

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Senate Bill 608

BY SENATORS TRUMP, WOELFEL, WELD, GAUNCH AND

PLYMALE

[Passed April 6, 2017; in effect from passage]

1 AN ACT to amend and reenact §2-2-10 of the Code of West Virginia, 1931, as amended, relating
2 to clarifying that regulatory, noncriminal legislative enactments prohibiting a type or types
3 of businesses, or business structures are inapplicable to lawful businesses and business
4 structures operating in this state prior to the effective date of the prohibiting enactment;
5 and updating provisions.

Be it enacted by the Legislature of West Virginia:

1 That §2-2-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

**ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL DAYS; CONSTRUCTION OF
STATUTES; DEFINITIONS.**

§2-2-10. Rules for construction of statutes.

1 The following rules shall be observed in the construction of statutes, unless a different
2 intent on the part of the Legislature is apparent from the context:

3 (a) A word importing the singular number only may be applied to several persons or things,
4 as well as to one person or thing; a word importing the plural number only may be applied to one
5 person or thing as well as to several; and a word importing the masculine gender only may be
6 applied to females as well as males;

7 (b) Words purporting to give a joint authority to three or more persons confer the authority
8 upon a majority of them, and not upon any less number;

9 (c) The words "written" or "in writing" include any representation of words, letters or figures,
10 whether by printing, engraving, writing or otherwise. But when the signature of any person is
11 required, it must be in his or her own proper handwriting, or his or her mark, attested, proved or
12 acknowledged: *Provided*, That unless a provision of this code specifically provides otherwise, an
13 electronic signature satisfies this signature requirement if the electronic signature meets the
14 requirements of section two, article one, chapter thirty-nine-a of this code;

15 (d) The words “preceding”, “succeeding” or “following” used in reference to any section or
16 sections of a chapter or statute, mean next preceding, next succeeding or next following that in
17 which the reference is made, unless a different interpretation be required by the context;

18 (e) An officer has qualified when he or she has done all that is required by law to be done
19 before proceeding to exercise the authority and discharge the duties of his or her office;

20 (f) The words “the Governor” are equivalent to “the executive of the state” or “the person
21 having the executive power”;

22 (g) “Justice” or “justices” as used in article one, chapter fifty-one of this code and in other
23 references to a member or members of the Supreme Court of Appeals means and applies to a
24 judge or the judges of that court as provided in the Constitution of West Virginia. The word “justice”
25 in most any other context is equivalent to the word “magistrate”, except when used as an historical
26 reference to the words “justice of the peace”. The word “notary” is equivalent to “notary public”;

27 (h) The word “state”, when applied to a part of the United States and not restricted by the
28 context, includes the District of Columbia and the several territories, and the words “United States”
29 also include the said district and territories;

30 (i) The word “person” or “whoever” includes corporations, societies, associations and
31 partnerships, and other similar legal business organizations authorized by the Legislature, if not
32 restricted by the context;

33 (j) The words “personal representative” include the executor of a will, the administrator of
34 the estate of a deceased person, the administrator of such estate with the will annexed, the
35 administrator de bonis non of such estate, whether there be a will or not, the sheriff or other officer
36 lawfully charged with the administration of the estate of a deceased person, and every other
37 curator or committee of a decedent’s estate for or against whom suits may be brought for causes
38 of action which accrued to or against such decedent;

39 (k) The word “will” embraces a testament, a codicil, an appointment by will or writing in the
40 nature of a will in exercise of a power, also any other testamentary disposition;

41 (l) The word "judgment" includes decrees and orders for the payment of money or the
42 conveyance or delivery of land or personal property, or some interest therein, or any undertaking,
43 bond or recognizance which has the legal effect of a judgment;

44 (m) The words "under disability" include persons under the age of eighteen years, insane
45 persons and convicts while confined in a correctional facility;

46 (n) The words "insane person" include everyone who has mental illness as defined in
47 section two, article one, chapter twenty-seven of this code;

48 (o) The word "convict" means a person confined in a penitentiary or correctional facility of
49 this or any other state, or of the United States;

50 (p) The word "land" or "lands" and the words "real estate" or "real property" include lands,
51 tenements and hereditaments, all rights thereto and interests therein except chattel interests;

52 (q) The words "personal estate" or "personal property" include goods, chattels, real and
53 personal, money, credits, investments and the evidences thereof;

54 (r) The word "property" or "estate" embraces both real and personal estate;

55 (s) The word "offense" includes every act or omission for which a fine, forfeiture or
56 punishment is imposed by law;

57 (t) The expression "laws of the state" includes the Constitution of West Virginia and the
58 Constitution of the United States, and treaties and laws made in pursuance thereof;

59 (u) The word "town" includes a city, village or town, and the word "council", any body or
60 board, whether composed of one or more branches, who are authorized to make ordinances for
61 the government of a city, town or village;

62 (v) When a council of a town, city or village, or any board, number of persons or
63 corporations, are authorized to make ordinances, bylaws, rules, regulations or orders, the same
64 must be consistent with the laws of this state;

65 (w) The words "county court" include any existing tribunal created in lieu of a county
66 commission; the words "commissioner of the county court" and "county commissioner" mean, and

67 have reference to, the commissioners, or one of them, composing a county commission in
68 pursuance of section nine, article IX of the Constitution, as amended, or any existing tribunal
69 created in lieu of a county commission;

70 (x) The word "horse" embraces a stallion, a mare and a gelding;

71 (y) The words "railroad" and "railway" mean the same thing in law; and, in any proceeding
72 in which a railroad company or a railway company is a party, it is not an error to call a railroad
73 company a railway company or vice versa; nor may any demurrer, plea or any other defense be
74 set up to a motion, pleading or indictment in consequence of the misdescription;

75 (z) The sectional headings or headlines of the several sections of this code printed in
76 black-faced type are intended as mere catchwords to indicate the contents of the section and are
77 not titles of the sections, or any part of the statute, and, unless expressly so provided, they are
78 not part of the statute when the sections, including the headlines, are amended or reenacted;

79 (aa) The words "infant" and "minor" mean persons under the age of eighteen years as
80 used in this code or in rules promulgated by the Supreme Court of Appeals;

81 (bb) A statute is presumed to be prospective in its operation unless expressly made
82 retrospective;

83 (cc) Unless there is a provision in a section, article or chapter of this code specifying that
84 its provisions are not severable, the provisions of every section, article or chapter of this code,
85 whether enacted before or subsequent to the effective date of this subdivision, are severable so
86 that if any provision of any section, article or chapter is held to be unconstitutional or void, the
87 remaining provisions of the section, article or chapter remain valid, unless the court finds the valid
88 provisions are so essentially and inseparably connected with, and so dependent upon, the
89 unconstitutional or void provision that the court cannot presume the Legislature would have
90 enacted the remaining valid provisions without the unconstitutional or void one, or unless the court
91 finds the remaining valid provisions, standing alone, are incomplete and are incapable of being
92 executed in accordance with the legislative intent: *Provided*, That if any section, article or chapter

93 of this code has its own severability clause, then that severability clause governs and controls
94 with respect to that section, article or chapter in lieu of the provisions of this subdivision. The
95 provisions of this subdivision are fully applicable to all future amendments or additions to this
96 code, with like effect as if the provisions of this subdivision were set forth in extenso in every
97 amendment or addition and were reenacted as a part thereof, unless the amendment or addition
98 contains its own severability clause;

99 (dd) A reference to any section, article or chapter of this code applies to all reenactments,
100 revisions or amendments thereof;

101 (ee) If a statute refers to a series of numbers or letters, the first and the last numbers or
102 letters in the series are considered to be included;

103 (ff) The words "board of regents", wherever they appear in the code, mean the Higher
104 Education Policy Commission created in article one-b, chapter eighteen-b of this code or the West
105 Virginia Council for Community and Technical College Education created in article two-b of said
106 chapter unless the term is used in relation to activities conducted solely by an institution or
107 institutions governed by article two-a of said chapter in which case it only means the board of
108 governors of the specific institution or institutions; and

109 (gg) No legislative enactment of a regulatory, noncriminal nature may be construed to
110 prohibit a lawful business or business structure in existence and operating in this state prior to the
111 effective date of the enactment of legislation prohibiting the operation of such business or
112 business structure absent an express legislative declaration in the enactment that the existing
113 business or business structure is prohibited from continuing after the effective date of the
114 enactment.

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

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2017.

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Governor