

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

Senate Bill 159

BY SENATOR MAYNARD

[Originating in the Committee on the Judiciary;

Reported February 2, 2016.]

1 A BILL to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as
2 amended, relating generally to the promulgation of administrative rules by various
3 executive or administrative agencies of the state; authorizing certain of the agencies to
4 promulgate certain legislative rules in the form that the rules were filed in the State
5 Register; authorizing certain of the agencies to promulgate certain legislative rules with
6 various modifications presented to and recommended by the Legislative Rule-Making
7 Review Committee; authorizing certain of the agencies to promulgate certain legislative
8 rules with various modifications and amendments presented to and recommended by the
9 Legislative Rule-Making Review Committee; directing various agencies to amend and
10 promulgate certain legislative rules; authorizing the Board of Examiners in Counseling to
11 promulgate a legislative rule relating to licensing; authorizing the Board of Examiners in
12 Counseling to promulgate a legislative rule relating to licensed professional counselor
13 license renewal and continuing professional education requirements; authorizing the
14 Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and
15 family therapists licensing; authorizing the Board of Examiners in Counseling to
16 promulgate a legislative rule relating to marriage and family license renewal and
17 continuing professional education requirements; authorizing the Board of Accountancy to
18 promulgate a legislative rule relating to board rules and rules of professional conduct;
19 authorizing the Department of Agriculture to promulgate a legislative rule relating to the
20 inspection of nontraditional domesticated animals; authorizing the Department of
21 Agriculture to promulgate a legislative rule relating to poultry litter and manure movement
22 into primary poultry breeder rearing areas; authorizing the Department of Agriculture to
23 promulgate a legislative rule relating to livestock care standards; authorizing the
24 Department of Agriculture to promulgate a legislative rule relating to captive cervid
25 farming; directing the Department of Agriculture to amend and promulgate a legislative
26 rule relating to industrial hemp; authorizing the State Conservation Committee to

27 promulgate a legislative rule relating to the West Virginia Conservation Agency Financial
28 Assistance Program; authorizing the Board of Dentistry to promulgate a legislative rule
29 relating to continuing education requirements; authorizing the Board of Dentistry to
30 promulgate a legislative rule relating to expanded duties of dental hygienists and dental
31 assistants; authorizing the State Election Commission to promulgate a legislative rule
32 relating to the regulation of campaign finance; authorizing the State Election Commission
33 to promulgate a legislative rule relating to the West Virginia Supreme Court of Appeals
34 public campaign financing program; authorizing the State Board of Registration for
35 Professional Engineers to promulgate a legislative rule relating to the examination,
36 licensure and practice of professional engineers; authorizing the Governor's Committee
37 on Crime, Delinquency and Correction to promulgate a legislative rule relating to law
38 enforcement training and certification standards; authorizing the Medical Imaging and
39 Radiation Therapy Technology Board of Examiners to promulgate a legislative rule
40 relating to the board; authorizing the Board of Medicine to promulgate a legislative rule
41 relating to the establishment and regulation of limited license to practice medicine and
42 surgery at certain state veterans nursing home facilities; authorizing the Nursing Home
43 Administrators Licensing Board to promulgate a legislative rule relating to nursing home
44 administrators; authorizing the Board of Pharmacy to promulgate a legislative rule relating
45 to the licensure and practice of pharmacy; authorizing the Board of Pharmacy to
46 promulgate a legislative rule relating to the Uniform Controlled Substances Act;
47 authorizing the Board of Pharmacy to promulgate a legislative rule relating to record
48 keeping and automated data processing systems; authorizing the Board of Pharmacy to
49 promulgate a legislative rule relating to the licensure of wholesale drug distributors, third-
50 party logistics providers and manufacturers; authorizing the Property Valuation and
51 Procedures Commission to promulgate a legislative rule relating to tax map sales;
52 authorizing the Board of Social Work to promulgate a legislative rule relating to

53 qualifications for the profession of social work; authorizing the Secretary of State to
54 promulgate a legislative rule relating to registration forms and receipts; authorizing the
55 Secretary of State to promulgate a legislative rule relating to the elimination of precinct
56 registration books; authorizing the Secretary of State to promulgate a legislative rule
57 relating to absentee voting by military voters who are members of reserve units called to
58 active duty; authorizing the Secretary of State to promulgate a legislative rule relating to
59 the Freedom of Information Act database; authorizing the Board of Examiners for Speech-
60 Language Pathology and Audiology to promulgate a legislative rule relating to the
61 licensure of speech pathology and audiology; and authorizing the Board of Examiners for
62 Speech-Language Pathology and Audiology to promulgate a legislative rule relating to
63 speech-language pathology and audiology assistants.

Be it enacted by the Legislature of West Virginia:

1 That article 9, chapter 64 of the Code of West Virginia, 1931, as amended, be amended
2 and reenacted to read as follows:

**ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS
TO PROMULGATE LEGISLATIVE RULES.**

§64-9-1. Board of Examiners in Counseling.

1 (a) The legislative rule filed in the State Register on July 28, 2015, authorized under the
2 authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of
3 Examiners in Counseling to meet the objections of the Legislative Rule-Making Review
4 Committee and refiled in the State Register on October 20, 2015, relating to the Board of
5 Examiners in Counseling (licensing, 27 [CSR](#) 1), is authorized.

6 (b) The legislative rule filed in the State Register on July 28, 2015, authorized under the
7 authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of
8 Examiners in Counseling to meet the objections of the Legislative Rule-Making Review

9 Committee and refiled in the State Register on September 29, 2015, relating to the Board of
10 Examiners in Counseling (licensed professional counselor license renewal and continuing
11 professional education requirements, 27 [CSR 3](#)), is authorized.

12 (c) The legislative rule filed in the State Register on July 28, 2015, authorized under the
13 authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of
14 Examiners in Counseling to meet the objections of the Legislative Rule-Making Review
15 Committee and refiled in the State Register on October 20, 2015, relating to the Board of
16 Examiners in Counseling (marriage and family therapists licensing, 27 [CSR 8](#)), is authorized.

17 (d) The legislative rule filed in the State Register on July 28, 2015, authorized under the
18 authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of
19 Examiners in Counseling to meet the objections of the Legislative Rule-Making Review
20 Committee and refiled in the State Register on September 29, 2015, relating to the Board of
21 Examiners in Counseling (marriage and family license renewal and continuing professional
22 education requirements, 27 [CSR 10](#)), is authorized.

§64-9-2. Board of Accountancy.

1 The legislative rule filed in the State Register on Friday, July 24, 2015, authorized under
2 the authority of section five, article nine, chapter thirty of this code, modified by the Board of
3 Accountancy to meet the objections of the Legislative Rule-Making Review Committee and refiled
4 in the State Register on Thursday, November 5, 2015, relating to the Board of Accountancy (board
5 rules and rules of professional conduct, 1 [CSR 1](#)), is authorized.

§64-9-3. Department of Agriculture .

1 (a) The legislative rule filed in the State Register on July 30, 2015, authorized under the
2 authority of section four, article twenty-nine, chapter nineteen of this code, modified by the
3 Department of Agriculture to meet the objections of the Legislative Rule-Making Review
4 Committee and refiled in the State Register on November 3, 2015, relating to the Department of

5 Agriculture (inspection of nontraditional domesticated animals, 61 [CSR 23D](#)), is authorized.

6 (b) The legislative rule filed in the State Register on July 31, 2015, authorized under the
7 authority of section two, article nine, chapter nineteen of this code, modified by the Department
8 of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled
9 in the State Register on November 5, 2015, relating to the Department of Agriculture (poultry litter
10 and manure movement into primary poultry breeder rearing areas, 61 [CSR 28](#)), is authorized.

11 (c) The legislative rule filed in the State Register on July 31, 2015, authorized under the
12 authority of section four, article one-c, chapter nineteen of this code, modified by the Department
13 of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled
14 in the State Register on November 5, 2015, relating to the Department of Agriculture (livestock
15 care standards, 61 [CSR 31](#)), is authorized.

16 (d) The legislative rule filed in the State Register on July 28, 2015, authorized under the
17 authority of section twelve, article two-h, chapter nineteen of this code, modified by the
18 Department of Agriculture to meet the objections of the Legislative Rule-Making Review
19 Committee and refiled in the State Register on November 5, 2015, relating to the Department of
20 Agriculture (captive cervid farming, 61 [CSR 34](#)), is authorized.

21 (e) The Legislature directs the Department of Agriculture to promulgate the legislative
22 rule filed in the State Register on April 4, 2015, authorized under the authority of section seven,
23 article twelve-e, chapter nineteen, of this code, relating to the Department of Agriculture (industrial
24 hemp, 61 [CSR 29](#)), with the amendments set forth below:

25 On page one, section one, by striking out all of subsection 1.1 and inserting in lieu thereof
26 a new subsection 1.1 to read as follows:

27 1.1. Scope.- This rule establishes requirements for the licensing, cultivating, testing,
28 supervision, production and processing of industrial hemp in West Virginia through the issuance
29 of Research Program Licenses as designated generally in Section 7606 of the Agricultural Farm
30 Act of 214 (the Farm Bill).;

31 On page one, section two, by striking out all of subsection 2.6 and inserting in lieu thereof
32 a new subsection 2.6 to read as follows:

33 2.6. "License" or licensed" means the applicant has been issued a research Program
34 License by the Commissioner, following a successful application and review process and may
35 possess, grow, harvest, produce, distribute or deliver industrial hemp within West Virginia. The
36 Department is duly licensed to engage in research and development programs initiated by the
37 Commissioner.;

38 On page one, section two, by striking out all of subsection 2.7 and inserting in lieu thereof
39 a new subsection 2.7 to read as follows:

40 2.7. "Licensee" or "applicant" means the Department or state institute of higher learning
41 who has been issued a research Program License by the Department.

42 On page two, section two, subsection 2.9 after the word "Research" by striking out the
43 words "and Marketing Cultivation";

44 On page two, section two, subsection 2.9 after the word "Commissioner" by striking out
45 the words "or affiliated";

46 On page two, section two, subsection 3.1, by striking out all of subdivision 3.1.b. and
47 inserting in lieu thereof a new subdivision 3.1.b. to read as follows:

48 3.1.b. A research proposal that authorizes the purposes of the research, the scientific
49 methods to be employed and the use of the product outcomes.;

50 And,

51 On page three, section four, subdivision 4.1.b., after the word "planted" by changing the
52 semicolon to a period and striking out all of subdivision 4.1.c.

§64-9-4. State Conservation Committee.

1 The legislative rule filed in the State Register on June 3, 2015, authorized under the
2 authority of section four-a, article twenty-one-a, chapter nineteen of this code, modified by the
3 State Conservation Committee to meet the objections of the Legislative Rule-Making Review

4 Committee and refiled in the State Register on September 16, 2015, relating to the State
5 Conservation Committee (West Virginia Conservation Agency Financial Assistance Program, 63
6 [CSR 2](#)), is authorized.

§64-9-5. Board of Dentistry.

1 (a) The legislative rule filed in the State Register on July 23, 2015, authorized under the
2 authority of section six, article four, chapter thirty of this code, modified by the Board of Dentistry
3 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
4 Register on September 23, 2015, relating to the Board of Dentistry (continuing education
5 requirements, 5 [CSR 11](#)), is authorized.

6 (b) The legislative rule filed in the State Register on July 23, 2015, authorized under the
7 authority of section six, article four, chapter thirty of this code, modified by the Board of Dentistry
8 to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State
9 Register on September 23, 2015, relating to the Board of Dentistry (expanded duties of dental
10 hygienists and dental assistants, 5 [CSR 13](#)), is authorized.

§64-9-6. State Election Commission.

1 (a) The legislative rule filed in the State Register on July 31, 2015, authorized under the
2 authority of section five, article one-a, chapter three of this code, modified by the State Election
3 Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled
4 in the State Register on December 22, 2015, relating to the State Election Commission (regulation
5 of campaign finance, 146 [CSR 3](#)), is authorized with the amendments set forth below:

6 On page 11, by striking all of subdivision 6.3.e;

7 On page 11, subsection 6.7, after the word “ballot”, by striking the remainder of subsection
8 6.7;

9 On page 12, subdivision 7.2.b, by striking the words “by making a contribution to one or
10 more political party committees or candidates”;

11 On page 18, by striking all of subdivision 10.7.a;

12 And,

13 On page 18 by striking all of subdivision 10.7.b.

14 (b) The legislative rule filed in the State Register on July 31, 2015, authorized under the
15 authority of section fourteen, article twelve, chapter three of this code, modified by the State
16 Election Commission to meet the objections of the Legislative Rule-making Review Committee
17 and refiled in the State Register on December 22, 2015, relating to the State Election Commission
18 (West Virginia Supreme Court of Appeals Public Campaign Financing Program, 146 [CSR 5](#)), is
19 authorized.

§64-9-7. State Board of Registration for Professional Engineers .

1 The legislative rule filed in the State Register on May 11, 2015, authorized under the
2 authority of section nine, article thirteen, chapter thirty of this code, modified by the State Board
3 of Registration for Professional Engineers to meet the objections of the Legislative Rule-Making
4 Review Committee and refiled in the State Register on September 22, 2015, relating to the State
5 Board of Registration for Professional Engineers (examination, licensure and practice of
6 professional engineers, 7 [CSR 1](#)), is authorized.

§64-9-8. Governor's Committee on Crime, Delinquency and Correction.

1 The legislative rule filed in the State Register on July 27, 2015, authorized under the
2 authority of section three, article twenty-nine, chapter thirty of this code, modified by the
3 Governor's Committee on Crime, Delinquency and Correction to meet the objections of the
4 Legislative Rule-Making Review Committee and refiled in the State Register on November 5,
5 2015, relating to the Governor's Committee on Crime, Delinquency and Correction (law-
6 enforcement training and certification standards, 149 [CSR 2](#)), is authorized.

§64-9-9. Medical Imaging and Radiation Therapy Technology Board of Examiners.

1 The legislative rule filed in the State Register on June 8, 2015, authorized under the
2 authority of section six, article twenty-three, chapter thirty of this code, relating to the Medical

3 Imaging and Radiation Therapy Technology Board of Examiners (rules of the Board, 18 [CSR 1](#)),
4 is authorized.

§64-9-10. Board of Medicine.

1 The legislative rule filed in the State Register on July 27, 2015, authorized under the
2 authority of section eleven-b, article three, chapter thirty of this code, modified by the Board of
3 Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in
4 the State Register on October 23, 2015, relating to the Board of Medicine (establishment and
5 regulation of limited license to practice medicine and surgery at certain state veterans' nursing
6 home facilities, 11 [CSR 11](#)), is authorized.

§64-9-11. Nursing Home Administrators Licensing Board.

1 The legislative rule filed in the State Register on July 17, 2017, authorized under the
2 authority of section six, article twenty-five, chapter thirty of this code, modified by the Nursing
3 Home Administrators Licensing Board to meet the objections of the Legislative Rule-Making
4 Review Committee and refiled in the State Register on November 2, 2015, relating to the Nursing
5 Home Administrators Licensing Board (nursing home administrators, 21 [CSR 1](#)), is authorized.

§64-9-12. Board of Pharmacy.

1 (a) The legislative rule filed in the State Register on July 16, 2015, authorized under the
2 authority of section seven, article five, chapter thirty of this code, modified by the Board of
3 Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in
4 the State Register on December 17, 2015, relating to the Board of Pharmacy (licensure and
5 practice of pharmacy, 15 [CSR 1](#)), is authorized.

6 (b) The legislative rule filed in the State Register on July 16, 2015, authorized under the
7 authority of section three hundred one, article three, chapter sixty-a of this code, modified by the
8 Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and
9 refiled in the State Register on December 17, 2015, relating to the Board of Pharmacy (Uniform
10 Controlled Substances Act, 15 [CSR 2](#)), is authorized.

11 (c) The legislative rule filed in the State Register on July 16, 2015, authorized under the
12 authority of section seven, article five, chapter thirty of this code, modified by the Board of
13 Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in
14 the State Register on December 17, 2015, relating to the Board of Pharmacy (record keeping and
15 automated data processing systems, 15 [CSR 4](#)), is authorized.

16 (d) The legislative rule filed in the State Register on July 16, 2015, authorized under the
17 authority of section seven, article five, chapter thirty of this code, modified by the Board of
18 Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in
19 the State Register on December 17, 2015, relating to the Board of Pharmacy (licensure of
20 wholesale drug distributors, third-party logistics providers and manufacturers, 15 [CSR 5](#)), is
21 authorized.

§64-9-13. Property Valuation and Procedures Commission .

1 The legislative rule filed in the State Register on July 29, 2015, authorized under the
2 authority of section five, article ten, chapter eleven of this code, modified by the Property Valuation
3 and Procedures Commission to meet the objections of the Legislative Rule-Making Review
4 Committee and refiled in the State Register on October 27, 2015, relating to the Property
5 Valuation and Procedures Commission (tax map sales, 189 [CSR 5](#)), is authorized.

§64-9-14. Board of Social Work.

1 The legislative rule filed in the State Register on July 21, 2015, authorized under the
2 authority of section six, article thirty, chapter thirty of this code, modified by the Board of Social
3 Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the
4 State Register on December 4, 2015, relating to the Board of Social Work (qualifications for the
5 profession of social work, 25 [CSR 1](#)), is authorized.

§64-9-14. Secretary of State.

1 (a) The legislative rule filed in the State Register on June 30, 2015, authorized under the

2 authority of section six, article one-a, chapter three of this code, relating to the Secretary of State
3 (registration forms and receipts, 153 [CSR 3](#)), is authorized.

4 (b) The legislative rule filed in the State Register on July 1, 2015, authorized under the
5 authority of section twenty-one, article two, chapter three of this code, relating to the Secretary of
6 State (elimination of precinct registration books, 153 [CSR 9](#)), is authorized.

7 (c) The legislative rule filed in the State Register on June 30, 2015, authorized under the
8 authority of section six, article one-a, chapter three of this code, relating to the Secretary of State
9 (absentee voting by military voters who are members of reserve units called to active duty, 153
10 [CSR 23](#)), is authorized.

11 (d) The legislative rule filed in the State Register on June 30, 2015, authorized under the
12 authority of section three-a, article one, chapter twenty-nine-b of this code, modified by the
13 Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and
14 refiled in the State Register on December 22, 2015, relating to the Secretary of State (Freedom
15 of Information Act database, 153 [CSR 52](#)), is authorized.

§64-9-15. Board of Examiners for Speech-Language Pathology and Audiology.

1 (a) The legislative rule filed in the State Register on June 8, 2015, authorized under the
2 authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of
3 Examiners for Speech-Language Pathology and Audiology to meet the objections of the
4 Legislative Rule-Making Review Committee and refiled in the State Register on December 4,
5 2015, relating to the Board of Examiners for Speech-Language Pathology and Audiology
6 (licensure of speech pathology and audiology, 29 [CSR 1](#)), is authorized.

7 (b) The legislative rule filed in the State Register on June 8, 2015, authorized under the
8 authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of
9 Examiners for Speech-Language Pathology and Audiology to meet the objections of the
10 Legislative Rule-Making Review Committee and refiled in the State Register on December 4,
11 2015, relating to the Board of Examiners for Speech-Language Pathology and Audiology (speech-

12 language pathology and audiology assistants, 29 [CSR 2](#)), is authorized with the following
13 amendments:

14 On page 4, Subdivision 4.1.(y), following the word “than”, by striking the word “two” and
15 inserting in lieu thereof the word “three”.