WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 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.

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

(b) The legislative rule filed in the state register on July 31, 2009, authorized under the authority of section twenty-five, article two, chapter fifteen, of this code, modified by the State Police to meet the objections of the legislative rule-
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making review committee and refiled in the state register on January 12, 2010, relating to the State Police (carrying of handguns by retired or medically discharged members, 81 CSR 6), is authorized.

§64-6-2. Fire Commission.

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

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

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

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

§64-6-3. Division of Corrections.

(a) The legislative rule filed in the state register on June 16, 2009, authorized under the authority of section seventeen,
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   article one, chapter twenty-five, of this code, modified by the
   Division of Corrections to meet the objections of the
   legislative rule-making review committee and refiled in the
   state register on July 22, 2009, relating to the Division of
   Corrections (recording of inmate telephone calls, 90 CSR 5),
   is authorized.

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

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

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

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

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

   5.1. Penalty Amount. The director shall impose a civil
   penalty on the industrial facility if he or she determines that
the industrial facility failed to comply with the reporting or communications and access requirements in this rule. In no case shall the total penalty for all violations exceed $100,000 for an emergency event.;

And renumbering the remaining subsections.
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 22nd day of March, 2010.

Governor