

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4242

By Delegate Foster

[Originating in the Committee on Government
Organization; reported on February 15, 2022]

1 A BILL to amend and reenact §64-10-1 *et. seq.* of the Code of West Virginia, 1931, as amended,
2 all relating generally to authorizing certain agencies of the Department of Commerce to
3 promulgate legislative rules; authorizing the rules as filed, as modified, and as amended
4 by the Legislative Rule-Making Review Committee; authorizing the Division of Labor to
5 promulgate a legislative rule relating to child labor; authorizing the Office of Miners' Health,
6 Safety and Training to promulgate a legislative rule relating to the safety of those
7 employed in and around surface mines in West Virginia; authorizing the Office of Miners'
8 Health, Safety and Training to promulgate a legislative rule relating to the first-aid training
9 of shaft and slope employees; authorizing the Office of Miners' Health, Safety and Training
10 to promulgate a legislative rule relating to substance abuse screening, standards, and
11 procedures; authorizing the Division of Natural Resources to promulgate a legislative rule
12 relating to the revocation of hunting and fishing licenses; authorizing the Division of Natural
13 Resources to promulgate a legislative rule relating to special motorboating; authorizing
14 the Division of Natural Resources to promulgate a legislative rule relating to public
15 shooting ranges; authorizing the Division of Natural Resources to promulgate a legislative
16 rule relating to hunting; authorizing the Division of Natural Resources to promulgate a
17 legislative rule relating to the commercial sale of wildlife; and authorizing the Division of
18 Natural Resources to promulgate a legislative rule relating to lifetime hunting, trapping,
19 and fishing licenses.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 10. AUTHORIZATION FOR DEPARTMENT OF COMMERCE TO
PROMULGATE LEGISLATIVE RULES.**

§64-10-1. Division of Labor.

1 The legislative rule filed in the State Register on July 30, 2021, authorized under the
2 authority of §21-6-11 of this code, modified by the Division of Labor to meet the objections of the

3 Legislative Rule-Making Review Committee and refiled in the State Register on September 1,
4 2021, relating to the Division of Labor (Child Labor, 42 CSR 09), is authorized.

§64-10-2. Office of Miners' Health, Safety and Training.

1 (a) The legislative rule filed in the State Register on June 11, 2021, authorized under
2 the authority of §22A-1-42 of this code, modified by the Office of Miners' Health, Safety And
3 Training to meet the objections of the Legislative Rule-Making Review Committee and refiled in
4 the State Register on August 24, 2021, relating to the Office of Miners' Health, Safety And Training
5 (Rule Governing the Safety of Those Employed in and Around Surface Mines in West Virginia, 56
6 CSR 03), is authorized.

7 (b) The legislative rule filed in the State Register on June 11, 2021, authorized under
8 the authority of §22A-7-6 of this code, relating to the Office of Miners' Health, Safety and Training
9 (Rule Governing First-Aid Training of Shaft and Slope Employees, 56 CSR 11), is authorized.

10 (c) The legislative rule filed in the State Register on July 30, 2021, authorized under
11 the authority of §22A-1A-2 of this code, modified by the Office of Miners' Health, Safety and
12 Training to meet the objections of the Legislative Rule-Making Review Committee and refiled in
13 the State Register on August 24, 2021, relating to the Office Miners' Health, Safety and Training
14 (Substance Abuse Screening, Standards and Procedures, 56 CSR 19), is authorized.

§64-10-3. Division of Natural Resources.

1 (a) The legislative rule filed in the State Register on July 30, 2021, authorized under
2 the authority of §20-1-7 of this code, modified by the Division of Natural Resources to meet the
3 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
4 August 31, 2021, relating to the Division of Natural Resources (Revocation of Hunting and Fishing
5 Licenses, 58 CSR 23), is authorized.

6 (b) The legislative rule filed in the State Register on July 30, 2021, authorized under
7 the authority of §20-7-22 of this code, relating to the Division of Natural Resources (Special
8 Motorboating Regulations, 58 CSR 27), is authorized.

9 (c) The legislative rule filed in the State Register on July 30, 2021, authorized under
10 the authority of §20-3-2 of this code, modified by the Division of Natural Resources to meet the
11 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
12 August 31, 2021, relating to the Division of Natural Resources (Public Shooting Ranges, 58 CSR
13 38), is authorized.

14 (d) The legislative rule filed in the State Register on July 30, 2021, authorized under
15 the authority of §20-1-7 of this code, relating to the Division of Natural Resources (General
16 Hunting, 58 CSR 49), is authorized.

17 (e) The legislative rule filed in the State Register on July 30, 2021, authorized under
18 the authority of §20-2-11 of this code, modified by the Division of Natural Resources to meet the
19 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
20 December 29, 2021, relating to the Division of Natural Resources (Commercial Sale of Wildlife,
21 58 CSR 63), is authorized with the amendment set forth below:

22 On page 5, section 8.1, by striking out subsection 8.1 in its entirety and inserting in lieu
23 thereof a new subsection 8.1 to read as follows:

24 “§58-63-8. Penalties.

25 8.1. Any person accused of violating any provision of this rule may, in the discretion of the
26 Director, be referred to the county prosecutor in the county of the alleged offense for potential
27 prosecution of a misdemeanor or felony. If the county prosecutor determines that a referred
28 violation of this rule meets the act and state of mind requirements for criminal liability under West
29 Virginia law, upon conviction thereof, the violator may be punished by a fine of up to a \$500 or up
30 to 30 days of incarceration in the county jail, or a combination of fine and incarceration. As
31 applicable, the violation may, in the discretion of the county prosecutor, be prosecuted pursuant
32 to and sentenced by a court in accordance with W.Va. Code Chapter 61: *Provided*, That
33 convictions for violations of this rule may only be subject to incarceration if the rule violation

34 convicted of posed a substantial risk to life or public safety, or in fact caused actual substantial
35 harm resulting from the violation.”

36 (f) The legislative rule filed in the State Register on July 30, 2021, authorized under
37 the authority of §20-2B-7 of this code, modified by the Division of Natural Resources to meet the
38 objections of the Legislative Rule-Making Review Committee and refiled in the State Register on
39 August 31, 2021, relating to the Division of Natural Resources (Lifetime Hunting, Trapping, and
40 Fishing Licenses, 58 CSR 67), is authorized.