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TWENTY-SEVENTH DAY



Monday, March 6, 2017

TWENTY-SEVENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Friday, March 3, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

H. B. 2526, Classifying additional drugs to Schedules I, II, IV and V of controlled substances,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2526 – “A Bill to amend and reenact §60A-2-201, §60A-2-204, §60A-2-206, §60A-2-210 and §60A-2-212 of the Code of West Virginia, 1931, as amended, all relating to classifying additional drugs to Schedules I, II, IV and V of controlled substances; and adding a provision relating to the scheduling of a cannabidiol in a product approved by the Food and Drug Administration,”

With the recommendation that the committee substitute do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2631, Relating to the standards for disposition of complaint proceedings,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 2631) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2690, Terminating the West Virginia Board of Registration of Foresters while preserving essential protections against misrepresentation,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (H. B. 2690) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2628, Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine,

And reports the same back with the recommendation that it do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

H. B. 2503, Relating to the rule-making authority for Board of Osteopathic Medicine,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2503 - "A Bill to repeal §30-14-15 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-14-14 of said code, all relating to the rulemaking authority for Board of Osteopathic Medicine,"

And,

H. B. 2540, Permitting a person to practice certain professions for limited time for a charitable function,

And reports back a committee substitute therefor, with a new title, as follows:

Com. Sub. for H. B. 2540 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-21, relating to authorizing a person to practice professions and occupations for a charitable function; provides qualifications for volunteers; provides volunteers may be compensated; limits volunteer authorization to twenty-one days; requires information be provided to the applicable board; requires record keeping of volunteer authorizations; and provides boards may not charge a fee for charitable practice,"

With the recommendation that the committee substitutes each do pass.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 4 - "A Bill to amend and reenact §30-3-10a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3E-14; to amend and reenact §30-4-15 of said code; to amend and reenact §30-5-17 of said code; to amend and reenact §30-7-6a of said code; to amend said code by adding thereto a new section, designated §30-7A-6a; to amend and reenact §30-8-16 of said code; to amend and reenact §30-14-12b of said code; to amend said code by adding thereto a new section, designated §30-16-7a; to amend and reenact §30-20-13 of said code; to amend and reenact §30-21-17 of said code; and to amend and reenact §30-28-8a of said code, all relating to allowing specified licensed health care professionals to donate time to the care of indigent and needy in a clinical setting; providing for special volunteer license for licensed practical nurses and chiropractors; and providing that a special volunteer license for any health care professional for which a special volunteer license is allowed is not required for a charitable function not exceeding seven days"; which was referred to the Committee on Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 410 – "A Bill to amend and reenact §20-2-19 of the Code of West Virginia, 1931, as amended, relating to marking traps with a Division of Natural Resources identification number"; which was referred to the Committee on Agriculture and Natural Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 439 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1-9, relating to venue for civil and criminal actions arising from or committed on the property comprising the Salem Correctional Center"; which was referred to the Committee on the Judiciary.

Resolutions Introduced

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegate Miley:

H. J. R. 22 – "Proposing an amendment to the Constitution of the State of West Virginia, amending article X thereof by adding thereto a new section, designated section twelve, relating to authorizing the Legislature to issue and sell state bonds not exceeding the aggregate amount of \$1,600,000,000 to be used for improvement and construction of state roads; numbering and designating such proposed amendment; authorizing a special election on the ratification or rejection of the amendment to take place in 2017 to be set by the Governor and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on Finance then the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Hanshaw and Shott:

H. B. 2790 - "A Bill to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend and reenact §6-7-2a of said code; to amend said code by adding thereto a new section, designated §19-1-3b; to amend and reenact

§19-1A-5 of said code; to amend and reenact §19-1B-3 of said code; and to amend and reenact §19-12A-5 of said code, all relating to transferring the Division of Forestry from the Department of Commerce to the Department of Agriculture; eliminating references in code showing the Division of Forestry as part of the Department of Commerce; transferring all authorities, powers and duties of the Division of Forestry to the Department of Agriculture; ensuring all legislative rules currently in effect remain in effect as if they were proposed by the Division of Forestry under the Department of Agriculture; making the Director of the Division of Forestry a position hired by the Commissioner of Agriculture rather than a position appointed by the Governor; and making the Director of the Division of Forestry a will and pleasure employee of the Commissioner of Agriculture rather than the Governor"; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates White, Westfall, Moore, Lane, Marcum, Frich, Storch and Ward:

H. B. 2791 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §14-1A-1, §14-1A-2 and §14-1A-3, all relating to the creation of the Debt Resolution Services Division within the Auditor's office"; to the Committee on Government Organization.

By Delegates Arvon, Hill, Walters and Martin:

H. B. 2792 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-1-23, relating to requiring the Library Commission to survey the libraries of the state; requiring the Library Commission develop a status report and ten-year plan for public libraries; requiring a report to the Governor and the Legislature; and posting the report electronically"; to the Committee on Government Organization.

By Delegates Marcum, Phillips, Ellington, Rodighiero, R. Miller, McGeehan, Folk, Walters, Hamrick, Diserio and Zatezalo:

H. B. 2793 - "A Bill to amend and reenact §3-1-17 of the Code of West Virginia, 1931, as amended, relating to the nonpartisan election of county superintendents of schools; and providing that the qualifications duties and compensation remain subject to article four, chapter eighteen of this code"; to the Committee on Education then the Judiciary.

By Delegates Frich, Upson, Westfall and White:

H. B. 2794 - "A Bill to amend and reenact §46A-2-128 of the Code of West Virginia, 1931, as amended, relating to the means of giving notice to a debt collector of a consumer's representation by legal counsel"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates A. Evans, R. Romine, Hamilton and Rowan:

H. B. 2795 - "A Bill to amend and reenact §18A-1-1 of the Code of West Virginia, 1931, as amended, relating to clarifying a director of a multicounty vocational technical school is a principal"; to the Committee on Education.

By Delegate Hanshaw:

H. B. 2796 - "A Bill to amend and reenact §15-1J-2 and §15-1J-4 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia National Guard entering into contracts and subcontracts for specialized technical services"; to the Committee on the Judiciary.

By Delegates O'Neal, Shott, Hanshaw, Sobonya, Kessinger, N. Foster, G. Foster and Overington:

H. B. 2797 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-8-23, relating to codifying statutory immunity for government agencies

and officials from actions of third-parties using documents or records of governmental agencies for unlawful acts”; to the Committee on the Judiciary.

By Delegates O’Neal, Shott, Hanshaw, Sobonya and Overington:

H. B. 2798 - “A Bill to amend and reenact §3-5-23 of the Code of West Virginia, 1931, as amended; to clarify provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement, preventing candidates from a political party from using the provisions of the section to seek candidacy for office”; to the Committee on the Judiciary.

By Delegates G. Foster, Higginbotham, Householder, Kessinger, Hill, N. Foster, Cowles, Fast, Summers, R. Miller and Isner:

H. B. 2799 - “A Bill to amend and reenact §21-6-3 of the Code of West Virginia, 1931, as amended, relating to prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor’s work permit unless required by the prospective employer”; to the Committee on Education then the Judiciary.

By Delegates Frich, Butler, Longstreth, Westfall, Storch, Walters, Ambler, Householder and C. Miller:

H. B. 2800 - “A Bill to amend and reenact §15-2D-3 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §15-2D-8, all relating generally to limiting access to state property and secured facilities to persons who have been screened and authorized through the Division of Protective Services; requiring service providers to have employees submit to federal and state background checks; requiring spending units to provide vendor and employee information within a reasonable, advance period; providing for the issuance and use of secure electronic keys for access to buildings or designated areas of the state properties; providing an application process for state agencies for employee access; authorizing the collection of fees; and requiring notification of the loss of electronic keys and termination of authorized access”; to the Committee on Finance.

By Delegate Miley

[By Request of the Executive]:

H. B. 2801 - “A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017 in the amount of \$101,700,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701”; to the Committee on Finance.

By Delegates Rohrbach and Hicks:

H. B. 2802 - “A Bill to amend and reenact §17A-6-25 of the Code of West Virginia, 1931, as amended, relating to permitting inspectors working within the Division of Dealer Services of the Division of Motor Vehicles to carry a concealed weapon on duty”; to the Committee on Roads and Transportation then the Judiciary.

By Delegate Miley

[By Request of the Executive]:

H. B. 2803 - “A Bill to repeal §17-16A-18a, §17-16A-23 and §17-16A-30 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-16A-1, §17-16A-5, §17-16A-6, §17-16A-10, § 17-16A-11, §17-16A-13, §17-16A-13a, §17-16A-18, §17-16A-21, §17-16A-22 and §17-16A-29 of said code; to amend said code by adding thereto a new section, designated §17-16A-11a; to amend and reenact §17-16D-3 of said code; to amend said code by adding thereto a new section, designated as §17A-2-25; to amend and reenact §17A-3-7 of said code; and to amend said code by adding thereto a new section, designated §17A-10-17, all relating generally to the West Virginia Parkways Authority; defining certain terms; adding the power of the authority to study, investigate and evaluate,

and, if feasible, develop and implement, a 'single fee' program; adding the power of the authority to impose in connection with any 'single fee' program a flat fee in connection with any or all certificates of passenger motor vehicle registration and renewal thereof by the Division of Motor Vehicles; adding the power of the authority to enter into reciprocal toll enforcement agreements; creating and designating a special revenue account within the State Road Fund known as the State Road Construction Account; authorizing the deposit of proceeds of parkway revenue bonds to the State Road Construction Account; creating and designating a special revenue account within the State Treasury known as the West Virginia Parkways Authority Single Fee Program Fund; clarifying notice and public meeting requirements and procedures for fixing initial rates or tolls or increasing or changing rates or tolls; clarifying the power of the Parkways Authority to fix rates or tolls for Corridor 'L' toll collection facility; expanding the authority of the Parkways Authority to issue revenue bonds or refunding revenue bonds for parkways projects and for the West Virginia Turnpike; eliminating approval by county commissions and establishment by Governor of local committees prior to approval of any parkway project; authorizing electronic toll collection and enforcement of tolls on all roads, highways and bridges in the state; adding the power of the Division of Motor Vehicles to act as collection agent for the authority under any 'single fee' program; and expanding the grounds for refusing to register a motor vehicle"; to the Committee on Roads and Transportation then Finance.

By Delegates Lane, Ferro, Williams, Phillips, Maynard and Robinson:

H. B. 2804 - "A Bill to amend and reenact §30-1-7a of the Code of West Virginia, 1931, as amended, relating to removing chiropractors from the list of medical professions required to obtain continuing education on mental health conditions common to veterans and family members"; to the Committee on Veterans' Affairs and Homeland Security then Health and Human Resources.

By Delegates Nelson, Boggs, Ambler, Anderson, Frich, Hamilton, C. Miller, Walters, Longstreth, Pethel and Sponaugle:

H. B. 2805 - "A Bill finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof"; to the Committee on Finance.

By Delegates Hamrick, Miley, Iaquinta and Queen:

H. B. 2806 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-9o, relating to specifying exemption from the consumers sales and service tax and use tax for purchases of certain services and tangible personal property sold for the repair, remodeling and maintenance of certain specified aircraft; defining terms; and specifying method for claiming exemption"; to the Committee on Finance.

By Delegates Storch, Fleischauer, Blair, Pyles, Frich, Longstreth, Hornbuckle, Fluharty, Upson, Sypolt and Hamilton:

H. B. 2807 - "A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended, relating to the "Equal Pay Act of 2017"; making it unlawful for an employer to require, as a condition of employment, that an employee refrain from disclosing information about his or her wages, benefits, or other compensation or sharing information about another employee's wages, benefits, or other compensation; making it unlawful for an employer to prohibit employees from disclosing information about his or her wages, benefits, or other compensation or sharing information about another employee's wages, benefits, or other compensation"; to the Committee on Industry and Labor then the Judiciary.

House Calendar**Third Reading**

Com. Sub. for H. B. 2459, Relating to regulation of health care and the certificate of need process; on third reading, coming up in regular order, was read a third time.

Delegates Criss, Boggs, Hartman, Atkinson, Rohrbach, C. Miller and Howell requested to be excused from voting on the passage of Com. Sub. for H. B. 2459 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 51**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Martin.

Absent and Not Voting: Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2459) passed.

On motion of Delegate Summers, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 2459 – “A Bill to repeal §16-2D-5f of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-2D-2, §16-2D-3, §16-2D-4, §16-2D-9, §16-2D-10, §16-2D-11, §16-2D-13 and §16-2D-16 of said code, all relating to regulation of health care; updating the certificate of need process; defining terms; adding exemptions; clarifying exemptions; and clarifying the appeals process.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 52**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Ellington.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2459) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Com. Sub. for H. B. 2509, Relating to the practice of telemedicine; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 53**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, Gearheart, Marcum and Pushkin.

Absent and Not Voting: Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2509) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 54**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and Gearheart.

Absent and Not Voting: Ellington.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2509) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2590, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 55**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Fleischauer.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2590) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 56**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Ellington and Fleischauer.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2590) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2594, Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 57**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Paynter.

Absent and Not Voting: Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2594) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 58**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Howell.

Absent and Not Voting: Ellington.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2594) takes effect from its passage.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

H. B. 2653, Extending the Multi-State Real-Time Tracking System; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 59**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Ellington.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2653) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Second Reading

Com. Sub. for H. B. 2367, Establishing a criminal offense of organized retail crime; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2579, Increasing the penalties for transporting controlled substances; on second reading, coming up in regular order, was read a second time.

Delegates Canestraro and Fluharty moved to amend the bill on page one, section four hundred nine, line seven, by striking out the word “ten” and inserting in lieu thereof the word “five” and by striking out the word “thirty” and inserting in lieu thereof the word “twenty”.

And,

On page one, section four hundred nine, line eleven, by striking out the word “five” and inserting in lieu thereof the word “two” and by striking out the word “fifteen” and inserting in lieu thereof the word “ten”.

On the adoption of the amendment, Delegate McGeehan demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 60**), and there were—yeas 29, nays 70, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hill, Hornbuckle, Iaquina, Longstreth, Lynch, McGeehan, Miley, R. Miller, Moye, Pushkin, Pyles, Robinson, Rowe, Sponaugle and Williams.

Absent and Not Voting: Ellington.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegates Rowe, Fluharty and Robinson moved to amend the bill on page one, section four hundred nine, line sixteen, by striking out the period and inserting a colon, and the following: “*Provided*, That any person transporting marihuana pursuant to a lawful prescription from another jurisdiction to possess marihuana, is exempt from the provisions of this section.”

Delegate Cowles arose to a point of order as to the germaneness of the amendment.

To the point of order, the Speaker replied that the purpose of the amendment went beyond the fundamental purpose of the bill and ruled that the amendment was not germane.

Delegates McGeehan and Folk moved to amend the bill on page two, section four hundred nine, line twenty-five, following the period, by inserting a new subsection (d), to read as follows:

“(d) The sentencing judge may, at his or her discretion, suspend or lessen any sentence provided for pursuant to this section.”

On the adoption of the amendment, Delegate McGeehan demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 61**), and there were—yeas 28, nays 71, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Brewer, Byrd, Caputo, Ferro, Fleischauer, Fluharty, Folk, Hill, Hornbuckle, Iaquina, Longstreth, Lynch, Marcum, McGeehan, Miley, Paynter, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Thompson, Wagner, Williams and Wilson.

Absent and Not Voting: Ellington.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegates Folk and McGeehan moved to amend the bill on page two, section four hundred nine, line twenty-five, following the period, by inserting a subsection (d) to read as follows:

“(d) Notwithstanding any provision of this code to the contrary, all increased penalties specified in Article 4. Section 60A-4-409 of the code of West Virginia, 1931, and in a proper criminal court proceeding, the jury will be granted the power to judge the just application of the law and to deliver a verdict according to conscience. The Judge shall inform the jury with the following instruction, *“Members of the jury, our nation’s second president, John Adams stated, “It is not only the juror’s right, but his duty to find the verdict according to his own best understanding, judgment and conscience, though in direct opposition to the instruction of the court. “Ladies and Gentlemen, the jury is the judges of the law as well as the facts of the case. So that whatever I tell you about the law, while it is intended to be helpful to you in reaching a just and proper verdict in the case, it is not binding upon you as members of the jury and you may accept or reject it. And you may apply the law as you apprehend it to be in the case. If the jury determines any section of this code to be unjust, or immoral, or against the principle of proportionality, it is their solemn duty to invalidate said code.”*

On the adoption of the amendment, Delegate Folk demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 62**), and there were—yeas 5, nays 94, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Folk, Hornbuckle, McGeehan, Paynter and Sponaugle.

Absent and Not Voting: Ellington.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was ordered to engrossment and third reading.

Com. Sub. for H. B. 2674, Relating to access to and receipt of certain information regarding a protected person; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2678, Changing the amounts of prejudgment and post-judgment interest to reflect today’s economic conditions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2691, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2725, Restricting the authority of the Board of Barbers and Cosmetologists to regulate the use of commonly available, retail beauty products; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

S. B. 176, Repealing article concerning detection of tuberculosis, high blood pressure and diabetes,

And,

S. B. 188, Correcting definition of “telehealth” in medication-assisted treatment programs.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Ellington.

Miscellaneous Business

Delegate Thompson asked and obtained unanimous consent that the remarks of Delegate Marcum regarding the amendment offered by Delegates Canestraro and Fluharty to Com. Sub. for H. B. 2579 be printed in the Appendix to the Journal.

Delegate Westfall filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2313.

Delegate Isner filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2562.

Delegate Lovejoy filed a form with the Clerk’s Office per House Rule 94b to be added as a cosponsor of H. B. 2726.

Delegate Phillips filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 2525.

Delegate Marcum filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 2793.

Delegate Phillips filed a form with the Clerk’s Office per House Rule 94b to be removed as a cosponsor of H. B. 2793.

At 1:41 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 7, 2017.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

HOUSE CALENDAR

Tuesday, March 7, 2017

28th Day

11:00 A. M.

THIRD READING

- Com. Sub. for H. B. 2367 - Establishing a criminal offense of organized retail crime (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2579 - Increasing the penalties for transporting controlled substances (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2674 - Relating to access to and receipt of certain information regarding a protected person (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2678 - Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions (SHOTT) (JANUARY 1, 2018)
- H. B. 2691 - Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber (HOWELL) (REGULAR)
- H. B. 2725 - Restricting the authority of the Board of Barbers and Cosmetologists to regulate the use of commonly available, retail beauty products (HOWELL) (REGULAR)

SECOND READING

- S. B. 176 - Repealing article concerning detection of tuberculosis, high blood pressure and diabetes (ELLINGTON) (REGULAR)
- S. B. 188 - Correcting definition of "telehealth" in medication-assisted treatment programs (ELLINGTON) (REGULAR)

FIRST READING

- Com. Sub. for H. B. 2503 - Relating to the rulemaking authority for Board of Osteopathic Medicine (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2526 - Classifying additional drugs to Schedules I, II, IV and V of controlled substances (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2540 - Permitting a person to practice certain professions for limited time for a charitable function (HOWELL) (REGULAR)
- H. B. 2628 - Relating generally to the powers and duties of the Board of Medicine and the Board of Osteopathic Medicine (HOWELL) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

TUESDAY, MARCH 7, 2017

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON AGRICULTURE & NATURAL RESOURCES
9:00 A.M. – ROOM 215E**

**COMMITTEE ON INDUSTRY & LABOR
10:00 A.M. – ROOM 215E**

**COMMITTEE ON POLITICAL SUBDIVISIONS
1:00 P.M. – ROOM 434M**

**COMMITTEE ON HEALTH & HUMAN RESOURCES
2:00 P.M. – ROOM 215E**

**COMMITTEE ON PENSIONS & RETIREMENT
4:00 P.M. – ROOM 460M**

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