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2013 APR 29 PM 5:09

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 281

(SENATOR SNYDER, *ORIGINAL SPONSOR*)

[PASSED APRIL 12, 2013; IN EFFECT FROM PASSAGE.]

SB 281

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ENROLLED
COMMITTEE SUBSTITUTE

OFFICE OF THE CLERK
SECRETARY OF STATE

FOR

Senate Bill No. 281

(SENATOR SNYDER, *original sponsor*)

[Passed April 12, 2013; in effect from passage.]

AN ACT to amend and reenact article 8, chapter 64 of the Code of West Virginia, 1931, as amended, 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 state; 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; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register and as amended by the Legislature; authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to the denial, suspension, revocation, disqualification, restriction, nonrenewal, cancellation, administrative appeals and reinstatement of motor vehicle operating 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 Office of Administrative Hearings to promulgate a legislative rule relating to appeal procedures.

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 DEPARTMENT OF
TRANSPORTATION TO PROMULGATE
LEGISLATIVE RULES.**

§64-8-1. Division of Motor Vehicles.

1 The legislative rule filed in the State Register on August
2 30, 2012, authorized under the authority of section nine,
3 article two, chapter seventeen-a, of this code, modified by the
4 Division of Motor Vehicles to meet the objections of the
5 Legislative Rule-Making Review Committee and refiled in
6 the State Register on December 21, 2012, relating to the
7 Division of Motor Vehicles (denial, suspension, revocation,
8 disqualification, restriction, nonrenewal, cancellation,
9 administrative appeals and reinstatement of motor vehicle
10 operating privileges, 91 CSR 5), is authorized with the
11 following amendments:

12 On page one, in the title, by striking out the word
13 “PROPOSED”;

14 On page two, paragraph 3.2.c.1., after the words “under
15 consideration;” by adding the word “or”;

16 On page three, subdivision 3.2.e., by striking out the
17 words “subdivisions 3.2.a, 3.2.b or 3.2.c” and inserting in lieu
18 thereof the word “subsection 3.2.”;

19 On page three, subsection 3.3., by striking out the words
20 “notice submitted pursuant” and inserting in lieu thereof the
21 words “opinion submitted pursuant”;

22 On page three, subsection 3.3., by striking out the words
23 “notice submitted by” and inserting in lieu thereof the words
24 “professional opinion submitted by”;

25 On page three, subsection 3.3., by striking out the word
26 “subsection 9.2.b.” and inserting in lieu thereof the word
27 “subdivision 9.2.b.”;

28 On page four, paragraph 3.3.a.1., by striking out the word
29 “States;” and inserting in lieu thereof the words “States and
30 who practices in the specialty field of the medical condition
31 under consideration; or”;

32 On page four, by striking out all of paragraph 3.3.a.2.;

33 And renumbering the remaining paragraph;

34 On page four, paragraph 3.3.a.3., after the word “States”
35 by inserting the words “who practices in the specialty field of
36 the vision condition under consideration.”;

37 On page six, subdivision 3.5.c., after the word
38 “Rehabilitation” by inserting the word “Services”;

39 On page ten, subsection 7.1., by striking out “§17B-3-6(3)”
40 and inserting in lieu thereof “§17B-3-6(a)”;

41 On page sixteen, subsection 7.9., by inserting a period
42 after “7.9”;

43 On page seventeen, subsection 7.13., by striking out the
44 following: The Office of Administrative Hearings shall use
45 the Division’s record to determine whether the point totals

46 are correct and whether the person suspended is the person
47 named in the citations. The burden of proof is on the driver.;

48 On page nineteen, subsection 8.2., by striking out “§17B-
49 2-3a(j)(2)(G)” and inserting in lieu thereof “§17B-2-3a”;

50 On page nineteen, subdivision 8.2.a., by striking out
51 “§17B-2-3a(j)(2)(H)” and inserting in lieu thereof “§17B-2-
52 3a”;

53 On page nineteen, subdivision 8.2.b., by striking out
54 “§17B-2-3a(k)(1)(B)” and inserting in lieu thereof “§17B-2-
55 3a”;

56 On page twenty-five, subsection 11.6., by striking out the
57 following: The Office of Administrative Hearings shall use
58 the Division’s record to determine timely compliance with
59 the citations and whether the person suspended is the person
60 named in the citations. The burden of proof is on the driver.;

61 On page twenty-seven, subsection 12.3., by striking out
62 the following: The Office of Administrative Hearings shall
63 use the Division’s record to determine identity and age of the
64 licensee. The burden of proof is on the driver.;

65 On page twenty-eight, subsection 13.1., by striking out
66 the following: The Division may not act on any failure to pay
67 report transmitted to the Division more than one year from
68 the date of the conviction.;

69 On page twenty-nine, subsection 13.5., by striking out the
70 following: The Office of Administrative Hearings shall use
71 the Division’s record to determine timely compliance with
72 the citations and whether the person suspended is the person
73 named in the citations. The burden of proof is on the driver.;

74 On page thirty-one, subsection 15.5., by striking out the
75 following: The Office of Administrative Hearings shall use

76 the Division's record to determine whether the person
77 suspended is the person named in the court order. The
78 burden of proof is on the driver.;

79 On page thirty-four, subdivision 16.3.a., by striking out
80 the words "for licensees of his her state or jurisdiction";

81 On page thirty-seven, paragraph 16.3.d.11, by striking out
82 the word "Subdivision 13.6.d.8" and inserting in lieu thereof
83 the word "Paragraph 16.3.d.8";

84 On page thirty-seven, paragraph 16.3.d.12, by striking out
85 the word "Subdivision 13.6.d.8" and inserting in lieu thereof
86 the word "Paragraph 16.3.d.8";

87 On page thirty-seven, paragraph 16.3.d.13, by striking out
88 the word "Subdivision 13.6.d.8" and inserting in lieu thereof
89 the word "Paragraph 16.3.d.8";

90 And,

91 On page thirty-nine, subdivision 16.5.b, after the words
92 "with a valid registration" by inserting a period.

§64-8-2. Division of Highways.

1 The legislative rule filed in the State Register on July 30,
2 2012, authorized under the authority of section seven, article
3 eighteen, chapter twenty-two, of this code, modified by the
4 Commissioner of Highways to meet the objections of the
5 Legislative Rule-Making Review Committee and refiled in
6 the State Register on September 30, 2012, relating to the
7 Commissioner of Highways (transportation of hazardous
8 wastes upon the roads and highways, 157 CSR 7), is
9 authorized.

§64-8-3. Office of Administrative Hearings.

1 The legislative rule filed in the State Register on August
2 30, 2012, authorized under the authority of section four-a,
3 article five-c, chapter seventeen-c of this code, relating to the
4 Office of Administrative Hearings (appeal procedures, 105
5 CSR 1), is authorized with the following amendments:

6 On page two, subsection 4.2., by striking out the words
7 “an address” and inserting in lieu thereof the words “the most
8 recent address”;

9 On page three, subsection 5.5., by striking out the word
10 “proceedings” and inserting in lieu thereof the word “action”;

11 On page four, subsection 7.1., after the words “within
12 thirty (30)” by inserting the word “calendar”;

13 On page four, subsection 7.1., after the words “necessary
14 for proof of” by inserting the words “the filing of”;

15 On page five, subsection 7.7., after the words “DUI case”
16 by inserting the words “or any other contested case”;

17 On page five, subsection 8.5., by striking out the word
18 “on” and inserting in lieu thereof the word “to”;

19 On page seven, subsection 10.6., by striking out the
20 words “anticipated plea.”;

21 On page eight, subsection 10.6., by striking out the word
22 “received” and inserting in lieu thereof the word “receive”;

23 On page eight, subsection 10.6., by striking out the words
24 “cancelled or continued” and inserting in lieu thereof the
25 words “cancels or continues”;

26 On page eight, subsection 11.1., by striking out the word
27 “submission” and inserting in lieu thereof the word
28 “production”;

29 On page eleven, subsection 15.8., by striking out the
30 word “seven (7)” and inserting in lieu thereof the word “ten
31 (10) ”;

32 And,

33 On page twelve, subsection 17.5., by striking out
34 “appeals a final order, the appealing” and inserting in lieu
35 thereof “petitions a court for judicial review of a final order,
36 the petitioning”.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

2013 APR 29 PM 5:09
SECRET
OFFICE OF THE CLERK OF THE SENATE

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within *is approved* this the *29th*
Day of *April*, 2013.

[Signature]
.....
Governor

APR 23 2013

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