

West Virginia Legislature
State Senate Committee on the Judiciary

2013

1st Session of the 81st Legislature

BILL SUMMARIES



Senate Judiciary Committee

Building 1, Room 210W

1900 Kanawha Boulevard E.

Charleston, West Virginia 25305

Corey Palumbo, Chairman

SENATE JUDICIARY COMMITTEE

Staff Members - 2013

<u>Name</u>	<u>Title</u>	<u>Employment Status</u>
Kevin Baker	Counsel	Full Time
Trina Hartley	Committee Secretary	Full Time
Jay Lazell	Counsel	Full Time
Jared Wyrick	Legislative Analyst	Full Time
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Betty Caplan	Counsel	Per Diem
Linda Gibson	Secretary to Chairman	Per Diem
Leah Macia	Counsel	Per Diem
Brandon Meadows	Messenger	Per Diem
Kiena Smith	Receptionist	Per Diem
Tom Smith	Chief Counsel	Per Diem
Katie Wright	Herndon Intern	Per Diem
Jeanne Young	Committee Secretary	Per Diem

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**WV SENATE COMMITTEE ON THE JUDICIARY
STATISTICS 2013**

**TOTAL NUMBER OF BILLS INTRODUCED
IN THE SENATE: 665**

**TOTAL NUMBER OF SENATE RESOLUTIONS INTRODUCED
IN THE SENATE: 160**

**TOTAL NUMBER OF HOUSE BILLS AND RESOLUTIONS
INTRODUCED IN THE SENATE:**

**HOUSE BILLS: 144
RESOLUTIONS: 125**

**TOTAL NUMBER OF BILLS AND RESOLUTIONS
REFERRED TO SENATE JUDICIARY:**

**SENATE BILLS: 404
HOUSE BILLS: 75
RESOLUTIONS: 18**

**TOTAL NUMBER OF BILLS AND RESOLUTIONS
REFERRED TO SENATE JUDICIARY: 497**

**TOTAL NUMBER OF BILLS AND RESOLUTIONS
ORIGINATING IN SENATE JUDICIARY:**

**BILLS: 0
RESOLUTIONS: 0**

**TOTAL NUMBER OF BILLS AND RESOLUTIONS
REPORTED FROM SENATE JUDICIARY: 162**

**TOTAL NUMBER OF BILLS AND RESOLUTIONS REPORTED
FROM SENATE JUDICIARY THAT COMPLETED
LEGISLATIVE ACTION: 107**

**TOTAL NUMBER OF BILLS AND RESOLUTIONS REPORTED
FROM SENATE JUDICIARY THAT BECAME LAW: 107**

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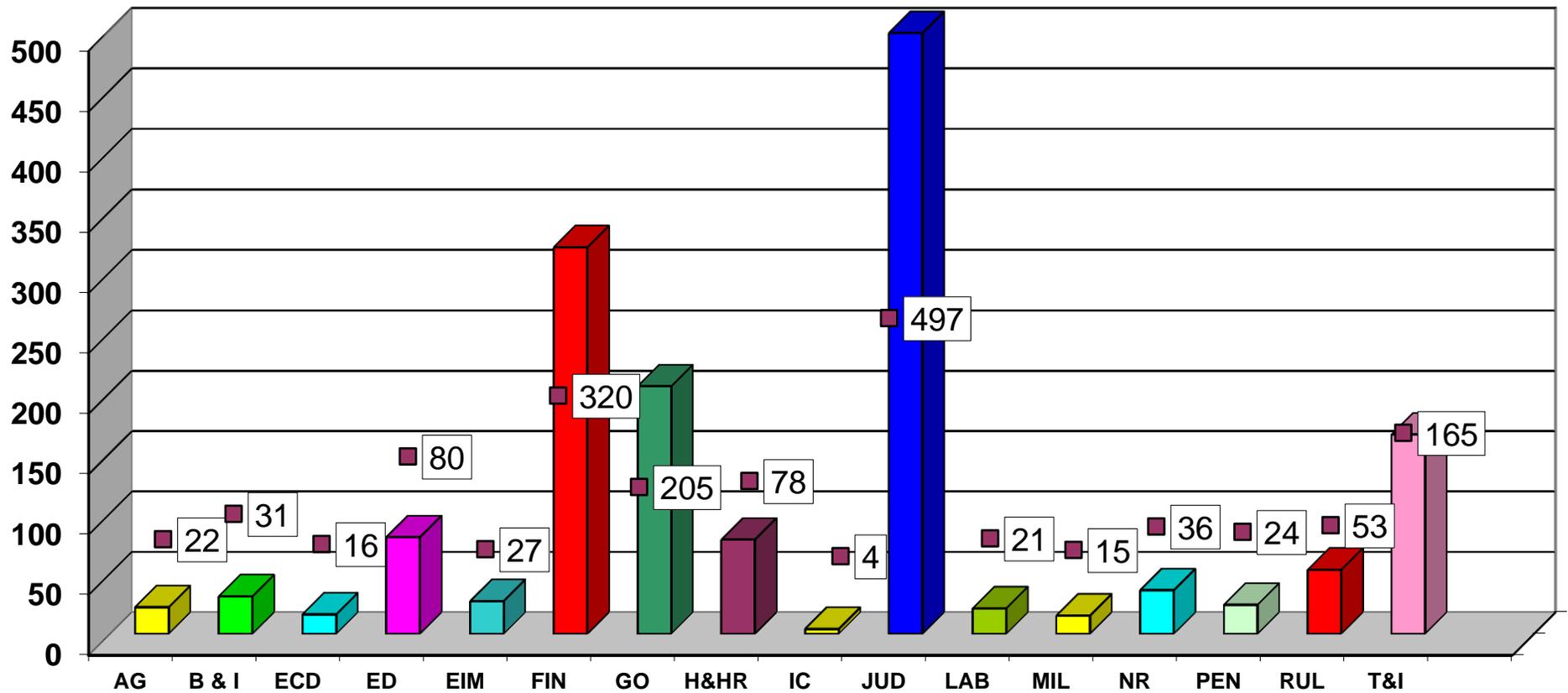


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**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 60**

SHORT TITLE: Relating to name-change notice publication requirements.

CODE REFERENCE: West Virginia Code §48-25-101 (Amends)

Currently, a notice stating the time and place of the hearing for a name change is to be published prior to the filing of a petition for a name change. The bill provides that the notice is to be published after filing the petition. The Committee Substitute states that the name to which the petitioner's name will be changed is to be included in the notice unless the court has found good cause that the name does not have to be included in the notice because the name change has been requested to protect the identity of the person for personal safety reasons.

EFFECTIVE DATE: July 10, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed April 17, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 71**

SHORT TITLE: Requiring descriptions of easements and rights-of-way include width in addition to centerline; exception.

CODE REFERENCE: West Virginia Code §36-3-5a

This bill amends the law relating to the description of easements and rights-of-way to provide that when the centerline method is used to describe a right-of-way or easement, the width of the easement or right-of-way must also be included in the description.

Oil and gas, gas storage and mineral leases are not subject to this new requirement, nor are they required to use any of the four descriptive methods identified in W. Va. Code §36-3-5a(a).

EFFECTIVE DATE: July 10, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed April 18, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 74**

SHORT TITLE: Relating to jury service qualification.

CODE REFERENCE: West Virginia Code §52-1-5a and §52-1-8

This bill amends the law relating to jury service by removing a provision from the law which disqualifies a person from jury service based upon conviction of an “other infamous offense” and replacing it with conviction of “any crime punishable by imprisonment in excess of one year under the applicable law of this state, another state or the United States.” All other grounds for disqualification remain unchanged. The bill also amends the law relating to jury service to provide a copy of the response to juror qualification questionnaires to trial counsel.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 101**

SHORT TITLE Clarifying Medical Professional Liability Act applies to nursing homes and their health care providers.

CODE REFERENCE: West Virginia Code §W.Va. §16-5C-15

This bill clarifies that the Nursing Home Act does not limit the protections for nursing homes and their employees provided by the provisions of the MPLA, and that they must be afforded the same treatment as any other health care facility or health care provider under the MPLA.

EFFECTIVE DATE: July 1, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 145**

SHORT TITLE: Amending election complaint procedures.

CODE REFERENCE: West Virginia Code §3-1-50 (Amends)

This bill permits persons complaining of alleged violations of the federal Help America Vote Act to use the same procedures and punishments for allegations of violations of state election code. It also permits the Secretary of State to make a determination that avoids the procedures if (1) the determination is made within 30 days of the filing of the complaint; (2) an investigation has already begun; (3) the allegations in the complaint may result in a finding of a criminal violation; and (4) the administrative procedures otherwise required would endanger or impede the associated criminal investigation. If such a determination is made, the Secretary of State must notify the complainant of that result within three business days following the determination.

EFFECTIVE DATE: July 8, 2013

DATE OF PASSAGE: April 9, 2013

ACTION BY GOVERNOR: Signed April 19, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 146**

SHORT TITLE: Collecting unpaid magistrate court charges through income tax refund withholding.

CODE REFERENCE: West Virginia Code §50-3-2c (new)

This bill allows magistrate courts to take advantage of an option for collection of unpaid court fees and costs in the same way that municipal courts can already. Specifically, it allows the magistrate court to notify the state tax department of the unpaid fees and costs and permits the state tax department to divert any tax refund owed to the person failed to pay the fees and costs to the court. The bill creates a new fund, the Magistrate Fines and Fees Collection Fund, which mirrors the municipal court fund. Just as with municipal court, the bill allows the tax department to charge an administrative fee for their services.

The court must wait one year after the amount is due before notifying the tax department, thereby allowing for the suspension of driver's licenses at 180 days to apply first, as with the municipal court section. The bill sets forth procedures to follow when a case is appealed to the circuit court as well. Finally, the bill ensures that municipal courts have preference over magistrate courts if both courts request the refund of the same individual.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 172

SHORT TITLE: Relating to nonintoxicating beer distributor licensees.

CODE REFERENCE: West Virginia Code §11-16-3 and §11-16-8 (amends)

The purpose of this bill is to authorize trusts to be applicants for a nonintoxicating beer distributor license and to add limited liability companies to the definition of person in the Nonintoxicating Beer Act. The intent of the bill is to create a trust mechanism by which the current owners of beer distributorships may engage in some form of estate planning, even if all of their intended beneficiaries and descendants haven't reached the age of 21, so they can insure that the control and operation of their existing distributorship can be transferred to one or more of their designated heirs. The bill thereby adds trusts and LLCs to the persons or entities that can be a beer distributor in this state.

By the provisions of the bill, when a trust is licensed as a beer distributor, and the trustee or other persons are in active control of the activities of the trust relating to the distributor license is liable for acts of the trust or its beneficiaries which constitute violations of the chapter, notwithstanding the trustee liability provisions of WV Code §44-d-10-1, et seq. The trustees or other persons in active control of the activities of the trust relating to the beer distributorship license are to supply a certification of trust, which shall include, under oath, the names and addresses of the beneficiaries of the trust, and that the trustee and beneficiaries of the trust are 21 years of age or older. If the beneficiary of the trust is not yet 21 years of age, the beneficiaries interest in the trust is to be represented by a trustee, parent or legal guardian who is 21 years or older, who will direct all actions on behalf of the underage beneficiary until the beneficiary reaches the age of 21.

A complete copy of the trust agreement is filed with the ABCA. Since the full trust document would not ordinarily be disclosed or available for public review, the ABCA proposed that the full document be kept confidential, and specifically exempted from disclosure under the Freedom of Information Act. A certificate of trust, containing much less information, would be available to the public.

The revised provisions of WV Code §11-16-3 also include a revised definition of non-intoxicating beer and non-intoxicating craft beer and a revised definition of "resident brewer" which was adopted this same session in the Committee Substitute for HB 2956.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 2, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 200**

SHORT TITLE: Relating to Eyewitness Identification Act.

CODE REFERENCE: West Virginia Code §62-1E-1, §62-1E-2, and §62-1E-3
(Amends)

This bill updates the Eyewitness Identification Act by clarifying the manner in which lineups are conducted; requiring that if a written or video record of the lineup or showup is made, that it be provided to prosecutor in the event a person is charged; terminating the task force created by the original enactment of the Act; and requiring law-enforcement agencies to adopt specific written procedures for conducting lineups and showups that comply with the Act by January 1, 2014.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 243

SHORT TITLE: Authorizing DEP promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-3-1

This bill contains the following Department of Environmental Protection (DEP) rules authorized for promulgation by the Legislature during the 2012 regular session:

1. Covered Electronic Devices Recycling, (33 CSR 12)

This is a new legislative rule in response to recent legislation which directed the agency to implement a regulatory program for storing, handling, recycling and disposing of covered electronic devices (CED or CEDs). Generally, a CED is defined in the rule as any television, computer, or video display device with a screen that is greater than four inches measured diagonally.

Essentially, the rule makes it unlawful to dispose of CEDs in regular solid waste landfills in West Virginia. Instead, they must be delivered to special solid waste facilities authorized by the DEP. The special facilities must be designed to process (store, handle, recycle, dispose) CEDs in a manner that prevents contamination of the waters of the state (surface, storm water, or groundwater).

2. Hazardous Waste Administrative Proceedings and Civil Penalty Assessment, (33 CSR 27)

This is a new legislative rule in response to recent legislation which directed the agency to implement an administrative procedure to resolve violations of the Hazardous Waste Management Act as an alternative to filing civil actions in state court.

The rule is modeled after another DEP rule which allows the agency to resolve violations of the state clean water act administratively. Promulgation of this rule brings the hazardous waste program in line with other DEP regulatory programs which provide for the administrative resolution of violations.

3. Horizontal Well Development, (35 CSR 8)

This is a new legislative rule in response to legislation which directed the agency to implement the Horizontal Well Act (HWA). The HWA applies to any natural gas well which utilizes a horizontal drilling method, and which disturbs three or more surface acres or utilizes more than 210,000 gallons of water in any thirty-day period.

The rule requires a permit to operate a horizontal well and establishes an application process to obtain the permit. It also generally provides for the regulation of horizontal wells, including, but not limited to, minimum casing and cementing standards, minimum standards for constructing pits and impoundments, disclosure of chemicals used in fracturing fluids, operational criteria relating to water management plans, testing water sources within a certain distance of planned well sites, and construction and reclamation standards.

4. Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration of Air Quality (45CSR14)

This rule establishes a state permit program for the prevention of significant deterioration of air quality at major stationary sources of air pollution. The rule is modified to create an exemption which excludes until July 1, 2014, carbon dioxide emissions (CO₂) from the combustion or decomposition of non-fossilized or biodegradable material (biomass material: plants, animals or microorganisms) in the calculation to determine annual CO₂ emissions from a stationary source. This modification brings the state rule into conformity with the federal counterpart, which allows the exemption while EPA reconsiders its earlier decision to include CO₂ emissions from biomass material in the calculation.

Additional modifications to the rule incorporate by reference annual updates to the federal counterpart, update the promulgation history of the rule, and make minor stylistic changes to the rule.

5. Standards of Performance for New Stationary Sources (45CSR16)

This rule establishes and adopts national standards of performance for new stationary sources of air pollution promulgated pursuant to the Clean Air Act. Modifications to the rule incorporate by reference annual updates to the federal counterpart, update the promulgation history of the rule, and make minor stylistic changes to the rule.

These modifications are necessary to maintain consistency with the federal counterpart and allow West Virginia to continue as the primary enforcement authority of federal new source performance standards.

6. Control of Air Pollution from Combustion of Solid Waste (45CSR18)

This rule establishes emission guidelines and compliance timelines pursuant to the federal Clean Air Act (CAA) to control pollutants from solid waste combustion and incineration units in the State. Modifications to the rule incorporate by reference federal standards of performance for new commercial and industrial

solid waste incinerators, set forth emission guidelines for existing commercial and industrial solid waste incinerators, and update the applicability requirements governing new commercial and industrial solid waste incinerators. These modifications are necessary for the state to meet its responsibilities under the CAA.

Additional modifications incorporate by reference annual updates to the federal counterpart, update the promulgation history of the rule, and make minor stylistic and cleanup changes to the rule.

7. Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities (45CSR25)

This rule establishes and adopts standards for a state program which regulates air emissions from facilities constructed for the treatment, storage, and disposal of hazardous waste in accordance with the federal Resource Conservation and Recovery Act (RCRA). Modifications to the rule incorporate by reference annual updates to the federal counterpart, update the promulgation history of the rule, and make minor stylistic changes to the rule.

These modifications are necessary to maintain consistency with applicable federal laws and allow West Virginia to continue as the primary enforcement authority of the federal hazardous waste management system (RCRA) in the State.

8. Requirements for Operating Permits (45CSR30)

This rule authorizes the DEP to modify an agency rule which establishes a comprehensive air quality operating permits program consistent with the requirements of Title V of the federal Clean Air Act (CAA) and the underlying federal regulation. The rule includes requirements relating to obtaining a permit, submitting an application, paying fees, issuing a permit, and reporting and monitoring information.

The rule is modified to create an exemption which excludes until July 1, 2014, carbon dioxide emissions (CO₂) from the combustion or decomposition of non-fossilized or biodegradable material (biomass material: plants, animals or microorganisms) in the calculation to determine annual CO₂ emissions from a stationary source. This modification brings the state rule into conformity with the federal counterpart, which allows the exemption while EPA reconsiders its earlier decision to include CO₂ emissions from biomass material in the calculation. The promulgation history of the rule is also updated.

9. Emission Standards for Hazardous Air Pollutants (45CSR34)

This rule adopts a state program of national emission standards for hazardous

air pollutants promulgated pursuant to the Clean Air Act (CAA). The modifications incorporate by reference annual updates to the federal counterpart and exclusions to adoption of standards. The modifications also update the promulgation history of the rule and include revisions which are stylistic in nature.

These modifications are necessary for the State to fulfill its responsibilities under the CAA and will allow the DEP to continue to be the primary enforcement authority in the State for National Emission Standards for Hazardous Air Pollutants (NESHAP).

10. Water Pollution Control Permit Fee Schedules, (47 CSR 26)

This rule establishes permit application fees and annual fees for NPDES (National Pollutant Discharge Elimination System) permits.

The modification to the rule establishes an annual fee for NPDES permits issued to public facilities that discharge geothermal wastewater. The governing statute authorizes the DEP to establish annual fees for NPDES permits. Public geothermal facilities are municipal or county buildings which utilize geothermal energy for heating or cooling systems. The annual fee will be based on the gallons of geothermal wastewater discharged per day by the facility.

The fee is as follows: \$100 for facilities that discharge less than 50,001 gallons per day (gpd); \$250 for 50,001 to 100,000 gpd; \$500 for 100,000 to 1,000,000 gpd; and \$750 for greater than 1,000,000 gpd.

11. WV/NPDES Regulations for Coal Mining Facilities, 47 CSR 30)

This rule establishes requirements for NPDES (West Virginia National Pollutant Discharge Elimination System) permits issued to coal mining operations.

The modification to the rule is in response to recent legislation which amended the state clean water act (Water Pollution Control Act, W. Va. Code §22-11-1 through §22-11-30) to clarify that compliance with NPDES permit effluent limits is deemed compliance with the state clean water act. This modification brings the state NPDES program in line with the federal counterpart (Section 402(k) of the federal Clean Water Act). Cleanup changes are also made throughout the rule.

EFFECTIVE DATE: April 12, 2013
DATE OF PASSAGE: April 12, 2013
ACTION BY GOVERNOR: Signed April 30, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 250

SHORT TITLE: Authorizing Department of Commerce promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-10-1 through §64-10-5

This bill contains the following Department of Commerce rules authorized for promulgation by the Legislature during the 2013 regular session:

Development Office

Use of Coalbed Methane Severance Tax Proceed, 145CSR13

This rule authorizes the repeal of a rule which establishes a process for approving a request from a county economic development authority for permission to expend funds from the coalbed methane severance tax. The repeal is in response to recent legislation which removed the State Development Office from the approval process.

The new process requires approval from the County Commission and a yearly written report to the Joint Committee on Government and Finance which would set forth the projects upon which the funds are spent.

Broadband Deployment Council

Broadband Deployment Grant Program, 208CSR1

This rule authorizes the Broadband Deployment Council to promulgate a new rule establishing general standards for the operation of the Broadband Deployment Grant Program.

The new rule provides definitions. It provides for the protection of confidential and proprietary information (expanding upon W.Va. Code §31-15C-13). It specifies eligibility requirements for grants, including the type of eligible applicants. It sets forth in seventeen paragraphs the information that is required to be contained in an application.

The rule states that the Broadband Deployment Council may deny an application that contains false or deceptive statements or material omissions, and that the council may request necessary additional information and disqualify an applicant who fails to provide such information.

The rule provides for notice of applications in the State Register (W.Va. Code §31-

15C-10(a)). It sets forth the evaluation process, including time lines, reasons for rejecting applications, and evaluation criteria for applications. It provides project scope, project viability, and project budget and sustainability as the three scoring categories for applications. It provides for an initial evaluation phase followed by a due diligence evaluation phase. The rule states that funding decisions of the council are final.

The rule clarifies W. Va. Code §31-15C-3(f), which addresses conflict of interests of council members. It clarifies the post-award process of grants, including the notification of recipients, the agreement, and the requirement to pay prevailing wages for construction work. The rule specifies that activities that are part of the grant project may not precede the grant agreement approval date, that reimbursement requests shall include documentation, and that award recipients shall report monthly.

Board of Miners Training, Education and Certification

Rules and Regulations Governing the Standards for Certification of Coal Mine Electricians, 48CSR7

This bill would authorize the Board of Miner Training, Education, and Certification to promulgate amendments and updates to an existing rule relating to coal mine electricians. The proposed rule amends the current rule to provide as follows:

Require the supervising certified electrician to sign apprentice work experience log;

Require immediate supervision of apprentices working on energized circuits;

Require direct supervision of apprentices working on non-energized circuits;

Clarify experience necessary to become a certified electrician, including the addition of a provision allowing training and certification of apprentices working in preparation plants and surface areas; and

Change the duration of an apprentice card to 18 months, an increase from the previous period of 12 months.

Division of Natural Resources

1. Special Boating Rules, 58 CSR 26

This rule is modified to allow the use of rental boats on Lake Ridenour in Kanawha County. Previously, boating was not allowed at Lake Ridenour.

2. Special Motorboat Regulations, 58 CSR 27

This rule designates a portion of the Monongahela River at the Morgantown waterfront as a no wake zone. The City of Morgantown requested some refinement

to the description of the designated area. The rule provides that “No Wake Zone” signs be erected at the Island Marina boat dock and at all locations where water craft can be launched. The rule is modified to require “No Wake Zone” signs to be erected at all boat docks and all locations where water craft can be launched within the No Wake Zone . The rule is also modified to provide for placement of no wake buoys.

3. Defining the Terms Used in all Hunting and Trapping, 58 CSR 46

Recent legislation removed language from the governing statute which made it lawful to hunt or take coyotes at night with amber, red or green artificial lights. To conform to the statutory change, this rule was amended to remove the corresponding rule provision, thus allowing coyotes to be hunted at night using any color of artificial light. The rule was also amended to modify the definition of the term “baiting” to mean that an area is considered baited for 10 days after removal of the bait.

4. Prohibitions When Hunting and Trapping, 58CSR47

This rule was modified to insert text previously approved by the Legislative Rule-Making Review Committee, but was inadvertently omitted by the agency when the modified rule was filed with the Office of the Secretary of State. The inserted text clarifies that it is illegal to feed bears at any time and that it is also illegal to bait or feed wildlife on public land between September 1 and December 31 and during the Spring Gobbler seasons.

5. Deer Hunting Rule, 58CSR50

The Natural Resources Commission has changed the daily bag limit for deer to two. This rule has been amended to reflect this change and allow a person to hunt until the daily bag limit is met. It also requires that all legally killed deer must be delivered to an official game checking station or Natural Resources police officer for retagging prior to hunting during the remainder of the season.

The rule is also amended to prohibit small game hunting during the portion of the antlerless deer season which coincides with the first three days of buck firearms season. The prior version of the rule allowed small game hunting during antlerless deer season in areas open to antlerless deer hunting.

6. General Trapping, 58CSR53

This rule was amended to require trapping permits for state forests in addition to the permits required for wildlife management areas. The proposed rule also states that it is illegal to certain traps with a spread of more than 6½ inches unless the trap is used underwater.

7. Special Waterfowl Hunting, 58CSR58

The following modifications were made to this rule, which governs hunting special waterfowl:

The definition of the term “baiting” was clarified to provide that an area is still considered baited for the 10-day period immediately following removal of the bait;

The provision which divided the wildlife management areas into two waterfowl zones was eliminated; and

Finally, the age of a licensed adult who must accompany a youth hunter (15 or younger) was lowered from 21 to 18 years of age to be consistent with other youth hunting rules.

8. Special Fishing Rule, 58CSR61

This rule was modified to transfer the list of impoundments where the use of live minnows as bait is prohibited from another DNR rule (58CSR60) to this rule. Additionally, two impoundments, Fork Creek in Boone County and Jonathan Larch in Putnam County, have been removed from that list because there is no public fishing at those impoundments.

Also, the rule prohibits the use of live minnows at the Elk Two Mile, Site 7, impoundment in Kanawha County instead of the Elk Two Mile, Site 12 impoundment as currently provided in 58CSR60.

9. Falconry, 58CSR65

This rule was completely rewritten. It provides, among other things, that a falconry permit that lapses for fewer than 5 years may be reinstated in the class last held by the permittee, if the permittee provides proof of licensure at that class and pays the initial application permit fee. A permit that lapses for 5 years or longer may not be reinstated. Additionally, a nonresident who moves to West Virginia has 90 days to obtain a West Virginia permit.

It requires a WVHIP registration if a falconer hunts any migratory game birds. Requirements have also been added regarding any non-game or out-of-season game animal or bird accidentally killed by a falconry bird. The age for an apprentice class permit is lowered from 14 to 12 years of age and an apprentice must be sponsored by a general or master falconer for the first 2 years of the apprentice permit. Additional requirements have been added for sponsors, as well as possession requirements regarding certain species. The age for a general class permit is lowered from 18 to 16. Additionally, the number of raptors a permittee may possess is increased from 3 to 5.

Other modifications involve facilities and equipment, nonresident falconers, the issuance of permits to legal immigrants, reporting, marking, taking or trapping raptors, and using eagles in falconry. Finally, the rule was amended to include a significant number of technical and clarification amendments to conform with

changes provided recently by the US Fish and Wildlife Service pursuant to the Migratory Bird Treaty Act.

Division of Labor

1. Bedding and Upholstered Furniture, 42CSR12

This thirty-year-old rule was completely rewritten by the Division of Labor. It contains several modifications which re-organize and update the rule. The rule

The rule adopts and incorporates the International Association of Bedding and Furniture Law and applies to all persons governed by the Regulation and Control of Bedding and Upholstery Businesses Act. It requires, among other things, all manufacturers, importers, renovators and upholsters of bedding, upholstered furniture or filling material for shipment into or sale or rental in this state to obtain a registration certificate. It also sets forth fees for initial registration certificates and renewals of certificates. It requires permits for sterilizers. The application for the a permit must include a complete description of the applicants sterilization process and procedures, including identification of the items to be sterilized and the chemicals to be used. The Commissioner must approve the proposed sterilization process before issuing a permit. Permit fees are set by statute.

2. Amusement Rides and Attractions Safety Act, 42CSR17

Modifications to this rule adopt and incorporate by reference several ASTM International (American Society for Testing and Materials) standards for amusement rides and devices and make technical changes throughout the rule.

A new provision regarding miscellaneous safety requirements is added to the rule. It addresses attraction operators or assistants under the influence of alcohol or a controlled substance or an operator or assistant taking prescribed medication under a doctor's care. It also requires an operator or assistant to immediately halt a ride or attraction when requested by a passenger, and it establishes requirements for automotive equipment or other transportation devices used for anchoring an amusement ride or amusement attraction while the ride or attraction is in operation.

3. Supervision of Elevator Mechanics and Apprentices, 42CSR21A

This rule is modified to conform it to recent statutory changes.

The modifications add certain technicians (accessability technicians, limited use/limited application technicians and limited technicians) to the scope of the rule. Definitions are also added for the terms "emergency" and "limited use/limited application elevator endorsement".

A provision containing qualifications and supervision requirements for elevator apprentices is deleted and replaced with more extensive apprentice requirements contained in the governing statute, WVC §21-3C-10a(f).

Language is added which prohibits the renewal of any license or registration which has lapsed for 90 days or more.

Licenses and registrations are changed from annual to biennial to conform to the governing statute. Accordingly, the number of continuing education hours which an elevator mechanic must complete have been increased from 8 to 16 for the new two-year license period.

Additionally, the following fees are modified to reflect the change to two-year licenses:

Initial license - Increased from \$90 to \$180

Biannual renewal of license - Increased from \$90 to \$180

Reinstatement of lapsed license - Increased from \$115 to \$230

A provision relating to reciprocity is deleted because there is no statutory authority for reciprocal licensing.

Finally, language is added requiring the Commissioner, upon receipt of a complaint, to investigate the validity of the complaint, determine whether the person against whom the complaint has been filed is properly licensed or registered, and, if not, to issue a cease and desist order against that person.

4. Crane Operator Certification Act, 42CSR24

This rule is modified in response to recent legislation. The modifications provide that the state certification program for a Class A crane operator must be accredited by the American National Standards Institute, and that beginning November 10, 2014, all Class A crane operators in this state will be subject to the provisions of a related OSHA regulation (Occupational Safety and Health Administration), 29 C.F.R. §1926.1400, Subpart CC, "Cranes and Derricks in Construction." Crane operators not subject to federal regulations will be required to obtain a Class B certification.

Other modifications adopt and incorporate by reference several federal rules, update a reference to certain national standards that are adopted by reference (American Society of Mechanical Engineers, ASME, 2007 edition to the 2011 edition), require written examinations for classifications to be based on the most current edition of AMSE standards, and require applicants for Class A certification to pass a practical examination.

5. Crane Operator Certification Act - Practical Examination, 42CSR25

This rule is also modified in response to recent legislation. Essentially, it is modified to make it consistent with a companion DOL rule, the Crane Operator Certification

rule, 42CSR24. The definitions of “Class A certification” and “Class B certification” are modified to conform to the definitions for the same terms in the companion rule. The rule is also modified to clarify that Class A and Class B certifications require an applicant to take the practical examination. Additionally, the rule is modified to incorporate by reference the standards of the American Society of Mechanical Engineers and to require written and practical examinations to be based on those standards.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 265

SHORT TITLE: Authorizing the Department of Health and Human Resources to promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-10-1 through §64-10-5

This bill contains the following Department of Health and Human Resources rules authorized for promulgation by the Legislature during the 2013 regular session:

Department of Health & Human Resources

1. Regulations for Opioid Treatment Programs, 69CSR7

This is a new rule from the Department of Health and Human Resources (DHHR). It replaces the Bureau for Public Health rule on opioid treatment programs (Regulation of Opioid Treatment Programs, 64CSR90), which is repealed by this bill. Essentially, this rule incorporates the old rule and additional statutory requirements passed last year for opioid treatment centers.

The rule is applicable to all profit and not-for-profit entities which operate an opioid treatment program. It incorporates by reference federal regulations regarding opioid treatment programs.

The rule contains licensing requirements and requires opioid treatment centers to comply with all state and federal laws and regulations. Application requirements and procedures for obtaining a license or a renewal license include necessary information, timeframes, documentation and certification requirements. Fees are as follows:

- \$250 initial licensing fee;
- \$250 plus adjustment for fewer than 500 patients;
- \$500 plus adjustment for 500 to 1000 patients;
- \$750 plus adjustment for greater than 1000 patients.

The adjustment refers to an annual adjustment that may occur based upon the Consumer Price Index. Applicant must also pay \$400 for the cost of an initial inspection by the Department of Health and Human Resources, which is required prior to issuance of a license.

The three categories of licenses are initial license, provisional, and renewal. The

specifics of each type of license are detailed in the rule. The rule also provides details on grounds for denial of a license, including deficiencies, failing an inspection, noncompliance with state or federal law, and misrepresentations.

The rule provides that any construction or renovation plans must be approved by the Department. It also provides for annual inspections and sets forth the parameters of the inspection. It also contains a section on for-cause inspections that would be generated by complaints. Upon completion of an inspection there are provisions for disciplinary action which include a plan of correction, a fine, suspension or revocation of a license and in extreme cases, closure. The rule also grants the Department with the power to grant waivers and variances in specified circumstances. Record keeping and reporting requirements are set forth in the rule.

The manner in which a treatment center should be organized is set out in the rule. These include the necessity of a program sponsor, governing body, program administrator, advisory council and a peer review committee. The powers and duties of each is spelled out in the rule. There are provisions for medication security, facility and clinical environment and staffing, which includes requirements for a medical director, professional medical staff, counseling staff and unlicensed clinical staff and volunteers. These requirements include education and training requirements and necessary credentialing requirements for medical and other licensed or certified professionals. The facilities are also required to have specific job descriptions and policies for disciplinary action and termination of employees.

Risk management procedures are set forth in the rule that include consent forms, patient rights and responsibilities and a means to monitor staff credentialing. There are also life safety measures spelled out which include medication administration, staff training for CPR, procedures for patient emergencies and a disaster plan. This is coupled with a requirement for a quality improvement policy and diversion control plans. There are requirements for adverse incident reporting which include suicide attempts, medication errors, safety breaches, patient deaths, selling of drugs on the premises, harassment and violence.

Patient rights are set out in the rule, including information regarding the clinic, it's rules and policies, the patient's treatment plan and options, the need for random drug testing, confidentiality and a grievance procedure. The rule specifies that administrative withdraw is only to be used as a sanction of last resort.

Specific record keeping requirements are set forth. These include time frames, confidentiality requirements, necessary updates to patient records, what is required to be maintained in the record, record security and a comprehensive list of what is required to be maintained in the patient file.

The rule requires an admission committee to review exceptions to general admission. A pre-admission assessment and admission criteria are also set out in the rule. The criteria include an initial physical exam, medical and medication history, evaluation of substance abuse history, a drug screen, accessing the Controlled Substance Monitoring Program and documentation of medical necessity

for opioid treatment. Eligibility for treatment does not require current addiction, if the patient is in a high-risk class. Treatment may begin only after assessment by a program physician. Treatment in more than one program is prohibited.

A comprehensive patient orientation program is provided for in the rule. This includes information about the facility, services provided, patient rights and responsibilities, facility rules, identification of the counselor, necessary documentation, medication administration methods and information regarding the nature of addictive disorders.

The rule includes a detailed description of the required services to be provided. It also requires substance abuse counseling to every patient and specifies what must be included in the counseling. Post admission assessment and an initial plan are set out in the rule. A comprehensive bio-physical evaluation is also required once the patient is stable and able to participate. Particulars regarding what is included in the bio-physical evaluation and the individualized plan of care are set forth in the rule.

The rule contains specific requirements for medication storage, administration and documentation of medication, storage administration and dispensing. Drug screening is also required.

The rule provides for the development of policies and procedures that allow take-home medication, if it is deemed to be in the best interest of the patient and the public at large. These are to be developed using protocols developed by the American Society of Addiction Medicine, the Center for Substance Abuse Treatment, the National Institute on Drug Abuse and the American Association for the Treatment of Opioid Dependence. Other programs may be approved by the Secretary. If take-home is permitted the facility is required to remain open 7 days a week. The decision to allow take-home requires input from an interdisciplinary team, which is defined in the rule, but the final decision rests with the physician. The criteria for allowing take-home doses is set forth in the rule. Under no circumstances is this allowed within the first 30 days. The number of take-home doses is based upon the patient's tenure in the program. A failed drug test may result in a change to the treatment plan allowing take-home dosages.

The rule offers patients the option of a detoxification program instead of a long-term plan of care. This is supervised by a program physician. Specifics of a detoxification program are provided for in the rule. The rule also provides for administrative withdrawal, which is involuntary withdrawal. This may occur for non-payment, disruptive conduct or incarceration. Grounds for medical withdrawal is also set out as a voluntary and agreed upon treatment option.

Monthly drug testing is required of all patients. The rule sets out the procedure for collection and testing, including the type of test to be used (blood or urine), the types of substances tested for, documentation and procedures for a positive result, which become more comprehensive with each positive result.

Clinics are required to adhere to procedures for access to the Controlled Substance Monitoring Program. Access to the database is required upon intake, before the administration of methadone or other treatment, after 30 days, prior to take-home medication, after a positive drug test and after 90 days.

Alcohol and non-opioid drug counseling is required. Use of these substances is factored into the treatment plan for a patient. Finally, the rule sets forth procedures for dealing with special populations such as patients with behavior health needs, HIV patients, pregnant patients, pain patients and patients who are involved in the criminal justice system.

2. Chronic Pain Management Clinic Licensure, 69CSR8

This is a new rule which establishes standards for the operation of a pain management clinic. The rule is in response to recent legislation which directed the DHHR to establish standards for operation of a pain management clinic.

A pain clinic is defined as a privately owned clinic facility or office that treats patients for chronic pain and where in any one month more than 50% of all patients are prescribed tramadol, carisoprodol, opioid drugs or other Schedule II or III controlled substances. To reach the 50% mark, the average monthly total of patients over a 12 month period is divided by the number of unique patient encounters during any one month for a diagnosis of chronic pain and being prescribed the aforementioned drugs. Exemptions from pain clinics include: a facility associated with a medical school; a facility that does not prescribe controlled substances for treatment of chronic pain; a hospital; a physician practice owned by a hospital; hospice programs; nursing homes; ambulatory surgical facilities; facilities conducting clinical research; state owned hospitals; clinics or offices with a physician who treats 20 or fewer patients a day with any diagnosis in any one month, and who holds a Competency Certification in Controlled Substances Management; and any facility granted an exemption by the Secretary.

There are fairly standard licensing procedures. It specifically provides that a license is non-transferrable. Changes in ownership and management must be reported. The rule also allows the Secretary to enter any premises to determine if it is operating as a pain clinic without a license and requires the facilities to apply for the appropriate license if it is determined that a pain clinic is being operated. The rule specifies what must be included in an application for a license, provisions for an initial license, license renewal and provides for denial of a license. Licenses expire after one year. Licensing fees are based upon capacity. Facilities are also required to cover the cost of a required inspection.

The rule provides for unannounced inspections and sets forth guidelines for conducting these inspections. Deficiencies found during an inspection may result in a plan of correction. Owners, employees, volunteers and associates of the clinic are required to have a criminal background check. Persons with felony convictions may not own, be employed or associated with a pain clinic. There are also restrictions when a DEA number has been revoked, a license to prescribe controlled

substances has been denied or when someone enters a guilty plea on a felony drug charge.

Responsibilities and duties of ownership are included along with licensing, training, education and experience requirements for physician owners and clinic administrators. Requirements governing staffing, credentials, job descriptions, clinic and facility space, maintenance, and security are set forth in the rule.

The rule spells out patient rights regarding being informed, the right to receive treatment, the right to participation in developing a plan of care, knowledge of the need to access the controlled substance monitoring database, required drug testing, confidentiality, a safe setting and a grievance procedure.

Clinics are required to implement an infection control program that meets nationally recognized standards and to develop policies regarding adverse events, such as medication errors, patient suicide, patient deaths, selling drugs on the premises, drug diversion, harassment of patients by staff, threats and intimidation of staff, and violence. Adverse events are required to be reviewed quarterly. Deaths are required to be reported to the Secretary within 48 hours.

3. Minimum Licensing Requirements for Residential Child Care and Treatment Facilities for Children and Transitioning in West Virginia, 78CSR3

This agency rule pertains to licensing requirements for residential child care and treatment facilities for children and transitioning adults. Amendments to the rule include the following:

1. Requiring documentation of any search of a child's room;
2. Requiring that both employees and volunteers have liability insurance if transporting children;
3. Updating the requirement for a criminal background check on prospective employees and prohibiting using volunteers who cannot pass the criminal background check;
4. Updating training requirements for staff who have direct care responsibilities and requiring CPR training every two years and first aid training every three years;
5. Prohibiting locked doors that would hinder exit and providing that locks may only be used to restrict access;
6. Updating the comprehensive assessment procedure to include the potential for restrictive behavior management;
7. Requiring specific written procedures for medication errors;
8. Requiring retention of a child's record for 5 years following the child's 18th

birthday;

9. Changing the requirement for a complete medical screen from within 5 days of admission to 72 hours;

15. Altering the time frame for a treatment team to meet from weekly to a monthly basis if a child stays beyond a month; and

16. Modifying staff to patient ratio for nighttime sleeping hours from 1 to 3 to 1 to 6.

Bureau for Public Health

1. Reportable Diseases, Events and Conditions, 64CSR7

This rule relates to reporting requirements of certain diseases and conditions. Amendments to the rule subject the Health Information Network to the reporting requirements of the rule. It also updates definitions to include a number of databases and to account for emerging technology.

The rule is updated to permit same day reporting during epidemics to provide for rapid written notification of specified reporters. It also updates the categories of diseases which are required to be reported to make that compatible with the West Virginia Reportable Disease Protocol Manual. It also distinguishes which of these are to be reported in writing and which may be reported telephonically.

The rule is amended to require animal humane officers to report incidents of animals biting person and provides that if a bite is to the face, head or neck, or is deemed to be particularly severe, the animal must be destroyed in a humane manner following the required 10-day waiting period to determine if the animal is rabid.

There is a section of the rule pertaining to administration of immunizations. The rule designates that the database required by this section is the W. Va. Statewide Immunization Information System and permits its use to verify required school entry requirements. The rule also specifies that data contained in the database is confidential and exempt from disclosure except to specified persons. These include licensed health care professionals and facilities, school officials and local health departments.

The rule expands the person required to report outbreak “clusters” to include schools, daycare, camps, vessels, correctional facilities or any other facility that becomes aware of an outbreak of cluster in a community, school, camp, daycare, health care facility, correctional facility or other facility or a restaurant or food establishment. The rule specifies that this information is to remain confidential unless it is necessary for the public good. There are also reporting requirements to licensing boards when a health care facility or practitioner is practicing in an unsafe manner and fails to take corrective action.

The rule contains a new section relative to Healthcare Associated Infections Surveillance which permits the Bureau access to data maintained by the Health Care Authority for reporting and monitoring purposes. It also requires healthcare facilities to report all data that is required to be sent to the National Healthcare Safety Network to be reported to the Bureau.

The rule updates laboratory reporting requirements to account for the development of the Health Information Network. It also rewrites a section regarding syndromic surveillance to allow for electronic reporting when an electronic reporting system becomes operational.

Finally, the rule requires local health officers to notify health care providers, facilities and laboratories annually of the reporting requirements.

2. General Sanitation, 64CSR18

This rule pertains to general sanitation requirements and deals with general sanitation requirements regarding institutions and schools, care facilities, lodging facilities, recreational facilities and public restrooms.

Substantively, the rule is amended to provide that a state prison, correctional facility, work release center or other facility for the housing of criminal offenders or detainees may request an exemption from the square footage requirements of the rule if there is a conflict between the rule and the American Correctional Association standards. If the Department finds there is a conflict, it may grant the request for exemption.

3. Grade “A” Pasteurized Milk, 64CSR34

This rule deals with the regulation of Grade “A” Pasteurized Milk. The amendment to the rule incorporates by reference the 2011 Revision of the Grade A Pasteurized Milk Ordinance of the U.S. Department of Health and Human Services.

4. Fee for Services, 64CSR51

This rule relates to fees for services and is modified to change the procedure by which Local Boards of Health set fees. Currently, they are required to prepare an annual program plan and budget and send a request for approval to the Commissioner for the Bureau for Public Health. The change eliminates this requirement by simply requiring a Local Board of Health to submit the minutes of the meeting approving the fees, a current fee schedule and a proposed sliding fee schedule to the Bureau for approval. Local Boards are also required to submit an annual report detailing revenues generated from the fees. Finally, the Boards can petition for emergency fees when there is an emergency, supply shortage, funding reductions or policy changes impacting the ability to provide services. Fee schedules are also set out in the rule as appendices.

5. Regulation of Opioid Treatment Programs, 64CSR90

This rule is repealed. The repeal will allow DDHR to re-promulgate the opioid rule, 69CSR7, to incorporate additional requirements for opioid treatment centers contained in legislation passed in 2012 (SB437).

6. Pulse Oximetry Newborn Testing, 64CSR100

This is a new rule relating to pulse oximetry newborn testing to reflect statutory changes passed last year. The rule contains the standard general, application and administrative due process sections. It also defines key terms, including a definition of pulse oximetry, which is a test to estimate the percentage of hemoglobin in blood that is saturated with oxygen.

The rule requires a pulse oximetry test on every newborn with 24 to 48 hours of birth. The results must be noted on the newborn's Birth Score sheet. The rule sets forth the protocols for conducting the test based upon the U.S. Secretary of Health and Human Services' Advisory Committee on Heritable Disorders in Newborns and Children, the Academy of Pediatrics, and the Center for Disease Control. Standards for acceptable levels following the test are set forth in the rule.

Health Care Authority

West Virginia Health Information Network Rule, 65CSR28

This is a new Health Care Authority rule which governs the development and operation of a West Virginia Health Information Network.

The rule contains the standard scope and authority section. It also defines key terms. It provides that the Network's purpose is to house protected health information which may be exchanged between participating organizations, primarily health care providers, licensed practitioners, public health entities and health plans. The rule sets forth two types of information which may be exchanged. One is the exchange of information on a particular patient for treatment purposes and the other is a direct exchange of information between participants.

Permissible purposes for use of the Network are laid out in the rule. These include treatment, payment, health care operations, public health reporting, and other options set forth by state and federal law. Patients are also given the opportunity to opt out of the Network. Unless a patient affirmatively opts out, his or her information will be included in the Network. Participating organizations are required to provide patients with information during their first encounter after enrollment regarding opt out provisions. Requirements for the educational information are spelled out in the bill. The Network is also required by the rule to develop a public outreach campaign.

The Network is required to be operated in a transparent and patient centered manner and a participant may not deny services to a patient who opts out of the Network. A patient may have access to his or her data, request an amendment to the record, request an accounting of disclosures and request a restriction of

disclosures consistent with HIPAA.

There are provisions for blocking sensitive health information, including information about drug or alcohol abuse, mental health, and psychotherapy.

The Network must contract with participating organizations and prepare and publish guidelines on how to become a participating organization. Each participating organization must also designate a site administrator to act as the primary point of contact with the Network. A participating organization is required to report any malfunction, misuse or breach involving the Network. Additionally, each participating organization is required to designate authorized users based upon job functions. Only those users may access the Network. The Network may revoke or suspend an authorized user under specified circumstances.

Disclosure and access to data is subject to HIPAA and the HITECH Act. Additionally, the Network is required to develop security standards to protect privacy and security.

The rule also provides for a complaint procedure for patients, users and participating organizations. Complaints must be in writing and investigated by a designated individual at the Network.

Finally, the rule requires demonstration pilot projects to help evaluate the Network.

Bureau of Senior Services

In-Home Care Worker Registry, 76CSR2

This is a new Bureau of Senior Services rule. It establishes an In-Home Care Worker Registry, which provides the public with a list of workers who offer personal care services to the elderly or persons with disabilities. This registry was mandated by legislation enacted last year.

The rule defines key terms. It sets forth requirements for application to the registry. These include standard identifying information and contact data, proof of required background checks, education and training requirements, availability, fees, types of services provided, employment preferences, and other applicant specified requirements.

The rule allows the Bureau to charge a fee for registration, allows submission via a secure internet connection and requires verification of the registration within 15 days by the Bureau. The registry is to be maintained on the Bureau website and lists the information available to the public. Registration must be renewed annually and conditions that must be met before a license can be renewed.

The fees are \$10.00 for initial registration and \$5.00 for a renewal. There are also requirements to update the registry data should any information change. Withdrawal from the registry requires notice from the registrant. Thereafter, the

Bureau has 15 days to remove a registrant.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 2, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 270**

SHORT TITLE: Authorizing the Department of Revenue promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-7-1 through §64-7-5

This bill contains the following Department of Revenue rules authorized for promulgation by the Legislature during the 2013 regular session:

State Tax Department

Valuation of Commercial and Industrial Real and Personal Property for Ad Valorem Property Tax Purposes, 110CSR1P

This rule is modified to add a new provision relating to depreciation adjustments. It contains information on physical depreciation, economic obsolescence and functional obsolescence. It also sets forth factors which the Tax Commissioner must consider in determining economic and functional obsolescence where a commercial or industrial facility is shut down on the assessment date.

Insurance Commissioner

Provider Sponsored Network, 114CSR43A

This is a new legislative rule relating to provider-sponsored networks (PSNs) to implement recent legislation which created the Provider Sponsored Network Act.

It provides licensing requirements and regulations of PSNs that operate in West Virginia. Essentially, PSNs are subject to the same laws regulating HMOs with some exceptions:

- The PSN must be controlled by one or more federally qualified health centers;
- The PSN must provide evidence of solvency, but solvency requirements may be decreased by the Insurance Commissioner at the Commissioner's discretion;
- A PSN must allow any willing provider who agrees to participate in the health care delivery approach designated by the PSN to participate in its network; and
- A PSN is restricted to serving Medicaid enrollees.

Athletic Commission

Regulating Mixed Martial Arts, 177CSR2

This rule is modified to expand the definition of a contestant to allow a person who has been licensed and participated in an MMA event in another state to also be licensed in West Virginia. It is also modified to give the Commission the discretion to choose from canvas, vinyl or other plastic rubber material to cover the floor of a ring.

Racing Commission

1. Thoroughbred Racing, 178CSR1

This rule is amended to bring it into compliance with the Model Rule of the Association of Racing Commissioners International. The following is a synopsis of some of the amendments:

A provision is added which requires racing officials to report any perceived issues with a horse to the stewards in order to initiate an investigation;

Fines that may be assessed by a steward on a permit holder are increased from up to \$5,000 to up to \$100,000 or an amount equal to 100% of the total cash amount for which a race is contested per violation;

A new provision is added to make the racing secretary responsible for making interpretations of the conditions and eligibility requirements that he or she has established;

A new provision is added which requires all associations that carry insurance coverage on jockeys to place a copy of the policy on file with the Racing Commission and post a copy of the declaration page from the policy. The posting must include a notice stating who the jockey may request a full copy of the policy from, as designated by the association;

Other amendments clarify that the Commission may use fingerprints taken within the last 3 years to perform the background check, that the applicant for a permit pays for the fingerprinting costs, that the Commission may issue permits to persons who hold valid permanent licenses in other jurisdictions, that the Commission may charge a credit card transaction fee, and that the Commission may check the immigration status of an applicant;

Grounds for denial, suspension or revocation of a permit are expanded to include the following: (1) fraud in pari-mutuel wagering; (2) knowingly aiding or abetting a violation of law, rule or order with respect to racing; (3) knowingly passing a false check for racing service or supply; (4) failing to report knowledge of a bribe; (5) knowingly or without conducting due diligence, selling a horse for slaughter; (6)

abandoning, mistreating, abusing, neglecting, or is showing cruelty to a horse; (7) is involved with attempting to fix a race or fails to report knowledge of race fixing; (8) possessing, without permission, a device that could be used to alter the speed of a horse; (9) has violated any of the substance abuse rules; (10) failing to return any winnings, trophies or awards paid in error or ordered redistributed; (11) making a material misrepresentation that a horse is West Virginia owned, bred or sired; (12) failing to pay a required fee, fine or cost; (13) possessing a syringe not permitted by rule; (14) possessing any prohibited medication, stimulant, sedative, depressant, anesthetic or other foreign substance, unless the person is a practicing veterinarian; (15) using a false permit or other identification document; (16) tampering with security equipment on association grounds; (17) hiring an employee without an occupational permit or who is under 18 years old; (18) knowingly fails to disclose complete ownership or beneficial interest in a horse; (19) misrepresenting facts pertaining to the sale of a horse; (20) is a fugitive from justice; or (21) has engaged in conduct unbecoming or detrimental to the best interests of racing. Finally, the amendments require a permit holder to report any violation that he or she has reasonable cause to believe occurred and makes failure to report a violation that could lead to discipline up to and including revocation of his or her permit.

The owners provision is amended to provide that a person who owns a 5% or more interest in a horse must obtain a permit;

Amendments to the provision relating to trainers allows stewards or their designee to give trainers a practical skills examination in addition to written or oral exam. Also each trainer must provide notice prior to exercising a horse of the correct spelling of the horse's name and the distance to be worked;

An amendment to the provision governing jockeys prohibits a jockey who fails to fulfill an engagement in a race from being assigned to ride another horse in that race;

The minimum weight of jockeys for most races is increased from 116 to 118 pounds. Also, certain fillies and mares must be given five or three pounds, depending on the time of year, when competing against horses of the opposite sex;

The provision governing medications is amended to reflect the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International and revised December 2011;

Trainers must make a horse available at least four hours before post time and be present during the pre-race inspection, which must be conducted by the Racing Commission veterinarian; and

An occupational permit may be granted at sixteen (16) years of age for the children or grandchildren of licensed permit holders, which is defined as a person who is an owner, breeder, trainer or veterinarian.

2. Greyhound Racing, 178CSR2

Generally, amendments to this rule update and clarify the rule to promote effective regulation of greyhound racing in West Virginia. They include the following:

- a. Amending the definition of “appeal” to include appeals of management ejections and exclusions;
- b. Removing the requirement that a trainer be employed by an owner;
- c. Adding the position of “brakeman” as a racing official who is responsible for the operation, inspection and maintenance of the lure motor, rail and braking system;
- d. Requiring kennel contracts to be submitted to the Commission for approval by October 1 of each year for the following year;
- e. Allowing the Commission to assess the cost of a background check to an occupational permit applicant, check the immigration status of an applicant or permit holder, and assess a transaction fee for any required payment made by a credit card;
- f. Requiring the trainer to be on the grounds during the weigh-in, notify the judges who will be responsible for the trainer’s greyhounds if the trainer is absent from the grounds for three consecutive days or less, and change the trainer of record if the absence exceeds three consecutive days, and ensure the greyhound’s ID is attached to the dog’s collar;
- g. Requiring that at least 8 greyhounds run in each race, unless the Commission approves fewer than eight in advance or if scratches result in fewer than eight; and
- h. Requiring dogs to wear an approved leash, muzzle and collar during a weigh-in.

3. Pari-Mutuel Wagering, 178CSR5

This rule is amended to incorporate Model Rule language adopted by the Association of Racing Commissioners International (RCI) since the last time the Pari-Mutuel rule was revised.

The amendments include adding two new options for distributing winnings in the Superfecta Pools and Super Five/Pentafecta Pools when there is no exact winner. One option allows for a full carryover of the pool to another race. The second one allows half of the carryover to another race while the other half is distributed as a consolation prize. The carryover from either scenario must be paid out on the last corresponding Superfecta Pool or Super Five/Pentafecta Pool, respectively, of the meet. Under current rules each race must pay out or be refunded, no carryover is allowed.

The amendments also allow for the rare occasion of carryover to a subsequent meet, but require the funds be placed in an interest-bearing account and that all interest be added to the carryover at the next meet. The amendments also contain an exception that if a race ends with fewer than four betting interests finishing, then the carryover is not distributed, but is saved for the next race and winnings are distributed under the current rules without the carryover.

Finally, the amendments allow coupled entries and mutuel fields in Superfecta contests, provide details on resolving dead heats, and provide a secondary carryover payout in Twin Trifecta contests and Tri-Superfecta contests.

Lottery Commission

State Lottery Rules, 179CSR1

This rule is amended to allow the State Lottery Commission to maintain the Prize Disbursement Account in an account that does not require a zero balance at the beginning of each day. This will allow the State Lottery Commission to make immediate payment of lottery prizes to winning customers without the potential for overdraft on the account.

The rule is also amended to authorize the Lottery Commission to investigate the background of new employees, vendors, or contractors by requiring them to furnish fingerprints for a criminal background check, along with a signed authorization for the release of the results of the background check.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 2, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 281

SHORT TITLE: Authorizing Department of Transportation promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-8-1, §64-8-2, & §64-8-3

This bill contains the following Department of Transportation rules authorized for promulgation by the Legislature during the 2013 regular session:

Division of Motor Vehicles

Denial, Suspension, Revocation, Disqualification, Restriction, Non-Renewal, Cancellation, Administrative Appeals, and Reinstatement of Motor Vehicle Operating Privileges, 91CSR5

This rule was modified to reflect a number of legislative changes over the past years to various statutory provisions governing suspension, cancellation and revocation of a driver's license by the Division of Motor Vehicles (DMV). Most of the changes to the rule are technical or clarifying in nature.

The rule clarifies the procedure for cancellation, suspension or revocation of a license due to medical conditions. It defines who may complete medical report forms (MD, DO, PA, APN, and DC). It provides that the Commissioner may make decisions on license applications or submit records to the Driver License Advisory Board for further review. It states that vision tests may be administered by employees of the DMV or the Division of Rehabilitation Services.

It updates references for hearings by the DMV to include hearings before the Office of Administrative Hearings (OAH). It places the burden of proof on the driver in several instances. The rule also specifies in several instances that the OAH shall use the DMV's records to make factual determinations.

It removes a provision which adds points to a driver's license for passing a stopped school bus, because this violation has been changed in code to a penalty of 30 days suspension. It corrects other point information. It provides that convictions for speeding ten mph or less over the posted speed limit and speeding convictions from other jurisdictions without speed detail have no point value except if the driver holds a commercial driver's license or was operating a commercial vehicle.

It deletes a provision that requires the DMV to notify a licensee whose record shows six or more points. It provides that the DMV may deduct points for completion of a driver improvement course once during a one year period, instead of only every two years. It states that the DMV may not act on any failure to pay fines report transmitted to the DMV more than one year from the date of conviction.

It also clarifies requirements and procedures relating to participation in the Alcohol Test and Lock Program. It states that a fee for this program shall be waived for persons determined to be indigent by the Department of Health and Human Resources.

Division of Highways

Transportation of Hazardous Wastes Upon the Roads and Highways, 157CSR7

This rule authorizes Division of Highways to amend an agency rule concerning the transportation of hazardous wastes upon the roads and highways. The amendments add references, update dates, and make minor technical changes.

Office of Administrative Hearings

Appeal Procedures, 105 CSR 1

This is a new legislative rule which establishes appeal procedures from orders and decisions of the Commissioner of Motor Vehicles.

Some highlights of the rule are as follows:

- Provides for the contents of written objections (appeal petitions), subpoenas, motions, orders, stipulations, and exhibits, continuances and postponement of hearings , filing deadlines and requirements, required pre-hearing notifications, permissible hearing locations,;
- Hearing procedures and evidentiary submissions; Defines key terms;
- Fees;
- Final orders and motions to reconsider final orders;
- Give effect to the West Virginia Rules of Evidence;
- Dismissal and striking an appeal if a driver fails to appear at the hearing;
- Establishes procedures regarding the filing of motions and requires the submission of certificates of service with document submissions; and
- Provides transparency regarding hearing examiner findings and conclusions that are contrary to those of the Chief Hearing Examiner; if there is a disagreement, the final order will include separate findings of fact and conclusions of law by both the hearing examiner who presided over the hearing and by the Chief Hearing Examiner.

EFFECTIVE DATE: April 12, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 336

SHORT TITLE: Relating to interscholastic athletics concussions and head injuries.

CODE REFERENCE: West Virginia Code §18-2-25a

This bill creates a new statutory provision which directs the SSAC (Secondary School Activities Commission) to promulgate a rule which establishes a protocol to limit or address the treatment of concussions and head injuries suffered by student athletes.

At a minimum, the rule must include the following provisions or requirements:

(1) Guidelines which inform and educate school administrators, coaches, student athletes and their parents or guardians of the nature and risk of concussion and head injury, including the risk of continuing to play or practice after concussion or head injury;

(2) A provision requiring the student athlete and the athlete's parent or guardian to sign and return a document which contains information about concussions and head injuries each year before the athlete begins practice or competition;

(3) A provision which requires each head coach of a sport at a high school or middle school to complete annually an SSAC-approved course on concussion and head injury recognition and return to play protocol;

(4) Removing an athlete suspected (by a licensed health care professional, head coach or athletic trainer) of sustaining a concussion or head injury from practice or competition;

(5) An athlete who has been removed from competition or practice cannot return until the athlete is evaluated by a licensed health care professional trained in the evaluation and management of concussions and receives written clearance to return to play or practice from that health care professional;

(6) A list of health care professionals who are authorized to provide written clearance; and

(7) Member schools must submit a report to the SSAC within thirty days of an athlete suffering, or suspect of suffering, a concussion or head injury. The report must include whether the athlete actually suffered a concussion or head injury as verified by a health care professional, whether the athlete received written clearance to return to play or practice, and the number of days between the incident and return to play. The SSAC must analyze all reports to determine whether amendments to the rule or equipment are needed.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 355**

SHORT TITLE: Relating to final wage payment to discharged employees.

CODE REFERENCE: West Virginia Code §21-5-4 (Amends)

This bill amends the current law requiring employers to pay a discharged employee all wages in full within 72-hours of being discharged. The bill changes this time limit to the next regular pay period or four business days, whichever comes first. "Business days" is defined as any other than Saturday, Sunday or any legal holiday as set forth in section one, article two, chapter two of this code. It also provides an option for payment to be made either through mail or through the regular payment channels used by the employer. An employee may also provide written notice of intention to quit at least one pay period before quitting to receive all wages he or she earned at the time of quitting.

EFFECTIVE DATE: July 14, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 369**

SHORT TITLE: Relating to concealed handgun license reciprocity.

CODE REFERENCE: West Virginia Code §61-7-6 and §61-7-6a

This bill amends the law relating to handgun license reciprocity to provide full faith and credit to conceal and carry permits held by residents of other states, if the state which issues the conceal and carry permit or license allows West Virginia (WV) residents to carry a handgun in that other state pursuant to a conceal and carry handgun license issued by WV. The other state's recognition of WV licenses must be verified by the execution and issuance of an appropriate reciprocity agreement between the states, or a letter executed by the Governor of the other state which confirms that WV conceal and carry handgun licenses will be recognized in that state.

The bill also amends the law to allow probation officers to carry a concealed handgun in WV in the performance of their duties without a conceal and carry permit.

Additionally, a provision which exempts Circuit court judges, prosecutors, assistant prosecutors and investigators working for prosecutors from obtaining a conceal and carry permit is removed. Beginning July 1, 2013, conceal and carry application fees are waived for Supreme Court Justices, Senior Status Justices, Circuit Court Judges, Senior Status Circuit Court Judges, Family Court Judges, Magistrates, Prosecutors, Assistant Prosecutors, and Investigators working for Assistant Prosecutors. However, they are required to obtain a conceal and carry permit and satisfy the same background check requirements and handgun training requirements that are required of all other conceal and carry permit holders in this state, if they want to carry a concealed handgun in West Virginia after July 1, 2013.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 371

SHORT TITLE: Relating to prison overcrowding.

CODE REFERENCE: West Virginia Code §25-1-15, §28-5-27, §61-7-6, §62-11A-1a, §62-11B-9, §62-11C-2, § 62-11C-3, §62-11C-6, §62-12-6, §62-12-7, §62-12-9, §62-12-10, §62-12-13, §62-12-14a, §62-12-14a, §62-12-15, §62-12-17, §62-12-19 and §62-15-2 (Amends);

West Virginia Code §31-20-5g, § 31-20-5h, §62-11C-10, §62-12-29, §62-15-6a and §62-15-6b (New).

The purpose of this bill is to reform aspects of the criminal justice system to improve public safety and address the growing prison overcrowding and substance abuse problems in this state. The bill is a result of study and recommendations from the Council of State Governments Justice Center to employ a data-driven “justice reinvestment” approach to develop a statewide policy framework that will reduce spending on corrections and would reinvest savings in strategies to increase public safety and reduce recidivism.

The provisions of the bill are expected to improve the quality of community supervision by:

Adopting a statewide risk/need assessment instrument to determine an individual’s likelihood of reoffending and to focus supervision resources on people who are most likely to become repeat offenders;

Maximizing the potential of Day Report Centers to reduce recidivism; and

Ensuring the effective implementation of evidence-based practices.

The bill is expected to improve accountability by:

Ensuring that inmates released from prison to the community are supervised;

Responding to violations with swift, certain, and cost-effective graduated sanctions; and

Streamlining correctional system processes to reduce delays in parole eligibility and other inefficiencies.

The provisions of the bill are also expected to help reduce substance use by:

Investing in community-based treatment for people on supervision with substance use needs;

Establishing effective partnerships and resources across systems; and

Ensure effective substance use treatment for people incarcerated in state prisons.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

SENATE BILL NO. 383

SHORT TITLE: Authorizing family court judges appoint counsel in certain contempt cases.

CODE REFERENCE: West Virginia Code §29-21-9 and §29-21-20
(Amends)

The bill authorizes a family court judge in family court contempt cases to appoint counsel if the indigent litigant faces time in jail.

Presently, an attorney who provides representation to someone under appointment by a circuit court or the Supreme Court are immune from liability arising from that representation. The bill adds family court judges.

EFFECTIVE DATE: July 7, 2013

DATE OF PASSAGE: April 8, 2013

ACTION BY GOVERNOR: Signed April 18, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 386**

SHORT TITLE: Relating to personal safety orders.

CODE REFERENCE: West Virginia Code §53-8-4

This bill amends the grounds upon which a personal safety order may be issued for repeated credible threats of bodily injury when the person making the threats knows or has reason to know that the threats cause another person to reasonably fear for his or her safety.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

SENATE BILL NO. 387

SHORT TITLE: Relating to family court judge supervision of criminal background investigations.

CODE REFERENCE: West Virginia Code §§51-2A-7

This bill amends the law relating to powers granted to family court judges to give them the express authority to compel and supervise the production of criminal background investigations when appropriate.

EFFECTIVE DATE: April 11, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

SENATE BILL NO. 394

SHORT TITLE: Relating to scholarships for dependent children of state troopers who die in performance of duty.

CODE REFERENCE: West Virginia Code §5-10-27; §7-14D-20; §8-22A-22; §15-2-33; and §15-2A-12 (Amends)

The bill amends the current code provisions relating to benefits to dependent children of members of the West Virginia State Police Death, Disability and Retirement Plan and the West Virginia State Police Retirement System. Current provisions provide up to a \$7,500 scholarship for a surviving dependent child. The bill provides the \$7500 scholarship each year. The bill further provides the same benefit to surviving dependent children for law enforcement officers killed in the line of duty who were members of the Public Employees Retirement System. It increases the current scholarship benefit to dependent children who qualify under the Deputy Sheriff Retirement System and the Municipal Police and Firefighters Retirement System from \$6000 to \$7500 per year.

EFFECTIVE DATE: July 1, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

SENATE BILL NO. 412

SHORT TITLE: Relating to county conservation district supervisors.

CODE REFERENCE: West Virginia Code §19-21A-6 & §19-21A-7
(amends)

This bill requires conservation district supervisors to be removed from office in the same manner as other elected county officials (other than judges, who have a different procedure). It also removes outdated language and adjusts the time frame for when vacancies in the office of county conservation district supervisor are filled.

EFFECTIVE DATE: April 8, 2013

DATE OF PASSAGE: April 8, 2013

ACTION BY GOVERNOR: Signed April 18, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 421**

SHORT TITLE: Exempting certain school mascot from prohibition of
firearms possession on school grounds.

CODE REFERENCE: West Virginia Code §61-7-11a (amends)

This bill permits the Parkersburg South Patriot to carry its official musket onto school property when acting in his or her official capacity. This is the same treatment that the West Virginia Mountaineer receives in code.

EFFECTIVE DATE: July 4, 2013

DATE OF PASSAGE: April 5, 2013

ACTION BY GOVERNOR: Signed April 17, 2013

SENATE BILL NO. 423

SHORT TITLE: Providing certain convicted persons reduction in sentence.

CODE REFERENCE: West Virginia Code §31-20-5d (Amends)

This bill makes inmates sentenced to 6 months or more, eligible for good time credit for the successful completion of the following rehabilitation programs: domestic violence, parenting, substance abuse, life skills, alcohol abuse, anger management, or any special rehabilitation or educational program designated by the executive director.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 426

SHORT TITLE: Relating to filings under Uniform Commercial Code as to secured transactions.

CODE REFERENCE: West Virginia Code §4 6-4A-108;
46-9-510; 46-9-516; and 46-9-521;
46-9-525 (Amends) and § 46-9-516a (New)

Article 9 of the UCC governs secured transactions or loans or credit transactions in which the lender acquires a security interest in collateral owned by the borrower and is entitled to foreclose on or repossess the collateral in the event of the borrower's default. Part 5 of article 9 governs filings of records related to secured transactions and section 516 specifically regulates what is considered to be a filing for the purposes of article 9 and when a record presented for filing may be refused.

Section 516 currently provides that if the Secretary of State determines that a financing statement which identifies a public official or employee as a debtor is fraudulent or that an individual debtor and an individual secured party would appear to be the same individual on the financing statement or that the individual debtor claims to be a transmitting utility, without supporting documents, the Secretary may commence administrative proceedings to remove the statement from its records in accordance with the provisions of W.Va. Code § 29A-5-1 et. seq.

The bill amends the article to remove the current administrative review provisions in section 516 and replaces them with a new section 516a. This new section creates a criminal misdemeanor offense for a person who:

causes to be communicated to the filing office for filing a false record the person knows or reasonably should know:

(1) Is not authorized or permitted under §§ 46-9-509 (Persons entitled to file a record), 708 (Persons entitled to file initial financing statement or continuation statement) or 808 (Persons entitled to file initial financing statement or continuation statement); and

(2) Is filed with the intent to harass or defraud the person identified as debtor in the record or any other person.

For a first offense the person is subject to a fine of not less than \$100 nor more than \$1000 and/or confined in jail for not more than 12 months. A second or subsequent offense is a felony, punishable by imprisonment for 1 to 5 years.

Additionally, a violation of the section is creates civil liability to each injured person. An injured person is entitled to either the amount of their actual damages or \$10,000 in lieu of actual damages;, their attorney fees, court costs and exemplary damages in an amount determined by the court or a jury.

The bill also provides administrative remedies through the Office of the Secretary of State regarding alleged fraudulent filings in which a debtor or the Secretary may initiate proceedings to determine the validity of a record filed. The section allows the Secretary to terminate a record found to violate subsection (a). The section provides for judicial review of the Secretary's decision to terminate a record.

The section is not applicable to "regulated financial institutions" of their

representatives – – a financial institution subject to regulatory oversight or examination by a state or federal agency and includes banks, savings banks, savings associations, building and loan associations, credit unions, consumer finance companies, industrial banks, industrial loan companies, investment funds, installment sellers, mortgage servicers, sales finance companies and leasing companies.

The amendment to §46-4A-108 was recommended by the Commission on Interstate Cooperation during the 2012-13 Legislative Interim Meetings and is needed to close a gap inadvertently caused by the enactment of a federal law, the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Article 4A provides a comprehensive set of rules that define the rights and obligations that arise from wire transfers of money. The focus of Article 4A is primarily wholesale transfers of funds in the commercial context. Article 4A is designed to coordinate with federal laws in this area, including the Electronic Fund Transfer Act of 1978, 15 U.S.C. § 1693 et seq., which covers a variety of electronic funds transfers involving consumers. As currently written, Section 108 of Article 4A states that it "does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978"

The Dodd-Frank Act provides additional protections to consumers who send money to recipients outside the United States. Effective in 2013, it amends the Electronic Fund Transfer Act ("EFTA") to cover "remittance transfers," which include funds transfers initiated by a consumer to a person located in a foreign country. Under EFTA, the term "remittance transfer" is broader than the term "electronic funds transfer" because the definition of "electronic funds transfer" excludes "a transaction originated by check, draft, or similar paper instrument." This creates legal uncertainty for remittance transfers that are not electronic funds transfers because they are initiated by check, draft or similar paper instrument. The federal Consumer Financial Protection Bureau has acknowledged this problem and has formally suggested that "the best mechanisms for resolving this uncertainty rest with the states, which can amend their respective versions of UCC Article 4A."

The bill also increases fees for filing financing statements or other records in secured transactions and increases fees for responding to requests for information related to secured transactions. The increase in the fees are to be deposited in the existing Fund for Civil Legal Services for Low Income Persons.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 2, 2013

**COMMITTEE SUBSTITUTE FOR COMMITTEE
SUBSTITUTE FOR SENATE BILL NO. 437**

SHORT TITLE: Regulating commercial dog-breeding operations.

CODE REFERENCE: West Virginia Code §19-20-26 (New)

The bill regulates commercial dog breeding operations. The definition of a commercial dog breeder is any person who: (1) maintains 11 or more unsterilized dogs over the age of one year for the exclusive purpose of actively breeding; (2) and is engaged in the business of breeding and selling dogs exclusively as house pets. The bill excludes persons who keep or breed dogs for herding or guarding livestock, hunting, tracking and exhibiting in dog shows, performance events, field and obedience trials, or greyhound kennels registered with the WV Racing Commission.

Commercial breeders are divided into two classes and are subject to an annual fee, which a county commission is authorized to impose. Class I is eleven to thirty unsterilized dogs (up to \$250) and Class II is more than thirty unsterilized dogs (up to \$500). The fees generated by a county commission are to be deposited and used for the animal rescue purposes and for spay/neuter programs.

The bill contains a list of requirements for how a breeder must keep and maintain the dogs, including that dogs must be housed in shelters that protect them from the elements, be provided clean food and water, adequate medical care and current rabies vaccinations.

Dog breeding operations are subject to inspection twice per year.

Violation of any provision of this section is a misdemeanor with a fine of not more than \$1000 or a judge or magistrate may grant an improvement period not to exceed one year. Upon successful completion of the improvement period, the charges shall be dismissed.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 440**

SHORT TITLE: Relating to disclosure of specified tax information for enforcement of Tobacco Master Settlement Agreement.

CODE REFERENCE: West Virginia Code §11-10-5s

This bill amends the tax code to allow disclosure to the Attorney General of taxpayer information relating to reported sales of tobacco products subject to the state excise tax, or to sales of tobacco products that were manufactured or imported by a non-participating manufacturer. Disclosure of this information is necessary for a showing of due diligence on behalf of the State that is required by the Tobacco Master Settlement Agreement. Each state that is party to the litigation is required to show due diligence of compliance, or be subject to possible sanctions.

EFFECTIVE DATE: April 12, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

SENATE BILL NO. 441

SHORT TITLE: Relating to withdrawal of erroneous state tax liens.

CODE REFERENCE: West Virginia Code §11-10-12; 11-10C-2

This bill amends the tax code to provide a means for the withdrawal of tax liens that were filed prematurely, inadvertently or erroneously. Recording of the withdrawal of the lien is in the same manner for filing a release.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 461**

SHORT TITLE: Relating to procedures and protections for child witnesses in domestic relations proceedings.

CODE REFERENCE: West Virginia Code §62-6B-2, §62-6B-3 and §62-6B-4 (amends)

This bill addresses children witnesses in criminal cases. It increases the definition of child witness who may testify with accommodations from age 13 up to 15 year olds and permits the representative of the child to make a motion to allow testimony with accommodations. It eliminates the requirement of a “two-way” live camera system when closed circuit testimony is permitted. It removes the ability of the court to rely on a clinical social worker when making the determination to allow a child witness to testify in criminal cases by closed circuit. It also requires the court to assess the prejudice to the defendant if the court allows a child witness to testify by closed circuit television.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

SENATE BILL NO. 462

SHORT TITLE: Extending time for informal conferences on surface mining permit applications.

CODE REFERENCE: West Virginia Code §§22-3-20 & §22-3-21 (Amends)

This bill amends the state coal mining act to extend the time for the Department of Environmental Protection (DEP) to hold an informal conference on a pending coal permit application and then issue a decision on the application.

Former law provided that when written objections to an application are filed and an informal conference is requested, the DEP must hold the conference within three weeks after the public comment period closes. Thereafter, the DEP must issue a decision on the permit application within thirty days of the informal conference.

The amendment authorizes the DEP to hold the informal conference within a “reasonable time” after the close of the public comment period, instead of three weeks. It also gives the agency sixty days, rather than 30, to issue a decision.

This amendment brings the state coal mining program in line with the federal counterpart.

EFFECTIVE DATE: July 10, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

SENATE BILL NO. 470

SHORT TITLE: Permitting wine sale on Sunday mornings at fairs and festivals.

CODE REFERENCE: West Virginia Code §60-8-3

This bill allows licensed wineries and farm wineries to sell samples and wine during the operating hours of licensed fairs or festivals. This is in addition to their existing ability to sell bottles of wine for off-premises consumption.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2012

ACTION BY GOVERNOR: Signed May 2, 2013

SENATE BILL NO. 477

SHORT TITLE: Relating to electronic registration of voters.

CODE REFERENCE: West Virginia Code §3-2-5, §3-2-6, §3-2-7 and §3-2-11 (amends) and §3-2-24 (repeals)

This bill permits electronic registration of voters. Currently, a person may register by paper and the information on the paper card is transferred into an electronic record by hand. The bill would allow a person to register at a secure electronic registration system by typing the information themselves and having it transferred electronically, along with the person's signature, to the Secretary of State and the relevant county clerk's office.

The secure electronic registration systems that are permitted by the bill may be located at Division of Motor Vehicle locations with the necessary equipment and county clerk's offices with the necessary equipment. It does not place requirements on any county clerk's office to have the equipment, but makes it an option. The bill would allow the transfer of the applicant's signature from the DMV only with that person's written consent.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed May 2, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 478**

SHORT TITLE: Redefining "video lottery games"; permitting wagering by historic resort hotel employees.

CODE REFERENCE: West Virginia Code §§29-22A-3,29-22B-332,29-25-2 and 29-25-24

This bill deletes from the definition of "video lottery game" any game which allows players an option to select replacement symbols or numbers or additional symbols or numbers after the game is initiated in the course of play. It would also eliminate an outdated provision that prohibits video lottery game themes commonly associated with casino gambling. Deleting these provisions would allow casinos to purchase a greater variety of games and would allow slot games consistent with out-of-state casinos.

Secondly, The bill would also permit employees at the Greenbrier to wager on non-table games at that casino.

EFFECTIVE DATE: April 12, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 481**

SHORT TITLE: Relating to juvenile mental health treatment.

CODE REFERENCE: West Virginia Code §27-4-1 (amends)

This bill addresses voluntary commitment for mental health services. Current law requires the county sheriff's office to transport minors for voluntary commitment, the bill instead requires the person applying for the minor to receive treatment to transport the minor themselves, unless the minor is violent or combative or another reason makes the parent or guardian unable to transport. If that is the case, the parent or guardian may file an affidavit with the court stating they cannot transport and the mental hygiene commissioner can require the county sheriff department to transport the minor to the mental health facility.

The bill also permits admission of a minor to a mental health facility upon an application by the parent or guardian without the parent or guardian's physical presence at the facility. It requires mental health facilities to make their application for admission immediately available to anyone who requests it, which would include having it on a website. Finally, the bill clarifies that minors may be involuntarily committed in certain circumstances.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 482**

SHORT TITLE: Relating to sale of voter registration lists.

CODE REFERENCE: West Virginia Code §3-2-30 (amends) and §59-1-2b (new)

This bill amends the law with regard to collection of fees for the purchase of lists of registered voters to comply with a federal audit requiring all such funds be deposited in the State Election Fund. The bill also updates language to require email addresses to be excluded from the information permitted to be purchased with regard to the voter files.

The bill allows the county clerks office to continue charging one cent per name on the list requested, but removes the ten dollar fee for a disk. The lists may be produced in hard copy or electronic copy and the counties may retain the portion of the fees that are necessary to defray costs associated with preparing the list before depositing the rest in the State Election Fund.

The fees that the Secretary of State can charge for voter lists are moved from §3-2-30 where they are currently one half cent per name, to §59-1-2b where the lists are given flat fees. The flat fees would reduce the current cost of the statewide list. The bill requires a fee of \$500 for a statewide vote list or a master voter history list, a fee of \$200 for the early voter list, absentee request list or absentee received list, and a fee of \$6,000 for the election cycle subscription service. The election cycle subscription service includes regular updates of all the lists, including daily updates around election days. The bill also requires partial voter registration lists, voter history lists or complex research questions to be billed at an hourly rate that is communicated beforehand to the purchaser, along with an estimate of the hours it will take to perform the task.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 498**

SHORT TITLE: Relating to hearing location for Alcohol Beverage Control Administration's appeal hearings.

CODE REFERENCE: West Virginia Code §11-16-24, §60-3A-28, §60-7-13a and §60-8-18 (amends)

This bill allows appeals from the Alcohol Beverage Control Administration Commissioner's final order following an administrative hearing to be heard either in the Kanawha County Circuit Court or the circuit court in the county where the facility subject to the commissioner's action conducts actual sales.

The bill requires all appeals to be filed within 30 days after the Commissioner's final order is issued, and that the licensee seeking the appeal is responsible for the costs and fees incident to transcribing, certifying and transmitting the records pertaining to the appeal.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

SENATE BILL NO. 504

SHORT TITLE: Relating to cooperative associations.

CODE REFERENCE: WV Code §19-4-26 and §19-4-30 (Repeals);
WV Code §19-4-1, §19-4-2, §19-4-6, §19-4-10,
§19-4-19, §19-4-21 and §19-4-29 (Amends).

This bill revises and updates the laws relating to agricultural cooperatives. It allows three or more persons producing agricultural products to form a for-profit or nonprofit cooperative association. Former law required five persons. The bill also allows three or more cooperatives to form an agricultural credit association, as opposed to five in former law, and provides that certain credit union provisions apply to agricultural credit associations.

The bill allows cooperatives to be managed by not fewer than three directors. It requires cooperative associations to file annual reports with the Secretary of State. Former law required reports to be filed with the dean of the college of agriculture in Morgantown. The bill clarifies that the term “cooperative” or its abbreviation must be in the name of the association. The bill provides that business corporation or nonprofit corporation laws apply to cooperatives.

EFFECTIVE DATE: July 10, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

SENATE BILL NO. 515

SHORT TITLE: Relating to use of television receivers and other devices in vehicles.

CODE REFERENCE: West Virginia Code §17C-15-42 (amends)

This bill amends and updates the provisions relating to prohibitions on television receivers in the view of drivers of vehicles to allow for certain imagery and displays in modern vehicles and permit other types of imaging technology in cars, as long as it is either not in the view of the operator while the vehicle is in motion, or fits within certain defined exceptions.

In general, unless excepted by the provisions of new subsection (b), a motor vehicle may not be operated with an equipped television receiver or video screen or video monitor unless the receiver is configured in a manner so that the moving images are not in view of the operator while the vehicle is in motion. The exceptions to this general prohibition are:

1. A visual display if it does not show video or television broadcast images in view of the operator while the vehicle is in motion;
2. A global positioning device;
3. A mapping display;
4. A visual display used to enhance or supplement the driver's side view or rear view for the purpose of maneuvering the vehicle;
5. A visual display used to enhance or supplement a driver's view of vehicle occupants; or
6. A messaging system relaying safety or traffic engineering information.

In addition, a television receiver, video monitor, television or video screen which is disabled by an interlock device while the motor vehicle is being driven, except as allowed by exceptions 1-6, is not prohibited by the amended provisions.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 527

SHORT TITLE: Relating to process of filling vacancies in certain elected offices.

CODE REFERENCE: West Virginia Code §3-10-1, §3-10-2, §3-10-3, §3-10-4, §3-10-5, §3-10-6, §3-10-7, §3-10-8 (amends), §3-10-9 (new) and §3-10-4a (repeals)

This bill addresses the process for filling vacancies in elected office. Following the vacancies in the United States Senate and Governor's office, special sessions were called to create new provisions in code to address the filling of those specific vacancies. This bill removes the language in code specific to those vacancies and creates new language that would deal with these situations moving forward.

With regard to vacancies in the Governor's office, the bill handles matters in the same way that the special election for Governor was handled in 2011. The Acting Governor must issue a proclamation within 30 days of the vacancy, setting a candidate filing period, a primary election between 90 after the proclamation and 140 days after the vacancy, and a general election between 90 days after the primary and no later than 280 after the vacancy. The bill would also require the special elections to be held in conjunction with a regularly scheduled election if it falls within that time line.

With regard to vacancies in other non-federal statewide elected offices, such as Secretary of State or Attorney General, or in any judicial office, the bill requires an appointment of a replacement by the Governor. The bill sets out a system that would work as follows by example for an office that would be regularly filled in 2016:

- If the vacancy occurs later than 84 days before the 2014 primary election, then the appointment is for the rest of the term of office.
- If the vacancy occurs earlier than 84 days before the 2014 primary election, then an election to fill the vacancy will be held during the regularly scheduled 2014 elections with a full primary and general election. The person appointed will hold the office until the 2014 election is complete, at which time the elected replacement will take over and serve until the end of the original term.

For other county offices, such as county commissioner or circuit court clerk, the process is the same as described above for statewide or judicial office, with the following exceptions:

- For vacancies between the primary and general election, the county executive committee selects the party candidate (as stated in current law) and the general election is held to fill the remainder of the term.
- The bill also gives the county the ability to select a temporary replacement to hold the job for no more than 30 days before an official appointment is made.

For state legislative offices, the process remains the same with regard to appointment (executive committee gives three names to governor and governor chooses), but it adjusts the time period for when a special election is required to fill the remainder of the term of a state senator to be in line with the time line described above for statewide elected officials.

Vacancies in the U.S. House of Representatives are handled slightly differently because the U.S. Constitution prohibits an appointment to fill the office. In order to fill the office as quickly as possible, the com sub requires a governor's proclamation to be issued within 5 days of the vacancy, setting a general election between 84 and 120 days from the date of the vacancy. The bill requires the executive committees of the parties for that congressional district to pick their candidates within 30 days of the date of the vacancy. If the vacancy occurs after the 84th day before the regular general election to fill the office, then no special election will occur. The bill also contains language to have a required special election be held in conjunction with a regularly scheduled election, if it fits within the time line required.

For vacancies in the U.S. Senate, the bill handles them the same way as other statewide elected offices, with the following exception:

- For vacancies between the primary and general election, a special primary will be held in conjunction with the general election and a subsequent statewide special general election will be held 84 to 120 days after the special primary to fill the remainder of the term.

All general language regarding elections required to fill these vacancies is contained in sections one and nine of the bill. This language addresses drawing of ballot positions, publication of the proclamation made, and requiring the state (through the secretary of state's office) to pay for any special election that cannot be held in conjunction with a regularly scheduled election. The bill also sets the process for a candidate to appear on the ballot if he or she is not associated with any political party.

The bill also requires all appointments required by this article to fill vacancies in elected offices to be made within thirty days of the vacancy, unless otherwise stated differently in another section of the code with respect to that office. With regard to judicial vacancies, the bill requires the appointment to be made within thirty days of receiving the recommendations from the Judicial Vacancy Advisory Commission. The bill also allows the Judicial Vacancy Advisory Commission to meet upon official resignation notice by a judge.

EFFECTIVE DATE: July 12, 2013
DATE OF PASSAGE: April 13, 2013
ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 534**

SHORT TITLE: Correcting internal code reference regarding insurance information disclosure.

CODE REFERENCE: West Virginia Code §33-6F-2

The purpose of this bill is to correct an internal reference in the code with regard to insurance information disclosure which is supposed to make clear that providing certain required information is not a violation of the insurer's responsibility to maintain the confidentiality of consumer financial and health information.

EFFECTIVE DATE: April 11, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed April 26, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 535**

SHORT TITLE: Relating to process for maintaining voter registration lists.

CODE REFERENCE: West Virginia Code §3-2-24 (repeals) and WVC §3-1-3, §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21, §3-2-23, §3-2-25 and §3-2-29 (amends)

This bill updates code regarding the statewide voter registration database maintained by the Secretary of State's office. It eliminates outdated language and makes technical corrections throughout the amended sections.

The major policy change made by the bill is with respect to removing voters from the voting rolls. The bill adds language to allow the state to coordinate with other states on updating voter rolls. The bill also addresses removal of deceased persons. Currently a list of deceased persons in each county is sent to that county at the end of the year for processing. This bill would require a list of all deaths in the state be sent to the Secretary of State upon request and allows the Secretary of State to sort the persons and distribute to the appropriate county, thereby easing the removal of a voter who is registered in one county, but dies in another.

The bill also adds a new definition for "confirmation pending records", which are records that will be included in the next round of mailings to confirm that the information is correct.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 538**

SHORT TITLE: Eliminating requirement law enforcement maintain files of domestic violence orders.

CODE REFERENCE: West Virginia Code §48-27-601

This bill amends the law relating to domestic violence orders to provide that emergency protective orders or protective orders must be immediately transmitted electronically to the domestic violence database established in WV Code §51-1-21. After the respondent is served, the law enforcement agency receiving the order for service no longer needs to maintain a copy.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 542**

SHORT TITLE: Relating to restricted races at pari-mutuel thoroughbred horse race tracks.

CODE REFERENCE: West Virginia Code §19-23-13b

This bill amends the law relating to thoroughbred horse race tracks to authorize the Charles Town horse track to have up to three restricted thoroughbred horse races. The law is also amended by removing a provision that requires a quarterly refund to the general purse fund if 75% of the restricted races fail to race because of lack of entrants.

EFFECTIVE DATE: Jul 10, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

SENATE BILL NO. 601

SHORT TITLE: Removing requirement certain juvenile proceedings be sealed.

CODE REFERENCE: West Virginia Code §49-5-2 and §49-5-18 (Amends)

The bill amends the law relating to juvenile proceedings to clarify that juveniles adjudicated delinquent for truancy may stay in the Circuit Court's jurisdiction until age 21 in order to finish court ordered education plans, but those 19 and over may not be placed in standard school setting to complete court ordered plans.

The bill also removes the requirement that juvenile records be "sealed by operation of law" and, instead, requires that they be kept on a separate, secure confidential place and available for inspection by court order.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 604**

SHORT TITLE: Expanding definition of "electioneering communication".

CODE REFERENCE: West Virginia Code §3-8-1a (amends and reenacts)

This bill adds billboard, mass mailings and phone banking into the definition of electioneering communication that a non-candidate corporation or organization must disclose to the Secretary of State. The bill also adds specific definitions for billboard, mass mailings and phone banking back into the code.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2046**

SHORT TITLE: Requiring wireless telecommunications companies to release location information of a missing person's cell phone in a timely manner; the "Kelsey Smith Act".

CODE REFERENCE: West Virginia Code §15-3-10 (new)

The purpose of this section is to require wireless telecommunications companies to timely release location information of a missing person's cell phone to law enforcement in emergency situations, rather than waiting for a court order.

The bill also:

1. Limits a company's liability;
2. Requires the carrier to provide emergency contact information;
3. Requires the West Virginia State Police to maintain a contact data base; and, also grants rule-making authority.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2108**

SHORT TITLE: Making failure to wear safety belts primary offense.

CODE REFERENCE: West Virginia Code §§17C-15-49 and 17C-14-15

This bill makes failure to wear a seatbelt a primary offense and changes the fine to a flat \$25.00 instead of a maximum of \$25.00. It also provides that personal lines liability insurance may not provide for denial of coverage or deny payment of legal damages for injuries caused by a violation of the cell phone/texting prohibition, as long as the amounts are within insurance coverage limits.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

HOUSE BILL NO. 2158

SHORT TITLE: Relating to the provision of financially-related services by banks and bank holding companies.

CODE REFERENCE: West Virginia Code §31A-8C-2

The bill clarifies that West Virginia-chartered banks are permitted to provide directly financially related services which federal and state thrifts, federal credit unions, or other states' state-chartered banks may provide directly.

This concept is referred to as "super parity," and the Legislature enacted the code section providing for super parity in 2005. The point of bank parity is to allow local state chartered banks to be able to compete with out of state banks by allowing them to offer certain financially related services that would otherwise be disallowed under W.Va. law if they can show to the Banking Commissioner's satisfaction that they would be able to do so in a safe and sound manner.

This allows the Banking commissioner to evaluate on a case by case basis whether there is good reason to allow a bank to provide certain services in a particular instance in order to remain competitive, while leaving in place prohibitions that should apply to other banks in other circumstances.

The Commissioner must report to the Legislature each year when it has granted super parity powers to banks, and what they are.

This process has been ongoing since 2005, and only a small number of allowances have been made, generally to make transactions easier for consumers. No consumer complaints have been received regarding any of these allowances.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2314**

SHORT TITLE: Authorizing a family court judge to order a child to be taken into custody in emergency situations.

CODE REFERENCE: West Virginia Code §49-6-9a (New)

The bill expands the jurisdiction of the family courts in the limited circumstance where a family court judge becomes aware that a child in a family court proceeding is in imminent danger of neglect or abuse. Upon a finding that: (1)there exists an imminent danger to the physical well-being of the child; and (2)there are no reasonable available alternatives to the emergency custody order, the judge may order the child to be taken into the emergency custody of the Child Protective Services Division of the Department of Health and Human Resources.

Upon notification by the family court judge that there exists an imminent danger to the physical well-being of the child, the Department must immediately respond and assist the judge in emergency placement of the child.

The bill further provides that when a child is taken into emergency protective custody he or she may be housed by the Department in an authorized child shelter facility if no other reasonable alternative is available to the court. The authority to hold the child in protective custody under this new section terminates by operation of law upon expiration of 96 hours from the time the child is initially taken into protective custody unless a petition is filed by the department.

The family court judge shall file a written order specifying all of the facts upon which the decision to order the child into protective custody was based and the date, time and place of the taking of the child. A copy of the written order is then to be transmitted to the Department, the circuit court and prosecuting attorney. When the circuit court receives the written order, it is required to cause to be entered and served an administrative order in the name of and regarding the affected child directing the Department to submit to the family and circuit court an investigative report including whether the Department intends to file an abuse and/or neglect petition.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2351**

SHORT TITLE: Authorizing law enforcement to issue a charge by citation when making an arrest for driving with a suspended or revoked license.

CODE REFERENCE: West Virginia Code §17C-19-3

This bill authorizes officers to arrest a citizen driving on a revoked/suspended license and present that person to a magistrate. If the magistrate is not reasonably available, the officer may charge by citation instead of prompt presentment before a magistrate.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2352**

SHORT TITLE: Authorizing tax credit against special reclamation tax for mine operators who perform reclamation at bond-forfeiture sites.

CODE REFERENCE: West Virginia Code §22-3-11

This bill gives a tax credit to coal mine operators who reclaim forfeited coal mine sites. The credit would be applied to the special reclamation tax owed by the operator and would equal the amount that would have been spent from the special reclamation fund to finish reclamation at the forfeited site. If needed, the tax commissioner is authorized to promulgate a legislative rule to implement the tax credit program.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2357**

SHORT TITLE: Relating to sexting by minors.

CODE REFERENCE: West Virginia Code §49-5-13g & §61-8C-3b (new)

This bill encourages the Supreme Court of Appeals to create an educational diversion program for teens engaged in sexting related activities over computers, cell phones and other electronic communications devices. The misuse of these devices to transmit sexually explicit pictures or videos of themselves or other minors would technically constitute the transmission of child pornography. Instead of having prosecutors pursue juvenile petitions against these young offenders, the creation of an educational diversion program provides a mechanism for educating offenders about the legal, social and detrimental ramifications of their actions. It also provides a vehicle for judges and prosecutors to address the issue of sexting short of declaring the youthful offender a juvenile delinquent or labeling them a sex offender for first time offenders.

A juvenile accused of a first offense who has not been previously determined to be delinquent would not be prosecuted as a delinquent upon successful completion of the diversion program. The successful completion of the program by a juvenile for a second or subsequent offense could still be weighed as one of the factors considered by the prosecutor or court in deciding to proceed with a juvenile petition. The bill would also permit the court to exercise discretion as to whether or not the adjudicated delinquent should be required to register as a status offender.

The bill also creates a new juvenile offense, which prohibits any minor from intentionally possessing, creating, producing, distributing, presenting, transmitting, posting, exchanging or otherwise disseminating a visual portrayal of themselves or another minor posing in an inappropriate sexual manner. Violations of this new section would sustain a juvenile delinquency petition, but could also be handled pursuant to the diversion program explained above.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2361**

SHORT TITLE: Relating to the definition of "eligible veteran" for certain state training and employment preference benefits.

CODE REFERENCE: West Virginia Code §9A-4-2 (Amends)

The bill includes persons who served honorably or who were discharged because of service connected disabilities in the National Guard and Reserves in the definition of eligible veterans for certain state training and employment preference benefits.

EFFECTIVE DATE: July 8, 2013

DATE OF PASSAGE: April 9, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2395**

SHORT TITLE: Relating to senior services.

CODE REFERENCE: West Virginia Code §16-5P-15 (Amends)

The bill specifies that an applicant for the in-home care registry must now pay for and obtain a state or federal criminal background check. The bureau is to propose legislative rules which are to be filed for legislative approval during the 2014 legislative session. The bill also gives rule-making authority to the Bureau to set a fee schedule and adds a provision that the Commissioner shall waive the initial fee for 60 days. The bill removes the requirement to note an in-home care worker's criminal history on the registry.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 17, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2431**

SHORT TITLE: Modifying the application process for obtaining a state license to carry a concealed deadly weapon.

CODE REFERENCE: West Virginia Code §61-7-4 and §61-7-7 (amends)

This bill makes several amendments and clarifications with regard to the procedure and standards for issuing a permit to carry concealed weapons in this state.

The ATF reviewed the provisions of WV Code §61-7-4 and was of the opinion that it did not adequately insure that persons who were prohibited from receiving and possessing a firearm could not receive a conceal and carry permit from WV. Therefore, WV's current provisions would not qualify for a "Brady exemption". If the ATF determines that the conceal and carry permit standards for a particular state sufficiently protect against the issuance of permits to persons who are prohibited by federal law from possessing or receiving firearms, the holder of a conceal and carry permit from that state are permitted to present their conceal and carry permit when they attempt to purchase a firearm, and are not required to undergo an additional background check before the purchase is completed.

The proposed revisions of the bill are intended to address the deficiencies noted by the recent ATF review. The bill also allows current and former members of the armed forces and reserves to meet training requirement for a concealed handgun license by prove of military handgun training.

The bill originally passed on April 13, but we vetoed by the Governor for technical reasons on April 17 and subsequently corrected before being passed again on April 17.

EFFECTIVE DATE: July 16, 2013

DATE OF PASSAGE: April 17, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2453**

SHORT TITLE: Expanding the Amber Alert Plan; "SKYLAR'S LAW".

CODE REFERENCE: West Virginia Code §15-3A-4 (Amends)

The bill allows the Amber Alert System to be activated for a child reported missing by a law enforcement agency if the circumstances of the case meet existing criteria to issue an Amber Alert.

The bill sets forth the criteria which must be met before an Amber Alert is activated. In the initial stages of a reported missing or abducted child the reporting law-enforcement agency is to contact the WV State Police Communications Center by telephone. The center will contact the Amber Alert Coordinator to determine if the Amber Alert criteria have been met.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

HOUSE BILL NO. 2463

SHORT TITLE: Repealing the article that permits the sterilization of persons deemed to be mentally incompetent.

CODE REFERENCE: West Virginia Code §§27-16-1, 27-16-2, 27-16-3, 27-16-4 and 27-16-5 (repealed)

This bill repeals a currently unused article in the code which permits persons appointed to represent a person who has been judicially ruled mentally incompetent to petition the court to have the person sterilized.

This bill does not prohibit the sterilization of mentally incompetent persons, it simply removes the procedure by which their guardians may force them to undergo the procedure through the courts system.

EFFECTIVE DATE: July 8, 2013

DATE OF PASSAGE: April 9, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2471**

SHORT TITLE: Prohibiting the restriction or otherwise lawful possession, use, carrying, transfer, transportation, storage or display of a firearm or ammunition during a declared state of emergency.

CODE REFERENCE: West Virginia Code §15-5-6 and §15-5-19a (amends)

This Bill clarifies the requirements for firearms and ammunition use and sale during a declared state of emergency. A person in lawful possession of a firearm cannot be restricted or required to register or re-register such firearm. The bill creates a cause of action for violation of the section with treble damages, attorneys fees and costs.

EFFECTIVE DATE: July 10, 2013

DATE OF PASSAGE: April 11, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2498**

SHORT TITLE: Making it a crime for a person sitting on a grand jury to disclose the identity of an individual who will be indicted.

CODE REFERENCE: West Virginia Code §52-2-15 (new)

The bill creates a new misdemeanor offense for a grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, an attorney for the state, or any person to whom disclosure is made during grand jury proceedings, to disclose matters occurring before the grand jury, other than its deliberations and the vote of any grand juror. However, the bill contains specific exceptions to the general rule against disclosure.

A person who knowingly violates this prohibition is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or confined in jail not more than 30 days, or both.

The bill generally reflects the current provisions of Rule 6 of the West Virginia Rules of Criminal Procedure.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2505**

SHORT TITLE: Increasing civil penalties imposed by the Public Service Commission for pipeline safety violations.

CODE REFERENCE: West Virginia Code §24B-4-6

This bill increases the maximum limits for civil penalties that may be imposed by the Public Service Commission for violations of intrastate gas pipeline safety laws.

The maximum individual penalty increases from \$1,000 to \$200,000 per violation, and the maximum aggregate penalty increases from \$200,000 to \$2 million for a related series of violations.

The bill also provides that payment of a civil penalty can not be used to support a rate increase for the violator.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2512**

SHORT TITLE: Reforming the state Medicaid subrogation statute.

CODE REFERENCE: West Virginia Code §9-5-11 (amends)

The purpose of this bill is to reform West Virginia's Medicaid subrogation statute to conform with recent court rulings and avoid judicial preemption or loss of Medicaid subrogation rights from third-party liability. This bill reflects rulings in recent state and federal cases addressing subrogation for Medicaid payments, including a very recent US Supreme Court decision.

The bill establishes definitions and the means for a Medicaid recipient to assign subrogation rights against third parties. The bill excludes Medicare benefits from assignment. Release of certain and necessary claimant information is authorized so the claim may be pursued. DHHR's subrogation right is prioritized. Notice requirements for third party claims, civil actions and settlements are established, as well as procedural formats which permit the department to enter appearance in an action against a third party. Penalties are established if a claimant or the third-party insurer fail to notify the department of a claim which could generate subrogation payments for the medical bills paid by Medicaid. DHHR is required to provide the amount of lien claimed when notified that the action is filed, and to timely supplement any later request for the amount of a lien. The bill establishes a requirement for department consent for the parties to settle. Procedures are established for the DHHR and the claimant to agree on an allocation of award or judgment proceeds from third parties and also establishes procedures when allocation is disputed. If dispute procedures are not successful, the bill proposes certain procedures for jury trial; establishing post-trial payment procedures; establishing allocation of attorneys fees; prohibiting certain class actions and multiple plaintiff actions; and authorizing authority for DHHR to settle.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2513

SHORT TITLE: Improving enforcement of drugged driving offenses.

CODE REFERENCE: West Virginia Code §17C-1-67 (new), 17C-1-68(new), §17C-5-4 (amends), §17C-5-6 (amends), §17C-5-7 (amends), §17C-5-8 (amends), §17C-5-9 (amends) and §17C-5-12 (new)

The bill is intended to improve enforcement of laws prohibiting the operation of motor vehicles by persons under the influence of controlled substances or other drugs.

The bill adds “controlled substances” and “drugs” to the state’s implied consent law. Implied consent means that a person who drives a motor vehicle in this state is considered to have given his or her consent by the operation of the motor vehicle, to a preliminary breath analysis and a secondary chemical test of either his or her blood or breath, for the purposes of determining the alcohol concentration in his or her blood, or the presence in the person’s body of a controlled substance, drug, or any combination thereof.

Although, unlike the refusal to submit to a breathalyzer as a designated secondary chemical test to determine the concentration of alcohol in a person’s blood, the refusal to submit to a blood test as a secondary chemical test may not result in the suspension of a person’s drivers’ license. However, the refusal to submit to a blood test may be admissible, at the court’s discretion, in a trial for the offense of driving a motor vehicle in this state while under the influence of alcohol a controlled substance or drug or the combination of alcohol and drugs.

The bill adds training requirements for law-enforcement officers (at least 6 hours). Law-enforcement officers who do not complete the minimum number of hours of training by December 31, 2014, may not require any person to submit to secondary chemical test of his or her blood for the purposes of determining the presence in the person’s body of a controlled substance, drug, or any combination thereof.

The bill authorizes a sample or specimen taken to determine the presence of a controlled substance or drug content in a person’s blood, to be taken within 4 hours of the person’s arrest and prohibits the results of any test administered for the purpose of detecting the presence of any controlled substance to be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

Finally, Bureau of Public Health is required to submit to the Joint Standing Committee on Government and Finance, on or before December 31, 2013, a report that includes the following:

- Recommendations for the minimum levels of drugs or controlled substances that must be present in a person’s blood in order for the

test to be admitted as prima facie evidence that the person was under the influence of a controlled substance or drug in a prosecution for the offense of driving a motor vehicle in this state; and

- Recommendations for the minimum levels of drugs or controlled substances that can be reliably identified in blood.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2521**

SHORT TITLE: Relating to the West Virginia Contraband Forfeiture Act.

CODE REFERENCE: West Virginia Code §60A-7-705a (new)

This bill creates an alternative method for forfeiture of money used in the illegal drug trade through an expedited forfeiture process. Under prior state law, a civil forfeiture proceeding must be initiated, and a hearing is held before any forfeiture occurs of any type of property. Under this Act, if no objection is received after 30 days of notice of intent to forfeit, then money so confiscated becomes property of the state. If the owner objects, then the Court shall conduct a hearing and decide based on preponderance of evidence whether the property is subject to forfeiture.

This bill's alternative process pertains only to confiscated money and all other types of property will continued to be subject to the full hearing process.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2531

SHORT TITLE: Relating to the practice of speech-language pathology and audiology.

CODE REFERENCE: West Virginia Code §30-32-1 through 21 (Amends); §30-32-22 and 23 (New)

This bill reorganizes and rewrites the entire article relating to the Board of Examiners of Speech-Language Pathology and Audiology.

New provisions authorize the delivery of services via telepractice, defined as the application of telecommunication technology to deliver speech-language pathology or audiology services through real time interaction from one site to another for assessment, intervention or consultation in a manner sufficient to ensure patient confidentiality. (New §30-32-16.) The board is authorized to further define the parameters of telepractice by legislative rule and emergency rule. (New §30-32-7(a)(9))

The section providing for actions to enjoin violations clarifies that the board may issue notices to cease and desist acts which constitute violations of law, or apply to the circuit court for an injunction, or both. (New §30-32-18.)

A new section provides that evidence of the commission of a single act is sufficient to justify disciplinary action. (New §30-32-22.)

Currently, penalties for violations constitute misdemeanors, punishable upon conviction by a fine of not more than \$500 or by imprisonment for not more than six months, or both. Effective July 1, 2013, the monetary penalties are increased to a range from \$500 to \$1,000.

A section-by-section synopsis of the bill follows:

§1 states that is unlawful for any person or business entity to practice or offer to practice speech-language pathology or audiology, to practice or offer to assist in the practice of speech-language pathology or audiology (as to assistants , effective July1, 2014) in the state of West Virginia without a license or registration.

§2 sets forth exemptions.

§3 sets for the law applicable to the practice of Speech-Language Pathology and Audiology.

§4 provides definitions used throughout the bill.

§5 sets forth board composition, terms, appointment and removal provisions, compensation and expense reimbursements, quorum and meeting requirements, and civil immunity for board members in the performance of their official duties.

§6 sets forth the powers and duties of the board.

§7 sets forth the board's rulemaking authority.

§8 continues the special revenue fund into which the fees collected by the board are deposited and used by the board to administer the article; provides that fines are deposited in the general revenue fund.

§9 sets forth qualifications for licensure as a speech-language pathologist.

§10 sets forth qualifications for licensure as an audiologist.

§11 provides for provisional licenses for applicants who meet all qualifications for licensure

except for post-graduate professional experience.

§12 provides that examination requirements may be waived if the applicant provides proof of current licensure in a state that has equivalent standards.

§13 provides the scope of practice for speech-language pathology.

§14 provides the scope of practice for audiology.

§15 requires assistants in pathology and audiology to register with the board and to practice under supervision.

§16 authorizes telepractice.

§17 sets forth provisions for the renewal of license or registration, lapsed license or registration, suspension of renewal, reinstatement of revoked license or registration.

§18 sets forth actions to enjoin violations.

§19 sets forth complaints and investigations procedures and disciplinary action.

§20 provides for the right to appeal a decision.

§21 provides for judicial review of a board decision.

§22 establishes that a single prohibited act is sufficient to justify disciplinary action.

§23 requires the Legislative Auditor to report to the Committee on or before December 1, 2014, on recommendations for requirements for speech and hearing professionals to practice in public schools.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2534**

SHORT TITLE: Relating to the regulation of pawn brokers.

CODE REFERENCE: West Virginia Code §47-26-1, §47-26-2, §47-26-3 and §47-26-4 (new)

This bill establishes a statewide standard for pawnbrokers which requires them to record and maintain records of purchase and pawn transactions which are then made available for review and inspection by law enforcement officials. The standards established by the bill require the identity of persons bringing property to being purchased or pawned is verified by a valid photo ID, and requires the items brought in for pawn or sale to be described to in a manner which would allow for the proper identification of goods which are potentially stolen. If the individual attempting to sell or pawn items does not have a valid photo ID, the pawnbroker is to take and retain a picture of the individual. Any person attempting to sell or pawn items to a pawnbroker is also required to sign a pawn transaction statement or purchase transaction statement affirming ownership of the item or items to be sold or pawned. The purchase and pawn transaction records are to be retained by the pawnbroker for a minimum of three years.

The transaction records required by the bill are generally consistent with best management practices by pawnbrokers. The bill also provides a mechanism for law enforcement officers to review the records, and imposes misdemeanor fines of \$100 to \$200 per violation to a pawnbroker who fails to adhere to these minimum requirements.

Counties or local governments may adopt and enforce more stringent pawn broker requirements if they so desire, but may not require less than what is required by the state standards.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2548**

SHORT TITLE: Increasing the criminal penalties for assaults and batteries against athletic officials.

CODE REFERENCE: West Virginia Code §61-2-15a

This bill increases the fine and jail time for an assault or battery against an athletic official who is acting in an official capacity. This change makes the assault and battery statute for officials consistent with other assault and battery statutes.

The fine for an assault increases from between \$50 & \$100 to not more than \$500, and jail time increases from between 24 hours and 30 days to not more than 6 months.

The fine for a battery increases from between \$100 and \$500 to not more than \$1,000, and jail time increases from between 24 hours and 30 days to not more than 12 months.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2553**

SHORT TITLE: Authorizing the Secretary of State to administratively dissolve certain business entities.

CODE REFERENCE: West Virginia Code §31B-8-809, §31D-14-1420, §31D-15-1530, §31E-13-1320, §31E-14-1430 and §59-1-2a (amends)

This bill would allow the Secretary of State's office to begin proceedings to administratively dissolve LLCs and corporations if either (1) a professional licensing board revokes all of the professional licenses that are required for the continued operation of the entity or (2) the entity is in default with the Bureau of Employment Programs, as provided elsewhere in code and rules. In addition, the bill allows the Secretary of State to dissolve or revoke corporations for failure to pay fees imposed by law in the same manner as LLCs are handled. Finally, the amendment permits the Secretary of State to charge a bad check fee and requires the Secretary of State to give an additional notice by certified mail at least 30 days before any dissolution or revocation, if the basis is failure to pay fees.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2554**

SHORT TITLE: Providing a procedure for the Secretary of State to reinstate certificates of authority for foreign corporations.

CODE REFERENCE: West Virginia Code §31D-15-1532 (Amends; §31D-15-1533(New); §31E-14-1432 (Amends); §31E-14-1533 (New); §59-1-2 (Amends)

Under current code, foreign business corporations and foreign nonprofit corporations must appeal revocations of certificates of authority to the circuit court. The purpose of this bill is to provide a procedure for these corporations to appeal to the Secretary of State to be reinstated, making the law for foreign corporations consistent with the law for domestic corporations.

To be reinstated, a corporation must apply within 2 years of revocation. The applicant must demonstrate that the grounds for the revocation have been eliminated, and obtain a certificate from the Tax Commissioner that all taxes owed by the corporation have been paid.

The bill provides for an appeal to the circuit court from a denial of reinstatement by the Secretary of State.

§59-1-2 relating to the fee charged for reinstatement by the Secretary of State (\$25) is amended so that foreign profit and nonprofit corporations are included in the same paragraph as are domestic limited liability companies. The section is further amended to provide that after the first articles of merger of two West Virginia businesses have been paid for at a rate of \$25, that each additional party to the merger will cost \$5. For articles of merger of two out of state businesses, after the first two are paid for, that each additional party to the merger will cost \$5.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2567**

SHORT TITLE: Relating to Limited Partnerships.

CODE REFERENCE: West Virginia Code §47-9-44 (amends), §47-9-10a (new) and §47-9-53a (new)

This bill amends the Uniform Limited Partnership Act and establishes procedures for the administrative dissolution by the Secretary of State of limited partnerships and for the revocation and reinstatement of a foreign limited partnership's certificate of authority. The bill authorizes the Secretary of State to dissolve a limited partnership when it either fails to pay all applicable fees, taxes or penalties within 60 days after the due date; fails to deliver its annual report to the Secretary of State within 60 days after the due date; has a necessary professional license revoked; or is in default with the Bureau of Employment Programs.

If the Secretary of State determines that adequate grounds exist to administratively dissolve a limited partnership, the Secretary shall file a record of the determination and serve the limited partnership with a copy of the record. If the limited partnership fails to correct the deficiencies or take reasonable steps toward correcting the deficiencies, within 60 days of service of the notice, the Secretary may administratively dissolve the limited partnership by signing the certification of dissolution.

A limited partnership that has been administratively dissolved may continue its existence only to the extent necessary to wind up and liquidate its business and affairs. However, the administrative dissolution does not terminate the authority of its agent for service of process. The bill creates an appeal process that mirrors the process for other entities that exist in current code.

The bill treats foreign limited partnerships similarly, but includes additional deficiencies that lead to administrative dissolution.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2571**

SHORT TITLE: Relating to who may serve as members of the environmental quality board.

CODE REFERENCE: West Virginia Code §22B-3-1

This bill revises the qualifications to serve on the Environmental Quality Board (EQB), an administrative review board which hears appeals from permitting and enforcement decisions involving the waste and water regulatory programs administered by the Department of Environmental Protection.

The bill allows persons who receive a significant portion of their income from a state department or agency that holds an NPDES permit to serve on the EQB. The person would not, however, be allowed to vote on any issue involving a permit held by the person's department or agency.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2579**

SHORT TITLE: Revising state water quality standard for Selenium.

CODE REFERENCE: West Virginia Code §22-11-6

This bill directs the Department of Environmental Protection (DEP) to implement a plan to require monitoring of selenium discharges from coal NPDES permits.

It further directs the DEP to use the water data and analysis from the monitoring to develop a state-specific selenium standard. Within 24 months after the effective date of this new provision, the DEP must promulgate a legislative rule to implement the standard and also submit the standard to the federal Environmental Protection Agency for approval.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2585**

SHORT TITLE: Increasing the time to file a petition in response to notice of an increased assessment.

CODE REFERENCE: West Virginia Code §11-3-15c and 15d (Amends)

The purpose of this bill is to increase the time to file a petition of appeal after a property owner receives notice of an increased assessment of real property from five days to eight business days. The time to file a petition for appeal by the owner of business tangible personal property is also changed from five days to eight business days. "Business day" is defined.

EFFECTIVE DATE: July 8, 2013

DATE OF PASSAGE: April 9, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2603

SHORT TITLE: Relating to the Family Protection Services Board.

CODE REFERENCE: West Virginia Code §§ 48-26-404, 48-26-405, 48-26-601, 48-26-602, 48-26-901, 48-26-902, 48-26-1003, 48-26-1005, 48-26-1006 and 48-26-1007(repeals)

WVC §§ 48-26-202, 48-26-203, 48-26-204, 48-26-205, 48-26-206, 48-26-301, 48-26-401, 48-26-402, 48-26-403, 48-26-406, 48-26-603, 48-26-604, 48-26-701, 48-26-1001, 48-26-1002 and 48-26-1004(amends)

WVC §§ 48-26-207, 48-26-207, 48-26-209, 48-26-210, 48-26-211, 48-26-212, 48-26-213, 48-26-214 and 48-26-408(new)

This bill makes updates to the Family Protection Services Board article. In addition to minor technical changes and definition changes, the bill makes the following changes:

The bill increases the number of members on the board from 5 to 7. The new members of the board would be a representative from a batterer intervention and prevention program licensed by board and a representative of the Supreme Court of Appeals who works on monitored parenting and exchange program services. These members would be appointed by the Governor with advice and consent of the Senate. In the event a board member resigns or cannot complete his or her term, the bill requires the Governor to appoint his or her successor from a list nominated by the Board within 90 days. The bill ensures that no individual organization licensed by the Board may have more than one representative on the Board.

The percentage of funds which may be expended for administrative purposes by the Board is increased from 5% to 15%.

The bill gives the board the authority to grant conditional and provisional licenses to programs that do not fully meet the Board's requirements, followed by review of progress made to meet the Board's requirements.

The bill requires closure of a domestic violence shelter to be a unanimous vote of the Board members. When a program is downgraded or discontinued through a permanent or temporary closure, the program has a right to an the administrative hearings process.

The bill requires programs licensed by the Board to report specific information to the Board annually. The bill further provides the manner in which programs may disclose written records, personal information, or personally identifying information about a program participant.

EFFECTIVE DATE: April 12, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2626

SHORT TITLE: Authorizing the of Military Affairs and Public Safety to promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-6-1 through §64-6-3

This bill contains the following Department of Military Affairs and Public Safety rules authorized for promulgation by the Legislature during the 2013 regular session:

Division of Protective Services

Contracted Police or Security Services, 99CSR5

This is a new rule. The rule addresses how the Division of Protective Services is permitted to contract with outside entities to perform extraordinary police or security services, when necessary. It establishes the procedure to be followed for a requesting police or security services from the Division of Protective Services.

State Fire Commission

1. State Building Code, 87CSR4

The amendments to this existing rule incorporate updates to the 2009 and 2012 editions of the International building codes, modify current exceptions to the International Building Codes, and establish new fire protection requirements for one and two family dwellings. The adoption of the updated international building codes will allow building construction in West Virginia to be completed with the latest technology and professional standards.

2. Volunteer Firefighters' Training, Equipment, and Operating Standards, 87CSR8

This is a new rule which implements the provisions of W.Va. Code § 28-3-5d, enacted by the Legislature during the 2012 Regular Legislative Session. That code section requires the State Fire Commission to establish training requirements for volunteer firefighters, including the following:

- Minimum training levels for rescue and fire fighting;
- Minimum levels of equipment needed to protect life and property within fire service areas;
- Minimum performance standards the departments must meet in response times, communications, levels of water flow and pressure;

- Other performance measures as considered necessary to meet the overall goals of improved fire prevention and control; and
- Testing requirements.

Governor’s Committee on Crime, Delinquency, and Correction

1. Law Enforcement Training and Certification Standards, 149CSR 2

This existing rule was amended to make changes to the certification and training of West Virginia law enforcement officers to reflect best practices. The amendments address and clarify provisions related to qualification requirements, in-service training, completion of tasks and skills, and inactive status of instructors.

2. Protocol for Law Enforcement Response to Stalking, 149CSR7

This is a new rule. It establishes guidelines and standards for law enforcement officers responding to incidents of stalking. Particular attention is given to protecting victims through the initial response, on-scene assistance, arrest, follow-up and reporting of stalking incidents, including the enforcement of protective orders. Additionally, the purpose of the rule is to provide training and help minimize law enforcement liability.

3. Protocol for Law Enforcement Response to Child Abuse and Neglect, 149CSR8

This is a new rule. It establishes guidelines and standards for law enforcement response to incidents of alleged child abuse or neglect. The rule may also be used by law enforcement agencies to develop a training curriculum for responding to circumstances involving possible child abuse or neglect.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2652

SHORT TITLE: Authorizing the Department of Administration to promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-2-1 and §64-2-2

This bill contains the following Department of Administration rules authorized by the Legislature for promulgation during the 2013 regular session:

Department of Administration

1. State Owned Vehicles, 148CSR3

This rule regulates the state's fleet of state-owned vehicles. Modifications to the rule include the following:

- Adds language permitting the Fleet Manager to promulgate guidelines, policies, and procedures necessary to comply with federal and state law;
- Adds language permitting certain markings to be placed on vehicles; and
- Adds procedures related to under utilized vehicles.

2. Rules for Selecting Design-Builds Under the Design-Build Procurement Act, 148CSR11

This rule contains procedures for selecting design-build projects pursuant to the Design-Build Procurement Act. (W.Va. Code § 5-22A-1 et. seq.). Modifications to the rule include the following:

- Clarifies that all design-build projects must go through the Design-Build Board for evaluation, if the building being constructed will ultimately be owned by a state agency;
- Clarifies that the qualitative portion of proposals must remain sealed until the review committee is assembled and is ready to review and score proposals; and
- Reorganizes and clarifies the procedures for protesting the solicitation or awarding of contracts.

Consolidated Public Retirement Board

1. General Provisions, 162CSR1

Modifications to the rule include the following:

- Adds Municipal Police Officers and Firefighters to the list of retirement systems administered by the Consolidated Public Retirement Board (CPRB) and those systems which the CPRB may assess administrative costs.
- Adds restrictions and definitions relating to Qualified Domestic Relations Orders, including the following:
 - Providing a payment approach for the Teachers' Defined Contribution Plan;
 - Providing additional restrictions which a qualified domestic relations order must meet for the different retirement systems administered by CPRB; and
 - Providing a procedure for the CPRB to follow upon receipt of a Domestic Relations Order, and for appeals from CPRB determinations regarding whether a domestic relations order satisfies the requirements to be considered a qualified domestic relations order under the rule and applicable law.

2. Benefit Determination and Appeal, 162CSR2

Modifications to the rule include the following:

- Providing for when a member of the Public Employees Retirement System or Teachers' Retirement System, who has applied for and met all disability retirement requirements, including an affirmative opinion by a CPRB approved physician, and who dies before the CPRB has approved the application, the CPRB will process the disability application and pay benefits as if the applicant were still alive and elected a 100% Joint & Survivor disability annuity naming his or her surviving spouse; and
- Providing clarification that the CPRB pays for transcripts of hearings when an applicant appeals a decision to circuit court, but the applicant pays when the request for the transcript precedes the appeal petition.

3. Teachers' Retirement System, 162CSR4

Modifications to the rule include the following:

- Adds definitions for the terms "accumulated contributions" and "retirant";
- Adds that a transfer qualifies as a temporary absence for which a substitute teacher may be appointed under the definition of the term "substitute

teacher”; and

- Provides that substitute teachers, non-teaching substitutes and temporary employees are not eligible for membership in TRS unless authorized by §18A-4-15.

4. Public Employees Retirement System, 162CSR5

Modifications to the rule include the following:

- Providing a list of those persons considered members of a legislative body of a political subdivision for purposes of membership in PERS for employees of boards of education, colleges or universities, elected members of county commissions, city councils, boards of education and mayors;
- Providing that one month of service credit is earned if a member serves 15 days in qualifying military service as provided in WVC §5-10-20;
- Providing for situations in which employees are paid in arrears to insure that they are given appropriate service credit;
- Providing clarification regarding when an annuity commences;
- Prohibiting a person who has retired and elects to participate in the system again after re-employment from purchasing retroactive service credit for any time he or she was receiving a retirement payment;
- Requiring repayment of withdrawals of contributions to begin within 2 years of re-employment and providing that termination or transfer of employment from one participating public employer and acceptance of employment with another participating public employer constitutes return to employment; and
- Prohibiting a person who terminates employment with a participating public employer and accepts employment with another participating public employer within 30 days from the date the member last appeared on the payroll of the previous employer from obtaining a refund of his or her contributions.

5. West Virginia State Police, 162CSR9

Modifications to the rule include the following:

- Adds a new section authorizing any member married at the time of entering retirement status or any disability retiree married at the time of recalculation to elect a 100% Joint & Survivor annuity and receive monthly payments for his or her lifetime. If the retiree dies prior to the spouse, the monthly benefit would be continued in the same amount to the surviving spouse for his or her lifetime. When a member chooses a retirement option, that option is final.

EFFECTIVE DATE: April 10, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2689

SHORT TITLE: Authorizing miscellaneous Boards and Agencies to promulgate legislative rules.

CODE REFERENCE: West Virginia Code §64-9-1 through §64-9-1-17

This bill contains the following miscellaneous rules authorized by the Legislature for promulgation during the 2013 regular session:

Board of Medicine

1. Practitioner requirements for accessing the WV controlled substances monitoring program database, 11CSR10

This rule is new. It requires practitioners to access the WV Controlled Substances Monitoring Program Database and review their patients controlled substances records before issuing an initial prescription for a drug. It sets forth general rules for practitioners, requires compliance with applicable state and federal laws, and disciplinary measures for practitioners who do not comply with the rule.

2. Licensure, disciplinary and complaint procedures, Continuing Education for physician assistants, 11CSR1B

This rule is amended to comply with the passage of recent legislation. It requires physician assistants to complete continuing education on drug diversion training and best practice prescribing of controlled substances training and expands prescriptive authority for physician assistants.

3. Continuing Education for physicians and podiatrists, 11CSR6

This rule requires physicians and podiatrists to complete continuing education on drug diversion training and best practice prescribing of controlled substances training and expands physician and podiatrist prescriptive authority.

Board of Optometry

Continuing Education, 14CSR10

The amendments to this rule change the continuing education requirements for licensed optometrists. It increases required continuing education from 40 to 43 hours, moves continuing education to an even year cycle, requires a licensee who holds an oral pharmaceutical certificate to complete 3 hours of drug diversion training and best practice prescribing of controlled substances training, and provides an exemption for licensees who

have not prescribed a controlled substance during the 2 year cycle.

Board of Osteopathic Medicine

1. Licensing Procedures for Osteopathic Physicians, 24CSR1

This rule is amended to comply with the governing statute, which requires physicians to complete drug diversion training and best practice prescribing of controlled substances training as part of their continuing education requirements, unless exempted due to not prescribing, administering or dispensing a controlled substance.

Beginning May 1, 2014, unless a physician has completed and timely provided to the board a board-developed certification form and waiver request attesting that the physician has not prescribed, administered or dispensed a controlled substance during the entire previous reporting period, every physician must complete a minimum of 3 hours of drug diversion training and best practice prescribing of controlled substances training during the previous reporting period. The 3 hours are part of the required 32 total hours of continuing medical education.

2. Practitioner Requirements for Controlled Substances Licensure and Accessing the West Virginia Controlled Substance Monitoring Program Database, 24CSR7

This rule is new. It requires practitioners to access the WV Controlled Substances Monitoring Program Database and review their patients controlled substances records before issuing an initial prescription for a drug.

It contains provisions relating to general rules for practitioners, registration procedure to dispense controlled substances, compliance with applicable state and federal laws, and disciplinary measures for physicians who do not comply with the rule.

3. Osteopathic Physicians Assistants, 24CSR2

This rule is amended to comply with the passage of recent legislation. It requires osteopathic physician assistants to complete continuing education on drug diversion training and best practice prescribing of controlled substances training and expands prescriptive authority for osteopathic physician assistants.

Board of Pharmacy

1. Ephedrine and Pseudoephedrine Control, 15CSR11

The amendments to this rule update the West Virginia Controlled Substance Monitoring Program database in accordance with recent legislation. It requires presentation and electronic recording of the information provided on a government issued photo ID to purchase restricted products, and transitions recording from sending information to the electronic PSE Database maintained by the board, to reporting to a multi-state log book.

2. Controlled Substance Monitoring, 15CSR8

The amendments to this rule update the West Virginia Controlled Substance Monitoring Program database in accordance with recent legislation. It requires new fields of information to be reported, requires presentation of a government issued photo ID, and requires the reporting of the required information within 24 hours of dispensing a controlled substance.

Real Estate Appraiser Licensing and Certification Board

1. Requirements for Licensure and Certification, 190CSR2

The amendments to this rule are necessary in order to bring it in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (“FIRREA”), passed by the United States Congress. In particular it addresses the requirements for supervising appraisers who are training apprentices, as required by V.A. of the Appraiser Qualifications Board Real Property Appraiser Qualification Criteria, as mandated by FIRREA §1116(e), 12 U.S.C. 3345, as amended by The Dodd-Frank Wall Street Reform and Consumer Protection Act.

2. Renewal of Licensure - Qualifications for Renewal, 190CSR3

The amendments to this rule are required by the Appraiser Qualifications Board, a federal oversight Board. The amendments address qualifications for renewal and continuing education. They also reduce the window within which a licensee is not required to complete continuing education classroom hours. Previously, if there was nine months or less between the effective date of the initial license or certification and the beginning of the first renewal term, then no continuing education was required for that first term. The amendment reduces that window to 180 days.

Board of Examiners for Registered Professional Nurses

1. Fees for services rendered by the Board and supplemental renewal fee for the Center for Nursing, 19CSR12

This rule increases the following fees:

- Licensure examinations from \$51.50 to \$70.00
- Re-Examination from \$51.50 to \$70.00
- Temporary permits from \$10.00 to \$25.00
- Endorsements into West Virginia \$30.00 to \$100.00
- License Renewal from \$25.00 to \$65.00
- Reinstatement of lapsed license from \$75.00 to \$115.00
- Duplicate license and name change from \$5.00 to \$10.00
- Insufficient funds penalty from \$20.00 to \$50.00
- Copies of files from \$3.00 to \$5.00 for the first page and \$.25 to \$.50 for each additional page.

2. Practitioner Requirements for accessing the West Virginia Controlled Substance Monitoring Program Database, 19CSR14

This rule is new. It requires practitioners to access the WV Controlled Substances Monitoring Program Database and review their patients controlled substances records before issuing an initial prescription for a drug. It sets forth general rules for practitioners and requires compliance with applicable state and federal laws. and disciplinary measures for practitioners who do not comply with the rule.

3. Advanced Practice Registered Nurse, 19CSR7

The proposed rule is amended.

This rule sets forth the qualifications and scope of practice for an advanced practice registered nurse (APRN). It contains, among other things, provisions for license requirements, criteria for evaluation of APRN certification programs, provisions for a license by endorsement, renewal and reinstatement requirements, requirements for a program of study and clinical experience, certification and recertification, and disciplinary provisions.

4. Limited Prescriptive Authority for Nurses in Advance Practice, 19CSR8

This rule sets forth eligibility qualifications for limited prescriptive authority for advanced practice nurses and clarifies prescriptive privileges. Among other things, amendments to the rule update definitions, remove the requirement that an APRN turn in a voided sample of a prescription form to obtain prescriptive authority, requires the APRN to maintain a current mailing address and if possible email address, clarifies that an APRN must show active, uninterrupted national certification, authorizes an APRN to prescribe antipsychotics and sedatives in a 90-day supply with 1 refill, and requires APRN to sign prescriptions and follow federal regulations.

Secretary of State

1. Uniformed Commercial Code, 153CSR35

The amendments to this rule incorporate by reference the 2012 Edition of the Uniform Commercial Code, Article 9, Model Administrative Rule, to comply with the West Virginia Code.

2. Administration of the Address Confidentiality Program, 153CSR37

This rule is amended to bring it into compliance with legislation passed in 2012. Definitions for “Absentee Voting” and “Special Absentee Voting List” were inserted into the rule. It is also amended to allow participants in the “Address Confidentiality Program” to request an absentee ballot and to be placed on the special absentee voting list.

3. Regulation of Political Party Headquarters Financing, 153CSR43

This is a new rule. It addresses the newly created ability of political parties to finance the purchase, construction or lease of an office building, including utilities, maintenance, furniture, fixtures and equipment, to be used as a state political party's headquarters. The following is a section-by-section synopsis of the proposed rule.

4. Regulation of Late Voter Registration, 153CSR44

This is a new rule. It provides for later voter registration of any member of a uniformed service of the United States who is active or was discharged 60 days preceding an election, any member of the merchant marine, any person residing overseas by virtue of his or her employment in support of national security functions or purposes, or the spouse and dependents residing with one of the above, within the 20 days immediately preceding an election.

Board of Barbers and Cosmetologists

1. Procedures, Criteria and Curricula for Examination and Licensure of Barbers, Cosmetologists, Nail Technicians and Hair Stylists, 3CSR1

The amendments to this rule modify the minimum curriculum for Barbers to obtain a cross-over cosmetologist's license. A cross-over cosmetologist's license must complete 300 clock hours consisting of nail technology and 500 clock hours consisting of aesthetics. The amendments also add a minimum curriculum for hairstylists, providing that students must complete a course of study consisting of a minimum of 1,000 clock hours to become a licensed hair stylist. A hair stylist student must have at least 250 clock hours before working on the general public in a licensed school.

2. Barber Apprenticeships, 3CSR13

This is a new rule which creates a barber apprenticeship program. It sets forth qualifications and requirements for a barber apprentice and qualifications for a master barber offering an apprenticeship.

3. Operational Standards for Schools of Barbering and Beauty Culture, 3CSR4

Among other things, the amendments to this rule modify facility and sanitation requirements, education requirements for Schools of Beauty Culture and Barbering, set forth content requirement for student catalogs and student policy books, outline curriculum requirements, pass fail rates, and require schools to provide students with monthly progress reports.

Department of Agriculture

1. Animal Disease Control, 61CSR1

This rule currently provides that official vaccinates are calves that have been vaccinated for burcellosis between the ages of 120 days and 240 days. The amendment to the rule increases the age to 365 days to allow West Virginia cattle producers to

compete in the cattle market. This is the same standard used in the Federal Burcellosis Uniform Methods and Rules. Also the requirement that a calf have a metal ear tag has been amended to require an official calf hood vaccination tag.

2. Poultry Litter and Manure Movement into Primary Poultry Breeder Rearing Areas, 61CSR28

This is a new rule. It establishes guidelines for the transport of poultry litter and swine manure into areas where commercial primary poultry breeder operations are located.

Board of Architects

1. Registration of Architects, 2CSR1

The amendments to this rule add new definitions, update old definitions, allow the Board to hold more than two meetings annually, set improper contact with the Board procedures during disciplinary actions, clarify registration requirements, update continuing education requirements, update, professional conduct requirements, and clarify disciplinary procedures and actions.

Board of Dental Examiners

1. Rule for the WV Board of Dental Examiners, 5CSR1

This rule is amended to remove the requirements relating to continuing education and expanded duties of dental assistants and dental hygienists. These requirements are being promulgated as separate rules.

2. Practitioner requirements for accessing the Controlled Substances Monitoring Program Database, 5CSR10

This is a new rule. It requires practitioners to access the WV Controlled Substances Monitoring Program Database and review their patients controlled substances records before issuing an initial prescription.

3. Continuing Education Requirements, 5CSR11

This is a new rule. It restores the provisions from 5 CSR 1 concerning continuing education requirements into its own series and adds new continuing education requirements on drug diversion training and best practice prescribing of controlled substances training.

4. Expanded Duties of Dental Hygienists and Dental Assistants, 5CSR13

This is a new rule. It restores the provisions from 5 CSR 1 concerning the expanded duties of dental assistants and dental hygienists into its own series.

Hatfield-McCoy Regional Recreation Authority

Rules for Use of Facilities, 204CSR1

The amendments to this rule incorporate a new class of recreational off road motor vehicle, the ORV or “off road vehicle,” which the Authority had not previously contemplated, but is now recognized by the Recreation Area.

State Treasurer’s Office

Enforcement of the Uniform Unclaimed Property Act, 112CSR5

The amendments to this rule modify the term “security” to include mutual funds. Additionally, reports of presumed abandoned property no longer need to be notarized, performance of due diligence requires only a first class mailing to the owners. Reports must be filed in electronic format rather than paper format, and the administrator has the authority to authorize the holder to submit a percentage of the estimated amount of the claim, due upon receipt of extension, other than 80%.

Board of Veterinary Medicine

Organization and Operation and Licensing of Veterinarians, 26CSR1

This rule is amended to bring it into compliance with the governing statute which requires the board to hold at least 1 meeting per year, rather than 2 meetings per year as formerly provided. It is also amended to clarify the examination requirements to indicate that persons graduating before 1993 must pass the National Board Examination (NBE); persons graduating from 1993 through 2000 must pass the NBE and the Clinical Competency Test (CUT); and persons graduating after 2000 must pass the North American Veterinary Licensing Examination (NAGLE). It provides that the National Board of Veterinary Medical Examiners is the authorized provider for the examinations, until and unless the board changes it in this rule.

Schedule of Fees, 26CSR6

This rule is amended to increase the fee for a criminal background check from \$30 to \$45. Formerly, the West Virginia State Police analyzed the fingerprints for \$20. They no longer offer fingerprint analysis services to the board. This increase is needed to cover the costs of the board’s in-house fingerprinting and materials, and the costs of analysis by the vendor, which charges \$28.85 per analysis.

Board of Social Work

1. Fee Schedule, 25CSR3

The amendments to this rule create an additional late fee of \$25 per month based on the date of receipt. This fee is in addition to the initial \$50 late fee. The fee will accumulate for up to a maximum of thirty-five additional months thereafter. The amendments also decrease the fee for a temporary permit from \$115 to \$50, increase the fee for a provisional license from \$50 to \$115, and create a new fee of \$30 to apply for

inactive status.

2. Qualifications for Licensure As A Social Worker, 25CSR1

The amendments to the rule relate to the qualification requirements to obtain a provisional license to conform to the governing statute, limit a new supervising social worker to 5 provisional licensees, until determined by the board, and establishes new reporting requirements on employers. Employers are now required to communicate the resignation or termination of a provisionally licensed social worker to the Board. Continuing education requirements are also reduced from 50 hours to 40 hours.

3. Applications, 25CSR4

This is a new rule. The application requirements in 25CSR1 are moved to this rule.

4. Continuing Education, 25CSR5

This is a new rule. The continuing education requirements for Social Workers and providers are moved from 25CSR1 to this rule.

5. Code of Ethics, 25CSR7

This is a new rule. The Code of Ethics section is moved from 25CSR1 to this rule.

Board of Examiners for Speech Pathology and Audiology

Licensure of Speech Pathology and Audiology, 29CSR1

This rule is amended to remove the specific passing score of "at least 600" with language which requires passing the national examination. The change was made after the national examination changed the passing score on the examination. Anticipating future scoring changes, the board has decided to remove the specific score from the rule.

State Conservation Committee

Operations of West Virginia State Conservation Committee and Conservation Districts, 63CSR1

This rule is amended to clarify that the rules address removal of conservation district supervisors. It also addresses the procedure for appointing, electing and removing conservation district supervisors. The amendments provide that when a vacancy occurs in the office of district supervisor, districts shall advertise the vacancy. The advertisement must list the requirements and qualifications necessary for the position of supervisor and how to apply. The district then makes a candidate recommendation from this list to the State Conservation Committee, which selects who will fill the vacancy from the list submitted.

Amendments to the rule also add a requirement that all elected or appointed

supervisors take an oath of office prior to taking office and that a copy of the oath is kept on file in the district office, while the original is filed in the county clerk's office. They also require districts to notify the State Conservation Committee if a supervisor misses three consecutive unexcused monthly district meetings.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2733**

SHORT TITLE: Relating to hearings before the Office of Administrative Hearings.

CODE REFERENCE: West Virginia Code §17C-5A-2

The bill amends the current procedures of the Office of Administrative Hearings related to hearing notices, location of hearings, authority to rescind or modify the orders of the Commissioner of the Division of Motor Vehicles, appeal procedures, costs associated with appeals, and final orders on appeal. The bill also makes other non-substantive drafting changes to the section.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2747**

SHORT TITLE: Relating to Open Governmental Proceedings.

CODE REFERENCE: West Virginia Code §6-9A-2 and §6-9A-3 (amends)

The purpose of this bill is to revise the current method of public notice for governmental agency meetings to the State Register. The bill requires the electronic filing of notices of meetings of state agencies on the Secretary of State website instead of requiring publication in the State Register. The bill also revises definitions to clarify that notice must occur for all meetings at least five business days before the meeting, unless it is an “emergency meeting.”

Emergency meeting is defined to mean a meeting called because of an unexpected imminent threat to public health, safety, damage to property, or harm to a public agency, its employees or the members of public which it serves.

The bill requires the Secretary of State to retain these notices for ten years and permits promulgation of procedural rules to govern the electronic filings. The bill also provides rule-making authority.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 2, 2013

HOUSE BILL NO. 2780

SHORT TITLE Relating to multidisciplinary team meetings for juveniles in Division of Juvenile Services' custody.

CODE REFERENCE: West Virginia Code §31A-8C-5

This bill requires:

- multi-disciplinary teams must convene quarterly to discuss children in the custody of the Division of Juvenile Services;
- where a child has been detained for more than sixty days without an active service plan, the director of the facility may call a multi-disciplinary team meeting to discuss the child; and,
- requires that team members be notified that they may participate electronically.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

HOUSE BILL NO. 2805

SHORT TITLE: Making the West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program a permanent program.

CODE REFERENCE: West Virginia Code §§3-1A-5, §3-12-1, §3-12-2, §3-12-3, §3-12-4, §3-12-6, §3-12-7, §3-12-9, §3-12-10, §3-12-11, §3-12-13, §3-12-14, §3-12-16 and §3-12-17 (amends)

This bill makes the Supreme Court Public Financing Pilot Project a regular option for all future candidates for West Virginia Supreme Court of Appeals. Under current law the project expires on July 1, 2013 and all moneys remaining in the fund would be transferred to the General Revenue Fund.

The bill removes language found to be unconstitutional with respect to supplemental payments in certain situations. The bill also increases the amount of funds available to candidates in contested primary elections from \$200,000 to \$300,000 and in contested general elections from up to \$350,000 to up to \$525,000. The bill removes extra reporting requirements and clarifies requirements with regard to amounts permitted to be donated by individuals. The bill removes a provision doubling a civil penalty in certain circumstances.

The bill requires a one-time transfer of funds from the Auditor of \$400,000, which the Auditor says will be available. The bill also permits the State Election Commission to transfer a portion of the moneys in the fund to the West Virginia Investment Management Board for their supervised investment, but only after consultation with the State Treasurer, the State Auditor and the West Virginia Investment Management Board.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2806**

SHORT TITLE: Relating to administrative remedies for prisoners generally.

CODE REFERENCE: West Virginia Code §25-1A-2 (Amends); §25-1A-2a

The purpose of this bill is to require that a prisoner exhaust administrative remedies prior to bringing a civil action. The bill would bring the law into compliance with the federal Prison Rape Elimination Act which requires compliance with specific procedures for administrative grievance procedures regarding sexual violence, sexual assault or abuse.

In 2000, the Legislature enacted the Prisoner Litigation Reform Act. That Act provides, among other things, that an inmate must exhaust administrative remedies within the prison system before seeking court review of grievances, unless the inmate alleged current or imminent physical or sexual abuse.

§25-1A-2 of the bill authorizes the Commissioner of the Division of Corrections and the Director of the Regional Jail Authority to each establish procedures for ordinary administrative remedies, ie. complaints about any aspect of prison life not involving violence, sexual assault or sexual abuse.

§25-1A-2a is new and provides procedures relating to the exhaustion of administrative remedies addressing complaints of violence, sexual assault or sexual abuse. This section also requires the commissioner and executive director to establish procedures for processing an inmate grievance which alleges imminent violence. They are to propose legislative rules by December 31, 2013.

An inmate may be disciplined for filing a grievance related to sexual assault or sexual abuse if the agency finds that the inmate filed the grievance in bad faith.

An inmate is not prevented from filing a judicial action to appeal a conviction. An inmate may file a judicial action regarding a sexual abuse or a violence grievance after exhaustion of administrative remedies. If a judge finds an action to be frivolous the inmate is to pay filing costs.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

HOUSE BILL NO. 2814

SHORT TITLE: Relating to human trafficking.

CODE REFERENCE: West Virginia Code §61-2-17 (amends)

This bill addresses human trafficking, which the Legislature first addressed last session. The bill retains current language requiring that human trafficking requires two or more victims in any one year period to distinguish this offense from others in current law.

The bill makes sex trafficking victims eligible for crime victims compensation, expanding the definition of an adult victim of adult human sex trafficking and allows victims of sex trafficking to seek expungement through the provisions of W.Va. Code §61-11-26, regardless of age or criminal history and does not require such victims to show rehabilitation.

This bill was originally passed on April 13, 2013. It was vetoed by the Governor for technical reasons on April 17, 2013 and subsequently corrected and passed again.

EFFECTIVE DATE: July 16, 2013

DATE OF PASSAGE: April 17, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2815

SHORT TITLE: Clarifying and modifying the process of appointing and terminating guardians for minors.

CODE REFERENCE: West Virginia Code §44-10-3 (Amends - section completely rewritten)

Circuit and family courts have concurrent jurisdiction to appoint a guardian for a minor. Venue for filing a petition for appointment of a guardianship is in the county in which the minor has resided for six months. If the minor is a nonresident of this state the venue is the county in which the minor has an estate.

All proceedings shall be conducted in accordance with the Rules of Practice and Procedure for Minor Guardianship Proceedings.

Any responsible person who knows the facts as to the welfare and best interests of a minor may petition for appointment to be a guardian except a parent or person whose rights have been terminated. A petition is not permitted if the child is already the subject of a court proceeding related to custody or guardianship, or petitioner is a parent seeking custodial rights adverse to other parent.

The circuit clerk is to notify the court within two days of the filing of the petition. Within 10 days of filing the petition for appointment the court shall hold a hearing. If persons who were entitled to notice of the hearing were not served within 5 days of the date of the hearing, the court shall continue the hearing, but may appoint a temporary guardian pursuant to provisions set forth in the bill.

The court may appoint a guardian if clear and convincing evidence is shown that appointment of a guardian is in the best interest of the minor and: the parents consent; the parents rights were terminated earlier; the parents are unwilling/unable to exercise parental rights; the parents abandoned rights by the material failure to exercise them for more than 6 months; or extraordinary circumstances exist which would result in serious detriment to the child if petition is denied.

The father or mother shall receive priority in considering the appointment.

If in child's best interest the court may appoint a temporary guardian upon showing of immediate need or a period of transition into the custody of a parent is needed. A temporary guardian has the same authority as a guardian but the duration is limited to six months, unless needed further.

The bill sets forth the circumstances when a guardianship appointment may be terminated or revoked. If a parent petitions to terminate a guardianship, the parent must show by a preponderance of the evidence that there has been a material change of circumstances so that termination is in the minor's best interest. A guardianship may not be terminated by the court if there are any assets in the minor's estate due and payable to the minor.

All records, except for court orders and case indexes, involving a guardianship proceeding are confidential.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

HOUSE BILL NO. 2836

SHORT TITLE: Allowing certain Commission on Special Investigations personnel the right to carry firearms.

CODE REFERENCE: West Virginia Code §4-5-2 (amends)

This bill allows the Legislature's Commission on Special Investigations to designate certain of its investigators to carry firearms and concealed weapons while performing their duties. It also requires the designated individuals to obtain and conceal and carry permit, and obtain handgun training and certification equivalent to that required of the WV State Police.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

HOUSE BILL NO. 2842

SHORT TITLE: Clarifying that time-sharing plans, accommodations and facilities are subject to regulation by the Division of Land Sales and Condominiums.

CODE REFERENCE: West Virginia Code §36-9-3 and 23 (Amends)

This bill clarifies that all time-sharing plans are regulated by the Division of Land Sales & Condominiums in the Auditor's Office. It also allows the Division to seek additional relief in circuit court, other than just declaratory or injunctive relief.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

HOUSE BILL NO. 2847

SHORT TITLE: Relating to the collection of delinquent real property and personal property taxes.

CODE REFERENCE: West Virginia Code §11A-1-7 (Amends); §11A-1-7a (New)

According to the State Auditor, there has been a difference of interpretation as to when a sheriff is to decline acceptance on current taxes for real or personal property when an arrearage exists.

This bill clarifies current law by separating into two sections the requirements of paying personal property and paying real property taxes. Sheriffs are required to decline acceptance of payment for the current year of personal or real property taxes if the taxpayer has failed to pay last years personal or real property taxes. Some sheriffs read that to mean if the taxpayer has not paid last years personal property tax that current real property taxes are to be refused and vise versa. In current Section 7, the language is clarified that the sheriff can only refuse acceptance of payment for real property taxes when prior years real property taxes have not been paid. New Section 7A establishes the same requirement for personal property.

EFFECTIVE DATE: July12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2848**

SHORT TITLE: Providing the process for requesting a refund after forfeiture of rights to a tax deed.

CODE REFERENCE: West Virginia Code §11A-3-18, §11A-3-22, §11A-3-27, §11A-3-28 and §11A-3-55 (Amends)

The purpose of this bill is to amend the process for requesting a refund after forfeiture of rights to a tax deed. Under current law, upon sale of a property for back taxes, the purchaser has to attempt notice to owners of record and comply with several other requirements as provided by this article. The tax lien purchaser has 18 months to complete his or her actions on the property, otherwise, his or her tax liens are released.

This bill provides that upon expiration of eighteen months, failure to request a tax deed results in forfeiting rights to a tax deed. This is being done to clarify that once the eighteen month time period expires, the right to a tax deed expires. The purchaser is entitled to a refund for any moneys paid in excess of taxes and expenses for acquiring the property.

The bill also requires that the purchaser provide proof of compliance with the other requirements set forth in the article. The procedure for petitioning to compel execution of a deed by the State Auditor is revised by requiring the purchaser to show proof of compliance with all statutory requirements. Finally, the bill removes provisions allowing judgment against the State Auditor for costs in the case of failure or refusal to execute a deed without reasonable cause.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

HOUSE BILL NO. 2858

SHORT TITLE: Relating generally to consumer rate relief bonds.

CODE REFERENCE: West Virginia Code §24-2-4f (amends)

This bill corrects an incorrect internal reference in the code. It is purely technical in nature and simply corrects a reference to subsection (j) that should refer to subsection (k).

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2866**

SHORT TITLE: Providing an exception to allow a resident of a dwelling house to discharge a firearm in a lawful manner within five hundred feet.

CODE REFERENCE: West Virginia Code §20-2-58 (amends)

This bill amends the law relating to discharging a firearm near a school, church or house. It increases the distance on the prohibition near a school or church from 400 to 500 feet, in order to be consistent with the distance from a house. It then creates an exception to the prohibition on discharging a firearm within 500 feet of a house, if you are a resident of that house (or the authorized guest of a resident), you have the consent of all residents of the house, and there are no other dwelling houses within 500 feet of where you discharge the firearm.

The bill also adds a penalty for violation of the section, specifically a fine of \$50 to \$500 or confinement for up to 100 days, or both.

EFFECTIVE DATE: July 11, 2013

DATE OF PASSAGE: April 12, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

HOUSE BILL NO. 2933

SHORT TITLE: Providing notification to a prosecuting attorney of an offender's parole hearing and release.

CODE REFERENCE: West Virginia Code §62-12-23 (amends)

The bill clarifies the duty of the Board of Parole to notify the prosecuting attorney who prosecuted an offender and the circuit judge who presided over the offender's criminal case, of the offender's release on parole and where the offender's intends to reside upon release. The bill also allows the prosecuting attorney or judge to request a written statement of the reasons for the decision to parole the offender.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 29, 2013

HOUSE BILL NO. 2956

SHORT TITLE: Relating to resident brewers and brew pubs.

CODE REFERENCE: West Virginia Code § 49-5D-3 and §49-5D-3c

The purpose of this bill is to bring current law regarding the distribution activities of resident brewers into compliance with a United States Supreme Court decision declaring laws such as West Virginia’s unconstitutional. It does so by imposing a cap in the amount of beer that a resident brewer may produce, and a cap on the amount of beer that a resident brewer may self-distribute so as not to unfairly compete with out-of-state brewers who are prohibited from self-distributing their product. The bill also allows brew pubs to sell containers of beer called “growlers” for off-premises personal consumption. Finally, the bill also the bill also revises the definition of “distributor” to include individuals, firms, trusts, partnerships, limited partnerships, limited liability companies, associations or corporations.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2964**

SHORT TITLE: Authorizing the mayor to appoint chiefs of police and deputy chiefs of police.

CODE REFERENCE: West Virginia Code §8-10-1 (Amends)

The bill states that unless otherwise provided by charter, the mayor of a Class III city or Class IV town or village that has a paid police department that is not subject to civil services provisions may appoint a chief of police.

The bill further provides that a Class III city or Class IV town or village may provide by ordinance whether the individual appointed chief of police who held a position as a member of the paid police department prior to his or her appointment shall be reinstated to the officer's previous rank following his or her term as chief of police.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

HOUSE BILL NO. 2992

SHORT TITLE: Eliminating duplicative reporting requirements on imported cigarettes.

CODE REFERENCE: West Virginia Code §§60-9-3 (Repealed); 60-9-4, and 60-9-6

This bill was introduced at the request of the WV Tax Department in order to eliminate duplicative reporting requirements on distributors of tobacco products regarding imported cigarettes.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 3003**

SHORT TITLE: Requiring certain tobacco product manufacturers not participating in Tobacco Master Settlement Agreement to post bond.

CODE REFERENCE: West Virginia Code §16-9D-4a

This bill was introduced at the request of the Tax Department in order to comply with the terms of a settlement agreement concerning the adequacy of West Virginia's enforcement of the Master Settlement Agreement that concluded the law suit brought by a number of State Attorneys General against various tobacco manufacturers in the late 1990s.

This bill would require that tobacco manufacturers who did not participate in the Master Settlement Agreement that want to do business in West Virginia must post a bond guaranteeing that they will make the escrow payments required of them under that Agreement if they are entering this state's tobacco product market for the first time, or if they pose an elevated risk for noncompliance with the escrow payment requirements.

EFFECTIVE DATE: July 9, 2013

DATE OF PASSAGE: April 10, 2013

ACTION BY GOVERNOR: Signed April 22, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 3020**

SHORT TITLE: Improving boat dock and marina safety.

CODE REFERENCE: WVC §20-9-1, §20-9-2, §20-9-3, §20-9-4, §20-9-5, §20-9-6 and §20-9-7 (new)

This bill creates the Michael Cunningham Act relating to boat, boat dock and marina safety. The bill defines terms, notably defining boat dock and marina in such a way to exclude structures that are privately owned and used exclusively by the owner or the owner's guests for non-commercial purposes.

The bill requires all boat docks and marinas to post signs declaring an electric shock hazard and advising against swimming within 100 yards of the dock. The bill requires all boat dock or marina owners to get electrical wiring completed by a licensed WV electrician. The bill requires ground fault circuit interrupters to be installed on all boat dock and marina wiring circuits. The bill requires an inspection of all sources of electrical supply every three years. The bill also requires the Fire Marshal (which regulates electricians) to propose legislative rules to implement these provisions and incorporate as appropriate certain electrical boat dock standards.

The bill provides a compliance date with this article of August 1, 2014 and provides graduated penalties for violation of the provisions after that date.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 3069**

SHORT TITLE: Relating to access to justice.

CODE REFERENCE: West Virginia Code §23-5-16 (amends)

This bill amends the section of code relating to attorneys fees in workers' compensation cases relating to a denial of medical benefits. The bill would permit a successful claimant to recover reasonable costs and reasonable hourly attorney fees. The bill requires the claimant's attorney to submit a fee petition within 30 days following a decision in which the claimant prevails and the order becomes final.

Within 30 days after receipt of the petition, the finder of fact is to enter an order granting reasonable fees and costs. The hourly rate given to the attorney cannot exceed \$125, the attorney's fees cannot exceed \$500 per litigated medical issue or \$2,500 in any one claim. The bill requires the finder of fact to consider the experience of the attorney, the complexity of the issue, the hours expended, and the contingent nature of the fee.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 3135**

SHORT TITLE: Relating generally to voting system certification and procedures at the central counting center.

CODE REFERENCE: West Virginia Code §3-4A-2, §3-4A-8, §3-4A-23 and §3-4A-27 (amends)

This bill cleans up definitions related to electronic voting systems and adds a definition for “voter verified paper audit trail” as the paper copy of the vote that the voter can see, but is locked away to avoid tampering. It also makes other technical cleanup.

The bill also provides more time for the State Election Commission to appoint computer experts from 30 days after the application of an electronic voting system to 90 days after the Election Commission approves the consideration of the application. It also allows the State Election Commission to determine the reasonable compensation for the computer experts at the time the application is approved for certification.

The bill also ensures that an individual’s vote cannot be disclosed, by removing a requirement that vote counts be published precinct-by-precinct before the canvas is complete.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed April 30, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 3139**

SHORT TITLE: Authorizing qualified investigators employed by the Secretary of State to carry a firearm and concealed weapon.

CODE REFERENCE: West Virginia Code §3-1A-8 (amends)

This bill allows the qualified investigators employed by the Secretary of State to carry a firearm and concealed weapon in the course of their official duties with the Secretary of State. By statute, these individuals are already required to be fully trained and retired law enforcement officers. The training requirements included under the bill are equivalent to the same training they would need to maintain in order to carry a concealed weapon as a retired law enforcement officer.

EFFECTIVE DATE: April 13, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013

**COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 3145**

SHORT TITLE: Removing the existing maximum quantities of beer that retailers can sell for off premises.

CODE REFERENCE: West Virginia Code §11-16-9

The purpose of this bill is to remove the existing maximum quantities of beer that retailers can sell for off premises consumption.

Class B beer licenses are issued to grocery stores, delicatessens, caterers party supply stores and other retail establishments where food or food products are sold for consumption off the premises. An establishment can obtain a Class B retailer license even if they have a separate and segregated area where patrons are able to purchase and eat food on site).

Class B sales are limited to the sale of a maximum of 5 gallons of beer to any individual in bottles or cans to an individual customer, and they can sell kegs of beer in one-eighth, one-fourth and one-half barrel original containers.

This bill eliminates the limitation on quantities of beer that can be sold to individuals by licensed Class B beer retailers.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 1, 2013

HOUSE BILL NO. 3161

SHORT TITLE: Repealing section relating to additional fee to be collected for each marriage license issued.

CODE REFERENCE: West Virginia Code §48-2-604 (repeals)

This bill repeals a section of code related to marriage license fees that is duplicative and unnecessary.

EFFECTIVE DATE: July 12, 2013

DATE OF PASSAGE: April 13, 2013

ACTION BY GOVERNOR: Signed May 3, 2013
