

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE
REGULAR SESSION, 2022
FORTY-NINTH DAY

Charleston, West Virginia, Tuesday, March 1, 2022

The Senate met at 11:01 a.m.

(Senator Blair, Mr. President, in the Chair.)

Prayer was offered by the Reverend Bret Layton, Superintendent of the West Virginia South District Church of the Nazarene, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Michael A. Woelfel, a senator from the fifth district.

Pending the reading of the Journal of Monday, February 28, 2022,

At the request of Senator Stover, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Senate then proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

Eng. Senate Bill 639, Providing 45-day waiting period on rate increases when water and sewer services are purchased from municipality.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 6, Holden 22 Coal Miners Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 15, US Army PVT Shirley E. Bailey Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Com. Sub. for Senate Concurrent Resolution 17, US Air Force SSGT Logan A. Young Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 21, Putnam County Veterans Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Com. Sub. for Senate Concurrent Resolution 27, US Army TSGT Harold William Schmidle Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 34, USMC SGTMAJ Herman H. Brawner Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

Senate Concurrent Resolution 46, Supporting North Central WV aviation and aerospace industries.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4408—A Bill to amend and reenact §20-5-15 and §20-5-16 of the Code of West Virginia, 1931, as amended, relating to the authority of the Division of Natural Resource to enter into certain contracts.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 4419—A Bill to amend and reenact §3-8-5c, §3-8-9b, and §3-8-10 of the Code of West Virginia, 1931, as amended, all relating to allowing candidate committees and campaign committees to make contributions to affiliated state party executive committees.

Referred to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect July 1, 2022, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4510—A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended, relating to providing for a multi-tiered system of support intervention for grade level literacy and numeracy by end of third grade; making findings; replacing

transformative intervention framework with multi-tiered system of support; addressing both reading and mathematics; requiring early learning reporting system and specifying uses; specifying minimum information and notice to parent or guardian; providing for professional learning for certain teachers and specifying subjects; ensuring certain training and instruction be provided by education preparation programs that prepare candidates seeking licensure for elementary education; removing redundant language; providing for data from the early learning reporting system to be used to inform classroom teacher's recommendation regarding grade level retention; requiring county board implementation; requiring reports by state board; requiring certain legislative appropriation and other funds be used for implementation; requiring retention in third grade of public school and public charter school student who demonstrate minimal grade level understanding and ability upon recommendation of teacher and student assistance team; providing exceptions; requiring students starting in the fourth grade who score below proficient in English language arts or mathematics on general summative assessment to continue to be provided intervention until grade level proficient.

Referred to the Committee on Education.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4516—A Bill to amend and reenact §16-5Y-6 of the Code of West Virginia, 1931, as amended, relating to the regulation of medication-assisted treatment programs; requiring written policies; and requiring public notice.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4540—A Bill to amend and reenact §5-10-2, §5-10-27b and §5-10-44 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14D-2, §7-14D-7a and §7-14D-9b; to amend and reenact §8-22A-2, §8-22A-8a and §8-22A-11; to amend and reenact §15-2-25b, §15-2-45 and §15-2-54; to amend and reenact §15-2A-2, §15-2A-6b and §15-2A-23; to amend and reenact §16-5V-2, §16-5V-8a and §16-5V-13; to amend and reenact §18-7A-3, §18-7A-14c and §18-7A-28b; to amend and reenact §18-7B-2, §18-7B-12a and §18-7B-21; to amend and reenact §20-18-2, §20-18-9 and §20-18-14; and to amend and reenact §51-9-1a, §51-9-12b and §51-9-18, all relating to updating provisions of the retirement and pension benefits of the West Virginia Public Employees Retirement System, the Deputy Sheriffs' Retirement System, the Municipal Police and Firefighters Retirement System, the State Police Death, Disability and Retirement Fund, the West Virginia State Police Retirement Fund, the Emergency Medical Services Retirement System, the Teachers Retirement System, the Teachers' Defined Contribution Retirement System, the Natural Resources Police Officers Retirement System and the Judges' Retirement Fund in order to comply with federal law; changing age threshold for plan members born after June 30, 1949; clarifying provisions regarding correction of errors; and amending definitions for each retirement system named here.

Referred to the Committee on Pensions; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. House Bill 4612—A Bill to amend and reenact §8-22A-18 of the Code of West Virginia, 1931, as amended, relating to decreasing the time period of eligibility for nonduty disability from 10 to five or more years of contributory service for the West Virginia Municipal Police Officers and Firefighters Retirement System.

Referred to the Committee on Pensions; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4613—A Bill to amend and reenact §8-22A-2 of the Code of West Virginia, 1931, as amended, relating to increasing the multiplier for use in determining accrued benefit in the West Virginia Municipal Police Officers and Firefighters Retirement System.

Referred to the Committee on Pensions; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4614—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22A-13a, relating to authorizing service credit for unused accrued annual or sick leave days for use in determining retirement benefits in the West Virginia Municipal Police Officers and Firefighters Retirement System.

Referred to the Committee on Pensions; and then to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4657—A Bill to amend the Code of West Virginia, 1931, as amended; by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, §11-13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, §11-13MM-10, §11-13MM-11, §11-13MM-12, §11-13MM-13, §11-13MM-14, §11-13MM-15, §11-13MM-16, §11-13MM-17, §11-13MM-18, §11-13MM-19, §11-13MM-20, and §11-13MM-21; all relating to the creation of the Rare Earth Element and Critical Mineral Investment Tax Credit Act; providing for a short title; providing legislative findings and purpose; defining terms including rare earth elements and critical minerals; providing for administration and enforcement of act; specifying an amount of credit allowable based on amount of qualified investment and the number of new jobs created for mining and processing of rare earth elements and critical minerals and manufacturing of products requiring rare earth elements and critical minerals; providing limitations and conditions for the qualification and use; defining in service or use; providing for the application of the credit to the corporate net income tax and the personal income tax, as appropriate; providing for methods of calculation of the qualified investment; providing for a determination and certification of the number of new jobs; providing for carry over and forfeiture of unused tax credits and redetermination of tax credits under certain circumstances; providing certain limitations for credits being carried over; providing for full recapture and partial recapture of credit under certain circumstances and imposing a recapture tax; allowing transfer of qualified investment property without forfeiture or recapture under certain circumstances; requiring identification of qualified investment property and record keeping; providing civil penalties for failure to keep required records; providing for interpretation and construction of credit; requiring timely filing of application for credit; providing for criminal and civil penalties; specifying burden of proof; requiring periodic

review and reporting; authorizing rule-making; making the credit subject to West Virginia Tax Procedure and Administration Act and West Virginia Tax Crimes and Penalties Act; providing for severability; and specifying an effective date.

Referred to the Committee on Finance.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4660—A Bill to amend and reenact §16-2D-9, of the Code of West Virginia, 1931, as amended, relating to establishing the status of beds when an intermediate care facility for individuals with intellectual disabilities permanently closes.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. Com. Sub. for House Bill 4662—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-115a, relating to licensure of Head Start facilities in this state.

Referred to the Committee on Health and Human Resources.

A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 4827—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4 and §5B-2K-5, all relating to the promotion of the development of public-use vertiports.

Referred to the Committee on Economic Development; and then to the Committee on the Judiciary.

A message from the Clerk of the House of Delegates announced the adoption by that body and requested the concurrence of the Senate in the adoption of the following resolutions:

House Concurrent Resolution 89—Requesting the Division of Highways name Bridge Numbers 41-077/00-040.83 (NB & SB) (41A221, 41A228), (37.74329, -81.20788) locally known as I-77 OVER PINEY CR (NB & SB), carrying IS 77 over PINEY CREEK and CSX RR in Raleigh County, the "Hajash Brothers Memorial Bridge".

House Concurrent Resolution 90—Requesting the Division of Highways name Bridge Number: 20-060/00-027.85 () (20A154), (38.24286, -81.55058) locally known as DUPONT OVERPASS, carrying US 60 over CR 60/15 in Kanawha County, the "U.S. Army PVT Robert (Bob) Mullins Sr. Memorial Bridge".

The preceding resolutions were referred to the Committee on Transportation and Infrastructure.

The Senate proceeded to the fourth order of business.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

Senate Bill 250, Budget Bill.

And reports back a committee substitute for same with the following title:

Com. Sub. for Senate Bill 250 (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,
Chair.

The Senate proceeded to the sixth order of business.

Senator Jeffries offered the following resolution:

Senate Resolution 46—Designating March 2, 2022, as Disability Employment State Use Program Day.

Whereas, The State Use Program was established in 1984 to serve the State of West Virginia and our statewide disability community; and

Whereas, The WV Association for Rehabilitation Facilities in partnership with WV Association for Disability Employment, work toward our collective mission of giving every individual with a disability the opportunity to have gainful employment; and

Whereas, Disability is a natural part of the human experience and in no way diminishes individuals with disabilities to live independently, enjoy self-determination, contribute to society, and fully experience economic, political, social, cultural, and educational mainstream of society; and

Whereas, Family members, friends, and members of the community can play a central role in enhancing the lives of people with disabilities, especially when provided with necessary support services, and public and private employers are aware of the capabilities of people with disabilities to be engaged in competitive work in inclusive settings; and

Whereas, The goal of the State Use Program is to provide individuals with disabilities the opportunities and support to make informed decisions, pursue meaningful productive lives, contribute to their family, community, state, and nation; in addition to having interdependent relationships with others to achieve full inclusion in society; and

Whereas, The Senate hereby recognizes the contribution that workers with disabilities make to the safe and efficient operation of government for the State of West Virginia through the State Use Program; therefore, be it

Resolved by the Senate:

That the Senate hereby designates March 2, 2022, as Disability Employment State Use Program Day; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution to the Tara Martinez, CEO of WV Association of Rehabilitation Facilities, Inc.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 54, Requesting study of tolling statute of limitations on civil actions for Consumer Credit and Protection Act.

On unfinished business, coming up in regular order, was reported by the Clerk.

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senate Resolution 43, Recognizing WV respiratory therapists during month of March.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, and on this question, Senator Caputo demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 43) adopted.

Senate Resolution 44, Recognizing Leadership Jefferson.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Geffert, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Senate Resolution 45, Designating month of March as American Red Cross month.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 64, Allowing county commissions to impose amusement tax.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 28, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Baldwin, the following amendment to the bill was reported by the Clerk:

On page one, section three-uu, line three, after the word "gain" by changing the period to a colon and inserting the following proviso: *Provided*, That no admission or amusement tax may be levied on any organization which is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Following discussion,

The question being on the adoption of Senator Baldwin's amendment to the bill, the same was put and did not prevail.

Engrossed Committee Substitute for Senate Bill 64 was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 64 pass?"

On the passage of the bill, the yeas were: Beach, Boley, Brown, Caputo, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Nelson, Phillips, Plymale, Roberts, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—26.

The nays were: Azinger, Baldwin, Geffert, Martin, Maynard, Romano, and Rucker—7.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 64) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2023.

On this question, the yeas were: Beach, Boley, Brown, Caputo, Clements, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Nelson, Phillips, Plymale, Roberts, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—26.

The nays were: Azinger, Baldwin, Geffert, Martin, Maynard, Romano, and Rucker—7.

Absent: Stover—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 64) takes effect July 1, 2023.

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

At the request of Senator Plymale, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

Eng. Com. Sub. for Senate Bill 100, Establishing secondary location for racetrack video lottery terminals.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 28, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Weld, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 19. AGRICULTURE.

ARTICLE 23. HORSE AND DOG RACING.

§19-23-12a. Pari-mutuel wagering on interstate and intrastate horse and dog racing.

(1) Notwithstanding any other provisions of this code, a racing association licensed in this state to conduct race meetings may, with the consent of the Racing Commission and the written approval of the authorized representative of a majority of the owners and trainers who hold the permit required by section two of this article at the horse racetrack, contract with any legal wagering entity in this or any other state to accept wagers on any race or races conducted by such legal wagering entity. Unless the wager becomes part of the host licensee's pari-mutuel pool, such wagering shall be conducted within the confines of such licensee's racetrack or at a hotel as defined in §16-6-3 of this code, controlled by such licensee and contiguous to the licensee's property, subject to the following requirements:

(a) That such hotel contain at least 100 rooms and be in existence on the effective date of this section;

(b) That the licensee shall have invested at least \$1 million in the hotel; and

(c) That such hotel is within one-half mile of the licensee's racetrack surface.

(2) Such horse association shall retain a basic commission not to exceed 17 and 25 one-hundredths percent of all money wagered, plus an additional amount equal to one and 75 one-hundredths percent of the amount wagered each day on all multiple wagers determined by a combination of two winning horses, including, but not limited to, the daily double, quinella and

perfecta or plus an additional amount equal to seven and seventy-five one-hundredths percent of the amount wagered each day on all trifecta wagers or any other multiple wager which involves a single betting interest on three or more horses. Breakage shall be calculated and distributed in the manner provided by §19-23-9 (c) of this code.

(3) The commission deducted by any licensee from the pari-mutuel pools on dog racing shall not exceed 16 and one-fourth percent of the total of such pari-mutuel pools for the day.

(4) Out of the commission retained or deducted by a licensee under the provisions of subsections (2) and (3) of this section, the licensee shall pay one tenth of one percent into the General Fund of the county commission of the county in which the racetrack is located, except if within a municipality, then to such municipality's general fund.

(5) The association shall pay each day a pari-mutuel pools tax calculated under the provisions of §19-23-10 of this code.

(6) After deducting the county or municipal share provided for in subsection (4) of this section and the pari-mutuel pools tax required by subsection (5) of this section, and the amount required to be paid under the terms of the contract with the legal wagering entity of this or another state and the cost of transmission, the horse racing association shall make a deposit equal to 50 percent of the remainder into the purse fund established under the provisions of §19-23-9(1)(b) of this code.

(7) All of the provisions of the Federal Interstate Horseracing Act of 1978, also known as Public Law 95-515, section 3001-3007 of title 15, U.S. Code, shall be instructive as the intent of this section.

(8) For the purposes of this section the words "legal wagering entity" shall be limited to any person engaged in horse racing or dog racing pursuant to a license or other permission granted by the state in which such person's racetrack is situated and conducting race meetings, with a pari-mutuel wagering system permitted under that state's laws and in which the participants are wagering with each other and not the operator.

(9) Notwithstanding any provision of this chapter to the contrary, a licensed racetrack may establish a secondary location for its business at any building owned or leased by the licensed racetrack within the county the licensed racetrack is located to conduct pari-mutual wagering on simulcast races so long as the licensed racetrack receives approval from the State Lottery Commission, and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations with no requirement that the second location have a racetrack: *Provided*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**ARTICLE 22A. RACETRACK VIDEO LOTTERY.****§29-22A-12. Number and location of video lottery terminals security.**

(a) A racetrack which has been licensed to conduct video lottery games has the right to install and operate up to 400 video lottery terminals at a licensed racetrack. A licensed racetrack may apply to the commission for authorization to install and operate more than 400 video lottery terminals. If the commission determines that the installation of additional machines is in the best interest of the licensed racetrack, the Lottery Commission and the citizens of this state, the commission may grant permission to install and operate additional machines.

(b) All video lottery terminals in licensed racetracks shall be physically located as follows:

(1) The video lottery location shall be continuously monitored through the use of a closed circuit television system capable of recording activity for a continuous 24-hour period. All video tapes shall be retained for a period of at least 30 days;

(2) Access to video lottery terminal locations shall be restricted to persons legally entitled by age to play video lottery games;

(3) The licensed racetrack shall submit for commission approval a floor plan of the area or areas where video lottery terminals are to be operated showing terminal locations and security camera mount locations;

(4) No video lottery terminal may be relocated without prior approval from the commission; and

(5) Operational video lottery terminals may only be located in the building or structure in which the grandstand area of the racetrack is located and in the area of the building or structure where pari-mutuel wagering is permitted under the provisions of §19-23-1 *et seq.* of this code: *Provided*, That if the commission, before November 1, 1993, has authorized any racetrack to operate video lottery terminals and offer video lottery games in a location which would not conform to the requirements of this subdivision, the racetrack may continue to use video lottery terminals registered with and approved by the commission at that nonconforming location and to offer the games and any variations or composites of the games as may be approved by the commission.

(c) A licensee shall allow video lottery games to be played only on days when live racing is being conducted at the racetrack and/or on televised racing days: *Provided*, That this restriction shall may not apply to any racetrack authorized by the commissioner prior to November 1, 1993, to operate video lottery terminals and conduct video lottery games.

(d) Security personnel shall be present during all hours of operation at each video lottery terminal location. Each license holder shall employ the number of security personnel the commission determines is necessary to provide for safe and approved operation of the video lottery facilities and the safety and well-being of the players.

(e) Notwithstanding any provision in this chapter to the contrary, a licensed racetrack may establish a secondary location for its business, including authorized operational video lottery terminals, at any building owned or leased by the licensed racetrack within the county the licensed

racetrack is located so long as the licensed racetrack receives approval from the commission, and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations: *Provided*, That if any licensed racetrack relocates operational video lottery terminals outside of a municipality, the municipality is entitled to receive the share of funds it received under §29-22A-10 and §29-22A-10b of this code up to the amount received in the fiscal year immediately preceding the relocation of the operational video lottery terminals and the excess of this amount shall be divided proportionally to the said municipality and the new municipality, if any, based on the revenues generated at each location: *Provided, however*, That the total amount of funds transferred to the municipalities may not be in excess of the percentage provided under §29-22A-10 and §29-22A-10b of this code: *Provided further*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.

§29-22C-3. Definitions.

(a) *Applicability of definitions.* — For the purposes of this article, the words or terms defined in this section, and any variation of those words or terms required by the context, have the meanings ascribed to them in this section. These definitions are applicable unless a different meaning clearly appears from the context in which the word or term is used.

(b) *Terms defined.*—

(1) "Adjusted gross receipts" means gross receipts from West Virginia Lottery table games less winnings paid to patrons wagering on the racetrack's table games.

(2) "Applicant" means any person who on his or her own behalf, or on behalf of another, has applied for permission to engage in any act or activity that is regulated under the provision of this article for which a license is required by this article or rule of the commission.

(3) "Application" means any written request for permission to engage in any act or activity that is regulated under the provisions of this article submitted in the form prescribed by the commission.

(4) "Background investigation" means a security, criminal, and credit investigation of an applicant who has applied for the issuance or renewal of a license pursuant to this article, or a licensee who holds a current license.

(5) "Commission" or "State Lottery Commission" means the West Virginia Lottery Commission created by §29-22-1 *et seq.* of this code.

(6) "Complimentary" means a service or item provided at no cost or at a reduced price.

(7) "Compensation" means any money, thing of value, or financial benefit conferred or received by a person in return for services rendered, or to be rendered, whether by that person or another.

(8) "Contested case" means a proceeding before the commission, or a hearing examiner designated by the commission to hear the contested case, in which the legal rights, duties, interests or privileges of specific persons are required by law or Constitutional right to be determined after a commission hearing, but does not include cases in which the commission issues a license, permit, or certificate after an examination to test the knowledge or ability of the applicant where the controversy concerns whether the examination was fair or whether the applicant passed the examination and does not include rulemaking.

(9) "Control" means the authority directly or indirectly to direct the management and policies of an applicant for a license issued under this article or the holder of a license issued under this article.

(10) "Designated gaming area" means one or more specific floor areas of a licensed racetrack within which the commission has authorized operation of racetrack video lottery terminals or table games, or the operation of both racetrack video lottery terminals and West Virginia Lottery table games.

(11) "Director" means the Director of the West Virginia State Lottery Commission appointed pursuant to §29-22-6 of this code.

(12) "Disciplinary action" is an action by the commission suspending or revoking a license, fining, excluding, reprimanding, or otherwise penalizing a person for violating this article or rules promulgated by the commission.

(13) "Financial interest" or "financially interested" means any interest in investments, awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under consideration for consummation by the commission. A member, employee, or agent of the commission will be considered to have a financial interest in a matter under consideration if any of the following circumstances exist:

(A) He or she owns one percent or more of any class of outstanding securities that are issued by a party to the matter under consideration by the commission; or

(B) He or she is employed by an independent contractor for a party to the matter under consideration or consummated by the commission.

(14) "Gaming equipment" means gaming tables, cards, dice, chips, shufflers, drop boxes or any other mechanical, electronic, or other device, mechanism, or equipment or related supplies used or consumed in the operation of any West Virginia Lottery table game at a licensed racetrack.

(15) "Gross receipts" means the total of all sums including valid or invalid checks, currency, tokens, coupons (excluding match play coupons), vouchers or instruments of monetary value whether collected or uncollected, received by a racetrack with table games from table gaming operations at a race track, including all entry fees assessed for tournaments or other contests.

(16) "Indirect ownership" means an interest a person owns in an entity or in property solely as a result of application of constructive ownership rules without regard to any direct ownership interest (or other beneficial interest) in the entity or property. "Indirect ownership" shall be determined under the same rules applicable to determining whether a gain or loss between related parties is recognized for federal income tax purposes.

(17) "Licensed racetrack" means a thoroughbred horse or greyhound dog racing facility licensed under both §29-22A-1 *et seq.* and §19-23-1 *et seq.* of this code.

(18) "License" means any license applied for or issued by the commission under this article, including, but not limited to:

(A) A license to act as agent of the commission in operating West Virginia Lottery table games at a licensed racetrack;

(B) A license to supply a racetrack licensed under this article to operate table games with table gaming equipment or services necessary for the operation of table games;

(C) A license to be employed at a racetrack licensed under this article to operate West Virginia Lottery table games when the employee works in a designated gaming area that has table games or performs duties in furtherance of or associated with the operation of table games at the licensed racetrack; or

(D) A license to provide management services under a contract to a racetrack licensed under this article to operate table games.

(19) "Licensee" means any person who is licensed under any provision of this article.

(20) "Lottery" means the public gaming systems or games regulated, controlled, owned, and operated by the state Lottery Commission in the manner provided by general law, as provided in this article and in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code.

(21) "Member" means a commission member appointed to the West Virginia Lottery Commission under §29-22-1 *et seq.* of this code.

(22) "National criminal history background check system" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

(23) "Own" means any beneficial or proprietary interest in any real or personal property, including intellectual property, and also includes, but is not limited to, any direct or indirect beneficial or proprietary interest in any business of an applicant or licensee.

(24) "Person" means any natural person, and any corporation, association, partnership, limited liability company, limited liability partnership, trust, or other entity, regardless of its form, structure or nature other than a government agency or instrumentality.

(25) "Player" or "Patron" means a person who plays a racetrack video lottery game or a West Virginia Lottery table game at a racetrack licensed under this article to have table games.

(26) "Player's account" means a financial record established by a licensed racetrack for an individual racetrack patron to which the racetrack may credit winnings and other amounts due to the racetrack patron and from which the patron may withdraw moneys due to the patron for purchase of tokens, chips or electronic media or other purposes.

(27) "Racetrack table games license" means authorization granted under this article by the commission to a racetrack that is already licensed under §29-22A-1 *et seq.* of this code to operate racetrack video lottery terminals and holds a valid racing license granted by the West Virginia Racing Commission pursuant to the provision of §19-23-1 *et seq.* of this code, which permits the racetrack as an agent of the commission for the limited purpose of operation of West Virginia Lottery table games in one or more designated gaming areas in one or more buildings owned or leased by the licensed racetrack on the grounds where live pari-mutuel racing is conducted by the licensee or at a secondary location consisting of any building owned or leased by the licensed racetrack within the county the licensed racetrack is located so long as the licensed racetrack receives approval from the commission.

(28) "Racetrack Table Games Fund" means the special fund in the State Treasury created in §29-22C-27 of this code.

(29) "Secondary or satellite locations" means a secondary location of a business in any building owned or leased by a licensed racetrack within the county the licensed racetrack is located to conduct pari-mutual wagering on simulcasts, video lottery terminals, sports wagering kiosks, and racetrack table games.

~~(30)~~ (29) "Significant influence" means the capacity of a person to affect substantially (but not control) either, or both, of the financial and operating policies of another person.

~~(31)~~ (30) "Supplier" means a person who the commission has identified under legislative rules of the commission as requiring a license to provide a racetrack table games licensee with goods or services to be used in connection with operation of table games.

~~(32)~~ (31) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

~~(33)~~ (32) "West Virginia Lottery table game" means any game played with cards, dice or any mechanical, electromechanical or electronic device or machine for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, poker, craps, roulette, wheel of fortune or any variation of these games similar in design or operation and expressly authorized by rule of the commission, including multiplayer electronic table games, machines and devices, but excluding video lottery, punchboards, faro, numbers tickets, push cards, jar tickets, pull tabs, or similar games.

~~(34)~~ (33) "Winnings" means the total cash value of all property or sums including currency, tokens, or instruments of monetary value paid to players as a direct result of wagers placed on West Virginia Lottery table games.

§29-22C-4. Commission duties and powers.

(a) *Duties.* — In addition to the duties set forth elsewhere in this article or in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code, the commission shall:

(1) Establish minimum standards for gaming equipment, including, but not limited to, electronic and mechanical gaming equipment;

(2) Enter into licensing agreements with facilities eligible to operate West Virginia Lottery table games for the state, providing criteria and guidelines for preservation of the state's ownership, operation, and control interests as provided by general law herein;

(3) Approve, modify, or reject game rules of play proposed by the licensee for West Virginia Lottery table games proposed to be operated at a licensed racetrack;

(4) Approve, modify, or reject minimum internal control standards proposed by the licensee governing racetrack table game operations, including the maintenance of financial records;

(5) Approve staff considered necessary by the director to oversee, inspect and monitor the operation of table games at any racetrack licensed under this article and §29-22A-1 *et seq.* of this code, including, but not limited to, inspection of designated gaming areas, gaming equipment and security equipment used in the operation of table games to assure continuous compliance with the provisions of this article, required license conditions and terms, and applicable rules of the commission;

(6) Determine eligibility of a person to hold or continue to hold a license issued under this article;

(7) License, establish standards and requirements for operation, and approve operation of a secondary location once approval of the voters certified in a local option election as set forth in §29-22C-7 of this article.

~~(7)~~ (8) Issue all licenses;

~~(8)~~ (9) Maintain a record of all licenses issued;

~~(9)~~ (10) Levy and collect the taxes imposed by this article and the fees, surcharges and civil penalties authorized, required or specified in this article or the legislative rules of the commission, and receive, accept and pay all taxes, fees, surcharges and civil penalties collected under this article into the Racetrack Table Games Fund, except as otherwise provided under this article; and

~~(10)~~ (11) Keep a public record of all commission actions and proceedings with respect to West Virginia Lottery table games.

(b) *Powers.*— In addition to the powers set forth elsewhere in this article or in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, and §29-25-1 *et seq.* of this code, the commission may:

(1) Sue to enforce any provision of this article or any rule of the commission, whether by civil action or petition for injunctive relief;

(2) Hold hearings, administer oaths, and issue subpoenas for attendance of witnesses to testify or subpoenas duces tecum for the production of documents or other evidence;

(3) Enter a licensed racetrack with West Virginia Lottery table games at any time and without notice to ensure strict compliance with this article and with the rules of the commission;

(4) Bar, for cause, any person from:

(A) Entering a designated gaming area of a licensed racetrack with table games, or the grounds of a racetrack licensed under this article; or

(B) Participating in any capacity in the play of any West Virginia Lottery table game, or in the operation of West Virginia Lottery table games;

(5) (A) Promulgate, or propose for promulgation, in accordance with the provision of §29A-3-1 *et seq.* of this code, any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article, and to amend or revoke any promulgated rule, in accordance with provisions of §29A-3-1 *et seq.* of this code, at the discretion of the commission.

(B) Promulgate rules for the operation of secondary or satellite locations. These rules may include the maximum number of allowable table games and video lottery terminals that are permissible at a secondary or satellite location.

(C) Any rule proposed by the commission before September 1, 2007 may be promulgated as an emergency rule;

(6) Upon the effective date of this article and prior to promulgation of emergency rules, the commission may accept applications, evaluate qualifications of applicants, and undertake initial review of licenses for: Racetracks under §29-22C-8 of this code; suppliers §29-22C-11 of this code; racetrack employees under §29-22C-12 of this code; and providers of management services under §29-22C-13 of this code; and

(7) Exercise any other powers necessary to effectuate the provisions of this article and the rules of the commission.

§29-22C-6. Licenses required.

(a) No person may engage in any activity in connection with a racetrack with West Virginia Lottery table games in this state for which a license is required by this article or rules of the commission unless all necessary licenses have been obtained in accordance with this article and rules of the commission.

(b) Licenses are required for the following purposes:

(1) For any person operating a racetrack West Virginia Lottery table game in the state;

(2) For any person supplying a racetrack table games licensee with gaming equipment or gaming equipment services;

(3) For any individual employed by a racetrack table games licensee in connection with the operation of West Virginia Lottery table games in the state; and

(4) For any person providing management services under a contract to a racetrack table games licensee.

(c) The commission may not grant a license to an applicant until the commission determines that each person who has control of the applicant also meets all of the qualifications the applicant must meet to hold the license for which application is made. The following persons are considered to have control of an applicant:

(1) Each person associated with a corporate applicant, including any corporate holding company, parent company or subsidiary company of the applicant, but not including a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business, who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation;

(2) Each person associated with a noncorporate applicant who directly or indirectly holds any beneficial or proprietary interest in the applicant or who the commission determines to have the ability to control the applicant; and

(3) Key personnel of an applicant, including any executive, employee or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

(d) Notwithstanding any provision of this code to the contrary, any license granted pursuant to the provisions of this section would also authorize a secondary location once approval of the voters certified in a local option election as set forth in §22-29C-7 of this code.

~~(d)~~ (e) Any license required by this article or rules of the commission is in addition to all other licenses or permits required by applicable federal, state or local law.

§29-22C-7. Local option election.

PART ONE. WEST VIRGINIA LOTTERTY TABLE GAMES.

(a) No racetrack may be licensed under this article to operate West Virginia Lottery table games until a local option election is held in the county in which pari-mutuel wagers are received at a racetrack licensed under §19-23-1 *et seq.* of this code and the voters of that county voting on the question approve having West Virginia Lottery table games at the racetrack.

(b) The county commission shall place the question on the ballot upon the receipt of a written notice from a licensed racetrack located within that county requesting that the question be placed on the ballot.

(c) The county commission of the county in which table games would be located shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for the publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date at least 30 days preceding the day of the election. A local option election shall be effective even though the date of the order of the county commission setting the election or the date of publication of notice of the election is prior to the effective date of this article if the election is otherwise held in accordance with the provisions of this section.

(d) On the local option election ballot shall be printed the following:

Shall West Virginia Lottery table games be permitted at the [name of licensed racetrack]?

[] Yes [] No

(Place a cross mark in the square next to your choice.)

(e) The local option election shall be held in conjunction with the next primary or general election scheduled more than 90 days following receipt by the county commission of the notice required by this section or at a special election: *Provided*, That upon written request by the licensed racetrack that a special election be called, the county commission shall order a special election to be held on the question within 90 days after the receipt by the county commission of that request. The county commission may require the licensed racetrack to pay the entire cost incurred by the county to hold the special election. Approval shall be by a majority of the voters casting votes at the election on the question of approval or disapproval of West Virginia Lottery table games at a licensed racetrack.

(f) If the majority votes against allowing table games at a licensed racetrack, no election on the issue shall be held for a period of 104 weeks. A local option election may thereafter be held in the manner provided in this section. The process to hold another election on the question shall start anew, as if no prior request for an election on the question had been filed with county commission and as if there had been no prior election on the question.

(g) If the majority votes for allowing West Virginia Lottery table games at a licensed racetrack facility in a county, another local option election on the issue shall not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which the horse or dog racetrack is located. The petition may be in any number of counterparts. The petition shall be in the following form:

Petition For Local Option Election

We, the undersigned legally qualified voters, resident within the County of _____, do hereby petition that a special election be held within the County of _____ upon the following question: Shall West Virginia Lottery table games be permitted at the [name of racetrack]?

Name

Address

Date

(Post office or street address)

PART TWO. SECONDARY OR SATILLITE LOCATIONS.

(a) No secondary location may be licensed pursuant to this article to operate West Virginia Lottery table games, pari-mutual wagering on simulcast, sports wagering kiosks, and video lottery terminals until a local option election is held in the county in which pari-mutual wagers are received at a racetrack licensed pursuant to §19-23-1 et seq. of this code and §29-23-1 et seq. of this code and the voters of that county voting on the question approve having a secondary location of a West Virginia Lottery table games, pari-mutual wagering on simulcast, and video lottery terminals at a secondary location operated by a racetrack licensed pursuant to §19-23-1 et seq. of this code and §29-23-1 et seq. of this code.

(b) The county commission shall place the question on the ballot upon the receipt of a written notice from a licensed racetrack located within that county requesting that the question be placed on the ballot.

(c) The county commission of the county in which the secondary location would be located shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code and the publication area for the publication shall be the county in which the election is to be held. The date of the last publication of the notice shall fall on a date at least 30 days preceding the day of the election. A local option election shall be effective even though the date of the order of the county commission setting the election or the date of publication of notice of the election is prior to the effective date of this article if the election is otherwise held in accordance with the provisions of this section.

(d) On the local option election ballot shall be printed the following:

Shall secondary or satellite locations for gaming be permitted to be operated by [name of licensed racetrack]?

Yes No

(Place a cross mark in the square next to your choice.)

(e) The local option election shall be held in conjunction with the next primary or general election scheduled more than 90 days following receipt by the county commission of the notice required by this section or at a special election: *Provided*, That upon written request by the licensed racetrack that a special election be called, the county commission shall order a special election to be held on the question within 90 days after the receipt by the county commission of that request. The county commission may require the licensed racetrack to pay the entire cost incurred by the county to hold the special election. Approval shall be by a majority of the voters casting votes at the election on the question of approval or disapproval of secondary or satellite locations operated by a licensed racetrack.

(f) If the majority votes against allowing operation of secondary or satellite locations by a licensed racetrack, no election on the issue shall be held for a period of 104 weeks. A local option election may thereafter be held in the manner provided in this section. The process to hold another election on the question shall start anew, as if no prior request for an election on the question had been filed with county commission and as if there had been no prior election on the question.

(g) If the majority votes for allowing operation of secondary or satellite locations by a licensed racetrack facility in a county, another local option election on the issue shall not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which the horse or dog racetrack is located. The petition may be in any number of counterparts. The petition shall be in the following form:

Petition For Local Option Election

We, the undersigned legally qualified voters, resident within the County of _____, do hereby petition that a special election be held within the County of _____

upon the following question: Shall secondary or satellite locations for gaming be permitted to be operated by [name of licensed racetrack]?

Name	Address	Date
------	---------	------

(Post office or street address)

§29-22C-8. License to operate a racetrack with West Virginia Lottery table games.

(a) *Racetrack table games licenses.* — The commission may issue up to four racetrack table games licenses to operate West Virginia Lottery table games in accordance with the provisions of this article. The Legislature intends that no more than four licenses to operate a racetrack with West Virginia Lottery table games in this state shall be permitted in any event.

(b) *Grant of license.* — Upon the passage of a local option election in a county in accordance with the provisions of §29-22C-7 of this code, the commission shall immediately grant a West Virginia Lottery table games license, and a license for the right to conduct West Virginia Lottery table games as assignee to the intellectual property rights of the state, to allow the licensee to conduct West Virginia table games at the licensed pari-mutuel racetrack identified on the local option election ballot, provided that racetrack holds a valid racetrack video lottery license issued by the commission pursuant to §29-22A-1 *et seq.* of this code and a valid racing license granted by the West Virginia Racing Commission pursuant to the provision of §19-23-1 *et seq.* of this code and has otherwise met the requirements for licensure under the provisions of this article and the rules of the commission.

(c) *Location.* — A racetrack table games license authorizes the operation of West Virginia Lottery table games on the grounds of the particular licensed facility identified in the racetrack video lottery license issued pursuant to §29-22A-1 *et seq.* of this code and the license to conduct horse or dog racing issued pursuant to §19-23-1 *et seq.* of this code.

(d) *Floor plan submission requirement.* — Prior to commencing the operation of any table games in a designated gaming area, a racetrack table games licensee shall submit to the commission for its approval a detailed floor plan depicting the location of the designated gaming area in which table games gaming equipment will be located and its proposed arrangement of the table games gaming equipment. Any floor plan submission that satisfies the requirements of the rules promulgated by the commission shall be considered approved by the commission unless the racetrack table games licensee is notified in writing to the contrary within one month of filing a detailed floor plan.

(e) *Management service contracts.* —

(1) *Approval.* — A racetrack table games licensee may not enter into any management service contract that would permit any person other than the licensee to act as the commission's agent in operating West Virginia Lottery table games unless the management service contract is: (A) With a person licensed under this article to provide management services; (B) is in writing; and (C) the contract has been approved by the commission.

(2) *Material change.* — The licensed racetrack table games licensee shall submit any material change in a management service contract previously approved by the commission to the commission for its approval or rejection before the material change may take effect.

(3) *Prohibition on assignment or transfer.* — A management services contract may not be assigned or transferred to a third party.

(4) *Other commission approvals and licenses.* — The duties and responsibilities of a management services provider under a management services contract may not be assigned, delegated, subcontracted, or transferred to a third party to perform without the prior approval of the commission. Third parties must be licensed under this article before providing service. The commission may by rule clarify application of this subdivision and provide exceptions to its application. The commission shall license and require the display of West Virginia Lottery game logos on appropriate game surfaces and other gaming items and locations as the commission considers appropriate.

(f) *Coordination of licensed activities.* — In order to coordinate various licensed activities within racetrack facilities, the following provisions apply to licensed racetrack facilities:

(1) The provisions of this article and of §29-22A-1 *et seq.* of this code shall be interpreted to allow West Virginia Lottery table games and racetrack video lottery operations under those articles to be harmoniously conducted in the same designated gaming area.

(2) On the effective date of this article, the provisions of §29-22C-23 of this code apply to all video lottery games conducted within a racetrack facility, notwithstanding any inconsistent provisions contained in §29-22A-1 *et seq.* of this code to the contrary.

(3) On and after the effective date of this article, vacation of the premises after service of beverages ceases is not required, notwithstanding to the contrary any inconsistent provisions of this code or inconsistent rules promulgated by the Alcohol Beverage Control Commissioner with respect to hours of sale of those beverages, or required vacation of the premises.

(g) *Fees, expiration date and renewal.* —

(1) An initial racetrack table games license fee of \$1,500,000 shall be paid to the commission at the time of issuance of the racetrack table games license, regardless of the number of months remaining in the license year for which it is issued. All licenses expire at the end of the day on June 30 each year.

(2) The commission shall annually renew a racetrack table games license as of July 1, of each year provided the licensee:

(A) Successfully renews its racetrack video lottery license under §29-22A-1 *et seq.* of this code before July 1;

(B) Pays to the commission the annual license renewal fee of \$2,500,000 required by this section at the time it files its application for renewal of its license under §29-22A-1 *et seq.* of this code; and

(C) During the current license year, the licensee complied with all provisions of this article, all rules adopted by the commission and all final orders of the commission applicable to the licensee.

(3) *Annual license surcharge for failure to construct hotel on premises.* — It is the intent of the Legislature that each racetrack for which a racetrack table games license has been issued be or become a destination tourism resort facility. To that end, it is important that each racetrack for

which a racetrack table games license has been issued operate a hotel with significant amenities. Therefore, in addition to all other taxes and fees required by the provisions of this article, there is hereby imposed, upon each racetrack for which a racetrack table games license has been issued an annual license surcharge, payable to the commission in the amount of \$2,500,000 if that racetrack does not operate a hotel on its racing property that contains at least 150 guest rooms with significant amenities within three years of the passage of the local option election in its county authorizing table games at the racetrack, provided the time for completion of the hotel shall be extended by the same number of days as the completion of the hotel is delayed by a force majeure events or conditions beyond the reasonable control of the racetrack licensee. The surcharge shall be paid upon each renewal of its racetrack table games license made after the expiration of the three year period, and may be extended by the above force majeure events or conditions, until the racetrack opens a qualifying hotel.

(4) If the licensee fails to apply to renew its license under §19-23-1 *et seq.* and §29-22A-1 *et seq.* of this code until after the license expires, the commission shall renew its license under this article at the time it renews its license under §29-22A-1 *et seq.* of this code provided the licensee has paid the annual license fee required by this section and during the preceding license year the licensee complied with all provisions of this article, all rules adopted by the commission and all final orders of the commission applicable to the licensee.

(h) *Facility qualifications.* — A racetrack table games licensee shall demonstrate that the racetrack with West Virginia Lottery table games will: (1) Be accessible to disabled individuals in accordance with applicable federal and state laws; (2) be licensed in accordance with this article, and all other applicable federal, state, and local laws; and (3) meet any other qualifications specified in rules adopted by the commission.

(i) *Surety bond.*— A racetrack table games licensee shall execute a surety bond to be given to the state to guarantee the licensee faithfully makes all payments in accordance with the provisions of this article and rules promulgated by the commission. The surety bond shall be:

(1) In the amount determined by the commission to be adequate to protect the state against nonpayment by the licensee of amounts due the state under this article;

(2) In a form approved by the commission; and

(3) With a surety approved by the commission who is licensed to write surety insurance in this state. The bond shall remain in effect during the term of the license and may not be canceled by a surety on less than 30 days' notice in writing to the commission. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

(j) *Authorization.* — A racetrack table games license authorizes the licensee act as an agent of the commission in operating an unlimited amount of West Virginia Lottery table games while the license is active, subject to subsection (d) of this section. A racetrack table games license is not transferable or assignable and cannot be sold or pledged as collateral.

(k) *Audits.* — When applying for a license and annually thereafter prior to license renewal, a racetrack table games licensee shall submit to the commission an annual audit, by a certified public accountant, of the financial transactions and condition of the licensee's total operations. The audit shall be made in accordance with generally accepted accounting principles and applicable federal and state laws.

(l) *Commission office space.* — A racetrack table games licensee shall provide to the commission, at no cost to the commission, suitable office space at the racetrack facility for the commission to perform the duties required of it by this article and the rules of the commission.

(m) Notwithstanding anything in this chapter to the contrary, a licensed racetrack may establish a secondary location for its business, including authorized racetrack table games, video lottery terminals, sports wagering kiosks, and pari-mutual wagering on simulcasts at any building owned or leased by the licensed racetrack within the county the licensed racetrack is located so long as such licensed racetrack receives approval from the commission and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations: *Provided*, That if any licensed racetrack relocates racetrack table games outside of a municipality, said municipality shall be entitled to receive the share of funds it received under §29-22C-27 of this code up to the amount received in the fiscal year immediately preceding the relocation of the racetrack table games and the excess of this amount shall be divided proportionally to that municipality and the new municipality, if any, based on the revenues generated at each location: *Provided, however*, That the total amount of funds transferred to the municipalities may not be in excess of the percentage provided for under §29-22C-27 of this code: *Provided further*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at the original facility. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

(n) No additional license would be required, no additional fees would be required, and further surety bond would not be required to operate a secondary or satellite location. Any license obtained pursuant to this section and any licensing fees as incident to either of those licenses and any required surety bond would allow operation of a secondary or satellite location. Any license issued pursuant to §29-22A-1 *et seq.* of this code, §29-22D-1 *et seq.* of this code, and §19-23-1 *et seq.* of this code would also extend to any secondary or satellite location as those terms are defined in §29-22C-3 of this code. The secondary location is not required to operate a racetrack.

§29-22D-15. Authorization of sports wagering in this state; requirements.

(a) An operator shall accept wagers on sports events and other events authorized under this article from persons physically present in a licensed gaming facility where authorized sports wagering occurs, or from persons not physically present who wager by means of electronic devices. A person placing a wager shall be at least 21 years of age.

(b) An operator may accept wagers from an individual physically located within this state using a mobile or other digital platform or a sports wagering device, approved by the commission, through the patron's sports wagering account.

(c) An operator may accept wagers from an individual physically located in a state or jurisdiction with which the commission has entered into a sports wagering agreement using a mobile or other digital platform or a sports wagering device through the patron's sports wagering account, so long as the device or platform is approved by the commission and all other requirements of the agreement are satisfied.

(d) The commission or operator may ban any person from entering a gaming area of a gaming facility conducting sports wagering or the grounds of a gaming facility licensed under this article or from participating in the play or operation of any West Virginia Lottery sports wagering. A log of all excluded players shall be kept by the commission and each licensee, and no player on the commission's exclusion list or the licensed operator's exclusion list shall wager on any West Virginia Lottery sports wagering under this article.

(e) The commission shall promulgate regulations implementing the provisions of §29-22D-15(a) of this code by interpretive rule and minimum internal control standards.

(f) The commission shall, when a federal law is enacted or repealed or when a federal court decision is issued that permits a state to regulate sports wagering, publish a notice in the State Register notifying the public of the enactment or repeal of federal law or of the issuance of such court decision. The commission shall not be authorized to conduct sports wagering in this state until the notice prescribed in this subsection is published in the State Register.

(g) No licensed gaming facility employee may place a wager on any sports wagering at the employer's facility or through any other mobile application or digital platform of their employer.

(h) No commission employee may knowingly wager or be paid any prize from any wager placed at any licensed gaming facility with West Virginia Lottery sports wagering within this state or at any facility outside this jurisdiction that is directly or indirectly owned or operated by a sports wagering licensee.

(i) Notwithstanding any provision of this chapter to the contrary, a licensed racetrack may establish a secondary location for its business at any building owned or leased by the licensed racetrack within the county the licensed racetrack is located to provide sports wagering kiosks so long as the licensed racetrack receives approval from the State Lottery Commission, and it has received voter approval pursuant to §29-22C-7 of this code. The total amount of locations a licensed racetrack may operate within a county is two locations: *Provided*, That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility: *Provided, however*, That a secondary or satellite location is not required to operate a racetrack. That any licensed racetrack establishing a secondary location shall continue to operate its original facility and continue to maintain and offer amenities, accommodations, options, and services at such original facility at the same level being offered as of the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature. As used in this subdivision, amenities, accommodations, options, and services may include, but not be limited to, table games, video lottery terminals, and sports wagering kiosks offered to the public.

The bill, as just amended, was again ordered to engrossment.

Engrossed Committee Substitute for Senate Bill 100 was then put upon its passage.

On the passage of the bill, the yeas were: Beach, Boley, Brown, Caputo, Hamilton, Jeffries, Lindsay, Maroney, Nelson, Phillips, Plymale, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—23.

The nays were: Azinger, Baldwin, Clements, Geffert, Grady, Karnes, Martin, Maynard, Roberts, and Smith—10.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 100) passed.

On motion of Senator Weld, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 100—A Bill to amend and reenact §19-23-12a of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22A-12 of said code; to amend and reenact §29-22C-3, §29-22C-4, §29-22C-6, §29-22C-7 and, §29-22C-8 of said code; to amend and reenact §29-22D-15 of said code, all relating to allowing for the establishment of a secondary location for pari-mutual wagering on simulcast races, racetrack video lottery terminals, sport wagering kiosks, and racetrack table games of licensed racetracks at an alternative location within the current county of the licensed racetrack; providing that the original venue must remain in operation; providing that the original venue continue to offer amenities, accommodations, options and services at the same level; providing for a local option election, defining terms; providing Lottery Commission authority to regulate secondary locations; providing for rulemaking; and providing for licensing of secondary locations.

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

Eng. Com. Sub. for Senate Bill 232, Relating to punishment for third offense felony.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Brown—1.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 232) passed with its title.

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

Eng. Com. Sub. for Senate Bill 424, Relating generally to 2022 Farm Bill.

On third reading, coming up in regular order, with the right having been granted on yesterday, Monday, February 28, 2022, for amendments to be received on third reading, was read a third time.

On motion of Senator Romano, the following amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

CHAPTER 11. TAXATION.**ARTICLE 13DD. WEST VIRGINIA FARM-TO-FOOD BANK TAX CREDIT.****§11-13DD-3. Amount of credit; limitation of credit.**

(a) There is allowed to farming taxpayers who make donations of edible agricultural products to one or more nonprofit food programs in this state, a credit against taxes imposed by §11-21-1 *et seq.* and §11-24-1 *et seq.* of this code in the amount set forth in this section.

(b) The amount of the credit is equal to 30 percent of the value of the donated edible agricultural products, but not to exceed ~~\$2,500~~ \$5,000 during a taxable year or the total amount of tax imposed by §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code, whichever is less, in the year of donations.

(c) If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code to each of the next four taxable years unless sooner used.

(d) No more than \$200,000 of tax credits may be allocated by the department in any fiscal year. The department shall allocate the tax credits in the order the donation forms are received.

(e) It is the intent of the Legislature in enacting the amendments to this section during the regular session of the Legislature, 2022, that the amendments be applied retroactively to apply to any donations of qualifying edible agricultural products to one or more nonprofit food programs in this state made on or after January 1, 2022.

CHAPTER 19. AGRICULTURE.**ARTICLE 1. DEPARTMENT OF AGRICULTURE.****§19-1-4a. Commissioner authorized to accept gifts, etc., and enter into cooperative agreements.**

Notwithstanding any provision of this code to the contrary, The the Commissioner of Agriculture is hereby empowered and he or she shall have authority to accept and receive donations, gifts, contributions, grants, and appropriations of money, services, materials, real estate, or other things of value from the United States Department of Agriculture, the United States Food and Drug Administration, the United States Environmental Protection Agency, any other agency of the United States government, or any of its their divisions or bureaus, and he or she shall have authority to use, utilize, develop, or expend such money, services, material, or other contributions in conformity with the conditions and provisions set forth in such grants, appropriations, or donations.

~~By and with the approval of the Governor, the~~ The commissioner may accept and receive donations, gifts, contributions, and grants of money, services, materials, real estate, and other things of value from individuals, partnerships, associations, or corporations, and he or she shall have authority to utilize such contributions to encourage, promote, and develop the agricultural interests or industries of the state.

The commissioner is hereby empowered, and he or she shall have authority to enter into agreements with any department of state government for the purpose of carrying out any regulatory laws where or when any related functions or duties exist. He or she shall also have authority to enter into agreements with any city council or county ~~court~~ commission of the State of West Virginia, for carrying out the provisions of the agricultural laws over which he or she has enforcement authority.

§19-1-10. Requirement for social security number on applications.

[Repealed.]

§19-1-11. Rural Rehabilitation Loan Program.

(a) The Rural Rehabilitation Loan Program is an important tool for the Department of Agriculture to promote investment in the agricultural industry in the state. Rules are needed for the loan program to remain viable.

(b) The commissioner shall propose emergency and legislative rules for approval in accordance with §29A-3-1 *et seq.* of this code. The rules shall, at a minimum:

(1) Establish minimum requirements and qualifications for the loan committee, including the addition of public members who have agricultural or business loan experience;

(2) Prohibit department employees and loan committee members, and their immediate family members, from receiving program loans;

(3) Establish minimum financial requirements for receiving a program loan;

(4) Require loans to be used for agricultural or related purposes;

(5) Require collateral sufficient to secure the loan;

(6) Establish policies for the application, applicable interest rates, delinquencies, refinancing, collection proceedings, collateral requirements, and other aspects of the loan program;

(7) Require the department to advertise the loan program to the public, including information on the department's website and in the department's market bulletin; and

(8) Transfer the servicing of the program loans to a financial institution via competitive bid or to the State Treasurer's office or other governmental entity.

~~(c) The commissioner shall file an annual report to the Joint Committee on Government and Finance regarding the loan program, including information about the loans awarded, loans repaid, loans outstanding, interest rates, delinquency and collections, and other pertinent data~~

~~(d) The commissioner shall not be required to utilize the services of the state agency for surplus property for the disposition of items purchased by participants in the loan program and subsequently repossessed by the committee to be sold in order to satisfy the balance of an outstanding loan.~~

§19-1-13. Annual reporting to the Legislature.

On or before January 31 of each year, the commissioner shall file a report with the President of the State Senate, the Speaker of the House, and the Joint Committee on Government and Finance detailing the activities of the department, including all boards and commissions under the commissioner's authority, during the preceding fiscal year. The report shall include all donations, gifts, contributions, grants, and appropriations of money, services, materials, real estate, or other things of value accepted and received by the department. A copy of the commissioner's annual report shall also be provided to the Division of Archives and History to be kept as a permanent record of the state. nonmotorized

ARTICLE 9. DISEASES AMONG DOMESTIC ANIMALS.

§19-9-7a. ~~National Animal Identification System~~ Animal disease traceability; rulemaking; exemption.

West Virginia shall be a participating state in the United States Department of Agriculture's ~~National Animal Identification System~~ Animal Disease Traceability program. The commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code governing the collection of farm premises and animal identification data.

The premises and animal identification data collected by the commissioner in accordance with the requirements of the ~~National Animal Identification System~~ Animal Disease Traceability program are specifically exempt from disclosure under the provisions of §29B-1-1 *et seq.* of this code.

ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.

§19-12E-4. Industrial hemp authorized as agricultural crop; license required.

(a) Industrial hemp is considered an agricultural crop in this state if grown for the purposes authorized by the provisions of this article. Upon meeting the requirements of §19-12E-5 of this code, an individual in this state may plant, grow, harvest, possess, process, sell, or buy industrial hemp.

(b) A person shall not cultivate, handle, or process industrial hemp in this state unless the person holds an industrial hemp license issued ~~by the department~~ by this state.

§19-12E-5. Industrial hemp; licensing.

(a) A person growing industrial hemp shall apply to the commissioner for a license on a form prescribed by the commissioner.

(b) The application for a license must include the name and address of the applicant and the legal description and global positioning coordinates of the land area to be used to produce industrial hemp.

(c) The commissioner shall require each first-time applicant and may establish requirements for other persons involved with the industrial hemp program, to submit to a state and national criminal history record check. The criminal history record check shall be based on fingerprints submitted to the State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(1) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints; and

(B) Authorizing the board, the State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(2) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(3) The criminal history record check and related records are not public records for the purposes of §29B-1-1 *et seq.* of this code.

(4) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(d) If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license, which is valid until December 31 of the year of application: *Provided*, That an individual applying to renew a current license may continue to operate under an existing license, as long as his or her completed renewal application has been submitted to the department on or before the deadline established by the department.

(e) Any person seeking to grow, cultivate, or process industrial hemp shall provide to the department prior written consent allowing the department, State Police, and other state and local law-enforcement agencies to enter onto all premises where industrial hemp is grown, cultivated, processed, or stored to conduct physical inspections or otherwise ensure compliance with the requirements of this code and the legislative rules promulgated pursuant to this code.

(f) In the alternative, the commissioner may choose to recognize industrial hemp grower licenses issued by the United States Department of Agriculture.

~~(f)~~ (g) Sale of industrial hemp products —

(1) Notwithstanding any provision of the code to the contrary, a person need not obtain a license to possess, handle, transport, or sell hemp products or extracts, including those containing one or more hemp-derived cannabinoids, including CBD.

(2) Hemp-derived cannabinoids, including CBD, are not controlled substances or adulterants.

(3) Products containing one or more hemp-derived cannabinoids, such as CBD, intended for ingestion are to be considered foods, not controlled substances or adulterated products.

(4) Applicable state agencies shall make available any and all customary registrations to the processors and manufacturers of hemp products.

(5) Retail sales of hemp products may be conducted when the products and the hemp used in the products were grown and cultivated legally in another state or jurisdiction and meet the same or substantially the same requirements for processing hemp products or growing hemp under this article and rules promulgated under §19-2E-7 of this code.

(6) Notwithstanding any other provision of this code to the contrary, derivatives of hemp, including hemp-derived cannabidiol, may be added to cosmetics, personal care products, and products intended for animal or human consumption, and the addition is not considered an adulteration of the products.

(7) Hemp and hemp products may be legally transported across state lines, and exported to foreign nations, consistent with U.S. federal law and laws of respective foreign nations.

ARTICLE 15. WEST VIRGINIA FERTILIZER LAW.

§19-15-11. Publications.

[Repealed.]

ARTICLE 15A. WEST VIRGINIA AGRICULTURAL LIMING MATERIALS LAW.

§19-15A-4. Inspection fee; report of tonnage; annual report.

(a) Each sales invoice prepared in normal course of business by either a registrant or distributor shall reflect the amount of the inspection fee and the name of the payor.

(b) Within 30 days following June 30 and December 31, of each year, each registrant and distributor shall submit on a form furnished by the commissioner a summary of tons of each agricultural liming material sold or distributed by each registrant and distributor in the state during the previous six months' period. The report of tonnage shall be accompanied by payment of an inspection fee as established by legislative rule. If the tonnage, or portion thereof, has been paid by another person, documentation by invoice must accompany such report. The semiannual payment and late fee shall be established by legislative rule.

~~(c) The commissioner shall publish annually on the Department of Agriculture's website a composite report showing the net tons of agricultural liming material sold in this state during the preceding period. This report may not divulge information that can be related to the business of any individual registrant~~

ARTICLE 16. WEST VIRGINIA SEED LAW.

§19-16-6. Duties and authority of Commissioner of Agriculture.

The commissioner may:

(a) Establish by legislative rule germination standards for agricultural, vegetable, tree and shrub, or flower seeds;

(b) Enter and inspect, during reasonable hours, any location where agricultural, vegetable, tree and shrub, or flower seeds, or seed potatoes for sowing purposes are manufactured, distributed, transported, or used, and where records relating to the manufacture, distribution,

shipment, labeling, or sale of seed are kept. This inspection shall include, but is not limited to, examining, photographing, verifying, copying, and auditing records as is necessary to determine compliance with this article, labels, consumer complaints, and papers relating to the manufacturing, distribution, sampling, testing, and sale of agricultural, vegetable, tree and shrub seeds, or seed potatoes;

(c) Open, examine, sample, and test agricultural, vegetable, tree and shrub, or flower seed, or seed potatoes, equipment, containers, transport containers, and packages used or intended to be used in the manufacture and distribution of seeds used for sowing purposes;

(d) Issue certificates of registration pursuant to this article;

(e) Refuse applications for registration, or suspend or revoke registrations as provided in this article;

(f) Issue "stop sale or embargo" orders as provided in this article;

(g) Condemn and confiscate any agricultural, vegetable, tree and shrub, or flower seed, or seed potato that is not brought into compliance with this article;

(h) Collect fees and penalties and expend moneys under the terms of this article;

(i) Conduct sampling in accordance with the official methods as established by the Association of American Seed Control Officials, the United States Department of Agriculture, or the Association of Official Seed Analysts;

(j) Conduct hearings as provided by this article;

(k) Assess civil penalties and refer violations to a court of competent jurisdiction;

(l) Obtain court orders directing any person refusing to submit to inspection, sampling, and auditing to submit;

(m) Establish and maintain seed testing facilities, establish reasonable fees for the tests, incur expenses, and conduct tests in accordance with the Association of Official Seed Analysts;

(n) Be guided by the analytical results of the official sample when determining whether the agricultural, vegetable, tree and shrub, or flower seed is deficient in any component;

(o) Report the analytical results on all official deficient samples to the registrant, dealer, purchaser if known, and or the distributor;

(p) Upon request made within 30 days from the date the official sample results are reported, furnish a portion of the official sample to the registrant;

~~(q) Publish and distribute annually a composite report containing: (1) The sales of agricultural, vegetable, tree and shrub, or flower seed, and seed potatoes during the preceding period; (2) the results of analysis of official samples as compared with the guarantee on the label; (3) the firms responsible for the product; and (4) such other data the commissioner considers necessary; Provided, That the information on production and use provided does not disclose the operations of any person~~

(~~f~~) Cooperate with and enter into agreements with governmental agencies of this state and other states, agencies of the federal government and foreign governments, and private associations in order to carry out the purpose and provisions of this article;

(~~s~~) (r) Establish fees by legislative rule;

(~~t~~) (s) Propose rules for promulgation, in accordance with §29A-3-1 *et seq.* of this code;

(~~u~~) (t) Promulgate emergency rules within 90 days of the passage of this bill into law; and

(~~v~~) (u) Inspect and approve seed conditioning facilities in the state, issue permits, and establish fees.

ARTICLE 16A. WEST VIRGINIA PESTICIDE CONTROL ACT.

§19-16A-21. Violations.

It is unlawful for any person to manufacture, distribute, sell or offer for sale, use or offer to use:

(1) Product registration. — (A) Any pesticide which is not registered pursuant to the provisions of this article, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representation made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration, in the discretion of the commissioner, a change in the labeling or formula of a pesticide may be made, within a registration period, without requiring registration of the product, however, changes are not permissible if they lower the efficiency of the product.

(B) Any pesticide sold, offered for sale, or offered for use which is not in the registrant's or the manufacturer's unbroken container and to which there is not affixed a label, visible to the public, bearing the following information:

(i) The name and address of the manufacturer, registrant, or person for whom manufactured;

(ii) The name, brand, or trademark under which the pesticide is sold; and

(iii) The net weight or measure of the content, subject to such reasonable variation as the commissioner may permit.

(C) Any pesticide which contains any substance or substances in quantities highly toxic to ~~man~~ humans, unless the label bears, in addition to any other matter required by this article:

(i) A skull and crossbones;

(ii) The word "poison" prominently in red, on a background of distinctly contrasting color; and

(iii) A statement of an antidote for the pesticide.

(D) The pesticides commonly known as lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by rules issued in accordance with this article, or any other white powder pesticide which the commissioner, after investigation

of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of coloration or discoloration, by rules, requires to be distinctly colored or discolored, unless it has been so colored or discolored. The commissioner may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this subsection if he or she determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(E) Any pesticide which is adulterated or misbranded, or any device which is misbranded.

(F) Any pesticide that is subject of a stop sale, use, or removal order provided for hereinafter in this article until such time as the provisions of that section hereafter have been met.

(2) Business/applicator violations. — In addition to imposing civil penalties or referring certain violations for criminal prosecution the commissioner may, after providing an opportunity for a hearing, deny, suspend, modify, or revoke a license issued under this article, if he or she finds that the applicant, or licensee, or his or her employee has committed any of the following acts, each of which is declared to be a violation:

(A) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized or sold;

(B) Used or caused to be used any pesticide in a manner inconsistent with its labeling or rules of the commissioner: *Provided*, That such deviation may include provisions set forth in section 2(ee) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 et seq.), as the same is in effect on the effective date of this article, disposed of containers or unused portions of pesticide inconsistent with label directions or the rules of the commissioner in the absence of label directions if those rules further restrict such disposal;

(C) Acted in a manner to exhibit negligence, incompetence, or misconduct in acting as a pesticide business;

(D) Made false or fraudulent records, invoices, or reports;

(E) Failed or refused to submit records required by the commissioner;

(F) Used fraud or misrepresentation, or presented false information in making application for a license or renewal of a license, or in selling or offering to sell pesticides;

(G) Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted rules;

(H) Provided or made available any restricted use pesticide to any person not certified under the provisions of this article or rules issued hereunder;

(I) Made application of any pesticide in a negligent manner;

(J) Neglected or, after notice, refused to comply with the provisions of this article, the rules adopted hereunder or of any lawful order of the commissioner;

(K) Refused or neglected to keep and maintain records or reports required under the provisions of this article or required pursuant to rules adopted under the provisions of this article

or refused to furnish or permit access for copying by the commissioner any such records or reports;

(L) Used or caused to be used any pesticide classified for restricted use on any property unless by or under the direct supervision of a certified applicator;

(M) Made false or misleading statements during or after an inspection concerning any infestation of pests found on land;

(N) Refused or neglected to comply with any limitations or restrictions on or in a duly issued certification;

(O) Aided, abetted, or conspired with any person to violate the provisions of this article, or permitted one's certification or registration to be used by another person;

(P) Impersonated any federal, state, county, or city inspector or official;

(Q) Made any statement, declaration, or representation through any media implying that any person certified or registered under the provisions of this article is recommended or endorsed by any agency of this state;

(R) Disposed of containers or unused portions of pesticide inconsistent with label directions or the rules of the commissioner in the absence of label directions if those rules further restrict such disposal;

(S) Detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this article or the rules promulgated under the provisions of this article; ~~or~~

(T) Refuse, upon a request in writing specifying the nature or kind of pesticide or device to which such request relates, to furnish to or permit any person designated by the commissioner to have access to and to copy such records of business transactions as may be essential in carrying out the purposes of this article; or

(U) Violated or been convicted or is subject to a final order assessing a penalty pursuant to §14(a) or (b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §136 et seq.).

ARTICLE 20C. WEST VIRGINIA SPAY NEUTER ASSISTANCE PROGRAM.

§19-20C-3. Rulemaking; annual report.

(a) The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this article.

(b) Rules promulgated under this section shall, at a minimum:

(1) Identify the types of nonprofit organizations and programs that qualify for spay neuter grants;

(2) Establish parameters for spay neuter grants;

(3) Establish procedures and requirements for grant applications; and

(4) Establish administration, recordkeeping, and reporting requirements for nonprofit organizations and programs that receive spay neuter grants.

~~(c) Beginning the year following the program's inception, the commissioner shall file an annual report with the Joint Committee on Government and Finance regarding the program, funds received and grants awarded, the number of dogs and cats sterilized and other pertinent data~~

ARTICLE 36. AGRITOURISM RESPONSIBILITY ACT.

§19-36-5. Maintenance of property status for certain purposes; exceptions.

(a) Notwithstanding any provision of this code to the contrary, the occurrence of agritourism does not change the nature or use of property that otherwise qualifies as agricultural for building code, zoning, ~~and~~ or property tax classification purposes.

(b) An agritourism business may use certain of its facilities for occasional events without complying with building and fire codes applicable to structures used for such purposes on a full-time basis ~~as long as~~ if such facilities are deemed structurally sound and otherwise safe for the intended use.

Following discussion,

The question being on the adoption of Senator Romano's amendment to the bill, the same was put and did not prevail.

Engrossed Committee Substitute for Senate Bill 424 was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 424) passed.

On motion of Senator Sypolt, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Com. Sub. for Senate Bill 424—A Bill to repeal §19-1-10 of the Code of West Virginia, 1931, as amended; to repeal §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-3a, §19-2C-3b, §19-2C-4, §19-2C-5, §19-2C-5a, §19-2C-5b, §19-2C-6, §19-2C-6a, §19-2C-6b, §19-2C-6c, §19-2C-7, §19-2C-8, §19-2C-8a, §19-2C-9, §19-2C-9a, and §19-2C-10 of said code; to repeal §19-15-11 of said code; to amend and reenact §11-13DD-3 of said code; to amend and reenact §19-1-4a and §19-1-11 of said code; to amend said code by adding thereto a new section, designated §19-1-13; to amend and reenact §19-9-7a of said code; to amend and reenact §19-12E-4 and §19-12E-5 of said code; to amend and reenact §19-15A-4 of said code; to amend and reenact §19-16-6 of said code; to amend and reenact §19-16A-21 of said code; to amend and reenact §19-20C-3 of said

code; to amend and reenact §19-36-5 of said code; and to amend said code by adding thereto a new article, designated §30-43-1, §30-43-2, §30-43-3, §30-43-3a, §30-43-3b, §30-43-4, §30-43-5, §30-43-5a, §30-43-5b, §30-43-6, §30-43-6a, §30-43-6b, §30-43-6c, §30-43-7, §30-43-8, §30-43-8a, §30-43-9, §30-43-9a, §30-43-10, §30-43-11, and §30-43-12, all relating generally to the 2022 Farm Bill; increasing the West Virginia Farm-to-Food bank tax credit; allowing for retroactive application of the tax credit; allowing the Commissioner of Agriculture to accept certain funds and property from federal agencies, individuals, and certain businesses; repealing requirement for Social Security numbers on applications; removing requirement that commissioner file annual report on rural rehabilitation loan program with Joint Committee on Government and Finance; requiring commissioner to file annual report detailing department activities with President of the Senate, Speaker of the House, and Joint Committee on Government and Finance and sending copy to archives and history; requiring license from state to produce industrial hemp; repealing auctioneers article and transferring regulation of auctioneers from Department of Agriculture to Secretary of State effective July 1, 2023; changing the National Animal Identification System to the Animal Disease Traceability Program; requiring license from state to produce industrial hemp; allowing commissioner to recognize hemp license issued by the USDA; repealing publication requirement for fertilizer law; removing requirement that commissioner publish annual report on the liming material law; removing requirement that commissioner publish and distribute annual report on seed law; allowing commissioner to deny, suspend, modify, or revoke license or application for license for violation, conviction, or penalty assessment under a certain federal act; removing requirement that commissioner file annual spay and neuter report with Joint Committee on Government and Finance; providing that agritourism on land classified as agricultural does not change use of land for zoning purposes; providing that agritourism business may use certain facilities for certain events without complying with fire codes; creating article transferring regulation of auctioneers from the Department of Agriculture to the Secretary of State effective July 1, 2023; providing for definitions; license requirement; exceptions; license application procedure; rulemaking; special revenue fund; bond requirement; requirements for auctioneer and apprentice auctioneer license; examination and background check of applicants; investigation of complaints; duties and responsibilities of apprentice auctioneer and sponsoring auctioneer; procedure for obtaining reciprocal or nonresident licenses; orders and hearings and review by secretary; penalties; suspension, denial, or revocation of licenses; auctioneer contracts; escrow accounts; advertising; effective date of article; and honoring prior licenses and pending applications.

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

Eng. Com. Sub. for Senate Bill 574, Relating to WV PEIA.

Having been read a third time on February 25, 2022, and now coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for Senate Bill 590, Clarifying that tenancy includes persons who reside in sober living home.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

(Senator Weld in the Chair.)

Pending discussion,

(Senator Blair, Mr. President, in the Chair.)

The question being "Shall Engrossed Committee Substitute for Senate Bill 590 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 590) passed with its title.

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

Eng. Com. Sub. for Senate Bill 648, Relating to Cable Television Systems Act.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for Senate Bill 662, Relating to creation, expansion, and authority of resort area district.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 662) passed with its title.

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

Eng. Senate Bill 721, Relating to municipalities required to be represented on county authority boards.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 721) passed.

On motion of Senator Swope, the following amendment to the title of the bill was reported by the Clerk and adopted:

Eng. Senate Bill 721—A Bill to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to municipalities required to be represented on county authority boards; and providing that only municipalities with 1,000 or more residents are required to be represented on a county authority board.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 721) takes effect from passage.

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

Eng. Com. Sub. for House Bill 4084, Relating to advanced recycling.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4084) passed with its title.

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

Eng. Com. Sub. for House Bill 4491, To establish requirements for carbon dioxide sequestration.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4491) passed with its title.

Ordered, That the Clerk communicate to the House of Delegates the action of the Senate.

The Senate proceeded to the ninth order of business.

Com. Sub. for Senate Bill 29, Providing fee for processing of criminal bonds.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Com. Sub. for Senate Bill 181, Creating Core Behavioral Health Crisis Services System.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Beach and Stover—2.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 181 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Committee Substitute for Senate Bill 181 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 181) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 181) takes effect from passage.

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

Com. Sub. for Senate Bill 205, Expanding PEIA Finance Board membership.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 223, Relating to procedure to settle decedents' estates.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Beach—1.

Absent: Stover—1.

Engrossed Committee Substitute for Senate Bill 223 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 223) passed with its title.

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

Com. Sub. for Senate Bill 266, Adding definition of "ammunition" for purposes of obtaining state license to carry concealed deadly weapon.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 413, Clarifying crime of harassment to include stalking.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

Engrossed Committee Substitute for Senate Bill 413 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Stover—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 413) passed with its title.

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

Pending announcement of meetings of standing committees of the Senate, including a minority party caucus,

On motion of Senator Takubo, at 12:34 p.m., the Senate recessed until 4 p.m. today.

The Senate reconvened at 4:03 p.m. and, without objection, returned to the third order of business.

Executive Communications

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



Jim Justice
Governor of West Virginia

March 1, 2022

The Honorable Lee Cassis, Clerk
West Virginia Senate
State Capitol
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, is the following bill:

Committee Substitute for Senate Bill No. Four Hundred Forty-Five (445), which was presented to me on February 23, 2022.

You will note that I have approved this bill on March 1, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice".

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

The Senate again proceeded to the fourth order of business.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

Com. Sub. for Senate Bill 552, Relating to tax sale process.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on February 25, 2022;

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

Respectfully submitted,

Charles S. Trump IV,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Com. Sub. for S. B. 552) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

The Senate again proceeded to the ninth order of business, the next bill coming up in numerical sequence being

Com. Sub. for Com. Sub. for Senate Bill 434, Updating authority to airports for current operations .

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Senate Bill 448, Developing policies and procedures for Statewide Interoperability Executive Committee.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin,

Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 448 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 448) passed with its title.

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

Senate Bill 456, Requiring county boards of education to develop seizure action plans.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 456 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 456) passed with its title.

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

Com. Sub. for Com. Sub. for Senate Bill 468, Creating Unborn Child with Down Syndrome Protection and Education Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 498, Creating Anti-Racism Act of 2022.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 518, Allowing nurses licensed in another state to practice in WV.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Com. Sub. for Senate Bill 530, Encouraging public-private partnerships in transportation.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 606, Relating to WV Medical Practice Act.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 610, Relating to duties, powers and responsibilities of DOT Secretary.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin,

Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Senate Bill 610 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 610 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 610) passed with its title.

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

Senate Bill 617, Relating to qualifications for members of boards, commissions, and other entities.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 617 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 617) passed with its title.

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

Com. Sub. for Senate Bill 632, Making Office of Emergency Medical Services independent office within Executive Branch.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 645, Regulating private schools for students with disabilities.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Com. Sub. for Senate Bill 647, Prohibiting discrimination in organ donation process.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 647 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard,

Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 647) passed with its title.

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

Com. Sub. for Senate Bill 649, Requiring communication providers providing service or obtaining WV area codes to register with PSC.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 652, Requiring hospitals to receive patients transported to them by EMS providers.

On second reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was referred to the Committee on Rules.

Com. Sub. for Senate Bill 653, Relating to public higher education governance.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Com. Sub. for Senate Bill 655, Authorizing tactical medical professional to carry firearm with specific training requirements.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 656, Providing tax credit for certain corporations with child-care facilities for employees.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Senate Bill 656 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 656) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2022.

On this question, the yeas were: Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger and Martin—2.

Absent: Stover and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 656) takes effect July 1, 2022.

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

Com. Sub. for Senate Bill 659, Relating to nonintoxicating beer, wine, and liquor licenses and requirements.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 668, Clarifying eligibility for probation and parole conditions for sex offenses.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 671, Modernizing regulation of car-sharing services in WV.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

ARTICLE 6F. PEER-TO-PEER CAR SHARING PROGRAMS.

§17A-6F-1. Scope.

This article is intended to govern the intersection of peer-to-peer car services, the state-regulated business of insurance, and state and local taxation of the business transaction. ~~and the airport and airport authorities authority to regulate peer-to-peer car services provided to airport customers~~ This article does not void, abrogate, restrict, or affect any requirements of §17A-6D-1 *et seq.* of this code relating to daily passenger rental car business or §17A-6A-1 *et seq.* of this code relating to motor vehicle dealers, distributors, wholesalers, and manufacturers.

§17A-6F-2. Definitions.

As used in this article:

"Peer-to-peer car sharing" means the authorized use of a vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program. "Peer-to-peer car sharing" is not a "daily passenger rental car business" as licensed by the provisions of §17A-6D-1 *et seq.* of this code.

"Peer-to-peer car sharing program" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. "Peer-to-peer car sharing program" does not mean a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle. For purposes of this section, "hardware" does not mean a motor vehicle as defined by the provisions of §17A-1-1(b). "Peer-to-peer car sharing program" does not mean a "daily passenger rental car business" as licensed by the provisions of §17A-6D-1 *et seq.* of this code. "Peer-to-peer car sharing program" does not include a program provided to a business's own employees.

"Car sharing program agreement" means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program. "Car sharing program agreement" does not mean "master rental agreement" or "rental agreement" as used in §17A-6D-1 *et seq.* of this code.

"Shared vehicle" means a vehicle that is available for sharing through a peer-to-peer car sharing program. "Shared vehicle" does not mean a rental car or a rental vehicle as used in a "daily passenger rental car business" licensed by the provisions of §17A-6D-1 *et seq.* of this code.

"Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement.

"Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

"Car sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.

"Car sharing period" means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that commences with the car sharing start time, and in either case ends at the car sharing termination time.

"Car sharing start time" means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

"Car sharing termination time" means the earliest of the following events:

The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program, and which alternatively agreed upon location shall be incorporated into the car sharing program agreement; or

When the shared vehicle owner or the shared vehicle owner's authorized designee, takes possession and control of the shared vehicle.

§17A-6F-3. Insurance coverage during car sharing period.

(a) A peer-to-peer car sharing program shall assume liability, except as provided in subsection (b) of this section, of a shared vehicle owner for bodily injury or property damage to third parties and uninsured and underinsured motorist ~~and personal injury protection~~ losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amounts may not be less than ~~\$750,000~~ \$300,000.

(b) Notwithstanding the definition of "car sharing termination time" as defined in this article, the assumption of liability under subsection (a) of this section does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred, or

(2) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of "car sharing termination time" as defined in this article, the assumption of liability under subsection (a) of this section would apply to bodily injury, property

damage, uninsured and underinsured motorist, ~~or personal injury protection~~ losses by damaged third parties in the same manner required by §17D-4-2 and §33-6-31 of this code.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage which amounts may not be less than the amounts set forth in ~~subsection (a)~~ §17D-4-2 and §33-6-31 of this code and either:

(1) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(2) Does not exclude use of a shared vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) of this section may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car sharing program.

(f) The insurance described in subsection (e) of this section that is satisfying the insurance requirement of subsection (d) of this section shall be the primary insurance during each car sharing period. If a claim occurs during the car sharing period in another state with minimum financial responsibility limits higher than required by §17D-4-2 of this code, the coverage maintained under subsection (e) of this section shall satisfy the minimum financial responsibility limits of such other state, up to the applicable policy limits that may exceed the minimum financial responsibility limits.

(g) The insurer, insurers, or peer-to-peer car sharing program providing coverage under shall assume primary liability for a claim when it is, in whole or in part, providing the insurance required under subsections (d) and (e) of this section and shall assume primary liability for a claim when:

(1) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; ~~and (2) The, and the peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by this article~~ §17A-6F-6 of this code; or

(2) A dispute exists as to whether the shared vehicle was returned to the alternatively agreed upon location as required by the definition of car sharing termination time as defined in §17A-6F-2 of this code.

~~(3)~~ (h) The insurer, insurers, or A peer-to-peer car sharing program providing coverage under subsection (g) of this section may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

~~(h)~~(i) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) of this section has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (d) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in this section.

~~(i)~~ (j) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

~~(j)~~ (k) Nothing in this article may be interpreted as either limiting or restricting:

(1) The liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(2) The ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

~~(k) If a dispute arises as to whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has occurred, the peer-to-peer car sharing program shall extend primary coverage for the loss. If during the investigation of the claim it becomes apparent that one of the parties to the car sharing program agreement was negligent, engaged in misrepresentation, or is otherwise responsible for the loss, the car sharing program may seek recovery from one or both parties directly through subrogation~~

§17A-6F-5. Exclusions for personal vehicle liability insurance policy.

(a) A motor vehicle insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

(1) Liability coverage for bodily injury and property damage;

~~(2) Personal injury protection coverage;~~

~~(3)~~ (2) Uninsured and underinsured motorist coverage;

~~(4)~~ (3) Medical payments coverage;

~~(5)~~ (4) Comprehensive physical damage coverage; and

~~(6)~~ (5) Collision physical damage coverage.

(b) Nothing in this article shall may be construed as invalidating or limiting an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use.

(c) Nothing in this article may be interpreted as either limiting or restricting an insurer's ability to exclude insurance coverage from any insurance policy or an insurer's ability to underwrite any insurance policy pursuant to § 33-6A-1 *et seq.* of this code.

§17A-6F-7. Exemption; vicarious liability.

A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability ~~in accordance~~ consistent with 49 U.S.C. §30106 and under any state or local law that imposes liability solely based on vehicle ownership.

§17A-6F-13. Registration, notification, and automobile safety recalls.

(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made; and

(2) Notify the shared vehicle owner of the requirements of subsection (b) of this section; ~~and~~

(3) Notify the shared vehicle owner that the shared vehicle owner's personal insurance may exclude peer-to-peer car sharing activity.

(b)(1) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

The bill (Com. Sub. for S. B. 671), as amended, was then ordered to engrossment and third reading.

Senate Bill 680, Adding Division of Corrections and Rehabilitation employees to Survivor Benefits Act.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Senate Bill 686, Clarifying use of notes and bonds of WV Housing Development Fund.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 686 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 686) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 686) takes effect from passage.

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

Senate Bill 687, Relating to meetings among county boards of education.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 693, Clarifying meeting voting requirements for political party executive committees.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: Boley—1.

Absent: Stover and Woelfel—2.

Engrossed Senate Bill 693 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: Boley—1.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 693) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

Eng. Senate Bill 693—A Bill to amend and reenact §3-1-9 of the Code of West Virginia, 1931, as amended, relating to manner of voting by a political party executive committee; and eliminating requirement that all official actions of a political party executive committee shall be made by voice vote.

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

Com. Sub. for Senate Bill 697, Modifying and clarifying elements of kidnapping and unlawful restraint.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

Engrossed Committee Substitute for Senate Bill 697 was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 697) passed with its title.

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

Senate Bill 703, Relating to controlled substances schedule.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for Senate Bill 704, Allowing parents, grandparents, and guardians to inspect instructional materials in classroom.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 711, Establishing alternative educational opportunities for elective course credit.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 726, Relating to pre-trial diversion agreements and deferred prosecution agreements.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 727, Directing ABC Administration discontinue purchase of alcoholic liquors from Russian Federation.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—31.

The nays were: None.

Absent: Maroney, Stover, and Woelfel—3.

Engrossed Senate Bill 727 was then read a third time and put upon its passage.

Following a point of inquiry to the President, with resultant response thereto,

The question being "Shall Engrossed Senate Bill 727 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 727) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Brown, Caputo, Clements, Geffert, Grady, Hamilton, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—32.

The nays were: None.

Absent: Stover and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 727) takes effect from passage.

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

Senate Bill 728, Requiring registered sex offenders pay annual fee.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Takubo, and by unanimous consent, the bill was ordered to engrossment and advanced to third reading with the right for amendments to be considered on that reading.

Senate Bill 729, Relating to funding for infrastructure and economic development projects in WV.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Senate Bill 730, Divesting state-managed funds from companies engaged with Russia or Russian energy.

On second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Eng. House Bill 4773, Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Karnes, Brown, and Rucker.

Thereafter, at the request of Senator Caputo, and by unanimous consent, the remarks by Senator Brown were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was removed as a co-sponsor of the following bill on February 28, 2022:

Com. Sub. for Senate Bill 434: Senator Woodrum.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following bills and resolutions on February 28, 2022:

Senate Bill 52: Senator Maynard;

Senate Bill 687: Senator Rucker;

Senate Resolution 41: Senator Baldwin;

Senate Resolution 42: Senator Baldwin;

Senate Resolution 43: Senators Caputo, Rucker, Lindsay, Jeffries, and Stollings;

Senate Resolution 44: Senators Rucker and Lindsay;

And,

Senate Resolution 45: Senators Caputo, Rucker, Lindsay, Jeffries, and Stollings.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 4:51 p.m., the Senate adjourned until tomorrow, Wednesday, March 2, 2022, at 9 a.m.

SENATE CALENDAR

Wednesday, March 02, 2022
9:00 AM

UNFINISHED BUSINESS

S. R. 46 - Designating March 2, 2022, as Disability Employment State Use Program Day

THIRD READING

Eng. Com. Sub. for S. B. 29 - Providing fee for processing of criminal bonds

Eng. Com. Sub. for S. B. 205 - Expanding PEIA Finance Board membership

Eng. Com. Sub. for S. B. 266 - Adding definition of "ammunition" for purposes of obtaining state license to carry concealed deadly weapon (original similar to HB4086)

Eng. Com. Sub. for Com. Sub. for S. B. 434 - Updating authority to airports for current operations - (With right to amend) (original similar to HB4592)

Eng. Com. Sub. for Com. Sub. for S. B. 468 - Creating Unborn Child with Down Syndrome Protection and Education Act - (With right to amend)

Eng. Com. Sub. for S. B. 498 - Creating Anti-Racism Act of 2022 - (With right to amend)

Eng. Com. Sub. for S. B. 518 - Allowing nurses licensed in another state to practice in WV (original similar to HB4495)

Eng. Com. Sub. for Com. Sub. for S. B. 530 - Encouraging public-private partnerships in transportation (original similar to HB4531)

Eng. Com. Sub. for S. B. 552 - Relating to tax sale process - (Com. amend. and title amend. pending) - (With right to amend) (original similar to HB4524)

Eng. Com. Sub. for S. B. 574 - Relating to WV PEIA

Eng. Com. Sub. for S. B. 606 - Relating to WV Medical Practice Act

Eng. Com. Sub. for S. B. 632 - Making Office of Emergency Medical Services independent office within Executive Branch - (With right to amend)

Eng. Com. Sub. for S. B. 645 - Regulating private schools for students with disabilities

Eng. Com. Sub. for S. B. 648 - Relating to Cable Television Systems Act

Eng. Com. Sub. for S. B. 649 - Requiring communication providers providing service or obtaining WV area codes to register with PSC

Eng. Com. Sub. for S. B. 653 - Relating to public higher education governance - (With right to amend)

Eng. Com. Sub. for S. B. 655 - Authorizing tactical medical professional to carry firearm with specific training requirements

Eng. Com. Sub. for S. B. 659 - Relating to nonintoxicating beer, wine, and liquor licenses and requirements

Eng. Com. Sub. for S. B. 668 - Clarifying eligibility for probation and parole conditions for sex offenses

Eng. Com. Sub. for S. B. 671 - Modernizing regulation of car-sharing services in WV - (Com. title amend. pending)

Eng. S. B. 680 - Adding Division of Corrections and Rehabilitation employees to Survivor Benefits Act - (With right to amend)

Eng. S. B. 687 - Relating to meetings among county boards of education

Eng. S. B. 703 - Relating to controlled substances schedule

Eng. Com. Sub. for S. B. 704 - Allowing parents, grandparents, and guardians to inspect instructional materials in classroom

Eng. S. B. 711 - Establishing alternative educational opportunities for elective course credit

Eng. S. B. 726 - Relating to pre-trial diversion agreements and deferred prosecution agreements

Eng. S. B. 728 - Requiring registered sex offenders pay annual fee - (With right to amend)

Eng. S. B. 729 - Relating to funding for infrastructure and economic development projects in WV

Eng. S. B. 730 - Divesting state-managed funds from companies engaged with Russia or Russian energy

Eng. H. B. 4773 - Adoption of the FCC customer service and technical standards and requiring certain cable operators to operate an in-state customer call center

FIRST READING

Com. Sub. for S. B. 250 - Budget Bill

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2022

Wednesday, March 2, 2022

2 p.m.

Pensions

(Room 451M)