

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 250**

4 (By Senator Snyder)

5 _____
6 [Originating in the Committee on the Judiciary;
7 reported March 27, 2013.]
8 _____

9
10 A BILL to amend and reenact article 10, chapter 64 of the Code of
11 West Virginia, 1931, as amended, relating generally to the
12 promulgation of administrative rules by the Department of
13 Commerce; legislative mandate or authorization for the
14 promulgation of certain legislative rules by various executive
15 or administrative agencies of the state; authorizing certain
16 of the agencies to promulgate certain legislative rules in the
17 form that the rules were filed in the State Register;
18 authorizing certain of the agencies to promulgate certain
19 legislative rules with various modifications presented to and
20 recommended by the Legislative Rule-Making Review Committee;
21 authorizing certain of the agencies to promulgate certain
22 legislative rules with various modifications presented to and
23 recommended by the Legislative Rule-Making Review Committee
24 and as amended by the Legislature; authorizing the Development
25 Office to promulgate a legislative rule relating to the use of
26 coalbed methane severance tax proceeds; authorizing the

1 Broadband Deployment Council to promulgate a legislative rule
2 relating to broadband deployment grants programs; authorizing
3 the Board of Miner Training, Education and Certification to
4 promulgate a legislative rule relating to the standards for
5 certification of coal mine electricians; authorizing the
6 Division of Natural Resources to promulgate a legislative rule
7 relating to special boating; authorizing the Division of
8 Natural Resources to promulgate a legislative rule relating to
9 special motorboating; authorizing the Division of Natural
10 Resources to promulgate a legislative rule relating to
11 defining the terms used in all hunting and trapping rules;
12 authorizing the Division of Natural Resources to promulgate a
13 legislative rule relating to prohibitions when hunting and
14 trapping; authorizing the Division of Natural Resources to
15 promulgate a legislative rule relating to deer hunting;
16 authorizing the Division of Natural Resources to promulgate a
17 legislative rule relating to general trapping; authorizing the
18 Division of Natural Resources to promulgate a legislative rule
19 relating to special waterfowl hunting; authorizing the
20 Division of Natural Resources to promulgate a legislative rule
21 relating to special fishing; authorizing the Division of
22 Natural Resources to promulgate a legislative rule relating to
23 falconry; authorizing the Division of Labor to promulgate a
24 legislative rule relating to bedding and upholstered
25 furniture; authorizing the Division of Labor to promulgate a
26 legislative rule relating to the Amusement Rides and Amusement

1 Attractions Safety Act; authorizing the Division of Labor to
2 promulgate a legislative rule relating to the supervision of
3 elevator mechanics and apprentices; authorizing the Division
4 of Labor to promulgate a legislative rule relating to the
5 Crane Operator Certification Act; and authorizing the Division
6 of Labor to promulgate a legislative rule relating to the
7 Crane Operator Certification Act - practical examination.

8 *Be it enacted by the Legislature of West Virginia:*

9 That article 10, chapter 64 of the Code of West Virginia,
10 1931, as amended, be amended and reenacted to read as follows:

11 **ARTICLE 10. AUTHORIZATION FOR BUREAU OF COMMERCE TO PROMULGATE**
12 **LEGISLATIVE RULES.**

13 **§64-10-1. Development Office.**

14 The legislative rule filed in the State Register on May 11,
15 2012, authorized under the authority of section twenty-a, article
16 thirteen-a, chapter eleven, of this code, relating to the
17 Development Office (use of coalbed methane severance tax proceeds,
18 145 CSR 13), is authorized.

19 **§64-10-2. Broadband Deployment Council.**

20 The legislative rule filed in the State Register on August 10,
21 2012, authorized under the authority of section four, article
22 fifteen-c, chapter thirty-one, of this code, modified by the
23 Broadband Deployment Council to meet the objections of the
24 Legislative Rule-Making Review Committee and refiled in the State
25 Register on January 22, 2013, relating to the Broadband Deployment
26 Council (broadband deployment grants programs, 208 CSR 1), is

1 authorized.

2 **§64-10-3. Board of Miners Training, Education and Certification.**

3 The legislative rule filed in the State Register on August 22,
4 2012, authorized under the authority of section six, article seven,
5 chapter twenty-two-a, of this code, modified by the Board of Miners
6 Training, Education and Certification to meet the objections of the
7 Legislative Rule-Making Review Committee and refiled in the State
8 Register on December 17, 2012, relating to the Board of Miners
9 Training, Education and Certification (standards for certification
10 of coal mine electricians, 48 CSR 7), is authorized.

11 **§64-10-4. Division of Natural Resources.**

12 (a) The legislative rule filed in the State Register on August
13 31, 2012, authorized under the authority of section seven, article
14 one, chapter twenty, of this code, relating to the Division of
15 Natural Resources (special boating, 58 CSR 26), is authorized.

16 (b) The legislative rule filed in the State Register on August
17 31, 2012, authorized under the authority of section twenty-three,
18 article seven, chapter twenty, of this code, modified by the
19 Division of Natural Resources to meet the objections of the
20 Legislative Rule-Making Review Committee and refiled in the State
21 Register on October 18, 2012, relating to the Division of Natural
22 Resources (special motorboating, 58 CSR 27), is authorized.

23 (c) The legislative rule filed in the State Register on August
24 31, 2012, authorized under the authority of section seven, article
25 one, chapter twenty, of this code, relating to the Division of
26 Natural Resources (defining the terms used in all hunting and

1 trapping rules, 58 CSR 46), is authorized.

2 (d) The legislative rule filed in the State Register on July
3 19, 2012, authorized under the authority of section seven, article
4 one, chapter twenty, of this code, relating to the Division of
5 Natural Resources (prohibitions when hunting and trapping, 58 CSR
6 47), is authorized.

7 (e) The legislative rule filed in the State Register on August
8 31, 2012, authorized under the authority of section seven, article
9 one, chapter twenty, of this code, modified by the Division of
10 Natural Resources to meet the objections of the Legislative Rule-
11 Making Review Committee and refiled in the State Register on
12 October 18, 2012, relating to the Division of Natural Resources
13 (deer hunting, 58 CSR 50), is authorized.

14 (f) The legislative rule filed in the State Register on August
15 31, 2012, authorized under the authority of section seven, article
16 one, chapter twenty, of this code, relating to the Division of
17 Natural Resources (general trapping, 58 CSR 53), is authorized.

18 (g) The legislative rule filed in the State Register on August
19 31, 2012, authorized under the authority of section seven, article
20 one, chapter twenty, of this code, relating to the Division of
21 Natural Resources (special waterfowl hunting, 58 CSR 58), is
22 authorized.

23 (h) The legislative rule filed in the State Register on August
24 31, 2012, authorized under the authority of section seven, article
25 one, chapter twenty, of this code, relating to the Division of
26 Natural Resources (special fishing, 58 CSR 61), is authorized.

1 (i) The legislative rule filed in the State Register on August
2 31, 2012, authorized under the authority of section seven, article
3 one, chapter twenty, of this code, modified by the Division of
4 Natural Resources to meet the objections of the Legislative Rule-
5 Making Review Committee and refiled in the State Register on
6 October 31, 2012, relating to the Division of Natural Resources
7 (falconry, 58 CSR 65), is authorized with the following amendments:

8 On page one, subsection 2.8., after the word "Falconiformes"
9 by inserting a comma and the words "the Order Accipitriformes";

10 On page one, after subsection 2.8., by inserting a new
11 subsection 2.9. to read as follows:

12 2.9. "Passage" means a first-year raptor that is no longer
13 dependent upon parental care.;

14 On page three, by striking out all of subsection 4.5. and
15 inserting in lieu thereof a new subsection 4.5. to read as follows:

16 4.5. A permittee may use a falconry to take any bird species
17 for which there is a depredation order in place in 50 CFR at any
18 time in accordance with the conditions of the applicable
19 depredation order. The permittee may not receive any compensation
20 for depredation activities.

21 On page four, subdivision 5.3.e., after the word "Falconiform"
22 by inserting a comma and the word "Accipitriform";

23 On page six, subdivision 7.2.a., by striking out the word
24 "Alymeri" and inserting in lieu thereof the word "Aylmeri";

25 On page eight, by striking out all of subsection 10.1. and
26 inserting in lieu thereof a new subsection 10.1. to read as

1 follows:

2 10.1. A raptor taken, possessed, transported or used for
3 falconry purposes shall be marked with: a seamless, numbered band
4 issued by the Division for captive-bred birds or a U. S. Fish and
5 Wildlife Service permanent, non-reusable numbered band issued by
6 the Division for birds originating from the wild. An ISO
7 (International Organization for Standardization)-compliant (134.2
8 kHz) microchip may be implanted in addition to the band.;

9 On page eight, by striking out all of subsection 10.3. and
10 inserting in lieu thereof a new subsection 10.3. to read as
11 follows:

12 10.3. A permittee must report the loss or removal of any band
13 within five (5) days by filing a Federal form 3-186A either
14 electronically or in paper form. Lost bands must be replaced by a
15 permanent, nonreusable numbered band supplied by the division.
16 Upon remarking the raptor, the permittee shall immediately complete
17 and submit a Federal form 3-186A either electronically or on paper
18 reporting the new band.;

19 On page nine, by striking out all of subsection 10.6. and
20 inserting in lieu thereof a new subsection 10.6. to read as
21 follows:

22 10.6. A permittee shall remove and surrender to the division
23 any markers from an intentionally released raptor which is
24 indigenous to the state. A standard Federal band may be attached
25 to the birds at the discretion of the division prior to release.;

26 On page nine, subsection 11.1., by striking out the words

1 "both the division and the U. S. Fish and Wildlife Service Regional
2 Law-Enforcement office" and inserting in lieu thereof the words
3 "the division";

4 And,

5 On page nine, by striking out all of subsection 11.3. and
6 inserting in lieu thereof a new subsection 11.3. to read as
7 follows:

8 11.3. Resident General or Master Falconers may take from
9 the wild any species of Falconiform, Accipitriform or Strigiform in
10 West Virginia except: eagles; peregrine falcon (*Falco peregrines*);
11 Northern harrier (*Circus cyaneus*); northern goshawk (*Accipiter*
12 *gentilis*); American rough-legged hawk (*Buteo lagopus*); barn owl
13 (*Tyto alba*); long-eared owl (*Asio otus*); short-eared owl (*Asio*
14 *flammeus*); saw-whet owl (*Aegolius acadicus*); merlin (*Falco*
15 *columbaris*) eyases; and sharp-shinned hawk (*Accipiter straitus*)
16 eyases.

17 **§64-10-5. Division of Labor.**

18 (a) The legislative rule filed in the State Register on August
19 31, 2012, authorized under the authority of section fifteen,
20 article one-a, chapter forty-seven, of this code, modified by the
21 Division of Labor to meet the objections of the Legislative Rule-
22 Making Review Committee and refiled in the State Register on
23 December 21, 2012, relating to the Division of Labor (bedding and
24 upholstered furniture, 42 CSR 12), is authorized.

25 (b) The legislative rule filed in the State Register on August
26 31, 2012, authorized under the authority of section three, article

1 ten, chapter twenty-one, of this code, modified by the Division of
2 Labor to meet the objections of the Legislative Rule-Making Review
3 Committee and refiled in the State Register on December 21, 2012,
4 relating to the Division of Labor (Amusement Rides and Amusement
5 Attractions Safety Act, 42 CSR 17), is authorized.

6 (c) The legislative rule filed in the State Register on August
7 31, 2012, authorized under the authority of section eleven, article
8 three-c, chapter twenty-one, of this code, modified by the Division
9 of Labor to meet the objections of the Legislative Rule-Making
10 Review Committee and refiled in the State Register on December 21,
11 2012, relating to the Division of Labor (supervision of elevator
12 mechanics and apprentices, 42 CSR 21A), is authorized.

13 (d) The legislative rule filed in the State Register on August
14 31, 2012, authorized under the authority of section three, article
15 three-d, chapter twenty-one, of this code, modified by the Division
16 of Labor to meet the objections of the Legislative Rule-Making
17 Review Committee and refiled in the State Register on December 21,
18 2012, relating to the Division of Labor (Crane Operator
19 Certification Act, 42 CSR 24), is authorized.

20 (e) The legislative rule filed in the State Register on August
21 21, 2012, authorized under the authority of section three, article
22 three-d, chapter twenty-one, of this code, relating to the Division
23 of Labor (Crane Operator Certification Act - practical examination,
24 42 CSR 25), is authorized.