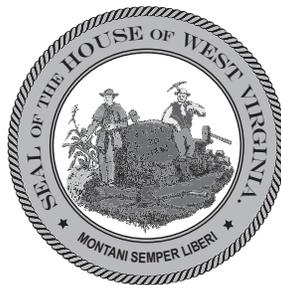


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Sixth Legislature
Second Regular Session

Held at Charleston
Published by the Clerk of the House



January 26, 2024
SEVENTEENTH DAY

Friday, January 26, 2024

SEVENTEENTH DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Thursday, January 25, 2024, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

H. B. 4567, Prohibit businesses from having licenses revoked for not requiring masks,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4567) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Economic Development and Tourism submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

H. B. 4941, Businesses in WV must accept cash,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4941 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31-22-1 and §31-22-2, prohibiting discrimination against cash buyers of food, goods and services physically present in a place of business; excepting retailers who provide a device that converts cash, without charging a fee for the conversion nor a deposit amount greater than five U.S. dollars, into a pre-paid card, authorizing rulemaking by the West Virginia Treasurer and Department of Commerce, establishing a fine for violation, and establishing an effective date; all relating to requiring businesses in West Virginia to accept cash as a form of payment,"

With the recommendation that the committee substitute do pass, but that it first be referred to the Committee on the Judiciary.

The Speaker referred the bill (Com. Sub. for H. B. 4941) to the Committee on the Judiciary.

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4376, Relating to surgical smoke evacuation,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4376 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-21, relating to requirements for smoke evacuation systems for health care facilities; defining terms; and creating penalties for violation of requirement,"

With the recommendation that the committee substitute do pass.

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4817, Relating to updating the practice of nursing,

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

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4134, Authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to licensure, practice requirements, disciplinary and complaint procedures, continuing education, physician assistants,

H. B. 4135, Authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to continuing education for physicians and podiatric physicians,

H. B. 4136, Authorizing the West Virginia Board of Medicine to promulgate a legislative rule relating to permitting and disciplinary procedures: educational permits for graduate medical interns, residents and fellows,

H. B. 4138, Authorizing the West Virginia Board of Optometry to promulgate a legislative rule relating to the West Virginia Board of Optometry,

H. B. 4139, Authorizing the West Virginia Board of Optometry to promulgate a legislative rule relating to continuing education,

H. B. 4140, Authorizing the West Virginia Board of Optometry to promulgate a legislative rule relating to injectable pharmaceutical agents certificate,

H. B. 4141, Authorizing the West Virginia Board of Optometry to promulgate a legislative rule relating to eyelid procedures,

H. B. 4142, Authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians,

H. B. 4143, Authorizing the West Virginia Board of Osteopathic Medicine to promulgate a legislative rule relating to osteopathic physician assistants,

H. B. 4157, Authorizing the West Virginia Board of Registered Nurses to promulgate a legislative rule relating to policies, standards and criteria for the evaluation, approval and national nursing accreditation of prelicensure nursing education programs,

H. B. 4158, Authorizing the West Virginia Board of Registered Nurses to promulgate a legislative rule relating to requirements for registration and licensure and conduct constituting professional misconduct,

H. B. 4159, Authorizing the West Virginia Board of Registered Nurses to promulgate a legislative rule relating to advanced practice registered nurse licensure requirements,

And,

H. B. 4160, Authorizing the West Virginia Board of Registered Nurses to promulgate a legislative rule relating to fees for services rendered by the board,

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

In accordance with the former direction of the Speaker, the bills (H. B. 4134, H. B. 4135, H. B. 4136, H. B. 4138, H. B. 4139, H. B. 4140, H. B. 4141, H. B. 4142, H. B. 4143, H. B. 4157, H. B. 4158, H. B. 4159 and H. B. 4160) were each referred to the Committee on the Judiciary.

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

H. B. 4161, Authorizing the West Virginia Board of Respiratory Care to promulgate a legislative rule relating to student temporary permits,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4161) was referred to the Committee on the Judiciary.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. B. 4772, Providing guidelines for the West Virginia Parkways Authority to cease tolls on the West Virginia Turnpike upon completion of all bond payments,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4772) was referred to the Committee on Finance.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

H. B. 4706, Creating the utility pole rights of way and easement mapping initiative,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4706) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4263, Modifying the definitions and pay grades of certain school cafeteria personnel,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4263) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4299, Permit teachers in K-12 schools be authorized to carry concealed firearms as a designated school protection officer,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4299) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4331, To allow money paid to state employees to go to their estate if they pass away before their retirement date,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4331) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4806, Require bathroom use in schools based upon biological sex,

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

In accordance with the former direction of the Speaker, the bill (H. B. 4806) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4830, To address the professional development of teachers,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 4830 - "A Bill to amend and reenact §18-2-40 and §18-2-41 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-2C-5 of said code; to amend and reenact §18-5-15a of said code; to amend and reenact §18-9F-10 of said code; and to amend and reenact §61-8F-6 of said code, all relating generally to training requirements for school personnel; modifying frequency of training from annually to upon employment and every three years thereafter, for suicide prevention awareness, child sexual abuse prevention, the county policy on harassment, intimidation or bullying, and multicultural education; requiring first aid training include blood borne pathogen information; requiring those who care for, educate, or house disabled children to be trained on mandatory reporting obligations,"

With the recommendation that the committee substitute do pass.

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

H. B. 4832, Relating to state superintendent's reports regarding the finances of school districts,

And,

H. B. 4838, Require county boards of education to provide long-term substitute teachers, upon hiring, with certain information,

And reports the same back with the recommendation that they each do pass.

Delegate Mazzocchi, Chair of the Committee on Senior, Children, and Family Issues, submitted the following report, which was received:

Your Committee on Senior, Children, and Family Issues has had under consideration:

H. B. 4313, Creating the Parents' Bill of Rights,

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

On motion of Delegate Householder, the bill (H. B. 4313) was recommitted on the Committee on Senior, Children, and Family Issues.

Delegate Mallow, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

H. B. 4309, Provide volunteer firemen free license plates and vehicle registration,

And,

H. B. 4723, To reduce the business license fee for WV Volunteer Fire Departments to \$250,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bills (H. B. 4309 and H. B. 4723) were each referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

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

S. B. 173 - "A Bill to amend and reenact §17A-6A-3, §17A-6A-8a, §17A-6A-10, and §17A-6A-18 of the Code of West Virginia, 1931, as amended, all relating generally to new motor vehicle dealers, distributors, wholesalers, manufacturers, factory branches, and distributor branches; defining terms; clarifying a manufacturer's obligations for warranty and recall reimbursement to a new motor vehicle dealer; restricting manufacturer and distributor right of first refusal; identifying and clarifying unlawful and prohibited practices; and clarifying statutory authority of dealer data systems vendor agreements"; which was referred to the Committee on Technology and Infrastructure.

A message from the Senate, by

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

S. B. 262 - "A Bill to amend and reenact §31D-14-1421 of the Code of West Virginia, 1931, as amended, relating to clarifying the procedure for administrative dissolution of corporations by the Secretary of State; and relating to the Secretary of State providing notice to corporations subject to administrative dissolution"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 354 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-11-1, §5B-11-2, §5B-11-3, and §5B-11-4, all relating to creating the West Virginia Advanced Energy and Economic Corridor Authority; providing for legislative findings; appointing authority members; providing for terms of membership; providing for certain membership and meeting requirements; providing that members are not compensated; providing for certain powers and duties; and requiring annual reporting to the Joint Committee on Government and Finance"; which was referred to the Committee on Economic Development and Tourism.

A message from the Senate, by

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

S. B. 357 - "A Bill to amend and reenact §30-4-11 of the Code of West Virginia, 1931, as amended, relating to the scope of practice of a dental hygienist; and permitting a dental hygienist to perform tobacco cessation education"; which was referred to the Committee Health and Human Resources.

A message from the Senate, by

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

S. B. 428 – "A Bill to amend and reenact §19-11B-12 of the Code of West Virginia, 1931, as amended, relating to establishing that appeals from administrative rulings are to be filed with the Intermediate Court of Appeals"; which was referred to the Committee Government Organization.

A message from the Senate, by

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

H. B. 430 - "A Bill to amend and reenact §46B-3-7 and §46B-3-9 of the Code of West Virginia, 1931, as amended, all relating to the regulation of the rental of consumer goods under rent-to-own agreements; disclosure requirements when consumer is in default; and limitations on charges and fees"; which was referred to the Committee on Government Organization.

Resolutions Introduced

On motions for leave, Joint Resolutions were introduced and severally referred as follows:

By Delegates Kump, Foster, C. Pritt, Horst, Ridenour, Hite, Petitto, Householder, Mallow, Kimble and Marple:

H. J. R. 22 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section 19, article VI thereof, relating to providing that the proclamation of the convening of the Legislature by the governor be issued not less than five days prior to the convening of the Legislature and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on the Judiciary.

By Delegate Hansen:

H. J. R. 23 - " Proposing an amendment to the Constitution of the State of West Virginia amending article three thereof by adding thereto a new section, designated section 23, relating to the Bill of Rights; proving for the right to a clean and healthy environment, including clean air, pure water, a stable climate, and the preservation of the natural, scenic, recreational, and healthful qualities of the environment; the protection of these rights; the conservation, protection, and maintenance of West Virginia's public natural resources; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on Agriculture and Natural Resources then the Judiciary.

By Delegate Worrell:

H. J. R. 24 - " Proposing an amendment to the Constitution of the State of West Virginia amending Article III thereof by adding thereto a new section, designated section twenty-three, relating to the right to refuse any medical treatment, injection, device, vaccine, or prophylactic; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment"; to the Committee on Health and Human Resources then the Judiciary.

Petitions

Delegate Pushkin presented a petition from citizens opposing the proposed Yeager Airport runway extension into Coonskin Park; which was referred to the Committee on Technology and Infrastructure.

Bills Introduced

On motions for leave, bills were introduced and severally referred as follows:

By Delegate C. Pritt:

H. B. 5206 - "A Bill to amend and reenact §61-8D-3 of the Code of West Virginia, 1931, as amended, relating to child abuse; and providing that the decision of a parent, guardian or custodian not to have a child vaccinated is not child abuse"; to the Committee on Senior, Children, and Family Issues then Health and Human Resources.

By Delegate Holstein:

H. B. 5207 - "A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to permitting the creation of a special license plate for 100% disabled veterans"; to the Committee on Technology and Infrastructure then Finance.

By Delegate Holstein:

H. B. 5208 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13NN-1, relating to establishing a tax credit for employers who hire qualified employees in a program of recovery from substance abuse; authorizing tax credit; defining terms; specifying the application process for tax credit; determining the amount of the credit; restricting disclosure of diagnosis and treatment information; establishing maximum allowable credits; and providing that unused credits do not carry over to subsequent years"; to the Committee on Prevention and Treatment of Substance Abuse then Finance.

By Delegate Rohrbach:

H. B. 5209 - "A Bill to amend and reenact §16-5Y-7 of the Code of West Virginia, 1931, as amended, relating to requiring the Office of Health Facility Licensure and Certification to inspect office-based medication-assisted treatment programs at least every 24 months"; to the Committee on Finance.

By Delegate Crouse:

H. B. 5211 - "A Bill to amend and reenact §16-3-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18B-1-12; and to amend and reenact §21-1A-3 of said code, all relating to vaccinations and mask requirements for the prevention and control of communicable and other infectious diseases; permitting parents to make vaccination decisions for their children without state compulsion; providing that parents be informed of vaccine risks and how to report vaccine injuries; prohibiting mask requirements for school attendance; allowing adult students to make their own decisions regarding vaccinations as a condition of entry to colleges and trade schools in West Virginia; prohibiting colleges and trade schools from requiring masks at their campuses for students; and prohibiting businesses from requiring vaccines or masks as a condition of employment or entry into an establishment"; to the Committee on Health and Human Resources then the Judiciary.

By Delegates Howell, C. Pritt, Horst, Crouse, Thorne, Hillenbrand, Dittman, Shamblin, Moore, Ward and Miller:

H. B. 5212 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-30-2, relating to requiring that new electric vehicle charging stations are universally accessible"; to the Committee on Technology and Infrastructure then Finance.

By Delegates Sheedy, Hillenbrand, Cooper, Winzenreid and Griffith:

H. B. 5213 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-3-14j, relating to providing for one free Gold Star Family license plate to a Gold Star spouse"; to the Committee on Technology and Infrastructure.

By Delegate Foster:

H. B. 5214 - "A Bill to amend and reenact §11A-1-9 of the Code of West Virginia, 1931, as amended, relating to payment of taxes by co-owner or others"; to the Committee on Finance.

By Delegates Sheedy, Mallow, Statler, Toney, Stephens, DeVault, E. Pritt and Willis:

H. B. 5215 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-98, relating to providing personal income tax exemption to volunteer firefighters in this state who are fully trained and active in 75% of all activities and calls"; to the Committee on Fire Departments and Emergency Medical Services then Finance.

By Delegates Sheedy, Mallow, Statler, Stephens, DeVault, E. Pritt and Willis:

H. B. 5216 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-17, relating to requiring all counties in this state, through their respective county commissions, to establish a fire levy in order to support volunteer fire departments and emergency medical services for those counties"; to the Committee on Political Subdivisions then Finance.

By Delegates Sheedy, Willis, Chiarelli, Criss, Adkins, Hornby, Hite, E. Pritt, Holstein, Mazzocchi and DeVault:

H. B. 5217 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §47-6-1a, relating to the fact that the State of West Virginia solely recognizes United States coins and currency as legal tender for all transactions, public and private"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates E. Pritt, Chiarelli, Kump, Bridges, Sheedy, Dean and Adkins:

H. B. 5218 - "A Bill to amend and reenact §33-15-23 of the Code of West Virginia, 1931, as amended, relating to insurance copayments for certain services; and capping copays at \$500 a year for insureds who are terminally ill until death"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates E. Pritt, Brooks, Chiarelli, Willis and Dittman:

H. B. 5219 - "A Bill to amend and reenact §18-7A-38 of the Code of West Virginia, 1931, as amended, relating to the number of days a retired teacher may accept employment; and permitting employment beyond 140 days under specific conditions"; to the Committee on Pensions and Retirement then Finance.

By Delegates Tully, Smith, Horst, Linville, Mallow, Sheedy, Hite, Brooks, Phillips, E. Pritt and Longanacre:

H. B. 5220 - "A Bill to amend and reenact §11-9-2a of the Code of West Virginia, 1931, as amended, relating to authorizing investigators of the criminal investigation in the criminal investigation division of the state Tax Division to carry firearms"; to the Committee on the Judiciary.

By Delegate Williams:

H. B. 5221 - "A Bill to amend and reenact §21-5C-2 of the Code of West Virginia, 1931, as amended, relating to increasing the minimum wage based upon increases in the consumer price index"; to the Committee on Workforce Development then the Judiciary.

By Delegate W. Hall:

H. B. 5222 - "A Bill to amend and reenact §61-3-13 and §61-3-30 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-3B-3 of said code; and to amend said code by adding thereto a new section, designated §61-10-34, all relating to creating the State Property Protection Act; providing a short title; providing a definition; prescribing penalties for various offenses on state property; providing exceptions; providing for forfeiture of certain items used in perpetrating such crimes; and updating the criminal code to reflect the changes in penalties"; to the Committee on the Judiciary.

By Delegates Vance, Rohrbach, Mazzocchi, Bridges, Dean, Toney and Holstein:

H. B. 5223 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5B-2-22, relating to creating the Southern Coalfield Resiliency and Revitalization Program for a period of five years; finding that there are challenges facing the

counties in which the southern coalfields are located; establishing revitalization council to organize and prioritize state resources and technical assistance for these counties; directing revitalization council to develop strategies to stimulate economic activity in and around the municipalities in Boone, Logan, McDowell, Mingo, and Wyoming counties in coordination with certain contributing partners to the extent possible; directing revitalization council to annually report to the Governor and the Legislature; directing Development Office and revitalization council to facilitate economic development incentives for the counties in which the southern coalfields are located; and authorizing Development Office or other state body to provide state property and equipment to businesses investing in the counties of the southern coalfield area of the state at a reduced cost"; to the Committee on Energy and Manufacturing then Government Organization.

By Delegates Sheedy, Hillenbrand, Cooper, Winzenreid and Griffith:

H. B. 5224 - "A Bill to amend and reenact §20-2-30a of the Code of West Virginia, 1931, as amended, relating to exempting honorably discharged veterans from undergoing a hunter safety course as a prerequisite to obtaining a hunting license in this state"; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegate C. Pritt:

H. B. 5225 - "A Bill to amend and reenact §51-9-4 of the Code of West Virginia, 1931, as amended, relating to allowing a credit toward judicial retirement for public defender service"; to the Committee on Pensions and Retirement then Finance.

By Delegate W. Clark:

H. B. 5226 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §49A-1-101, §49A-1-102, §49A-1-103, §49A-1-104, §49A-1-105, §49A-1-106, §49A-2-201, §49A-3-301, §49A-4-401, §49A-5-501, §49A-6-601, and §49A-7-701, all relating to protecting minors on social media and other Internet uses, listing requirements for social media usage, providing definitions, rule-making authority, prohibiting data collection on certain accounts, prohibiting certain advertising and redirection of accounts and directed content, providing for parental access to social media of minors, limiting access of accounts for minors and granting parental access and options, providing for investigative and enforcement powers to the Attorney General for violations, providing for private rights of action, prohibiting waiver, and providing severability"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegate Hansen:

H. B. 5227 - "A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to requiring all public schools located within this state to give age-appropriate instruction on the Holocaust"; to the Committee on Education.

By Delegate Griffith:

H. B. 5228 - "A Bill to amend and reenact §46A-6F-112 of the Code of West Virginia, 1931, as amended, relating to telemarketing; and requiring that telemarketers' telephone calls include the area code and correct point of origin"; to the Committee on the Judiciary.

By Delegate Griffith:

H. B. 5229 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-5A-1, relating to requiring documentation of changes to patient prescriptions and notification to patient's pharmacy"; to the Committee on Health and Human Resources.

By Delegate Griffith:

H. B. 5230 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-5A-1, relating to requiring medication status information be provided

to a patient's pharmacy when updating prescriptions or changing medications; and authorizing the Board of Pharmacy to propose a legislative rule"; to the Committee on Health and Human Resources.

By Delegate Burkhammer:

H. B. 5231 - "A Bill to amend and reenact §20-2-5j of the Code of West Virginia, 1931, as amended, relating to the use of leashed dogs for tracking mortally wounded deer, elk, turkey, wild boar, or bear; and providing that only one leashed dog may be used for this tracking"; to the Committee on Agriculture and Natural Resources then Government Organization.

By Delegates Maynor, Phillips, Smith, Crouse, McGeehan, Horst, Steele, Willis, Gearheart, Hornby and Hite:

H. B. 5232 - "A Bill to amend and reenact §61-7-14 of the Code of West Virginia, 1931, as amended, relating to updating the Business Liability Protection Act"; to the Committee on the Judiciary.

By Delegates Tully, Summers, Mallow, Jennings, DeVault, T Clark, Warner, Dittman, Crouse, E. Pritt and Dean:

H. B. 5233 - "A Bill to amend and reenact §30-7-4 of the Code of West Virginia, 1931, as amended, all relating to requiring the Board of Registered Nurses to comply with the Open Governmental Procedures Act, share a computer link to meetings that are live streamed, and publicly post meeting minutes to its website"; to the Committee on the Judiciary.

By Delegates Winzenreid, Cooper, Sheedy, Smith, Hillenbrand, Hornby, Heckert, Horst, Ridenour, E. Pritt and Griffith:

H. B. 5234 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-2-28a, all relating to providing for free hunting licenses and fishing licenses for veterans with a post-traumatic stress disorder diagnosis"; to the Committee on Veterans' Affairs and Homeland Security then Finance.

By Delegates Vance, Chiarelli, Coop-Gonzalez, Dean, Kirby, Foggin, Bridges, McGeehan, Phillips, Householder and Ridenour:

H. B. 5235 - "A Bill to amend and reenact §61-8B-5, §61-8B-9, §61-8D-5, and §61-8D-6 of the Code of West Virginia, 1931, as amended, all relating to increasing penalties for child sexual assault and sexual abuse, and for distributing, possessing, and transporting material depicting a child engaged in sexually explicit conduct, and to clarify that failure to report sexual assault, sexual abuse, or sexual exploitation of a child is a felony"; to the Committee on the Judiciary.

By Delegates Winzenreid, Westfall, Smith, Kelly, Hillenbrand, Hornby, Heckert, Steele, Garcia, Fluharty and Adkins:

H. B. 5236 - "A Bill to amend and reenact §48-27-202 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §48-27-202a, all relating to updating the definition of domestic violence"; to the Committee on the Judiciary.

By Delegate Westfall:

H. B. 5237 - "A Bill to amend and reenact §17C-7-1 of the Code of West Virginia, 1931, as amended, relating to requiring operators of vehicles to drive in rightmost portion or lane of roads or highways and exceptions thereto"; to the Committee on Technology and Infrastructure.

By Delegate Linville:

H. B. 5238 - "A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to mandating that all courts provide adjudication records for traffic violations of

juvenile offenders to the Division of Motor Vehicles"; to the Committee on Technology and Infrastructure then the Judiciary.

By Delegates Rohrbach, Fehrenbacher, Worrell, Akers, Chiarelli and Criss:

H. B. 5239 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, §16-67-6, §16-67-7, §16-67-8, §16-67-9, and §16-67-10, all relating to recovery residences and residential substance use disorder service programs; defining terms; establishing licensure application process for substance use disorder service programs; creating program requirements; establishing revocation process; setting forth the reconsideration process; setting forth the administrative due process provision; providing for administrative and judicial appeal; establishing reporting requirements and renewal provisions; setting requirements for continuum of care; and establishing civil penalties and injunctive relief"; to the Committee on Prevention and Treatment of Substance Abuse then the Judiciary.

By Delegates Crouse, Petitto, Adkins and Dean:

H. B. 5240 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §1-8-1, relating to restricting speech by eliminating woke words and agendas from state government documents, websites, literature, and in person"; to the Committee on Health and Human Resources then Finance.

By Delegates Tully, Jennings, Mallow, DeVault, T Clark, Warner, Dittman, Crouse, E. Pritt, Statler and Dean:

H. B. 5241 - "A Bill to amend and reenact §33-2-3 of the Code of West Virginia, 1931, as amended, relating to requiring the Insurance Commissioner to audit claims under the Public Employees Insurance Act related to post-traumatic stress syndrome disorder PTSD claims for evaluation, diagnosis, and treatment for first responders; and requiring annual reviews and reports to the Interim Joint Health Committee, Interim Committee on PEIA and Insurance, and the Interim Committee on Volunteer Fire Departments and Emergency Medical Services"; to the Committee on Banking and Insurance then the Judiciary.

By Delegates Crouse, Petitto, Moore, Winzenreid, Smith, Adkins and Dean:

H. B. 5242 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-11-12, relating to providing paid leave for state employees working as volunteer emergency personnel when responding to emergencies"; to the Committee on Finance.

By Delegates Crouse, W. Clark, C. Pritt, Willis, Linville, Cannon, Moore, Foster, Kimble, Mazzocchi and Warner:

H. B. 5243 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, §16-67-5, and §16-67-6, all relating to the Women's Bill of Rights; providing short title; setting forth purpose; establishing application of act; defining terms; allowing for language substitution; establishing certain single sex environments are not discriminatory; creating parameters for certain data collection; and allowing severability"; to the Committee on the Judiciary.

By Delegate Young:

H. B. 5244 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-16E-1, §5-16E-2, §5-16E-3, §5-16E-4, §5-16E-5, §5-16E-6, §5-16E-7, §5-16E-8, §5-16E-9, §5-16E-10, §5-16E-11, §5-16E-12, §5-16E-13, §5-16E-14, §5-16E-15, and §5-16E-16, all relating to establishing a state-sponsored portable insurance benefit plan,

providing definitions, and provides for administration and assignment of benefits"; to the Committee on Banking and Insurance then Finance.

By Delegates Hanshaw (Mr. Speaker) and Hornbuckle

[By Request of the Executive]:

H. B. 5245 - "A Bill supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2024, organization 0803, for the fiscal year ending June 30, 2024"; to the Committee on Finance.

By Delegate Griffith:

H. B. 5246 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-19d, relating to the restraint of dogs"; to the Committee on the Judiciary.

By Delegate Butler:

H. B. 5247 - "A Bill to amend and reenact §3-1-2 and §3-1-39 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §3-1-39a; to amend and reenact §3-1A-6 of said code; to amend and reenact §3-4A-1 of said code; and to amend said code by adding thereto three new sections, designated §3-4A-35, §3-4A-36, and §3-4A-37, all relating to providing for election reform; defining 'Public Election Related Information and Data;' allowing for the public disclosure of this data through the Freedom of Information Act ('FOIA'); providing for the maintenance of Public Election Related Information and Data including cast vote records, also known as 'CVRs;' and providing for restrictions of certain electronic software voting systems and contingent hand counting procedures; providing for the random physical and internal operating code inspection of electronic voting systems; and making sections of this bill effective from passage"; to the Committee on the Judiciary.

By Delegates Summers and Tully:

H. B. 5248 - "A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §16-5EE-1, §16-5EE-2, §16-5EE-3, §16-5EE-4, §16-5EE-5, §16-5EE-6, §16-5EE-7, §16-5EE-8, §16-5EE-9, §16-5EE-10, §16-5EE-11, §16-5EE-12, and §16-5EE-13, and to repeal §27-9-1 and §27-9-2 of said code; and to repeal §27-17-1, §27-17-2, §27-17-3, and §27-17-4 of said code, all relating to the regulation of behavioral health centers; providing definitions; creating licenses for residential behavioral health centers and non-residential behavioral health centers; setting license fees for residential behavioral health centers and non-residential behavioral health centers; providing for the regulation and oversight of all behavioral health centers by the Office of Health Facility Licensure and Certification; designating the necessity for a governing body and administrator and prescribing duties and responsibilities; setting certain minimum standards in any behavioral health center; setting certain minimum standards for behavioral health centers; restricting the location of specific treatment settings for behavioral health centers; allowing for variances or waivers from licensure standards; providing for inspections and inspection warrants; designating license limitations; providing a procedure for denial, suspension, or revocation of a license; allowing civil money penalties; providing for administrative review and appeal rights; prescribing advertisement disclosure; and permitting the Inspector General to promulgate rules, including emergency rules"; to the Committee on Health and Human Resources.

By Delegates Crouse, Petitto, Adkins, Dean and Smith:

H. B. 5249 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-3-4d, relating to prohibiting vaccine and immunization

requirements for certain schools in this state"; to the Committee on Health and Human Resources then Education.

By Delegates Kelly, Kump, Westfall, Shamblin, Hillenbrand and Toney:

H. B. 5250 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-9-1, §46A-9-2, §46A-9-3, §46A-9-4, and §46A-9-5, all relating to defining terms, establishing required notices, and describing necessary training to combat gift card fraud as well as describing the penalties associated with violating these provisions"; to the Committee on the Judiciary.

By Delegates Householder, Westfall, Phillips, Shamblin, Garcia, Hillenbrand, Toney and Lucas:

H. B. 5251 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-6O-1, §46A-6O-2, §46A-6O-3, and §46A-6O-4, relating to the Telephone Consumer Protection Act; defining terms; establishing exclusions; establishing conduct that is prohibited under the article; and setting forth violations"; to the Committee on the Judiciary.

By Delegates Cooper and Toney:

H. B. 5252 - "A Bill to amend and reenact §18A-4-8 of the Code of West Virginia, 1931, as amended, relating to providing minimum experience requirement for director or coordinator of services class title involving school transportation; providing eligibility for candidates for professional employee positions involving supervision of a county transportation department; making any service employee who is certified as a Director or Supervisor of Pupil Transportation by the National Association for Pupil Transportation Certification; and requiring county boards to consider such candidates"; to the Committee on Education.

By Delegate Summers:

H. B. 5253 - "A Bill to amend and reenact §9-5-13 of the Code of West Virginia, 1931, as amended, relating to transition the Medicaid long-term care program to a managed care system"; to the Committee on Health and Human Resources then Finance.

By Delegates Summers and Tully:

H. B. 5254 - "A Bill to amend and reenact §27-5-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §27-5-1b and §27-5-2 of said code; to amend said code by adding thereto a new section, designated §27-5-2a; to amend and reenact §27-5-4 of said code; to amend said code by adding a new article, designated §27-5A-1, §27-5A-2; and §27-5A-3; all relating generally to the creation of mental hygiene regions by the Supreme Court of Appeals; clarifying that mental hygiene evaluations and proceedings may be conducted by video technology; removing licensed professional counselors and licensed independent social workers as approved examiners for mental hygiene evaluations; creating a temporary observation release for mental hygiene respondents; clarifying that chief medical officer releases requiring approval of circuit court only apply to forensic patients; requiring hearings for any commitment period of longer than 90 days and prohibiting any person from being civilly committed to longer than 120 days without a hearing to determine whether the individual continues to meet commitment criteria; removing obsolete language regarding transcripts of proceedings to circuit court of county of residence; restructuring the mental hygiene commissioner system by authorizing new mental hygiene regions and full-time mental hygiene commissioners employed by the Supreme Court of Appeals; authorizing mental hygiene proceedings and evaluations by video and requiring facilities to provide technology that meets Supreme Court of Appeals specifications; authorizing statewide coverage for mental hygiene evaluations and permitting a mental hygiene commissioner to

exclude evaluator testimony based on the West Virginia Rules of Evidence; and requiring each Certified Community Mental Health Center to ensure that at least one examiner is available to provide uniform and continuous coverage in each region, including afterhours, weekends, and holidays"; to the Committee on Health and Human Resources then the Judiciary.

Special Calendar

Third Reading

Com. Sub. for S. B. 269, Excluding test strips from definition of drug paraphernalia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 42**), and there were--yeas 94, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Ellington, Hardy, Warner and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 269) passed.

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

On this question, the yeas and nays were taken (**Roll No. 43**), and there were--yeas 94, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Criss, Ellington, Hardy, Warner and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 269) takes effect from its passage.

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

Com. Sub. for H. B. 4205, Relating to changing the process of election litigation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 44**), and there were--yeas 92, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Hansen and Pushkin.

Absent and Not Voting: Criss, Ellington, Hardy, Warner and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4205) passed.

Delegate Householder moved that the bill take effect January 1, 2025.

On this question, the yeas and nays were taken (**Roll No. 45**), and there were--yeas 92, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Hansen and Pushkin.

Absent and Not Voting: Criss, Ellington, Hardy, Warner and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4205) takes effect January 1, 2025.

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

Com. Sub. for H. B. 4759, Relating to E-Verify, the federal employment authorization program; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegate Foster arose to a point of order regarding there being two competing amendments, which the Speaker sustained.

Both amendments were explained and debated.

In the absence of objection, the following amendment offered by Delegate Foster was voted on first:

Striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1B. VERIFYING LEGAL EMPLOYMENT STATUS OF WORKERS.

§21-1B-2. Definitions.

~~(a) ‘Employer’ means any individual, person, corporation, department, board, bureau, agency, commission, division, office, company, firm, partnership, council or committee of the state government, public benefit corporation, public authority or political subdivision of the State or other business entity which employs or seeks to employ an individual or individuals.~~

~~(b) ‘Commissioner’ means the labor commissioner or his or her designated agent.~~

~~(c) ‘Unauthorized worker’ means a person who does not have the legal right to be employed or is employed in violation of law.~~

~~(d) ‘Records’ means records that may be required by the Commissioner of Labor for the purposes of compliance with the provisions of this article.~~

~~(e) ‘Knowingly’ means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware by documentation or action that the person’s conduct is of that nature or that the circumstance exists. Failure to request or review documentation of an employee’s legal status or authorization to work is deemed to be ‘knowingly’.~~

~~(f) ‘License’ means any permit, certificate, approval, registration, charter or similar form of authorization that is required by law and that is issued for the purpose of operating a business in this State~~

‘Alien’ means any person who is not a citizen or national of the United States as described in 8 U.S.C. § 1101 et seq., and any amendments thereto.

'Commissioner' means the Commissioner of the Division of Labor or his or her designated agent.

'Court of competent jurisdiction' means the circuit court where violations of §21-1B-3 of this code is alleged to have occurred.

'Employee' means any person directed, allowed, or permitted to perform labor or service of any kind by an employer. The employees of an independent contractor working for an employer shall not be regarded as the employees of the employer, for the purposes of this article.

'Employer' means any individual, person, contractor, subcontractor, corporation, department, board, bureau, agency, commission, division, office, company, firm, partnership, council or committee of the state government, public benefit corporation, public authority or political subdivision of the state, or other private business entity which employs or seeks to employ an individual or individuals and that is registered or registers with the Secretary of State.

'Independent contractor' has the same meaning as defined in §21-5I-4 of this code.

'Knowingly' means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware by documentation or action that the person's conduct is of that nature or that the circumstance exists.

'Lawful presence' or 'lawfully present' means a person shall be regarded as an alien unlawfully present in the United States only if the person's unlawful immigration status has been verified by Immigration and Customs Enforcement (ICE), or any successor agency thereto, pursuant to 8 U.S.C. § 1373(c). No officer of this state or any political subdivision of this state shall attempt to independently make a final determination of an alien's immigration status. An alien possessing self-identification in any of the following forms is entitled to the presumption that he or she is an alien lawfully present in the United States:

(1) A valid, unexpired West Virginia driver's license;

(2) A valid, unexpired West Virginia nondriver identification card (if applicable);

(3) A valid, tribal enrollment card or other form of tribal identification bearing a photograph or other biometric identifier;

(4) Any valid United States federal or state government issued identification document bearing a photograph or other biometric identifier, if issued by an entity that requires proof of lawful presence in the United States before issuance;

(5) A foreign passport with an unexpired United States visa and a corresponding stamp or notation by the United States Department of Homeland Security indicating the bearer's admission to the United States; and

(6) A foreign passport issued by a Visa Waiver Program designated country with the corresponding entry stamp and unexpired duration of stay annotation or an I-94W form by the United States Department of Homeland Security indicating the bearer's admission to the United States.

'License' means any permit, certificate, approval, registration, charter, or similar form of authorization that is required by law and that is issued for the purpose of operating a business in this state.

'Private employer' means an employer that is not the State of West Virginia or any political subdivision, agency, or instrumentality thereof.

'Public employer' means the State of West Virginia and any political subdivision, agency, or instrumentality thereof.

'Unauthorized worker' means a person who does not have the legal right to be employed or is employed in violation of law or an alien who is not authorized to work in the United States as defined in 8 U.S.C. § 1324a(h)(3).

'Willfully' means conduct that is intentionally engaged and the consequences of such conduct results in a violation of this article.

§21-1B-3. Unauthorized workers; employment prohibited; requirement to E-Verify; exceptions.

~~(a) It is unlawful for any employer to knowingly employ, hire, recruit or refer, either for himself or herself or on behalf of another, for private or public employment within the State, an unauthorized worker who is not duly authorized to be employed by law.~~

~~(b) Employers shall be required to verify a prospective employee's legal status or authorization to work prior to employing the individual or contracting with the individual for employment services~~

~~(c) For purposes of this article, proof of legal status or authorization to work includes, but is not limited to, a valid social security card, a valid immigration or nonimmigration visa, including photo identification, a valid birth certificate, a valid passport, a valid photo identification card issued by a government agency, a valid work permit or supervision permit authorized by the Division of Labor, a valid permit issued by the Department of Justice or other valid document providing evidence of legal residence or authorization to work in the United States~~

~~(d) For purposes of enforcing the provisions of this article, and notwithstanding any other provision of this code to the contrary, the commissioner or his or her authorized representative may access information maintained by any other state agency, including, but not limited to, the Bureau of Employment Programs and the Division of Motor Vehicles, for the limited purpose of confirming the validity of a worker's legal status or authorization to work. The commissioner shall promulgate rules in accordance with the provisions of §29A-3-1 et seq. of this code to safeguard against the release of any confidential or identifying information that is not necessary for the limited purpose of enforcing the provisions of this article~~

(a) No employer, regardless of the number of employees, may knowingly and willfully employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of West Virginia.

(b) No employer may knowingly and willfully provide false records as to the legal status or authorization to work of any employee to the commissioner or his or her authorized representative.

§21-1B-5. Penalties; suspension or revocation of license; determination of employment status; writ of mandamus for nonenforcement of provisions.

~~(a) Any employer who knowingly and willfully fails to maintain records as required by section four of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$100 for each offense. Failure to keep records on each employee constitutes a separate offense. the commissioner may, after providing notice and an opportunity to be heard, pursuant to §29A-5-1 et seq. of this code, suspend the business licenses of the employer for up to 10 days, or until compliance is accomplished, whichever is later. If the employer is a contractor or subcontractor under a contract with the state or any political subdivision thereof, the commissioner may, within the same administrative proceeding, also suspend the applicable contract for any time the employer's license is suspended. If the employer accomplishes compliance with this article prior to the start or prior to the completion of any administrative action, the employer's business license shall not be suspended. Accomplishment of compliance with this article shall include submission by the employer of a signed, sworn affidavit stating that the employer is in compliance with the provisions of this article. In the case the employer is a contractor or subcontractor whose contract has also been suspended, if the contracting parties are willing to resume the contract, upon the reinstatement of the license the contract shall also be reinstated.~~

~~(b) Any employer who knowingly violates the provisions of section three of this article by employing, hiring, recruiting or referring an unauthorized worker is guilty of a misdemeanor and, upon conviction thereof, is subject to the following penalties:~~

~~(1) For a first offense, a fine of not less than \$100 nor more than \$1,000 for each violation;~~

~~(2) For a second offense, a fine of not less than \$500 nor more than \$5,000 for each violation;~~

~~(3) For a third or subsequent offense, a fine of not less than \$1,000 nor more than \$10,000, or confinement in jail for not less than thirty days nor more than one year, or both.~~

~~(c) Any employer who knowingly and willfully provides false records as to the legal status or authorization to work of any employee to the commissioner or his or her authorized representative is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than one year or fined not more than \$2,500, or both.~~

~~(d) Any employer who knowingly and willfully and with fraudulent intent sells, transfers, or otherwise disposes of substantially all of the employer's assets for the purpose of evading the record-keeping requirements of section four of this article is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than one year or fined not more than \$10,000, or both.~~

(b) Upon a knowing and willful first violation of §21-1B-3 of this code by an employer the commissioner may, after providing notice and an opportunity to be heard, pursuant to §29A-5-1 et seq. of this code, suspend the business licenses of the employer for up to 180 days. If the employer is a contractor or subcontractor under a contract with the state or any political subdivision thereof, the commissioner may, within the same administrative proceeding, also suspend the applicable contract for any time the employer's license is suspended. If the employer accomplishes compliance with this article prior to the start or prior to the completion of any administrative action, the employer's business license shall not be suspended. Accomplishment of compliance with this article shall include submission by the employer of a signed, sworn affidavit stating that the employer is in compliance with the provisions of this article. In the case the

employer is a contractor or subcontractor whose contract has also been suspended, if the contracting parties are willing to resume the contract, upon the reinstatement of the license the contract shall also be reinstated.

(c) Upon a knowing and willful second violation of §21-1B-3 of this code by an employer the commissioner may bring a civil action in a court of competent jurisdiction to permanently revoke the business licenses of the employer and the court shall permanently suspend the business license of the employer upon making specific findings that the employer knowingly and willfully violated the provisions of this article and shall then order that any applicable governing body will permanently suspend the employer's business license: *Provided*, That an adjudicated first violation of this section by a private employer, as demonstrated by a final order not subject to any further appellate processes, must have occurred within 10 years immediately preceding the date of application by the state entity, political subdivision thereof, or state to the commissioner in the current proceeding in order for a second offense violation to be alleged against the private employer.

(d) In any court proceeding, the determination of whether an employee is an unauthorized alien shall be made by the federal government Immigration and Customs Enforcement (ICE), or any successor agency thereto, pursuant to 8 U.S.C. § 1373(c). The court shall consider only the federal government's determination of ICE, or any successor agency thereto, when deciding whether an employee is an unauthorized alien. The court may take judicial notice of any verification of an individual's immigration status previously provided by the federal government ICE, or any successor agency thereto, and may request the federal government to provide further automated or testimonial verification.

(e) If any agency of the state or any political subdivision thereof fails to suspend the license, or licenses, of any private employer, as a result of a knowing and willful violation of this section, the agency shall be deemed to have violated this section and shall be subject to being compelled to enforce this section by a writ of mandamus brought by the Attorney General in the circuit court for the county where the agency of the state or any political subdivision thereof is located, or in the Supreme Court of Appeals.

§21-1B-6. Denial of deductible business expense.

[Repealed]

§21-1B-7. Suspension or revocation of license Defenses.

~~(a) If, upon examination of the record or records of conviction, the commissioner determines that an employer has been convicted of a third or subsequent offense under §21-1B-5(b) or has been convicted of the offenses described in subsection §21-1B-5(c) or §21-1B-5(e), the commissioner may enter an order imposing the following disciplinary actions:~~

~~(1) Permanently revoke or file an action to revoke any license held by the employer; or~~

~~(2) Suspend a license or move for a suspension of any license held by the employer for a specified period;~~

~~(b) The order shall contain the reasons for the revocation or suspension and the revocation or suspension periods. Further, the order shall give the procedures for requesting a hearing. The person shall be advised in the order that because of the receipt of the record of conviction by the~~

~~commissioner a presumption exists that the person named in the record of conviction is the person named in the commissioner's order and this constitutes sufficient evidence to support a revocation or suspension and that the sole purpose for the hearing held under this section is for the person requesting the hearing to present evidence that he or she is not the person named in the record of conviction. A copy of the order shall be forwarded to the person by registered or certified mail, return receipt requested. No revocation or suspension shall become effective until ten days after receipt of a copy of the order.~~

(a) A contractor of any tier shall not be liable under this article when its direct subcontractor violates this article provided the subcontractor is an independent contractor.

(b)(1) An employer that establishes that it has complied in good faith with §21-1B-3 of this code establishes an affirmative defense that the employer did not knowingly and willfully hire or employ an unauthorized alien.

(2) A subcontractor that establishes that it has complied in good faith with §21-1B-3 of this code establishes an affirmative defense that the subcontractor did not knowingly and willfully hire or employ an unauthorized alien.

(c) Any employer that terminates an employee to comply with §21-1B-3 of this code shall not be liable for any wrongful-termination claims made against the employer by the terminated employee.

(d) It is an affirmative defense to a violation of §21-1B-3 of this code that an employer was entrapped.

(1) To claim entrapment, the employer must admit by testimony or other evidence the substantial elements of the violation.

(2) An employer who asserts an entrapment defense has the burden of proving by a preponderance of the evidence the following:

(A) The idea of committing the violation started with law-enforcement officers or their agents rather than with the employer.

(B) The law-enforcement officers or their agents urged and induced the employer to commit the violation;

(C) The employer was not already predisposed to commit the violation before the law-enforcement officers or their agents urged and induced the employer to commit the violation.

(e) An employer is not in violation of §21-1B-3 of this code:

(1) During a time period in which the E-Verify program is suspended or not operational; or

(2) If the employer acts upon false results generated by the E-Verify program concerning an employee's work authorization status.

§21-1B-8. Citation for violation Enforcement; Rule making authority; public notifications provision.

~~(a) If, upon inspection or investigation, the commissioner believes that an employer has violated a provision of this article, the commissioner shall issue a notice to produce records or documents to the employer. Each notice shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this article alleged to have been violated. The employer shall have up to seventy-two hours, or for good cause shown to the commissioner, a greater period of time, to produce employment status verification records.~~

~~(b) If after the time period allowed under subsection (a) of this section the employer is unable to produce the required documents to satisfy the commissioner that there is no violation of this article, the commissioner may issue a citation to the employer. Each citation shall be in writing on a standard form as prescribed by the commissioner and shall describe with particularity the nature of the violation, including a reference to the provision of this article alleged to have been violated. Each citation issued under this section or a copy or copies thereof shall be prominently presented to a magistrate or circuit judge in the county where the violation occurred.~~

(a) By July 1, 2024, the commissioner may propose rules for legislative approval, in accordance with §29A-3-1 et seq. of this code, to implement the requirements and provisions of this section, including, but not limited to developing a statewide random auditing program to inspect private employers for compliance with the provisions of this section, safeguarding against the release of any confidential or identifying information that is not necessary for the limited purpose of enforcing the provisions of this article.

(b) Public notifications provision:

(1) the Division of Labor shall post educational information and materials about the 2024 changes to this statute on the Division of Labor's website along with any other notification the commissioner approves to make employers aware of the provisions of this article. This shall be completed before the effective date of this article.

(2) The Secretary of State shall notify the service of process agent or individual authorized to file the annual report on behalf of the employer of the 2024 changes to this article for each business registered with the Secretary of State. This shall be completed before the effective date of this article.

(c) For purposes of enforcing the provisions of this article, and notwithstanding any other provision of this code to the contrary, the commissioner or his or her authorized representative may access information maintained by any other state agency, including, but not limited to, the Bureau of Employment Programs and the Division of Motor Vehicles, for the limited purposes of confirming an employer's compliance with the provisions of this section and whether an employee is authorized to work, as determined by the federal government.

ARTICLE 5I. WEST VIRGINIA EMPLOYMENT LAW WORKER CLASSIFICATION ACT.

§21-5I-4. Classification of independent contractors and employees.

(a) A person shall be classified as an independent contractor under the laws of this state as defined in §21-1B-2 of this code if the requirements of this subsection are satisfied. Subject only to the provisions of subsection (b) of this section, a person shall be classified as an independent contractor under the laws of this state as defined in workers' compensation in Chapter 23 of this code, unemployment compensation in Chapter 21A of this code, Human Rights Act rights in §5-

11-1 *et seq.* of this code, and wage payment and collection as defined in §21-5-1 *et seq.* of this code, if:

(1) The person signs a written contract with the principal, in substantial compliance with the terms of this subsection, that states the principal's intent to engage the services of the person as an independent contractor and contains acknowledgements that the person understands that he or she is:

(A) Providing services for the principal as an independent contractor;

(B) Not going to be treated as an employee of the principal;

(C) Not going to be provided by the principal with either workers' compensation or unemployment compensation benefits;

(D) Obligated to pay all applicable federal and state income taxes, if any, on any moneys earned pursuant to the contractual relationship, and that the principal will not make any tax withholdings from any payments from the principal; and

(E) Responsible for the majority of supplies and other variable expenses that he or she incurs in connection with performing the contracted services unless: The expenses are for travel that is not local; the expenses are reimbursed under an express provision of the contract; or the supplies or expenses reimbursed are commonly reimbursed under industry practice; and

(2) The person:

(A) Has either filed, or is contractually required to file, in regard to the fees earned from the work, an income tax return with the appropriate federal, state, and local agencies for a business or for earnings from self-employment; or

(B) Provides his or her services through a business entity, including, but not limited to, a partnership, limited liability company or corporation, or through a sole proprietorship registered with a "doing business as" as required under state or local law; and

(3) With the exception of the exercise of control necessary to ensure compliance with statutory, regulatory, licensing, permitting, or other similar obligations required by a governmental or regulatory entity, or to protect persons or property, or to protect a franchise brand, the person actually and directly controls the manner and means by which the work is to be accomplished, even though he or she may not have control over the final result of the work: *Provided*, That the required deployment, implementation, or use of any safety improvement by an independent contractor as required by contract or otherwise shall not be considered when evaluating status as an employee or independent contractor under any state law. For purposes of this section, "safety improvement" shall mean any device, equipment, software, technology, procedure, training, policy, program, or operational practice intended and primarily used to improve or facilitate compliance with state, federal, or local safety laws or regulations or general safety concerns. This provision is satisfied even though the principal may provide orientation, information, guidance, or suggestions about the principal's products, business, services, customers and operating systems, and training otherwise required by law; and

(4) The person satisfies three or more of the following criteria:

(A) Except for an agreement with the principal relating to final completion or final delivery time or schedule, range of work hours, or the time entertainment is to be presented if the work contracted for is entertainment, the person has control over the amount of time personally spent providing services;

(B) Except for services that can only be performed at specific locations, the person has control over where the services are performed;

(C) The person is not required to work exclusively for one principal unless:

(i) A law, regulation, or ordinance prohibits the person from providing services to more than one principal; or

(ii) A license or permit that the person is required to maintain in order to perform the work limits the person to working for only one principal at a time or requires identification of the principal;

(D) The person is free to exercise independent initiative in soliciting others to purchase his or her services;

(E) The person is free to hire employees or to contract with assistants, helpers, or substitutes to perform all or some of the work;

(F) The person cannot be required to perform additional services without a new or modified contract;

(G) The person obtains a license or other permission from the principal to utilize any workspace of the principal in order to perform the work for which the person was engaged;

(H) The principal has been subject to an employment audit by the Internal Revenue Service (IRS) and the IRS has not reclassified the person to be an employee or has not reclassified the category of workers to be employees;

(I) The person is responsible for maintaining and bearing the costs of any required business licenses, insurance, certifications, or permits required to perform the services; or

(5) The person satisfies the definition of a direct seller under Section 3508(b)(2) of the Internal Revenue Code of 1986.

(b) The classification of all workers who do not satisfy the criteria set forth in subsection (a) of this section shall be determined by the test set forth in Internal Revenue Service Rev. Ruling 87-41, for purposes of classifying workers under the laws concerning workers' compensation as defined in Chapter 23 of this code, unemployment compensation in Chapter 21A of this code, Human Rights Act rights in §5-11-1 *et seq.* of this code, and wage payment and collection in §21-5-1 *et seq.* of this code. In addition, nothing contained in said subsection requires a principal to classify a worker who meets the criteria contained therein as an independent contractor, the principal always being free to hire the worker as an employee."

On the question of the adoption of the amendment, the same was put and was rejected.

The following amendment offered by Delegate Foster was then voted on by the House of Delegates:

On page 4, section 2, line 75, by striking:

“Records’ means records that may be required by the Commissioner of the Division of Labor or the Attorney General for the purposes of enforcing the provisions of this article.”

And;

On page 6 at the after section 3 by beginning a new paragraph inserting and amending §21-1B-4 as follows:

“§21-1B-4. Record-keeping requirements; employer compliance.

Every employer, firm and corporation, regardless of number of employees, shall make such records of the persons he or she employs including records of proof of the legal status or authorization to work of all employees. Such records shall be preserved pursuant to the provisions of section five, article five-c of this chapter and shall be maintained at the place of employment. Pursuant to section three, article one of this chapter, such records shall be made available to the commissioner or his or her authorized representative for inspection and investigation as the commissioner deems necessary and appropriate for the purposes of determining whether any employer, firm or corporation has violated any provision of this article which may aid in the enforcement of the provisions of this article.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 46**), and there were--yeas 84, nays 10, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Bridges, Gearheart, McGeehan, Nestor, C. Pritt, Smith, Steele, Toney and Vance.

Absent and Not Voting: Criss, Ellington, Hardy, Warner and Worrell.

So, a majority of the members present having voted in the affirmative, the amendment was adopted.

There being no further amendments, and having been engrossed, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 47**), and there were--yeas 82, nays 12, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Butler, Dillon, Foster, Hamilton, Hansen, Kirby, Kump, Lewis, Pushkin, Rowe, Williams and Young.

Absent and Not Voting: Criss, Ellington, Hardy, Warner and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4759) passed.

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

H. B. 4759 - "A Bill to amend and reenact §21-1B-2, §21-1B-3, §21-1B-4, §21-1B-5, §21-1B-7, and §21-1B-8 of the Code of West Virginia, 1931, and to repeal §21-1B-6, of the Code of West Virginia, 1931, and amends and reenacts §21-5I-4 of the Code of West Virginia, 1931, all relating to E-Verify, the federal employment authorization program; defining terms; requiring businesses to participate in E-Verify as a condition for receiving state contracts, grants, or incentives; requiring subcontractors to participate in E-Verify prior to working on any project paid for by any state contract, grant, or incentive; providing for all employers regardless of size to keep required records; providing rules for E-Verify participation for contractors and subcontractors; requiring employers in this state to enroll and participate in E-Verify; listing exceptions to said mandatory participation; providing rules for E-Verify participation for employers; imposing civil penalties; providing defenses; providing for enforcement; and requiring the Division of Labor to propose legislative rules to implement the article's provisions, and relating to the definition of independent contractor."

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

H. B. 4814, Relating to extending the reporting and sunset dates of the State Advisory Council on Postsecondary Attainment Goals; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 48**), and there were--yeas 90, nays 3, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Longanacre and Ridenour.

Absent and Not Voting: Bridges, Criss, Ellington, Hardy, Warner and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4814) passed.

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

Second Reading

S. B. 462, Updating definitions of certain terms used in Personal Income Tax Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 483, Amending Corporation Net Income Tax Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

H. B. 4697, Add protections for WV residents who reside out of state for certain time periods from non-renewal of licenses and registration; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4764, Provide one trip temporary vehicle permits to be purchased and printed online; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 4766, Require Division of Highways to place signage up 30 days prior to road closure; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 4783, Relating to the practice of optometry; on second reading, coming up in regular order, was read a second time,

On motion of Delegate Summers, the bill was amended on page 5, line 36, by striking subdivision (11) and inserting a new subdivision (11) to read as follows:

"(11) A licensee may perform those procedures he or she was taught and trained through schools or colleges of optometry accredited by the Accreditation Council on Optometric Education, or its successors or equivalents."

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 4908, Relating to permitting the state agencies to contract with the West Virginia public health Institute; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

Com. Sub. for H. B. 4017, To modify certain election laws, early voting laws, and absentee voting laws; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 4350, Relating to appointment of candidates after filing period; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4434, Relating to restrictions on use or sale of motor vehicles based on power source; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4776, Relating to adding elementary schools into school disciplinary measures on first reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

H. B. 4777, Allow staff members in public schools to eat lunch for free if there is food left over after every student has been fed; on first reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

H. B. 4855, Require Division of Purchasing to write contracts in an unbiased manner; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4860, Providing that a general education teacher may not be responsible for accommodation logs; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4957, Relating generally to lobbying rules; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 4976, Providing the contact information of the Inspector General on the agencies and boards websites of the executive departments; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Householder, and by unanimous consent, leaves of absence for the day were granted Delegates Criss, Ellington, Hardy, Warner and Worrell.

Miscellaneous Business

At 12:38 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, January 29, 2024.

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

SPECIAL CALENDAR

Monday, January 29, 2024

20th Day

11:00 A.M.

THIRD READING

- S. B. 462 - Updating definitions of certain terms used in Personal Income Tax Act
- S. B. 483 - Amending Corporation Net Income Tax Act
- H. B. 4697 - Add protections for WV residents who reside out of state for certain time periods from non-renewal of licenses and registration
- Com. Sub. for H. B. 4764 - Provide one trip temporary vehicle permits to be purchased and printed online
- Com. Sub. for H. B. 4766 - Require Division of Highways to place signage up 30 days prior to road closure
- H. B. 4783 - Relating to the practice of optometry
- Com. Sub. for H. B. 4908 - Relating to permitting the state agencies to contract with the West Virginia public health Institute

SECOND READING

- Com. Sub. for H. B. 4017 - To modify certain election laws, early voting laws, and absentee voting laws
- Com. Sub. for H. B. 4350 - Relating to appointment of candidates after filing period
- H. B. 4434 - Relating to restrictions on use or sale of motor vehicles based on power source
- H. B. 4855 - Require Division of Purchasing to write contracts in an unbiased manner
- H. B. 4860 - Providing that a general education teacher may not be responsible for accommodation logs
- H. B. 4957 - Relating generally to lobbying rules
- H. B. 4976 - Providing the contact information of the Inspector General on the agencies and boards websites of the executive departments

FIRST READING

- Com. Sub. for H. B. 4376 - Relating to surgical smoke evacuation
- H. B. 4776 - Relating to adding elementary schools into school disciplinary measures
- H. B. 4777 - Allow staff members in public schools to eat lunch for free if there is food left over after every student has been fed
- H. B. 4817 - Relating to updating the practice of nursing
- Com. Sub. for H. B. 4830 - To address the professional development of teachers.
- H. B. 4832 - Relating to state superintendent's reports regarding the finances of school districts
- H. B. 4838 - Require county boards of education to provide long-term substitute teachers, upon hiring, with certain information

HOUSE CALENDAR

Monday, January 29, 2024

20th Day

11:00 A.M.

SECOND READING

- H. B. 4795 - Relating to permitting an academic medical center to operate an opioid treatment facility.
- H. B. 4878 - Updating the meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act
- H. B. 4881 - Relating to bringing terms not defined in that act into conformity with the meaning of those terms for federal income tax purposes

FIRST READING

- H. B. 4429 - Relating to excluding test strips from the definition of drug paraphernalia
- Com. Sub. for H. B. 4621 - Relating to the Division of Correction and Rehabilitation posting mug shot photos for an arrest

WEST VIRGINIA HOUSE OF DELEGATES

MONDAY, JANUARY 29, 2024

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON RULES
10:45 A.M. - BEHIND THE CHAMBER**

**COMMITTEE ON FINANCE
1:00 P.M. – FINANCE COMMITTEE ROOM**

**COMMITTEE ON GOVERNMENT ORGANIZATION
1:00 P.M. – EAST WING COMMITTEE ROOM**

**COMMITTEE ON EDUCATION
1:00 P.M. – EDUCATION COMMITTEE ROOM**

**COMMITTEE ON JUDICIARY
2:30 P.M. JUDICIARY COMMITTEE ROOM**

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