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HB 2590

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2007

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2590

(By Delegates Brown, Miley, Burdiss,
and Talbott)

—●—

Passed March 8, 2007

In Effect from Passage

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COMMITTEE SUBSTITUTE
FOR OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 2590

(BY DELEGATES BROWN, MILEY, BURDISS,
AND TALBOTT)

[Passed March 8, 2007; in effect from passage.]

AN ACT to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended; all relating generally to the promulgation of administrative rules by the Department of Revenue and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Alcoholic Beverage Control Commission to promulgate a legislative rule relating to private club licensing; authorizing the Alcoholic Beverage Control Commission to promulgate a legislative rule relating to licensing of retail liquor stores; authorizing the Alcoholic Beverage Control Commission to promulgate a legislative rule relating to nonintoxicating beer licensing & operations procedures; authorizing the

Insurance Commissioner to promulgate a legislative rule relating to rate filing requirements for title insurance companies; authorizing the Insurance Commissioner to promulgate a legislative rule relating to individual limited health benefit plans; authorizing the Insurance Commissioner to promulgate a legislative rule relating to group limited health benefit plans; authorizing the Racing Commission to promulgate a legislative rule relating to thoroughbred racing; authorizing the Tax Commissioner to promulgate a legislative rule relating to abusive tax shelters; and authorizing the Tax Commissioner to promulgate a legislative rule relating to consumers sales & service tax & use tax - reduced sales tax on food.

Be it enacted by the Legislature of West Virginia:

That article 7, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. AUTHORIZATION FOR THE DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Alcohol Beverage Control Commission.

1 (a) The legislative rule filed in the State Register on the
2 twenty-fifth day of July, two thousand six, authorized under
3 the authority of section ten, article seven, chapter sixty, of
4 this code, relating to the Alcohol Beverage Control
5 Commission (private club licensing, 175 CSR 2), is
6 authorized with the following amendment:

7 On page one, by redesignating subdivision 2.5.1. as
8 subsection 2.6. and renumbering the remaining subsections
9 accordingly;

10 On page fifteen, subdivision 6.7.1., after the word
11 “effect” by striking out the comma and the word “and”;

12 And,

13 On page fifteen, subdivision 6.7.2. following the word
14 “rule” by inserting a comma and the following: “and

15 6.7.3. A suspension order suspending a license in the
16 interest of public safety, as specified in W. Va. Code §60-7-
17 13a”.

18 (b) The legislative rule filed in the State Register on the
19 twenty-eighth day of July, two thousand six, authorized under
20 the authority of section six, article three-A, chapter sixty, of
21 this code, relating to the Alcohol Beverage Control
22 Commission (licensing of retail liquor stores, 175 CSR 5), is
23 authorized, with the following amendment:

24 On page fifteen, by redesignating paragraph 8.1.1.a. as
25 subdivision 8.1.2. and by renumbering the remaining
26 subdivision accordingly;

27 And,

28 On page fifteen, subdivision 8.1.1.a., line two, after the
29 word “for” by striking out the word “the” and inserting in
30 lieu thereof the word “a” and, after the word “investigation”,
31 by inserting the following: “undertaken pursuant to
32 subdivision 8.1.1. of this rule”.

33 (c) The legislative rule filed in the State Register on the
34 twenty-eighth day of July, two thousand six, authorized under
35 the authority of section twenty-two, article sixteen, chapter
36 eleven, of this code, relating to the Alcohol Beverage Control
37 Commission (nonintoxicating beer licensing and operations
38 procedures, 176 CSR 1), is authorized, with the following
39 amendments:

40 On page four, by redesignating paragraph 3.1.2.a. as
41 subdivision 3.1.3. and renumbering the remaining
42 subdivision accordingly;

43 On page four, paragraph 3.1.2.a., line two, after the words
44 “by the ABCC for” by striking out the word “the” and
45 inserting in lieu thereof the word “a” and after the word
46 “investigation” by inserting the following: “undertaken
47 pursuant to subdivision 3.1.2. of this rule”;

48 On page twelve, subdivision 3.2.2, on line three, after the
49 word “manufacturer” by striking out the word “whose chief
50 place of business is outside of the State of West Virginia”;
51 and

52 On page twenty-seven, following paragraph 13.2.1.3, by
53 inserting a new paragraph designated as 13.2.1.4, to read as
54 follows:

55 “13.2.1.4. The provisions of this rule and W. Va. Code §
56 11-16-1 et. seq. shall be part of all franchise agreements
57 subject to the provisions of W. Va. Code § 11-16-21 and may
58 not be altered by the parties.”;

59 On page twenty, subdivision 6.1.14, by striking out the
60 word “and” and the comma;

61 On page twenty, subdivision 6.1.15, by changing the
62 period to a semicolon and inserting the word “and” and a
63 comma;

64 And,

65 On page twenty, following subdivision 6.1.15, by
66 inserting a new subdivision, designated as 6.1.16, to read as
67 follows:

68 “6.1.16. For any person to manufacture, sell, transport,
69 deliver, furnish, purchase, consume or possess any
70 nonintoxicating beer except as provided by the laws of this
71 state or rules lawfully promulgated by the Commissioner.”.

§64-7-2. Insurance Commissioner.

1 (a) The legislative rule filed in the State Register on the
2 twenty-seventh day of July, two thousand six, authorized
3 under the authority of section ten, article two, chapter thirty-
4 three, of this code, modified by the Insurance Commissioner
5 to meet the objections of the Legislative Rule-Making
6 Review Committee and refiled in the State Register on the
7 twentieth day of December, two thousand six, relating to the
8 insurance Commissioner (rate filing requirements for title
9 insurance companies, 114 CSR 77), is authorized with the
10 following amendment:

11 On page one, section 3, subsection 3.3, line thirty-five,
12 following the words “household purposes”, by striking out
13 the comma and the words “where the insurance affords
14 coverage in whole or in part to the person occupying the
15 property”.

16 (b) The legislative rule filed in the State Register on the
17 twenty-seventh day of July, two thousand six, authorized
18 under the authority of section ten, article two, chapter thirty-
19 three, of this code, modified by the Insurance Commissioner
20 to meet the objections of the Legislative Rule-Making

21 Review Committee and refiled in the State Register on the
22 twentieth day of December, two thousand six, relating to the
23 insurance Commissioner (individual limited health benefits
24 plans, 114 CSR 78), is authorized with the following
25 amendment:

26 On page two, section five, subsection 5.3, line eighteen,
27 by striking out the word “An” and inserting in lieu thereof the
28 following: “Except as provided in section three, article
29 fifteen-d, chapter thirty-three of the Code of West Virginia,
30 an”;

31 And,

32 On page three, section six, after subsection 6.3., by
33 inserting a new subsection, designated subsection 6.4., to
34 read as follows:

35 “6.4. Before approving any plan or policy under this rule,
36 the Commissioner must find that the plan or policy furthers
37 the legislative purpose of W. Va. Code §33-15D-1, *et seq.*, by
38 providing substantial preventative care and primary care
39 benefits. This subsection does not apply to any plan or policy
40 approved by the Commissioner prior to the effective date of
41 this rule unless and until the provider of the plan or policy
42 makes a subsequent filing with regard to such plan or
43 policy.”

44 (c) The legislative rule filed in the State Register on the
45 twenty-seventh day of July, two thousand six, authorized
46 under the authority of section ten, article two, chapter thirty-
47 three, of this code, modified by the Insurance Commissioner
48 to meet the objections of the Legislative Rule-Making
49 Review Committee and refiled in the State Register on the
50 twentieth day of December, two thousand six, relating to the
51 insurance Commissioner (group limited health benefits plans,
52 114 CSR 79), is authorized, with the following amendment:

53 On page two, section seven, after subsection 7.3., by
54 inserting a new subsection, designated subsection 7.4., to
55 read as follows:

56
57 “7.4. Before approving any plan or policy under this rule,
58 the Commissioner must find that the plan or policy furthers
59 the legislative purpose of W. Va. Code §33-16F-1, *et seq.*, by
60 providing substantial preventative care and primary care
61 benefits. This subsection does not apply to any plan or policy

62 approved by the Commissioner prior to the effective date of
63 this rule unless and until the provider of the plan or policy
64 makes a subsequent filing with regard to such plan or
65 policy.”.

§64-7-3. Racing Commission.

1 The legislative rule filed in the State Register on the
2 twenty-eighth day of July, two thousand six, authorized under
3 the authority of section six, article twenty-three, chapter
4 nineteen, of this code, modified by the Racing Commission
5 to meet the objections of the Legislative Rule-Making
6 Review Committee and refiled in the State Register on the
7 seventeenth day of January, two thousand seven, relating to
8 the Racing Commission (thoroughbred racing, 178 CSR 1),
9 is authorized, with the following amendment:

10
11 On page four, subsection 2.53, after the word “substance”
12 by striking out the comma;

13 On page fifty-eight, subsection 66.10., after the word
14 “electrolytes.” by striking out the words “Prerace-testing”
15 and inserting in lieu thereof the words “Pre-race testing”;

16 On page fifty-eight, subsection 66.10., after the words “If
17 testing” by striking out “post race” and inserting in lieu
18 thereof the word “post-race”;

19 On page fifty-eight, subsection 66.10., after the words
20 “dioxide concentration.” by striking out the word “If” and
21 capitalizing the word “the”;

22 On page fifty-eight, subsection 66.10., after the words
23 “racing chemist” by inserting the words “shall inform the
24 stewards if he or she”;

25 On page fifty-eight, subsection 66.10., after the words
26 “per liter” by changing the comma to a period and by striking
27 out the remainder of the subsection;

28 On page fifty-eight, subsection 66.11., by striking out the
29 word “shall” and inserting in lieu thereof the word “do”;

30 On page sixty-three, by striking out subdivision 73.2.1.
31 through subparagraph 73.2.1.1.c. and inserting in lieu thereof
32 the following:

33 “73.2.a. Acting with reasonable cause, the stewards or a
34 designated representative of the Racing Commission may
35 direct any licensee, occupational permit holder or employee
36 to deliver a specimen of urine in the presence of a designated
37 person or subject himself or herself to the taking of a sample
38 of blood or other bodily fluids by a designated person.”

39 And,

40 On pages sixty-three and sixty-four, by redesignating
41 subdivisions 73.2.2. through 7.3.5. as subdivisions 73.2.b.
42 through 73.2.e.

§64-7-4. Tax Department.

1 (a) The legislative rule filed in the State Register on the
2 twenty-fifth day of July, two thousand six, authorized under
3 the authority of section five, article ten, chapter eleven, of
4 this code, modified by the Tax Department to meet the
5 objections of the Legislative Rule-Making Review
6 Committee and refiled in the State Register on the second day
7 of November, two thousand six, relating to the Tax
8 Department (abusive tax shelters, 110 CSR 10J), is
9 authorized, with the following amendments:

10 On page five, paragraph 3.2.17.1., on line three, by
11 striking out “3.2.13.1” and inserting in lieu thereof “3.2.13”;

12 On page fifteen, subdivision 6.3.2., by striking out the
13 words “Makes or causes another person to make a false or
14 fraudulent statement with respect to securing a tax benefit or
15 a gross valuation as to any material matter, and”;

16 And,

17 On page seventeen, subdivision 7.3.2., by striking out the
18 subdivision in its entirety and renumbering the remaining
19 subdivision.

20 (b) The legislative rule filed in the State Register on the
21 twenty-second day of December, two thousand five,
22 authorized under the authority of section five, article ten,
23 chapter eleven, of this code, modified by the Tax Department
24 to meet the objections of the Legislative Rule-Making
25 Review Committee and refiled in the State Register on the
26 eighth day of June, two thousand six, relating to the Tax
27 Department (Consumers Sales and Service Tax and Use Tax

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28 - reduced sales tax on food, 110 CSR 15H), is authorized,
29 with the following amendment:

30 On page eight, section 5.1, line one, after the word
31 "Section", by striking out "2" and inserting in lieu thereof
32 "3".

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



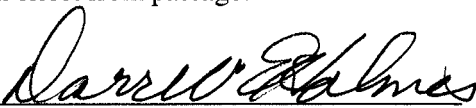
Chairman Senate Committee



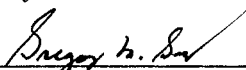
Chairman House Committee

Originating in the House.

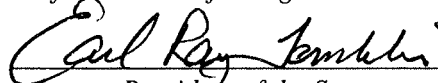
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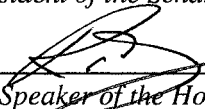
Clerk of the Senate



Clerk of the House of Delegates

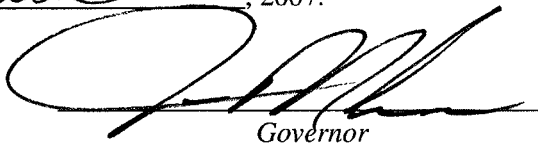


President of the Senate



Speaker of the House of Delegates

The within is appended this the 19th
day of March, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 15 2007

Time 3:50pm