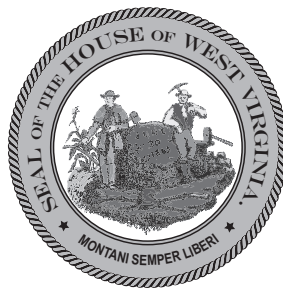


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Third Legislature
First Regular Session

Held at Charleston
Published by the Clerk of the House



March 3, 2017
TWENTY-FOURTH DAY

Friday, March 3, 2017

TWENTY-FOURTH 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 Thursday, March 2, 2017, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Hill, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 2548, Relating to the use of outside speakers by persons licensed to manufacture, sell, possess for sale, transport or distribute nonintoxicating beer,

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. 2548) was referred to the Committee on the Judiciary.

Delegate Westfall, Chair of the Committee on Banking and Insurance submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

H. B. 2683, Relating to West Virginia Insurance Guaranty Association Act,

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. 2683) was referred to the Committee on the Judiciary.

Delegate Hill, Chair of the Committee on Small Business, Entrepreneurship and Economic Development, submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

H. B. 2375, Establishing a Small Business Empowerment and Economic Expansion Program providing tax relief to newly-established small businesses,

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. 2375) was referred to the Committee on Finance.

Delegate Rowan, Chair of the Committee on Senior Citizen Issues, submitted the following report, which was received:

Your Committee on Senior Citizen Issues has had under consideration:

H. R. 8, Increasing the Social Security Cost of Living Adjustment,

And reports the same back with the recommendation that it be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (H. R. 8) was referred to the Committee on Rules.

Delegate Ellington, Chair of the Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Committee on Prevention and Treatment of Substance Abuse has had under consideration:

H. B. 2766, Establishing a new special revenue fund, designated the Adult Drug Court Participation Fund,

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. 2766) was referred to the Committee on Finance.

Delegate Ellington, 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. 2068, Operating and maintaining a fully interoperable statewide network to facilitate public and private use of health care information in the state,

And,

H. B. 2366, Relating to selling Jackie Withrow Hospital,

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. 2068 and H. B. 2366) were each referred to the Committee on Finance.

Delegate Ellington, 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:

S. B. 188, Correcting definition of “telehealth” in medication-assisted treatment programs,

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

Delegate Ellington, 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. 2522, Nurse licensure compact,

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. 2522) was referred to the Committee on the Judiciary.

Delegate Ellington, 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:

S. B. 176, Repealing article concerning detection of tuberculosis, high blood pressure and diabetes,

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

Bills Introduced

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

By Delegates Blair, Zatezalo, Householder, Ambler, Hamrick, Anderson, Martin, Maynard and Lewis:

H. B. 2781 - “A Bill to amend and reenact §3-1-34 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-2-11 and §3-2-12 of said code, all relating to voting procedures; requiring a person desiring to vote to present documentation identifying the voter to one of the poll clerks; setting forth the requirements for that documentation; identifying acceptable documentation; directing the Secretary of State to educate voters about the identification requirement and develop a program to help ensure that all eligible voters obtain identification; providing for casting of provisional ballot by a person without adequate proof of identification; providing certain exemptions from the requirement to present a photo identification card; modifying provisional ballot procedures; providing for issuance of identification cards at no charge; establishing procedures for persons over a certain age and lacking certain documents to acquire photo identification cards; repealing the automatic voter’s registration program concurrent with application for a driver’s license; and repealing funding for that program”; to the Committee on the Judiciary.

By Delegates Lewis, E. Evans, R. Romine, Hamilton, Rowan, Rohrbach, Statler, Dean, Howell, Sypolt and Wagner:

H. B. 2782 - "A Bill to amend and reenact §36-9-15 of the Code of West Virginia, 1931, as amended, relating to permitting a time-share managing entity to foreclose upon its statutory lien for assessments in the manner of sales under trust deeds; providing for the naming of a trustee by the managing entity to carry out the sale"; to the Committee on the Judiciary.

By Delegates Rodighiero, Lynch, Moye, Thompson, Hicks, R. Miller, Westfall, Marcum, Baldwin and Eldridge:

H. B. 2783 - "A Bill to amend and reenact §5A-10-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5A-10-4a, all relating to authorizing the Real Estate Division of the Department of Administration to develop policies and procedures for the leasing, at no cost, of unoccupied buildings and unused property owned by the state to private job-creating businesses; authorizing its executive director to lease, at no cost, unoccupied buildings and unused property owned by the state to private job-creating businesses; setting forth conditions; and requiring rule-making"; to the Committee on Government Organization then Finance.

By Mr. Armstead (Mr. Speaker), and Delegate Miley

[By Request of the Executive]:

H. B. 2784 - "A Bill to amend and reenact §21A-8-16 of the Code of West Virginia, 1931, as amended, relating to maintaining the solvency of the Unemployment Compensation Fund; and extending the time period for borrowing funds from the Revenue Shortfall Reserve Fund for the Unemployment Compensation Fund to September 1, 2018"; to the Committee on Finance.

By Mr. Armstead (Mr. Speaker), and Delegate Miley

[By Request of the Executive]:

H. B. 2785 - "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2017, to the Department of Military Affairs and Public Safety, Fire Commission – Fire Marshal Fees, fund 6152, fiscal year 2017, organization 0619, by supplementing and amending the appropriations for the fiscal year ending June 30, 2017"; to the Committee on Finance.

By Delegates Moye, Lynch, Miley, Pyles, Fleischauer, Marcum, Isner, R. Romine, Ambler and Cooper:

H. B. 2786 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-20, relating to authorizing the Public Service Commission to regulate the billing practices of utilities and other entities that utilize wired or wireless transmission technologies to send and receive data to and from consumers"; to the Committee on Government Organization then the Judiciary.

By Delegates Thompson, Westfall, Rohrbach, Moye, Dean, Hicks, Marcum and Rodighiero:

H. B. 2787 - "A Bill to amend and reenact §18A-4-8 and §18A-4-8a of the Code of West Virginia, 1931, as amended, all relating to creating an additional class of special education classroom aides and to specify the pay grade for this class of school service personnel"; to the Committee on Education then Finance.

By Delegates Howell, Shott, Arvon, Martin, Lewis, Hill, Walters, Phillips, Moore, Espinosa and Butler:

H. B. 2788 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-15-16b, relating to allowing military veterans with certain military ratings

to qualify for examinations required of a probationary firefighter”; to the Committee on Veterans’ Affairs and Homeland Security then Government Organization.

By Delegates Eldridge, Maynard, Walters, Paynter, Dean, Ambler, Cooper, Iaquina, Love, Lynch and Sponaule:

H. B. 2789 - “A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting all monetary benefits derived from retirement income from personal income tax obligations for individuals moving into the state who had not lived in the state for one year immediately preceding the move”; to the Committee on Pensions and Retirement then Finance.

House Calendar

Third Reading

Com. Sub. for H. B. 2364, Prohibiting electioneering within or near early voting locations during early voting periods; 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. 45**), and there were, including 2 paired—yeas 94, nays 4, absent and not voting 2, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Byrd Nay: Rowe

Nays: Baldwin, E. Evans and Love.

Absent and Not Voting: Ellington and A. Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2364) 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. 2502, Relating to reciprocity of occupational licenses with other states; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Cowles asked and obtained unanimous consent that the bill be committed to the Committee on the Judiciary.

Com. Sub. for H. B. 2619, Risk Management and Own Risk and Solvency Assessment Act; 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. 46**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Byrd, Ellington and A. Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2619) 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. 2630, Authorizing the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine to share staff; 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. 47**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Love.

Absent and Not Voting: Byrd, Ellington and A. Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2630) 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. 2648, Increasing penalties for manufacturing or transportation of a controlled substance in the presence of a minor; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Shott asked and obtained unanimous consent to amend the bill on third reading, and the rule was suspended to permit the offering and consideration of such.

On motion of Delegate Shott, the bill was amended on page five, section one, following line fifty-two, by inserting a new subsection, to read as follows:

“(14) ‘Unlawfully under the influence of a controlled substance’ means the consumption of a controlled substance in violation of chapter sixty-a of the code that has induced an effect on the user’s brain, muscles, nervous system, or other normal function of the body, to such a degree that it impairs the user’s ability to take action or conduct oneself in the manner that an ordinarily prudent and cautious person, using reasonable care, would conduct himself or herself.”

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. 48**), and there were—yeas 85, nays 12, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Cowles, E. Evans, Folk, Hill, Love, Lynch, McGeehan, Miley, Pushkin, Rowe, Sponaugle and Wilson.

Absent and Not Voting: Byrd, Ellington and A. Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2648) passed.

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

Com. Sub. for H. B. 2648 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-4-406a; and to amend and reenact §61-8D-1 and §61-8D-4 of said code, all relating to increased penalties for manufacturing or transportation of a controlled substance in the presence of a minor; providing for mandatory minimum period of incarceration for adult persons convicted of manufacturing, delivering, or possessing with the intent to manufacture or deliver a controlled substance, which is a Schedule I or II narcotic, in the presence of a minor; providing for mandatory minimum period of incarceration for adult persons convicted of manufacturing, delivering, or possessing with the intent to manufacture or deliver a controlled substance, which is a Schedule I, II or III non-narcotic, in the presence of a minor; providing for mandatory minimum period of incarceration for adult persons convicted of transporting a controlled substance into this state with the intent to deliver or manufacture a controlled substance, which is a Schedule I or II narcotic, while being in the presence of a minor at the time of the offense; providing for mandatory minimum period of incarceration for adult persons convicted of transporting a controlled substance into this state with the intent to deliver or manufacture a controlled substance, which is a Schedule I, II or III non-narcotic, while being in the presence of a minor at the time of the offense; requiring certain information and findings to be included in indictment or presentment; requiring certain facts to be determined by the court or jury; defining terms; creating a crime of neglect by a parent, guardian or custodian in which the parent, guardian or custodian is under the influence of a controlled substance and knowingly causes or permits a minor to be present in a location with the parent guardian or custodian, and no bodily injury occurs to the minor child; establishing criminal penalties; and authorizing the Court to require completion of certain classes, counseling, or other programs or services, including drug addiction treatment programs, as part of an imposed sentence or as an alternative sentence for persons convicted of certain misdemeanor offenses.”

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. 2651, Relating generally to standardized testing requirements for nonpublic schools; 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. 49**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Barrett, Eldridge, Iaquina, Isner, Lynch, Marcum and White.

Absent and Not Voting: Byrd, Ellington, A. Evans and Rodighiero.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2651) 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. 2684, Imposing penalties for repeat violations of the prohibition against driving under the influence on a suspended license; 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. 50**), and there were, including 2 paired—yeas 97, nays 1, absent and not voting 2, with the paired and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Byrd Nay: McGeehan

Absent and Not Voting: Ellington and A. Evans.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2684) passed.

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

H. B. 2684 – “A Bill to amend and reenact §17b-4-3 of the Code of West Virginia, 1931, as amended, relating to imposing penalties for repeat violations of the prohibition against driving a motor vehicle on any public highway of this state at a time when the privilege to do so has been lawfully suspended for driving while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent by weight.”

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

Second Reading

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

Com. Sub. for H. B. 2459, Relating to regulation of health care and the certificate of need process,

Com. Sub. for H. B. 2509, Relating to the practice of telemedicine,

H. B. 2590, Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act,

H. B. 2594, Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act,

And,

H. B. 2653, Extending the Multi-State Real-Time Tracking System.

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. 2367, Establishing a criminal offense of organized retail crime,

Com. Sub. for H. B. 2579, Increasing the penalties for transporting controlled substances,

Com. Sub. for H. B. 2674, Relating to access to and receipt of certain information regarding a protected person,

Com. Sub. for H. B. 2678, Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions,

H. B. 2691, Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber,

And,

H. B. 2725, Restricting the authority of the Board of Barbers and Cosmetologists to regulate the use of commonly available, retail beauty products.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Byrd, Ellington and A. Evans.

Miscellaneous Business

Delegate Walters announced that he was absent on yesterday when the votes were taken on Roll Nos. 41 through 44, and that had he been present, he would have voted "Yea" on Roll Nos. 41, 42 and 43 and "Nay" on Roll No. 44.

Delegate Butler asked and obtained unanimous consent that the remarks of Delegate Gearheart during Remarks by Members today be printed in the Appendix to the Journal.

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

Delegate Frich filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 2766.

At 1:38 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 6, 2017.

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

HOUSE CALENDAR

Monday, March 6, 2017

27th Day

11:00 A. M.

THIRD READING

- Com. Sub. for H. B. 2459 - Relating to regulation of health care and the certificate of need process (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2509 - Relating to the practice of telemedicine (SHOTT) (EFFECTIVE FROM PASSAGE)
- H. B. 2590 - Updating the meaning of federal taxable income and certain other terms used in the West Virginia Corporation Net Income Tax Act (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 2594 - Updating the meaning of federal adjusted gross income and certain other terms used in the West Virginia Personal Income Tax Act (NELSON) (EFFECTIVE FROM PASSAGE)
- H. B. 2653 - Extending the Multi State Real-Time Tracking System (SUMMERS) (REGULAR)

SECOND READING

- Com. Sub. for H. B. 2367 - Establishing a criminal offense of organized retail crime (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2579 - Increasing the penalties for transporting controlled substances (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2674 - Relating to access to and receipt of certain information regarding a protected person (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2678 - Changing the amounts of prejudgment and post-judgment interest to reflect today's economic conditions (SHOTT) (JANUARY 1, 2018)
- H. B. 2691 - Allowing a person who is qualified by training to be a barber and a cosmetologist to elect to practice solely as a barber (HOWELL) (REGULAR)
- H. B. 2725 - Restricting the authority of the Board of Barbers and Cosmetologists to regulate the use of commonly available, retail beauty products (HOWELL) (REGULAR)

FIRST READING

- S. B. 176 - Repealing article concerning detection of tuberculosis, high blood pressure and diabetes (ELLINGTON) (REGULAR)
- S. B. 188 - Correcting definition of "telehealth" in medication-assisted treatment programs (ELLINGTON) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

MONDAY, MARCH 6, 2017

HOUSE CONVENES AT 11:00 A.M.

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

**COMMITTEE ON ROADS & TRANSPORTATION
1:00 P.M. – ROOM 215E**

**COMMITTEE ON FINANCE
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**

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