF THE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2010

—●—  
**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 4081**

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

—●—  
Passed March 11, 2010

In Effect From Passage

HB 4081

# ENROLLED

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COMMITTEE SUBSTITUTE

FOR

OFFICE OF THE CLERK  
SECRETARY OF STATE

## H.B. 4081

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

[Passed March 11, 2010; in effect from passage]

AN ACT to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the Department of Military Affairs and Public Safety; 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 State Police to promulgate legislative rules

relating to West Virginia State Police Career Progression System (81 CSR 3) and carrying of handguns by retired or medically discharged members (81 CSR 6); authorizing the Fire Commission to promulgate legislative rules relating to the state fire code (87 CSR 1) and state building code (87 CSR 4); authorizing the Division of Corrections to promulgate legislative rules relating to the recording of inmate telephone calls (90 CSR 5) and the monitoring of inmate mail (90 CSR 7); authorizing the Division of Homeland Security and Emergency Management to promulgate a legislative rule relating to industrial accident rapid response (170 CSR 2).

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

That article 6, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 6. AUTHORIZATION FOR THE DEPARTMENT  
OF MILITARY AFFAIRS AND PUBLIC  
SAFETY TO PROMULGATE LEGISLATIVE  
RULES.**

**§64-6-1. State Police.**

1 (a) The legislative rule filed in the state register on July  
2 31, 2009, authorized under the authority of section five,  
3 article two, chapter fifteen, of this code, modified by the State  
4 Police to meet the objections of the legislative rule-making  
5 review committee and refiled in the state register on January  
6 12, 2010, relating to the State Police (West Virginia State  
7 Police Career Progression System, 81 CSR 3), is authorized.

8 (b) The legislative rule filed in the state register on July  
9 31, 2009, authorized under the authority of section twenty-  
10 five, article two, chapter fifteen, of this code, modified by the  
11 State Police to meet the objections of the legislative rule-

12 making review committee and refiled in the state register on  
13 January 12, 2010, relating to the State Police (carrying of  
14 handguns by retired or medically discharged members, 81  
15 CSR 6), is authorized.

**§64-6-2. Fire Commission.**

1 (a) The legislative rule filed in the state register on July  
2 21, 2009, authorized under the authority of section five,  
3 article three, chapter twenty-nine, of this code, modified by  
4 the Fire Commission to meet the objections of the legislative  
5 rule-making review committee and refiled in the state register  
6 on December 16, 2009, relating to the Fire Commission (state  
7 fire code, 87 CSR 1), is authorized.

8 (b) The legislative rule filed in the state register on July  
9 21, 2009, authorized under the authority of section five-b,  
10 article three, chapter twenty-nine, of this code, modified by  
11 the Fire Commission to meet the objections of the legislative  
12 rule-making review committee and refiled in the state register  
13 on December 16, 2009, relating to the Fire Commission (state  
14 building code, 87 CSR 4), is authorized, with the following  
15 amendments:

16 On page two, subdivision 4.1.6, by restoring the  
17 subdivision to its current language; and

18 On page three, subdivision 4.1.7, following the word  
19 “inches” and the period and before the word “Section” by  
20 inserting the following words: “Section R313: Automatic Fire  
21 Sprinkler Systems, in its entirety, is specifically excluded  
22 from the scope of this rule series.”.

**§64-6-3. Division of Corrections.**

1 (a) The legislative rule filed in the state register on June  
2 16, 2009, authorized under the authority of section seventeen,

3 article one, chapter twenty-five, of this code, modified by the  
4 Division of Corrections to meet the objections of the  
5 legislative rule-making review committee and refiled in the  
6 state register on July 22, 2009, relating to the Division of  
7 Corrections (recording of inmate telephone calls, 90 CSR 5),  
8 is authorized.

9 (b) The legislative rule filed in the state register on June  
10 16, 2009, authorized under the authority of section eighteen,  
11 article one, chapter twenty-five, of this code, modified by the  
12 Division of Corrections to meet the objections of the  
13 legislative rule-making review committee and refiled in the  
14 state register on July 22, 2009, relating to the Division of  
15 Corrections (monitoring of inmate mail, 90 CSR 7), is  
16 authorized.

**§64-6-4. Division of Homeland Security and Emergency  
Management.**

1 The legislative rule filed in the state register on August 4,  
2 2009, authorized under the authority of section three-A,  
3 article five-B, chapter fifteen, of this code, relating to the  
4 Division of Homeland Security and Emergency Management  
5 (industrial accident rapid response, 170 CSR 2), is  
6 authorized, with the following amendments:

7 On page 3, section 3, subsection 3.1., line 4 after the  
8 word "Director" by inserting the following, "within fifteen  
9 minutes of ascertaining the occurrence of an emergency event  
10 at an industrial facility";

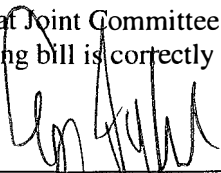
11 On page five, after the section caption "§170-2-5.  
12 Penalties." by inserting a new subsection 5.1, to read as  
13 follows:

14 5.1. Penalty Amount. The director shall impose a civil  
15 penalty on the industrial facility if he or she determines that

16 the industrial facility failed to comply with the reporting or  
17 communications and access requirements in this rule. In no  
18 case shall the total penalty for all violations exceed \$100,000  
19 for an emergency event.;

20 And renumbering the remaining subsections.

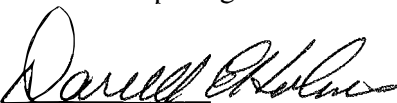
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman Senate Committee

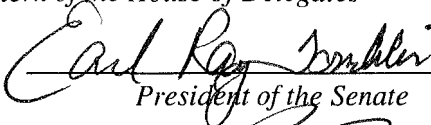
  
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Chairman House Committee

Originating in the House.

In effect from passage.

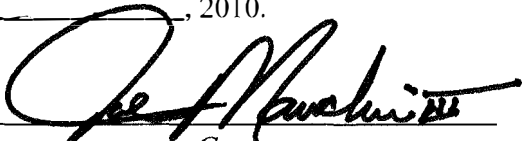
  
\_\_\_\_\_  
Clerk of the Senate

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

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

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

The within is approved this the 22nd  
day of March, 2010.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 19 2010

Time 10:40am