ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 250

(SENIOR SNSYDER, ORIGINAL SPONSOR)

[PASSED APRIL 13, 2013; IN EFFECT FROM PASSAGE.]
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Senate Bill No. 250
(Senator Snyder, original sponsor)

[Passed April 13, 2013; in effect from passage.]

AN ACT to amend and reenact article 10, chapter 64 of the Code of West Virginia, 1931, as amended, 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 with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; repealing the Development Office legislative rule relating to the use of coalbed methane severance tax proceeds; authorizing the Broadband Deployment Council to promulgate a legislative rule relating to broadband deployment grants programs; authorizing the Board of Miner Training, Education and Certification to promulgate a legislative rule relating to standards for certification of coal mine electricians; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special boating; authorizing the Division of Natural Resources to
promulgate a legislative rule relating to special motorboating; authorizing the Division of Natural Resources to promulgate a legislative rule relating to defining the terms used in all hunting and trapping rules; authorizing the Division of Natural Resources to promulgate a legislative rule relating to prohibitions when hunting and trapping; 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 general trapping; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special waterfowl hunting; authorizing the Division of Natural Resources to promulgate a legislative rule relating to special fishing; authorizing the Division of Natural Resources to promulgate a legislative rule relating to falconry; authorizing the Division of Labor to promulgate a legislative rule relating to bedding and upholstered furniture; authorizing the Division of Labor to promulgate a legislative rule relating to the Amusement Rides and Amusement Attractions 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 Labor to promulgate a legislative rule relating to the Crane Operator Certification Act; and authorizing the Division of Labor to promulgate a legislative rule relating to the Crane Operator Certification Act—practical examination.

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.
The legislative rule filed in the Office of the Secretary of State, authorized under the prior enactment of section twenty-a, article thirteen-a, chapter eleven of this code, relating to the Development Office (use of coalbed methane severance tax proceeds, 145 CSR 13), is repealed.


The legislative rule filed in the State Register on August 10, 2012, authorized under the authority of section four, article fifteen-c, chapter thirty-one, of this code, modified by the Broadband Deployment Council to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 22, 2013, relating to the Broadband Deployment Council (broadband deployment grants programs, 208 CSR 1), is authorized.


The legislative rule filed in the State Register on August 22, 2012, authorized under the authority of section six, article seven, chapter twenty-two-a, of this code, modified by the Board of Miners Training, Education and Certification to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 17, 2012, relating to the Board of Miners Training, Education and Certification (standards for certification of coal mine electricians, 48 CSR 7), is authorized.

§64-10-4. Division of Natural Resources.

(a) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, relating to the Division of Natural Resources (special boating, 58 CSR 26), is authorized.
(b) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section twenty-three, article seven, chapter twenty, of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 18, 2012, relating to the Division of Natural Resources (special motorboating, 58 CSR 27), is authorized.

(c) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, relating to the Division of Natural Resources (defining the terms used in all hunting and trapping rules, 58 CSR 46), is authorized.

(d) The legislative rule filed in the State Register on July 19, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, relating to the Division of Natural Resources (prohibitions when hunting and trapping, 58 CSR 47), is authorized.

(e) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 18, 2012, relating to the Division of Natural Resources (deer hunting, 58 CSR 50), is authorized.

(f) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, relating to the Division of Natural Resources (general trapping, 58 CSR 53), is authorized.
(g) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, relating to the Division of Natural Resources (special waterfowl hunting, 58 CSR 58), is authorized.

(h) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, relating to the Division of Natural Resources (special fishing, 58 CSR 61), is authorized.

(i) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section seven, article one, chapter twenty, of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 31, 2012, relating to the Division of Natural Resources (falconry, 58 CSR 65), is authorized with the following amendments:

On page one, subsection 2.8., after the word "Falconiformes" by inserting a comma and the words "the Order Accipitriformes";

On page one, after subsection 2.8., by inserting a new subsection 2.9. to read as follows:

"2.9. "Passage" means a first-year raptor that is no longer dependent upon parental care."

On page three, by striking out all of subsection 4.5. and inserting in lieu thereof a new subsection 4.5. to read as follows:

"4.5. A permittee may use a falconry to take any bird species for which there is a depredation order in place in 50 CFR at any time in accordance with the conditions of the
applicable depredation order. The permittee may not receive any compensation for depredation activities.”;

On page four, subdivision 5.3.e., after the word “Falconiform” by inserting a comma and the word “Accipitriform”;

On page six, subdivision 7.2.a., by striking out the word “Alymeri” and inserting in lieu thereof the word “Aylmeri”;

On page eight, by striking out all of subsection 10.1. and inserting in lieu thereof a new subsection 10.1. to read as follows:

"10.1. A raptor taken, possessed, transported or used for falconry purposes shall be marked with: a seamless, numbered band issued by the Division for captive-bred birds or a U.S. Fish and Wildlife Service permanent, non-reusable numbered band issued by the Division for birds originating from the wild. An ISO (International Organization for Standardization)-compliant (134.2 kHz) microchip may be implanted in addition to the band.”;

On page eight, by striking out all of subsection 10.3. and inserting in lieu thereof a new subsection 10.3. to read as follows:

"10.3. A permittee must report the loss or removal of any band within five (5) days by filing a Federal form 3-186A either electronically or in paper form. Lost bands must be replaced by a permanent, nonreusable numbered band supplied by the division. Upon remarking the raptor, the permittee shall immediately complete and submit a Federal form 3-186A either electronically or on paper reporting the new band.”;
On page nine, by striking out all of subsection 10.6. and inserting in lieu thereof a new subsection 10.6. to read as follows:

"10.6. A permittee shall remove and surrender to the division any markers from an intentionally released raptor which is indigenous to the state. A standard Federal band may be attached to the birds at the discretion of the division prior to release."

On page nine, subsection 11.1., by striking out the words "both the division and the U. S. Fish and Wildlife Service Regional Law-Enforcement office" and inserting in lieu thereof the words "the division";

And,

On page nine, by striking out all of subsection 11.3. and inserting in lieu thereof a new subsection 11.3. to read as follows:

"11.3. Resident General or Master Falconers may take from the wild any species of Falconiform, Accipitriform or Strigiform in West Virginia except: eagles; peregrine falcon (Falco peregrines); Northern harrier (Circus cyaneus); northern goshawk (Accipiter gentilis); American rough-legged hawk (Buteo lagopus); barn owl (Tyto alba); long-eared owl (Asio otus); short-eared owl (Asio flammeus); saw-whet owl (Aegolius acadicus); merlin (Falco columbaris) eyases; and sharp-shinned hawk (Accipiter straitus) eyases."

§64-10-5. Division of Labor.

(a) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section fifteen, article one-a, chapter forty-seven, of this code, modified by the Division of Labor to meet the objections of
the Legislative Rule-Making Review Committee and refilled
in the State Register on December 21, 2012, relating to the
Division of Labor (bedding and upholstered furniture, 42
CSR 12), is authorized with the following amendments:

On page two, following subsection 3.6, by striking
subsection 3.7 and renumbering the remaining subsections;

On page two, subsection 3.9, line two, following the word
“manufacturing” and the comma, by striking the word
“importing” and the comma;

On page three, subsection 5.1, line one, following the
word “manufacturing” and the comma, by striking the word
“importing” and the comma;

On page three, subsection 5.1, line three, following the
word “manufacturer” and the comma, by striking the word
“importer” and the comma;

On page three, subsection 6.1, line one, following the
word “manufacturer” and the comma, by striking the words “or importer”;

On page five, subsection 9.3, line one, following the word
“manufacturer” and the comma, by striking the word
“importer” and the comma;

On page five, subdivision 10.1.1, following the word
“manufacturer”, by striking the words “or importer”;

On page ten, appendix C, line sixteen, by striking out the
misspelled word “ADDRESS” and inserting in lieu thereof, the
word “ADDRESS”;
On page eleven, appendix D, line twenty, by striking out
the misspelled word "ADDRESS" and inserting in lieu thereof,
the word "ADDRESS";

On page fourteen, appendix G, line fourteen, by striking
out the misspelled word "ADDRESS" and inserting in lieu
thereof, the word "ADDRESS";

And,

On page fifteen, appendix H, line thirteen, by striking out
the misspelled word "ADDRESS" and inserting in lieu thereof,
the word "ADDRESS";

(b) The legislative rule filed in the State Register on
August 31, 2012, authorized under the authority of section
three, article ten, chapter twenty-one, of this code, modified
by the Division of Labor to meet the objections of the
Legislative Rule-Making Review Committee and refiled in
the State Register on December 21, 2012, relating to the
Division of Labor (Amusement Rides and Amusement
Attractions Safety Act, 42 CSR 17), is authorized with the
following amendments:

On pages three and four, by re-designating subdivisions
4.1.1., 4.1.2., 4.1.3., 4.1.4., 4.1.5., 4.1.6., 4.1.7., 4.1.8., 4.1.9.,
4.1.10. and 4.1.11., as 4.1.a., 4.1.b., 4.1.c., 4.1.d., 4.1.e.,
4.1.f., 4.1.g., 4.1.h., 4.1.i., 4.1.j. and 4.1.k.;

On page seven, subdivision 9.2.b., line two, after the
word "has", by striking out the word "of";

On page eight, subdivision 10.2.b., line two, after the
word "has", by striking out the word "of";

On page eleven, subsection 17.4, line two, following the
words "report of the", by inserting the word "serious";
On page eleven, subsection 17.5, line one, following the words “document the”, by striking the word “accident” and inserting in lieu thereof the words “serious injury or fatality”; On page eleven, subsection 18.1, line two, following the words “required by”, by striking the words “this section of the rule” and inserting in lieu thereof the words “sections 15 or 17 of this rule”; On page eleven, subsection 18.1, line three, following the word “cessation” and the comma, by striking the words “imminent danger notification” and the comma; On page twelve, subsection 19.4, line three, following the word “operation”, by striking the words “is prohibited” and inserting a colon; On page twelve, by re-designating subdivisions 19.4.1 and 19.4.2 as 19.4.a. and 19.4.b.; And, On page twelve, by re-designating paragraphs 19.4.2.1., 19.4.2.2., 19.4.2.3., 19.4.2.4., 19.4.2.5., 19.4.2.6. as 19.4.b.1., 19.4.b.2., 19.4.b.3., 19.4.b.4., 19.4.b.5., 19.4.b.6. (c) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section eleven, article three-c, chapter twenty-one, of this code, modified by the Division of Labor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2012, relating to the Division of Labor (supervision of elevator mechanics and apprentices, 42 CSR 21A), is authorized, with the following amendments:
On page two, subsection 5.1., by un-striking the word "may" and striking out the word "shall";

On page two, subsection 5.2., by un-striking the word "may" and striking out the word "shall";

And,

On page six, subsection 9.2, line two, after the word "with", by striking out the word "the".

(d) The legislative rule filed in the State Register on August 31, 2012, authorized under the authority of section three, article three-d, chapter twenty-one, of this code, modified by the Division of Labor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 21, 2012, relating to the Division of Labor (Crane Operator Certification Act, 42 CSR 24), is authorized with the following amendment:

On page two, subsection 3.4, line four, following the word "November", by striking "10" and inserting in lieu thereof "14".

(e) The legislative rule filed in the State Register on August 21, 2012, authorized under the authority of section three, article three-d, chapter twenty-one, of this code, relating to the Division of Labor (Crane Operator Certification Act - practical examination, 42 CSR 25), is authorized with the following amendments:

On page two, subsection 3.4, line five, following the word "November", by striking "10" and inserting in lieu thereof "14";

And,
On page three, line fifteen, after the stricken subdivision designation 4.5.d., by inserting the subdivision designation 4.4.d.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Member, Chairman, Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 3rd Day of May, 2013.

[Signature]
Governor
PRESENTED TO THE GOVERNOR

MAY - 1 2013

Time 1:50 pm