

SB 417

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WEST VIRGINIA LEGISLATURE

SEVENTY-EIGHTH LEGISLATURE

REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE

FOR

ENROLLED

Senate Bill No. 417

(SENATORS MINARD, FANNING, PREZIOSO,
UNGER, BOLEY AND FACEMYER, *original sponsors*)

[Passed March 8, 2008; in effect from passage.]

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CLERK OF SENATE

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[Passed March 8, 2008; in effect from passage.]

AN ACT to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Revenue and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State

Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to retail licensee operations; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to farm wineries; authorizing the Alcohol Beverage Control Commission to promulgate a legislative rule relating to the sale of wine; authorizing the Insurance Commissioner to promulgate a legislative rule relating to guaranteed loss ratios as applied to individual sickness and accident insurance policies; authorizing the Insurance Commissioner to promulgate a legislative rule relating to mental health parity; authorizing the Insurance Commissioner to promulgate a legislative rule relating to recognition of preferred mortality tables for use in determining minimum reserve liabilities; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the replacement of life insurance policies and annuity contracts; authorizing the Insurance Commissioner to promulgate a legislative rule relating to military sales practices; authorizing the Insurance Commissioner to promulgate a legislative rule relating to suitability in annuity transactions; authorizing the Insurance Commissioner to promulgate a legislative rule relating to life insurance disclosures; authorizing the Insurance Commissioner to promulgate a legislative rule relating to life insurance illustrations; authorizing the Insurance

Commissioner to promulgate a legislative rule relating to examiners and examinations; authorizing the Insurance Commissioner to promulgate a legislative rule relating to the licensing and conduct of insurance producers, agencies and solicitors; authorizing the Insurance Commissioner to promulgate a legislative rule relating to fingerprinting requirements for applications for an insurance producer license; authorizing the Insurance Commissioner to promulgate a legislative rule relating to advertisement of life insurance and annuities; authorizing the Lottery Commission to promulgate a legislative rule relating to racetrack table games; and authorizing the State Tax Division to promulgate a legislative rule relating to the exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

Be it enacted by the Legislature of West Virginia:

That article 7, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES.

§64-7-1. Alcohol Beverage Control Commission.

- 1 (a) The legislative rule filed in the State Register on
- 2 the twenty-sixth day of July, two thousand seven,
- 3 authorized under the authority of section six, article

4 three-a, chapter sixty of this code, modified by the
5 Alcohol Beverage Control Commission to meet the
6 objections of the Legislative Rule-Making Review
7 Committee and refiled in the State Register on the
8 twenty-second day of January, two thousand eight,
9 relating to the Alcohol Beverage Control Commission
10 (retail licensee operations, 175 CSR 1), is authorized.

11 (b) The legislative rule filed in the State Register on
12 the twenty-sixth day of July, two thousand seven,
13 authorized under the authority of section twenty-three,
14 article eight, chapter sixty of this code, modified by the
15 Alcohol Beverage Control Commission to meet the
16 objections of the Legislative Rule-Making Review
17 Committee and refiled in the State Register on the
18 twenty-second day of January, two thousand eight,
19 relating to the Alcohol Beverage Control Commission
20 (farm wineries, 175 CSR 3), is authorized.

21 (c) The legislative rule filed in the State Register on
22 the twenty-sixth day of July, two thousand seven,
23 authorized under the authority of section six, article
24 three-a, chapter sixty of this code, modified by the
25 Alcohol Beverage Control Commission to meet the
26 objections of the Legislative Rule-Making Review
27 Committee and refiled in the State Register on the
28 twenty-second day of January, two thousand eight,
29 relating to the Alcohol Beverage Control Commission
30 (sale of wine, 175 CSR 4), is authorized.

§64-7-2. Insurance Commissioner.

1 (a) The legislative rule filed in the State Register on
2 the twenty-seventh day of July, two thousand seven,
3 authorized under the authority of section ten, article

4 two, chapter thirty-three of this code, modified by the
5 Insurance Commissioner to meet the objections of the
6 Legislative Rule-Making Review Committee and refiled
7 in the State Register on the seventh day of December,
8 two thousand seven, relating to the Insurance
9 Commissioner (guaranteed loss ratios as applied to
10 individual sickness and accident insurance policies, 114
11 CSR 31), is authorized.

12 (b) The legislative rule filed in the State Register on
13 the twenty-seventh day of July, two thousand seven,
14 authorized under the authority of section ten, article
15 two, chapter thirty-three of this code, relating to the
16 Insurance Commissioner (mental health parity, 114
17 CSR 64), is authorized.

18 (c) The legislative rule filed in the State Register on
19 the twenty-seventh day of July, two thousand seven,
20 authorized under the authority of section ten, article
21 two, chapter thirty-three of this code, modified by the
22 Insurance Commissioner to meet the objections of the
23 Legislative Rule-Making Review Committee and refiled
24 in the State Register on the seventh day of December,
25 two thousand seven, relating to the Insurance
26 Commissioner (recognition of preferred mortality tables
27 for use in determining minimum reserve liabilities, 114
28 CSR 69A), is authorized.

29 (d) The legislative rule filed in the State Register on
30 the twenty-seventh day of July, two thousand seven,
31 authorized under the authority of section ten, article
32 two, chapter thirty-three of this code, modified by the
33 Insurance Commissioner to meet the objections of the
34 Legislative Rule-Making Review Committee and refiled
35 in the State Register on the seventh day of December,

36 two thousand seven, relating to the Insurance
37 Commissioner (replacement of life insurance policies
38 and annuity contracts, 114 CSR 8), is authorized.

39 (e) The legislative rule filed in the State Register on
40 the twenty-seventh day of July, two thousand seven,
41 authorized under the authority of section ten, article
42 two, chapter thirty-three of this code, modified by the
43 Insurance Commissioner to meet the objections of the
44 Legislative Rule-Making Review Committee and refiled
45 in the State Register on the seventh day of December,
46 two thousand seven, relating to the Insurance
47 Commissioner (military sales practices, 114 CSR 82), is
48 authorized.

49 (f) The legislative rule filed in the State Register on
50 the twenty-seventh day of July, two thousand seven,
51 authorized under the authority of section ten, article
52 two, chapter thirty-three of this code, modified by the
53 Insurance Commissioner to meet the objections of the
54 Legislative Rule-Making Review Committee and refiled
55 in the State Register on the seventh day of December,
56 two thousand seven, relating to the Insurance
57 Commissioner (suitability in annuity transactions, 114
58 CSR 11B), is authorized.

59 (g) The legislative rule filed in the State Register on
60 the twenty-seventh day of July, two thousand seven,
61 authorized under the authority of section ten, article
62 two, chapter thirty-three of this code, modified by the
63 Insurance Commissioner to meet the objections of the
64 Legislative Rule-Making Review Committee and refiled
65 in the State Register on the seventh day of December,
66 two thousand seven, relating to the Insurance
67 Commissioner (life insurance disclosures, 114 CSR

68 11A), is authorized.

69 (h) The legislative rule filed in the State Register on
70 the twenty-seventh day of July, two thousand seven,
71 authorized under the authority of section ten, article
72 two, chapter thirty-three of this code, modified by the
73 Insurance Commissioner to meet the objections of the
74 Legislative Rule-Making Review Committee and refiled
75 in the State Register on the seventh day of December,
76 two thousand seven, relating to the Insurance
77 Commissioner (life insurance illustrations, 114 CSR
78 11C), is authorized with the following amendment:

79 On page 17, section 11, by striking section 11 in its
80 entirety and inserting in lieu thereof the following:

‘§114-11C-11. Failure to comply.

1 A violation of paragraphs 5.2 or 5.3, section 5 of this
2 rule by an insurer constitutes a statement or omission
3 which misrepresents the benefits, advantages,
4 conditions or terms of a life insurance policy.’

5 (i) The legislative rule filed in the State Register on
6 the twenty-seventh day of July, two thousand seven,
7 authorized under the authority of section ten, article
8 two, chapter thirty-three of this code, relating to the
9 Insurance Commissioner (examiners and examinations,
10 114 CSR 15), is authorized.

11 (j) The legislative rule filed in the State Register on
12 the twenty-seventh day of July, two thousand seven,
13 authorized under the authority of section ten, article
14 two, chapter thirty-three of this code, relating to the
15 Insurance Commissioner (licensing and conduct of

16 insurance producers, agencies and solicitors, 114 CSR
17 2), is authorized.

18 (k) The legislative rule filed in the State Register on
19 the twenty-seventh day of July, two thousand seven,
20 authorized under the authority of section ten, article
21 two, chapter thirty-three of this code, modified by the
22 Insurance Commissioner to meet the objections of the
23 Legislative Rule-Making Review Committee and refiled
24 in the State Register on the seventh day of December,
25 two thousand seven, relating to the Insurance
26 Commissioner (fingerprinting requirements for
27 applications for insurance producer license, 114 CSR
28 2A), is authorized.

29 (l) The legislative rule filed in the State Register on
30 the twenty-seventh day of July, two thousand seven,
31 authorized under the authority of section ten, article
32 two, chapter thirty-three of this code, modified by the
33 Insurance Commissioner to meet the objections of the
34 Legislative Rule-Making Review Committee and refiled
35 in the State Register on the seventh day of December,
36 two thousand seven, relating to the Insurance
37 Commissioner (advertisement of life insurance and
38 annuities, 114 CSR 11), is authorized.

§64-7-3. Lottery Commission.

1 The legislative rule filed in the State Register on the
2 twenty-seventh day of July, two thousand seven,
3 authorized under the authority of section four, article
4 twenty-two-c, chapter twenty-nine of this code,
5 modified by the Lottery Commission to meet the
6 objections of the Legislative Rule-Making Review
7 Committee and refiled in the State Register on the

8 twenty-sixth day of December, two thousand seven,
9 relating to the Lottery Commission (racetrack table
10 games, 179 CSR 8), is authorized with the following
11 amendments:

12 On page twelve, by striking out subsection 2.65 in its
13 entirety;

14 On page fifteen, by striking subsection 3.11 in its
15 entirety and renumbering the subsequent subsections
16 accordingly;

17 On page seventeen, by striking out section 179-8-9 in
18 its entirety and renumbering the subsequent sections
19 accordingly;

20 And,

21 On page ninety-four, section one hundred ten, by
22 striking out the words 'section eleven' and inserting in
23 lieu thereof the words 'sections one hundred fourteen
24 through one hundred twenty-six'.

§64-7-4. State Tax Department.

1 The legislative rule filed in the State Register on the
2 twenty-seventh day of July, two thousand seven,
3 authorized under the authority of section five-s, article
4 ten, chapter eleven of this code, modified by the State
5 Tax Department to meet the objections of the
6 Legislative Rule-Making Review Committee and refiled
7 in the State Register on the twenty-ninth day of
8 December, two thousand seven, relating to the State
9 Tax Department (exchange of information agreement
10 between the Commissioner of the Tax Division of the

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11 Department of Revenue and the Commissioner of the
12 Division of Labor of the Department of Commerce, the
13 Commissioner of the Insurance Commission of the
14 Department of Revenue, the Commissioner of the
15 Division of Motor Vehicles of the Department of
16 Transportation, the Commissioner of the Bureau of
17 Employment Programs and the Office of the Governor,
18 110 CSR 50D), is authorized.

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....*Chandy White*.....
Chairman Senate Committee

.....*[Signature]*.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

.....*Darrell E. Gibbs*.....
Clerk of the Senate

.....*Bryce W. Seal*.....
Clerk of the House of Delegates

.....*Carl Ray Tomblin*.....
President of the Senate

.....*[Signature]*.....
Speaker House of Delegates

The within *is approved*..... this
the *2th* Day of *May*....., 2008.

.....*[Signature]*.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2008

Time 3:27pm