

West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Third Legislature  
First Regular Session

Held at Charleston  
Published by the Clerk of the House



February 28, 2017  
TWENTY-FIRST DAY



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Tuesday, February 28, 2017

**TWENTY-FIRST DAY**

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

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

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

The Clerk proceeded to read the Journal of Monday, February 27, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

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

Your Committee on the Judiciary has had under consideration:

**H. B. 2364**, Prohibiting electioneering within or near early voting locations during early voting periods,

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

**Com. Sub. for H. B. 2364** – “A Bill to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-9-9 of said code, relating to restrictions on presence and conduct at or within 100 feet of polls, defining electioneering, prohibiting electioneering in or within 100 feet of a polling place, prohibiting electioneering in or within 100 feet of early voting polling places during early voting periods, providing exceptions to electioneering prohibitions for persons upon private property, and making stylistic changes to outdated language,”

And,

**H. B. 2619**, Risk Management and Own Risk and Solvency Assessment Act,

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

**Com. Sub. for H. B. 2619** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-40B-1, §33-40B-2, §33-40B-3, §33-40B-4, §33-40B-5, §33-40B-6, §33-40B-7, §33-40B-8, §33-40B-9 and §33-40B-10, all relating to insurer risk management and solvency assessment; setting forth the purpose and scope of the article; defining terms; setting forth the requirement that insurers must maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material and relevant risks; setting forth and providing requirements for the own risk and assessment summary report; providing exemptions to the summary report requirements; providing confidentiality requirements related to the summary report; providing sanctions for failing to submit the summary report; and providing the effective date of this article,”

With the recommendation that the committee substitutes each do pass.

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

Your Committee on Education has had under consideration:

**H. B. 2651**, Relating generally to standardized testing requirements for nonpublic schools,

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

**Com. Sub. for H. B. 2651** - "A Bill to amend and reenact §18-28-3 of the Code of West Virginia, 1931, as amended, relating generally to standardized testing requirements for nonpublic schools; removing outdated language; requiring standardized test to be administered to nonpublic students at same grade levels and subject areas required in public schools; requiring the test administered to be a nationally normed standardized achievement test published or normed within ten years from the date of administration; allowing additional testing at sole discretion of school; limiting accountability for composite scores to grade levels and subject areas required in public schools; removing requirement that every child be tested; and requiring minimum student participation rate on test for composite score to be valid,"

With the recommendation that the committee substitute do pass.

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

Your Committee on Education has had under consideration:

**H. B. 2373**, Authorizing school bus drivers trained in administration of epinephrine auto-injectors to administer auto-injectors,

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. 2373) was referred to the Committee on the Judiciary.

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

Your Committee on Government Organization has had under consideration:

**H. B. 2502**, Relating to reciprocity of occupational licenses with other states,

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

**Com. Sub. for H. B. 2502** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-21, relating to reciprocity of professional and occupational licenses with other states or jurisdictions; proscribing requirements of applicants; and providing for background checks and interviews of applicants,"

With the recommendation that the committee substitute do pass.

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

Your Committee on Government Organization has had under consideration:

**H. B. 2343**, Requiring the State Police to lease rather than buy vehicles if cost effective,

And,

**H. B. 2475**, Authorizing the Tax Commissioner to collect tax, interest and penalties due and owing from payments to vendors and contractors from the Auditor and other state, county, district or municipal officers and agents,

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

In accordance with the former direction of the Speaker, the bills (H. B. 2343 and H. B. 2475) were each referred to the Committee on Finance.

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

Your Committee on Government Organization has had under consideration:

**H. B. 2630**, Authorizing the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine to share staff,

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

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

Your Committee on the Judiciary has had under consideration:

**H. B. 2684**, Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license,

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

### **Messages from the Senate**

A message from the Senate, by

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

**Com. Sub. for S. B. 80** - "A Bill to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating to burglary; eliminating the offense of daytime burglary; making breaking and entering or entering without breaking into a dwelling or outbuilding thereof a felony regardless of time of day; and establishing the penalty for burglary"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**S. B. 164** - "A Bill to amend and reenact §17C-17-5 of the Code of West Virginia, 1931, as amended, relating to traffic regulations and special load limits; changing the load limitation of a digger or derrick line truck from forty feet to forty-five feet in length; increasing from six to nine feet the distance a load may extend beyond the foremost part of the truck; and increasing from nine to eleven feet the distance a load may extend beyond the rear of the body of the truck"; which was referred to the Committee on Roads and Transportation then the Judiciary.

A message from the Senate, by

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

**Com. Sub. for S. B. 204** - "A Bill to amend and reenact §5-1-22 of the Code of West Virginia, 1931, as amended, relating to filling vacancies in offices by appointment of the Governor; providing for what shall be considered an appointment; and requiring that persons appointed to fill a vacancy have the same qualifications for the vacated office and receive same compensation and expenses for the office otherwise provided by law"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2017, and requested the concurrence of the House of Delegates in the passage, of

**S. B. 231** - "A Bill to amend and reenact §18-2-5b of the Code of West Virginia, 1931, as amended, relating to the State Board of Education and Medicaid-eligible children; and providing that the state board may delegate its provider status and subsequent reimbursement to regional education service agencies or county boards subject to the county board determining that there is a net benefit and no detracting from the educational program of the county."

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (S. B. 231) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

**S. B. 330** - "A Bill to amend and reenact §21-5G-1 and §21-5G-7 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Workplace Freedom Act; eliminating the term "state" from the definitions section of the act; eliminating provisions addressing the construction of the West Virginia Workplace Freedom Act; eliminating language regarding the applicability of the West Virginia Workplace Freedom Act to collective bargaining or collective bargaining agreements in the building and construction industry; clarifying dates of applicability; and specifying that changes are to be applied retroactively"; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

**S. B. 349** - "A Bill to repeal §25-1-10 of the Code of West Virginia, 1931, as amended, relating to the Commissioner of the Division of Corrections being responsible to insure all state buildings and property"; which was referred to the Committee on Government Organization.

### **Bills Introduced**

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

**By Delegates Shott, R. Miller, Kessinger, Lane, Byrd and Isner:**

**H. B. 2726** - "A Bill to amend and reenact §62-11B-9 of the Code of West Virginia, 1931, as amended, relating generally to authorizing home incarceration officers to arrest participants for violating the terms and conditions of his or her supervision with or without a court order"; to the Committee on the Judiciary.

**By Delegates Pushkin, Higginbotham, Hornbuckle, Shott, Miley, Hanshaw, Rowe, Lane, Fleischauer, Byrd and Robinson:**

**H. B. 2727** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §25-1-9, relating to facilitating a released inmate's reintegration into society, by requiring the Commissioner of the Division of Motor Vehicles and Commissioner of Corrections, to provide an identification card for released inmates who do not have a West Virginia identification card or driver's license"; to the Committee on the Judiciary then Finance.

**By Delegate Love:**

**H. B. 2728** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §9-4F-1, §9-4F-2 and §9-4F-3, all relating to creating the Medicaid Laboratory Reimbursement Data Consolidation and Redundancy Act within the Department of Health and Human Resources; and providing that a reporting system is to be created allowing pharmacies to determine what prescriptions have been filled for a Medicaid recipient at different pharmacies; providing that the system also track laboratory work; and requiring legislative rules"; to the Committee on Health and Human Resources then Finance.

**By Delegates Frich, Storch, Butler, Householder, Longstreth, Hamilton, A. Evans, Ellington, Blair, Anderson and Westfall:**

**H. B. 2729** - "A Bill to amend and reenact §24-6-6b of the Code of West Virginia, 1931, as amended, relating to giving the West Virginia State Police an additional 15¢ from the wireless enhanced 911 fee to be used for the operation of its forensic laboratory"; to the Committee on Finance.

**By Delegates Eldridge, Paynter, R. Miller, Marcum and Maynard:**

**H. B. 2730** - "A Bill to amend and reenact §16-49-1 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Clearance for Access: Registry and Employment Screening Act; and adding applicants for child care and foster care subject to background checks"; to the Committee on the Judiciary.

**By Delegates Shott, R. Miller, Kessinger, Lane and Byrd:**

**H. B. 2731** - "A Bill to amend and reenact §51-2-2 of the Code of West Virginia, 1931, as amended, relating to clarifying that only civil actions with controversial amounts exceeding \$10,000 must be heard in circuit court, except in actions relating to real estate installment sales contracts or actions confined exclusively by the Constitution to some other tribunal"; to the Committee on the Judiciary.

**By Delegates Shott, R. Miller, Kessinger, Lane, Byrd and Isner:**

**H. B. 2732** - "A Bill to amend and reenact §49-4-605 of the Code of West Virginia, 1931, as amended, relating to standards for termination of parental rights in child abuse and neglect cases; and correcting a technical error"; to the Committee on the Judiciary.

**By Delegates Moore, Mr. Armstead (Mr. Speaker), O'Neal, Cowles, Householder and Espinosa:**

**H. B. 2733** - "A Bill to amend and reenact §5-1A-4 of the Code of West Virginia, 1931, as amended, relating to requiring a detailed explanation of any appropriation designated as "Other assets" in the Governor's proposed budget expenditures"; to the Committee on Finance.

**By Delegates Boggs and Westfall:**

**H. B. 2734** - "A Bill to amend and reenact §11-6C-1, §11-6C-2, §11-6C-3, §11-6C-4 and §11-6C-5 of the Code of West Virginia, 1931, as amended; and to amend said code, by adding thereto a new section, designated §11-6C-6, all relating to authorizing a method for the collection and remittance of property taxes related to dealers' heavy equipment inventory"; to the Committee on Finance.

**By Delegates Sobonya, C. Romine, C. Miller, Westfall, Butler, Atkinson, White, Householder, Frich, N. Foster and Summers:**

**H. B. 2735** - "A Bill to amend and reenact §30-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-5-25a, all relating generally to requiring the Board of Pharmacy to review, investigate and make appropriate referrals of reports of suspicious orders of controlled substances; authorizing the board to investigate suspicious orders by controlled substances registrants and to conduct hearings on the denial, suspension or revocation of registrations; directing the board to maintain a log of reports of suspicious orders; requiring reports to be reviewed by the Attorney General; and directing reports of suspicious orders to be referred to agencies and authorities with appropriate jurisdiction"; to the Committee on Health and Human Resources then the Judiciary.

**By Delegate Ellington:**

**H. B. 2736** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-25, relating to the selling of certain state owned long-term care facilities by the Secretary of the Department of Health and Human Resources; creating in the State Treasury a special revenue account to be known as the "Health Care Facilities Liquidation Fund"; requiring the secretary to prepare an accounting of all such assets, and providing that expenditures from the fund are not authorized from collections deposited in the fund but are to be made only in accordance with appropriation by the Legislature"; to the Committee on Health and Human Resources then Finance.

**By Delegates Shott, R. Miller, Kessinger, Lane, Byrd and Isner:**

**H. B. 2737** - "A Bill to repeal §38-5B-8 of the Code of West Virginia, 1931, as amended, to amend and reenact §29-12D-1a of said code; to amend and reenact §38-5B-5 and §38-5B-9 of said code; to amend and reenact §49-4-716 of said code; and to amend and enact §51-2A-8 of said code, all relating to eliminating certain fees generated by suggestee executions and providing more efficient collection and submission of state moneys received as a result of certain court transactions or court services"; to the Committee on Finance.

**By Delegates Espinosa, Statler, Dean, Blair, Westfall, Higginbotham, Moore, Wilson, Cooper and Upson:**

**H. B. 2738** - "A Bill to amend and reenact §18A-2-7 of the Code of West Virginia, 1931, as amended, relating generally to the transfer of school personnel; providing flexibility in the employee transfer process; removing April 1 deadline for notifying employee that he or she is being considered



for transfer; requiring employee to be transferred be provided with a statement of the reason for the proposed transfer; removing requirement that employee to be transferred request reason for transfer in writing; requiring hearing on proposed transfer occur within twenty days of receipt of a hearing request; requiring transferred employee to report to the new assignment upon the date specified in the notice, but no sooner than ten days following receipt of notice, unless another date can be mutually agreed upon by the superintendent and employee; and removing the reassignment process that can occur when actual student enrollment in a grade level or program is unforeseen on or before May 1 of the preceding school year"; to the Committee on Education.

**By Delegates Summers, Ellington, Howell and Statler:**

**H. B. 2739** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated, §9-5-25, relating to supplemental Medicaid provider reimbursement"; to the Committee on Health and Human Resources then Finance.

**By Mr. Speaker (Mr. Armstead), and Delegate Miley  
[By Request of the Executive]:**

**H. B. 2740** - "A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2017 in the amount of \$18,600,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2017, organization 0701, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Division of Finance, fund 0203, fiscal year 2017, organization 0209, and to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2017, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2017"; to the Committee on Finance.

### House Calendar

#### Third Reading

**Com. Sub. for H. B. 2083**, Increasing the felony criminal penalties for exposing children to methamphetamine manufacturing; 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. 25**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Folk and McGeehan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2083) passed.

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

**H. B. 2123**, Making the West Virginia Schools for the Deaf and Blind eligible to participate in any and all funding administered or distributed by the West Virginia School Building Authority; 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. 26**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2123) passed.

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

On this question, the yeas and nays were taken (**Roll No. 27**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2123) takes effect from its passage.

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

**Com. Sub. for H. B. 2486**, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order; 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. 28**), and there were—yeas 68, nays 31, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Love, Lovejoy, Lynch, Marcum, Miley, Phillips, Pyles, Rodighiero, Rowe, Sponaugle, Thompson, Upson and Williams.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2486) passed.

*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. 2542**, Relating to public higher education personnel; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Byrd moved to postpone the bill one day, retaining its place on the calendar.

On this motion, Delegate Caputo demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 29**), and there were—yeas 37, nays 62, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Cowles.

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

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 30**), and there were—yeas 61, nays 38, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Frich, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Ward and Williams.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2542) passed.

*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. 2585**, Creating felony crime of conducting financial transactions involving proceeds of criminal activity; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Wilson asked unanimous consent to amend the bill on third reading, which consent was not given, objection being heard.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 31**), and there were—yeas 78, nays 21, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Brewer, Diserio, Eldridge, E. Evans, Folk, Hicks, Hornbuckle, Iaquina, Longstreth, Lynch, Martin, McGeehan, Paynter, Pushkin, Rodighiero, Rowe, Sponaugle, Wagner and Williams.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2585) passed.

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

### Second Reading

**Com. Sub. for H. B. 2420**, Providing that the State Board of Education may delegate its Medicaid provider status and subsequent reimbursement to regional educational service agencies or county boards; on second reading, coming up in regular order, was read a second time.

Delegates Wilson and Folk moved to amend the bill on page one, section five-b, line three, following the word “program”, by striking out the word “and”, and inserting the words “for whom parental consent has been obtained”.

And,

On page two, line twenty-six, following the word “eligible”, by inserting the words “and for which parental consent has been obtained”.

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. 32**), and there were—yeas 26, nays 68, absent and not voting 6, with the yeas and absent and not voting being as follows:

Yeas: Brewer, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Folk, Frich, Hill, Hornbuckle, Isner, Love, Marcum, Martin, McGeehan, Miley, R. Miller, O’Neal, Paynter, Rodighiero, Sponaule, Thompson, Ward, Williams and Wilson.

Absent and Not Voting: Bates, Cowles, Hamrick, Maynard, Pyles and Walters.

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

The bill was then ordered to engrossment and third reading.

**Com. Sub. for H. B. 2506**, Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria; on second reading, coming up in regular order, was read a second time.

Delegate Pushkin moved to amend the bill on page two, section seven-b, line twenty-eight, following the period, by inserting the following:

“At locations where mixing zones are allowed to overlap, the Secretary shall require the permittee to post signage on the shore-line in near proximity to the water body mixing zone, in lettering at least one inch in height, a notice that reads “Warning - Pollution mixing zone, stream pollution in this area exceeds state water quality standards. SWIM AT YOUR OWN RISK!”

Delegate Pushkin then asked and obtained unanimous consent to offer a reformed amendment on page two, section seven-b, line twenty-eight, following the period, by inserting the following sentence:

“At locations where mixing zones are allowed to overlap, the Secretary shall require permittees to indicate on their required signage an indication that mixing zones overlap in a particular vicinity.”

After debate, Delegate Pushkin subsequently asked and obtained unanimous consent to reinstate the original amendment.

Delegate Hanshaw then moved to amend the amendment by Delegate Pushkin, by striking out everything following the word “Secretary” and inserting in lieu thereof “shall require permittees to indicate on their required signage an indication that mixing zones overlap in a particular vicinity.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 33**), and there were—yeas 58, nays 35, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Baldwin, Barrett, Bates, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Gearheart, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moore, Moye, Paynter, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Cowles, A. Evans, Hamilton, Hicks, Marcum, Phillips and Walters.

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

The amendment offered by Delegate Pushkin, as amended, was then adopted.

The bill was then ordered to engrossment and third reading.

### **First Reading**

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

**Com. Sub. for H. B. 2329**, Prohibiting the production, manufacture or possession of fentanyl,

**Com. Sub. for H. B. 2620**, West Virginia Drug Overdose Monitoring Act,

**Com. Sub. for H. B. 2646**, Terminating the Women's Commission and discontinue its functions,

And,

**Com. Sub. for H. B. 2648**, Increasing penalties for manufacturing or transportation of a controlled substance in the presence of a minor.

### **Miscellaneous Business**

Delegate Lewis noted to the Clerk that he was absent on February 27, 2017, when the votes were taken on Roll Nos. 18, 19, 20, 21, 22 and 23, and that had he been present, he would have voted "Yea" on Roll Nos. 18 through 21 and "Nay" on Roll Nos. 22 and 23.

Delegate E. Evans asked and obtained unanimous consent for a moment of silence for a fallen miner.

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate E. Evans during Remarks by Members be printed in the Appendix to the Journal.

Delegate Folk asked and obtained unanimous consent that the remarks of Delegate McGeehan regarding Com. Sub. for H. B. 2585 be printed in the Appendix to the Journal.

Delegate Eldridge filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2566.

Delegate Frich filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2037, H. B. 2726, H. B. 2732 and H. B. 2739.

At 1:36 p. m., the House of Delegates adjourned until 11:00 a.m., Wednesday, March 1, 2017.

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

## HOUSE CALENDAR

Wednesday, March 1, 2017

22<sup>nd</sup> Day

11:00 A. M.

### THIRD READING

- Com. Sub. for H. B. 2420 - Providing that the State Board of Education may delegate its Medicaid provider status and subsequent reimbursement to regional educational service agencies or county boards (WESTFALL) (REGULAR)
- Com. Sub. for H. B. 2506 - Relating to the permit limit calculations and allowing overlapping mixing zones for calculating permit limits for drinking water criteria (SHOTT) (REGULAR)

### SECOND READING

- S. B. 231 - Relating to State Board of Education and Medicaid-eligible children
- Com. Sub. for H. B. 2329 - Prohibiting the production, manufacture or possession of fentanyl (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2620 - West Virginia Drug Overdose Monitoring Act (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2646 - Terminating the Women's Commission and discontinue its functions (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2648 - Increasing penalties for manufacturing or transportation of a controlled substance in the presence of a minor (SHOTT) (REGULAR)

### FIRST READING

- Com. Sub. for H. B. 2364 - Prohibiting electioneering within or near early voting locations during early voting periods (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2502 - Relating to reciprocity of occupational licenses with other states (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2619 - Risk Management and Own Risk and Solvency Assessment Act (SHOTT) (REGULAR)

- H. B. 2630 - Authorizing the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine to share staff (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2651 - Relating generally to standardized testing requirements for nonpublic schools (ESPINOSA) (REGULAR)
- H. B. 2684 - Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license (SHOTT) (REGULAR)



**WEST VIRGINIA  
HOUSE OF DELEGATES**

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**WEDNESDAY, MARCH 1, 2017**

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**HOUSE CONVENES AT 11:00 A.M.**

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**COMMITTEE ON JUDICIARY  
9:00 A.M. – ROOM 418M**

**COMMITTEE ON FINANCE  
9:00 A.M. & 2:00 P.M. – ROOM 464M**

**COMMITTEE ON EDUCATION  
2:30 P.M. – ROOM 434M**

**COMMITTEE ON GOVERNMENT ORGANIZATION  
3:00 P.M. – ROOM 215E**

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