WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013

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

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

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

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

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

And renumbering the remaining paragraph;

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

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

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

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

On page seventeen, subsection 7.13., by striking out the following: The Office of Administrative Hearings shall use the Division’s record to determine whether the point totals
are correct and whether the person suspended is the person named in the citations. The burden of proof is on the driver.;

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

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

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

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

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

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

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

On page thirty-one, subsection 15.5., by striking out the following: The Office of Administrative Hearings shall use
the Division's record to determine whether the person
suspended is the person named in the court order. The
burden of proof is on the driver.;

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

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

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

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

And,

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

§64-8-2. Division of Highways.

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

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

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

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

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

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

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

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

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

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

On page eight, subsection 10.6., by striking out the words “cancelled or continued” and inserting in lieu thereof the words “cancels or continues”;
On page eight, subsection 11.1., by striking out the word "submission" and inserting in lieu thereof the word "production";

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

And,

On page twelve, subsection 17.5., by striking out "appeals a final order, the appealing" and inserting in lieu thereof "petitions a court for judicial review of a final order, the petitioning".
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

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 was approved this the Day of , 2013.

Governor