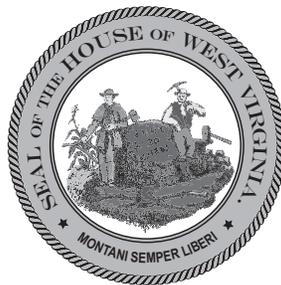


West Virginia Legislature

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Second Regular Session

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February 14, 2024

THIRTY-SIXTH DAY



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Wednesday, February 14, 2024

**THIRTY-SIXTH DAY**

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Tuesday, February 13, 2024, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Reordering of the Calendar**

Pursuant to the action of the Committee on Rules, Delegate Jeffries announced that Com. Sub. for S. B. 17, on Second Reading, Special Calendar, and H. B. 4700, on First Reading, Special Calendar had been transferred to the House Calendar; and Com. Sub. for H. B. 5243, on Third Reading, House Calendar, had been transferred to the Special Calendar.

**Committee Reports**

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

**H. B. 5522**, Relating to providing a credit against the business and occupation tax imposed on coal-fired electric generating units to help off-set environmental compliance costs,

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. 5522) was referred to the Committee on Finance.

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

**H. B. 5013**, Relating to Timber Management,

And reports back a committee substitute therefor, as follows:

**Com. Sub. for H. B. 5013** - "A Bill to amend and reenact §11-1C-2 of the Code of West Virginia, 1931, as amended, relating to amending the definition of managed timberland to be more inclusive of certain real estate by removing an exception to the program concerning subdivisions

and planning ordinances; and clarifying the definition of the remaining exception to the program concerning property precluded from development,"

With the recommendation that the committee substitute do pass.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

**H. B. 5549**, Allowing license plates, road signs, or markers to be obtained from alternative sources when the Division of Corrections and Rehabilitation is unable to produce them,

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

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

**H. B. 5432**, To move the essential functions of the Information Services and Communications Division into the Office of Technology,

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. 5432) was referred to the Committee on Finance.

Delegate Linville, Chair of the Committee on Technology and Infrastructure, submitted the following report, which was received:

Your Committee on Technology and Infrastructure has had under consideration:

**Com. Sub. for H. B. 4867**, Require pornography websites to utilize age verification methods to prevent minors from accessing content,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

**H. B. 5528**, Relating to the renewable energy facilities program,

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

Delegate Gearheart, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

**H. B. 5087**, To allow Tier II teachers to be able to bank unused sick time towards retirement.,

And,

**S. B. 439**, Authorizing certain 911 personnel to be members of Emergency Medical Services Retirement System under certain circumstances,

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. 5087 and S. B. 439) were each referred to the Committee on Finance.

Delegate Gearheart, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

**H. B. 4517**, Municipalities may not assess a user fee when employee was not present in the municipality in the performance of his or her job,

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. 4517) was referred to the Committee on the Judiciary.

Delegate Martin, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 4436**, Require all municipal elections be held on the same election day in November that other state elections are on,

And,

**H. B. 4962**, Modifying compulsory housing for hotels and motels,

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 the Judiciary.

In accordance with the former direction of the Speaker, the bills (H. B. 4436 and H. B. 4962) were each referred to the Committee on the Judiciary.

Delegate Martin, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

**H. B. 4721**, Require Surveyors to offer to record surveys of property,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (H. B. 4721) was referred to the Committee on Government Organization.

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. 5591**, Relating to required modification of levy rates resulting from increased valuation yield,

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. 5591) 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. 4956**, Creating the Oral Health and Cancer Rights Act,

And,

**H. B. 5340**, Relating to require insurance coverage to not prioritize the use of an opioid over a nonopioid drug for the treatment of pain,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on Health and Human Resources.

In accordance with the former direction of the Speaker, the bills (H. B. 4956 and H. B. 5340) were each referred to the Committee on Health and Human Resources.

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. 5541**, Increase to minimum of \$2000 as the amount recoverable by fire companies from homeowners insurance policies for response to fire call,

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. 5541) was referred to the Committee on the Judiciary.

Delegate Summers, 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. 5105**, To eliminate the vaccine requirements for public virtual schools,

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. 5105) was referred to the Committee on the Judiciary.

Delegate Summers, 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. 5022**, Relating to increasing the amount of ephedrine, pseudoephedrine or phenylpropanolamine a person may purchase annually,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Summers, 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. 4911**, Relating to the sale of raw milk,

And reports back a committee substitute therefor, as follows:

**Com. Sub. for H. B. 4911** - "A Bill to amend and reenact §19-1-7 of the Code of West Virginia, 1931, as amended, relating to raw milk; removing the requirement of a herd share agreement; permitting the sale of raw milk; requiring certain information to be provided on the raw milk; and limiting liability,"

And,

**H. B. 4978**, Relating to clarifying the authority of appointed officials,

And reports back a committee substitute therefor, as follows:

**Com. Sub. for H. B. 4978** - "A Bill to repeal §5-14-1, §5-14-2, §5-14-3, §5-14-4, §5-14-5, §5-14-6, §5-14-7, §5-14-8, §5-14-9, §5-14-10 and §5-14-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-5A-4 of said code; to amend and reenact §16-1-5, §16-1-6, §16-1-7, §16-1-8, §16-1-9, §16-1-9a, §16-1-9c, §16-1-15, and §16-1-17 of said code; to amend and reenact §16-2-2, §16-2-5, §16-2-11, §16-2-12, and §16-2-13 of said code; to amend and

reenact §16-2B-3 of said code; to amend and reenact §16-3-1, §16-3-2, §16-3-4 §16-3-4, §16-3-5, §16-3-6 and §16-3-12 of said code; to amend and reenact §16-3C-2 and §16-3C-8 of said code; to amend and reenact §16-3D-2, §16-3D-3, §16-3D-4, §16-3D-7, and §16-3D-9 of said code; to amend and reenact §16-4-21 of said code; to amend and reenact §16-4A-1 of said code; to amend and reenact §16-4C-2, §16-4C-3, §16-4C-4, §16-4C-5, §16-4C-6, §16-4C-6a, §16-4C-6b, §16-4C-8, §16-4C-8a, §16-4C-9, §16-4C-10, §16-4C-12, §16-4C-13, §16-4C-14, §16-4C-15, §16-4C-16, §16-4C-20, §16-4C-21, §16-4C-23, and §16-4C-24 of said code; to amend and reenact §16-4E-2 of said code; to amend and reenact §16-5-5, §16-5-11, and §16-5-22 of said code; to amend and reenact §16-5M-3 of said code; to amend and reenact §16-5U-3 of said code; to amend and reenact §16-9-2 and §16-9-3 of said code; to amend and reenact §16-9G-1 of said code; to amend said code by adding thereto a new article designated §16-14-1, §16-14-2, §16-14-3, §16-14-4, §16-14-5, §16-14-6, §16-14-7, §16-14-8, §16-14-9, §16-14-10 and §16-14-11; to amend and reenact §16-22-2 and §16-22-3 of said code; to amend and reenact §16-32-11 of said code; to amend and reenact §16-38-5 of said code; to amend and reenact §16-40-2, §16-40-4, §16-40-5, §16-40-6, §16-40-7, and §16-40-8 of said code; to amend and reenact §16-41-3 of said code; to amend and reenact §16-44-2 of said code; to amend and reenact §16-56-4 of said code; to amend and reenact §16A-11-1 and §16A-11-2 of said code; to amend and reenact §22B-2-1 of said code; to amend and reenact §22C-1-4 of said code; to amend and reenact §30-3-4 of said code; to amend and reenact §61-12-3 of said code; and to amend and reenact §61-12A-1 of said code, all relating to updating the authority of appointed officials; updating the powers of the Secretary of the Department of Health, updating the powers the Commissioner of the Bureau for Public Health, updating the powers the state health officer; and organizing agencies under the appropriate entity; and removing antiquated provisions,"

With the recommendation that the committee substitutes each do pass.

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

**H. C. R. 74**, Defending Life by Rejecting Euthanasia,

And reports the same back with the recommendation that it be adopted.

### **Messages from the Executive**

A communication from His Excellency, the Governor, advised that on February 13, 2024, he approved **H. B. 4026**.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**H. B. 5153**, Relating to revising, updating and streamlining the requirements governing the West Virginia Science, Technology, Engineering, and Mathematics Scholarship.

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. 577** - "A Bill to amend and reenact §19-25-3, §19-25-4, §19-25-5, and §19-25-6 of the Code of West Virginia, 1931, as amended, all relating generally to limiting landowner liability for injuries to, or caused by, persons entering or going upon land for noncommercial recreational purposes, wildlife propagation purposes, military training purposes, law-enforcement training purposes, or homeland defense training purposes; clarifying statutory language in light of *Mallet v. Pickens*, 206 W.Va. 145, 522 S.E.2d 436 (1999); defining terms, and making numerous technical corrections"; 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

**Com. Sub. for S. B. 578** - "A Bill to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating to clarifying that the offense of burglary involves a dwelling or outbuilding belonging to another; clarifying what constitutes a dwelling of another; and establishing criminal penalties"; 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. 605** - "A Bill to amend and reenact §5-10D-12 of the Code of West Virginia, 1931, as amended, relating to the Consolidated Public Retirement Board; and requiring participating public employers to remit retirement contributions and fees by electronic funds transfer."

At the respective requests of Delegate Jeffries, and by unanimous consent, reference of the bill (S. B. 605) 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, and requested the concurrence of the House of Delegates in the passage, of

**S. B. 606** - "A Bill to amend and reenact §20-18-8, §20-18-20, §20-18-25, and §20-18-26 of the Code of West Virginia, 1931, as amended, all relating to the Natural Resources Police Officers Retirement System; permitting the employer contribution to be set by the board; clarifying payment upon death of member with less than 10 years of contributing service; and clarifying surviving spouse benefits when the member dies from duty related or non-duty related cause."

At the respective requests of Delegate Jeffries, and by unanimous consent, reference of the bill (S. B. 606) 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, and requested the concurrence of the House of Delegates in the passage, of

**S. B. 607** - "A Bill to amend and reenact §8-22A-16, §8-22A-20, and §8-22A-21 of the Code of West Virginia, 1931, as amended, all relating to the Municipal Police Officers and Firefighters Retirement System; clarifying payment upon death of member with less than 10 years of

contributing service; deleting obsolete provision; and clarifying surviving spouse benefits when member dies from duty or non-duty related cause."

At the respective requests of Delegate Jeffries, and by unanimous consent, reference of the bill (S. B. 607) 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. 658** - "A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, the Department of Administration, Public Defender Services, fund 0226, fiscal year 2024, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024, by adding new items of appropriation"; which was referred to the Committee on Finance.

### Special Calendar

#### Third Reading

**S. B. 219**, Relating to Uniform Controlled Substances 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. 173**), 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: Foggin, Hardy and C. Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 219) 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. 4086**, Authorizing certain agencies of the Department of Commerce to promulgate legislative rules; 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. 174**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Foggin and C. Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4086) passed.

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

On this question, the yeas and nays were taken (**Roll No. 175**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Foggin and C. Pritt.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4086) 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. 5243**, Relating to Women's Bill of Rights; on third reading, coming up in regular order, was read a third time.

Delegate Kump demanded the previous question, which demand was sustained.

On adoption of the motion for the previous question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 176**), and there were--yeas 60, nays 39, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Anderson, Bridges, W. Clark, Dean, Ellington, Fast, Fluharty, Foster, Garcia, Griffith, Hall, Hamilton, Hansen, Hardy, Holstein, Hornbuckle, Hornby, Hott, Howell, Jennings, Kelly, Kimble, Kirby, Lewis, Maynor, Pinson, E. Pritt, Pushkin, Riley, Rowe, Shamblyn, Statler, Summers, Thorne, Vance, Ward, Williams, Worrell and Young.

Absent and Not Voting: Foggin.

So, a majority of the members present having voted in the affirmative, the motion for the previous question was adopted.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 177**), and there were--yeas 87, nays 12, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Griffith, Hamilton, Hansen, Hornbuckle, Lewis, Pushkin, Rowe, Williams, Winzenreid and Young.

Absent and Not Voting: Foggin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 5243) passed.

Two title amendments were reported by the Clerk:

Delegate Crouse moved to amend the bill by striking out the title and substituting therefor a new title, to read as follows:

**Com. Sub. for H. B. 5243** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, and §16-67-

5, all relating to the Women's Bill of Rights; providing short title; setting forth purpose; establishing application of act; defining terms and applications of those definitions; defining sex discrimination in state policies, programs, or statutes; establishing the state interest in certain single sex environments; creating parameters for certain data collection; and allowing severability; and to amend and reenact §61-8B-1 of said code, relating to sexual offenses; and amending the definition of sexual contact.”

Delegate Pushkin moved to amend the bill by striking out the existing title and replacing it with the following:

**Com. Sub. for H. B. 5243** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-67-1, §16-67-2, §16-67-3, §16-67-4, and §16-67-5, all relating to the Bill of Wrongs; providing short title; setting forth purpose; establishing application of act; defining terms; establishing the state interest in certain single sex environments; creating parameters for certain data collection; and allowing severability."

The Speaker explained that adoption of the first title amendment would preclude adoption of the second title amendment.

On the question of the adoption of the title amendment offered by Delegate Crouse, the same was put and the title amendment was adopted.

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

Pursuant to House Rule 48, Delegate Winzenreid made a vote explanation:

Delegate Winzenreid. Thank you, Mr. Speaker. I rise in explanation of my vote on the Women's Bill of Rights. My actions today were not as a partisan member of this body but as a citizen and representative of Wheeling. The City of Wheeling has enacted a human rights commission which in its code provides residents and workers equal opportunity for employment, equal access to places of public accommodation and equal opportunity for housing. These rights are bestowed to all persons without regard, in part, to sexual orientation or gender identity.

Because of this, and because an affirmative vote would restrict the rights of an official elected by the residents of Wheeling, I was unable to support the bill.

**Com. Sub. for H. B. 5317**, Making it permissive for commercial motor vehicles registered in this state to pass an annual inspection of all safety equipment to be consistent with the federal motor carrier safety regulations; 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. 178**), 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: Fehrenbacher, Foggin and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 5317) passed.

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

On this question, the yeas and nays were taken (**Roll No. 179**), and there were--yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Foggin and Young.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 5317) 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. 5326**, Relating to prohibition of unfair real estate service agreements; 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. 180**), and there were--yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Foggin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 5326) passed.

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

**H. B. 5326** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-38B-1, §30-38B-2, §30-38B-3, §30-38B-4, §30-38B-5, §30-38B-6, §30-38B-7, and §30-38B-8, all relating to providing for the prohibition of real estate service agreements that are unfair to an owner of residential real estate; prohibiting the recording of such agreements so that the public records will not be clouded by them; providing that recording, causing to be recorded, an unfair real estate service agreements is a misdemeanor and creates penalties of confinement in jail for a term not to exceed 6 months and fined \$25,000; providing an exception to the misdemeanor offense for employees of the county commissioners, employees of the county commission, county clerk, deputy county clerk, and employees of the county clerk acting within the scope of their employment; and providing for remedies."

*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. J. R. 28**, Protection from medically-assisted suicide or euthanasia in West Virginia Amendment; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 441**, Restricting driving in left lane of multi-lane highways in WV; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Westfall and Criss, the bill was amended on page 1 by striking everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 7. DRIVING ON RIGHT SIDE OF ROADWAY, OVERTAKING AND PASSING, ETC.**

**§17C-7-1. DRIVING ON RIGHT SIDE OF ROADWAY; EXCEPTIONS; PENALTY.**

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) When an obstruction exists that makes it necessary to drive to the left of the center of the highway: *Provided*, That any person doing so shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

~~(2)~~ (3) When the right half of a roadway is closed to traffic while under construction or repair;

~~(3)~~ (4) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or

~~(4)~~ (5) Upon a roadway designated and signposted for one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle may be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a) of this section.

(d) A vehicle may not be driven in the farthest left-hand lane of a controlled access highway or divided highway except when passing another vehicle and the other vehicle may be overtaken within a mile and a half of travel or less, except:

(1) When no other vehicle is directly behind the vehicle in the left lane;

(2) When traffic conditions and congestion make it impractical to drive in the right lane;

(3) When snow and other inclement weather conditions make it safer to drive in the left lane;

(4) When obstructions or hazards exist in the right lane;

(5) When, because of highway design, a vehicle must be driven in the left lane when preparing to exit;

(6) When compliance with a law, rule, ordinance, or traffic control device makes it necessary to operate a vehicle in the leftmost lane;

(7) When a driver of a vehicle requiring a commercial motor vehicle license to operate is unable to move into the right lane safely due to a highway grade or another vehicle overtaking or passing his vehicle on the right;

(8) When paying a toll or user fee at a toll collection facility; or

(9) Law-enforcement vehicles, ambulances, or other emergency vehicles engaged in official duties and vehicles engaged in highway maintenance and construction operations;

(e) Nothing in this section limits the Department of Transportation's ability to establish and delineate lane restrictions for certain types of vehicles or prohibit operation of the specified vehicles in the designated lanes.

~~(e)~~ (f) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100; upon a second conviction within one year thereafter, shall be fined not more than \$200; and upon a third or subsequent conviction, shall be fined not more than \$500. prohibit vehicles from driving slowly in the left lane of a roadway except under specified circumstances. Different highway types entail different circumstances and exceptions.”

The bill was then ordered to third reading.

**Com. Sub. for H. B. 4110**, Authorizing certain miscellaneous agencies and boards to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Foster, the bill was amended on page 8, section 7, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

“(a) The legislative rule filed in the State Register on April 25, 2023, authorized under the authority of §30-35-4 of this code, modified by the West Virginia Board of Licensed Dietitians to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 11, 2023, relating to the West Virginia Board of Licensed Dietitians (licensure and renewal requirements, 31 CSR 01), is authorized with the following amendment:”

On page 2, paragraph 4.1.2.3., by striking out “\$50” and inserting in lieu thereof “\$46”.

The bill was then ordered to engrossment and third reading.

**H. B. 4297**, Law Enforcement Officers Safety Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Kelly, the bill was amended on page 1, section 10, line 2, by striking the words “as that term is defined in §30-29-1 of this code”

And

On page 1, section 10, line 8, following the words “correctional officers” by inserting the following: “*Provided further*, That nothing in this subsection shall be construed as expanding the scope of the law-enforcement powers granted to a correctional officer, correctional peace officer, or Corrections Special Operations Team officer by the provisions of this section”

The bill was then ordered to engrossment and third reading.

**Com. Sub. for H. B. 4381**, West Virginia Consumer Privacy Act of 2024; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Jeffries, and by unanimous consent, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

**Com. Sub. for H. B. 4399**, Creating the equitable right to expungement; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 4717**, Relating to terminating the authority of the Director of the Purchasing Division to impose a certain annual fee upon vendors; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 4754**, Exempting the processing of beef, pork or lamb by a slaughterhouse for an individual owner of the product processed from the Consumer Sales and Service Tax; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 4943**, To facilitate the creation of home-based businesses; having been read a second time on yesterday, was reported by the Clerk.

On motion of Delegate Hornby, the bill was amended on page 1, by striking all text after the enacting clause and inserting in lieu thereof the following text:

**“ARTICLE 40. HOME BASED BUSINESSES.**

**§8-40-1. Definitions.**

‘Goods’ means any merchandise, equipment, products, supplies, or materials.

‘Home-based business’ means any business for the manufacture, provision, or sale of goods or services that is owned and operated by the owner or tenant of the residential dwelling.

‘No-impact home-based business’ means a home-based business for which all of the following apply:

(1) The total number of on-site employees and clients do not exceed the municipal occupancy capacity.

(2) The business activities are characterized by all of the following:

(A) Are limited to the sale of lawful goods and services;

(B) Do not generate on-street parking or a substantial increase in traffic through the residential area;

(C) Occur inside the residential dwelling or in the yard;

(D) Are not visible from the street.

#### **§8-40-2. Permitted use.**

The use of a residential dwelling for a home-based business is a permitted use, except that this permission does not supersede any of the following:

Any deed restriction, covenant, or agreement restricting the use of land;

Any master deed, by-law, or other document applicable to a common interest ownership community.

#### **§8-40-3. Prohibition.**

A municipality shall not prohibit a no-impact home-based business or otherwise require a person to apply, register, or obtain any permit, license, or other type of prior approval from the municipality to operate a no-impact home-based business.

#### **§8-40-4. Reasonable regulations.**

A municipality may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for any of the following purposes:

(1) The protection of the public health and safety, as defined in this code, including rules and regulations related to fire and building codes, health and sanitation, transportation, or traffic control, solid or hazardous waste, pollution, and noise control.

(2) Ensuring that the business activity is:

(A) Compatible with residential use of the property and surrounding residential use;

(B) Secondary to the use as a residential dwelling;

(C) Complying with state and federal law and paying applicable taxes.

(3) Limiting or prohibiting the use of a home-based business for the purposes of selling illegal drugs, liquor, operating or maintaining a structured sober living home, pornography, obscenity, nude or topless dancing, and other adult-oriented businesses.

#### **§8-40-5. Limited conditions.**

A municipality shall not require a person as a condition of operating a home-based business to:

(1) Rezone the property for commercial use;

(2) Install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with not more than two dwelling units.

**§8-40-6. Review.**

The question whether a regulation complies with this article shall be a judicial question, and the municipality that enacted the regulation shall establish by clear and convincing evidence that the regulation complies with this article.”

The bill was then ordered to engrossment and third reading.

**H. B. 4984**, Relating to repealing tax credit for employing former employees of Colin Anderson Center; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 5318**, Clarifying that elected municipal police chiefs shall be certified law-enforcement officers; on second reading, coming up in regular order, was read a second time.

Delegate Adkins moved to amend the bill on page 1, section 30-29-13, line 6, by adding after the word “date” the words “Provided further, That elected chief executives of municipal law-enforcement agencies of Class IV towns as defined by §8-1-3 of this Code are exempt from this requirement.”

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. 181**), and there were-- yeas 61, nays 36, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Akers, Burkhammer, Criss, Dittman, Espinosa, Fast, Fluharty, Garcia, Griffith, Hamilton, Hansen, Hardy, Heckert, Hillenbrand, Hornbuckle, Hornby, Hott, Householder, Howell, Jeffries, Kelly, Lewis, Moore, Petitto, Phillips, Pinson, Pushkin, Riley, Toney, Ward, Warner, Westfall, Winzenreid, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Foggin, Gearheart and Williams.

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

The bill was then ordered to engrossment and third reading.

**Com. Sub. for H. B. 5354**, Relating to the Grant Transparency and Accountability Act; on second reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Jeffries, and by unanimous consent, the bill was postponed one day.

**H. B. 5443**, Clarifying that electronic data processing services are to be included in the valuation of specialized high-technology property; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**First Reading**

**Com. Sub. for H. B. 4640**, Relating to the transfer of certain revenues derived from lottery activities; on first reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Jeffries, and by unanimous consent, the bill was postponed one day.

**H. B. 4654**, Removing bona fide schools, public libraries, and museums from the list of exemptions from criminal liability relating to distribution and display to minor of obscene matter; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for H. B. 4807**, Establishing limitations on billing practices of Internet or telecommunications providers that fail to provide subscribed customers service for five or more days; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for H. B. 4809**, Health Care Sharing Ministries Freedom to Share Act; on first reading, coming up in regular order, was read a first time and ordered to second reading,

**Com. Sub. for H. B. 4850**, Removing the sunset clause from Oil and Gas Personal Property Tax; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**H. B. 5128**, Directing transfer of moneys into fire protection funds at the end of each year; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for H. B. 5137**, Relating to requiring the State Auditor to conduct audits of all county boards of education; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**H. B. 5170**, Increasing the size of matching grants for local economic development from \$30,000 to \$50,000; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for H. B. 5294**, Revising state law regulating farm wineries; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for H. B. 5319**, Creating the offense of exposing a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel to fentanyl; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**H. B. 5337**, Establishing the legislative oversight committee of the Division of Corrections and Rehabilitation; on first reading, coming up in regular order, was read a first time and ordered to second reading.

**Com. Sub. for H. B. 5345**, Relating to the registration requirements in the Sex Offender Registration Act; on first reading, coming up in regular order, was read a first time and ordered to second reading.

### Leaves of Absence

At the request of Delegate Jeffries, and by unanimous consent, leave of absence for the day was granted Delegate Foggin.

### Miscellaneous Business

At the respective requests of Delegates Crouse and Akers, consent was obtained for the comments of the Delegates regarding Com. Sub. for H. B. 5243 to be printed in the Appendix to the Journal.

Delegate Linville asked and obtained unanimous consent to be added as a cosponsor of H. B. 5128.

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be added as a cosponsor of the following:

**H. B. 4387:** Delegate Hornby;

**H. B. 4450:** Delegate Brooks;

**H. B. 4971:** Delegate Hott;

**H. B. 5017:** Delegate Young;

**H. B. 5067:** Delegate Hillenbrand;

**H. B. 5097:** Delegate Crouse;

**H. B. 5128:** Delegate Hillenbrand;

**H. B. 5303:** Delegates Espinosa and Horst;

**H. B. 5419:** Delegate Espinosa;

**H. B. 5441:** Delegate Hott;

**H. B. 5528:** Delegate Hott;

And,

**H. B. 5570:** Delegates Chiarelli and Crouse.

At 1:20 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, February 15, 2024.

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

## **SPECIAL CALENDAR**

**Thursday, February 15, 2024**

**37th Day**

**11:00 A.M.**

### **UNFINISHED BUSINESS**

H. C. R. 74 - Defending Life by Rejecting Euthanasia

### **THIRD READING**

Com. Sub. for H. J. R. 28 - Protection from medically-assisted suicide or euthanasia in West Virginia Amendment

Com. Sub. for S. B. 441 - Restricting driving in left lane of multi-lane highways in WV

Com. Sub. for H. B. 4110 - Authorizing certain miscellaneous agencies and boards to promulgate legislative rules

H. B. 4297 - Law Enforcement Officers Safety Act

Com. Sub. for H. B. 4381 - West Virginia Consumer Privacy Act of 2024 [RIGHT TO AMEND]

Com. Sub. for H. B. 4399 - Creating the equitable right to expungement

H. B. 4717 - Relating to terminating the authority of the Director of the Purchasing Division to impose a certain annual fee upon vendors

Com. Sub. for H. B. 4754 - Exempting the processing of beef, pork or lamb by a slaughterhouse for an individual owner of the product processed from the Consumer Sales and Service Tax

Com. Sub. for H. B. 4943 - To facilitate the creation of home-based businesses

H. B. 4984 - Relating to repealing tax credit for employing former employees of Colin Anderson Center

Com. Sub. for H. B. 5318 - Clarifying that elected municipal police chiefs shall be certified law-enforcement officers.

H. B. 5443 - Clarifying that electronic data processing services are to be included in the valuation of specialized high-technology property

### **SECOND READING**

S. B. 605 - Requiring electronic funds transfer of retirement contributions by

- participating employers
- S. B. 606 - Relating to Natural Resources Police Officers Retirement System
- S. B. 607 - Clarifying Municipal Police Officers and Firefighters Retirement System surviving spouse benefits
- H. B. 4654 - Removing bona fide schools, public libraries, and museums from the list of exemptions from criminal liability relating to distribution and display to minor of obscene matter
- Com. Sub. for H. B. 4807 - Establishing limitations on billing practices of Internet or telecommunications providers that fail to provide subscribed customers service for five or more days
- Com. Sub. for H. B. 4809 - Health Care Sharing Ministries Freedom to Share Act
- Com. Sub. for H. B. 4850 - Removing the sunset clause from Oil and Gas Personal Property Tax
- Com. Sub. for H. B. 4867 - Require pornography websites to utilize age verification methods to prevent minors from accessing content
- H. B. 5128 - Directing transfer of moneys into fire protection funds at the end of each year
- Com. Sub. for H. B. 5137 - Relating to requiring the State Auditor to conduct audits of all county boards of education
- H. B. 5170 - Increasing the size of matching grants for local economic development from \$30,000 to \$50,000.
- Com. Sub. for H. B. 5294 - Revising state law regulating farm wineries
- Com. Sub. for H. B. 5319 - Creating the offense of exposing a law-enforcement officer, probation officer, parole officer, courthouse security officer, correctional officer, the State Fire Marshal, a deputy or assistant fire marshal, firefighter, or emergency medical service personnel to fentanyl
- H. B. 5337 - Establishing the legislative oversight committee of the Division of Corrections and Rehabilitation.
- Com. Sub. for H. B. 5345 - Relating to the registration requirements in the Sex Offender Registration Act.
- Com. Sub. for H. B. 5354 - Relating to the Grant Transparency and Accountability Act

### **FIRST READING**

- Com. Sub. for H. B. 4640 - Relating to the transfer of certain revenues derived from lottery activities

- Com. Sub. for H. B. 4911 - Relating to the sale of raw milk
- Com. Sub. for H. B. 4978 - Relating to clarifying the authority of appointed officials
- Com. Sub. for H. B. 5013 - Relating to Timber Management
- H. B. 5022 - Relating to increasing the amount of ephedrine, pseudoephedrine or phenylpropanolamine a person may purchase annually.
- H. B. 5528 - Relating to the renewable energy facilities program
- H. B. 5549 - Allowing license plates, road signs, or markers to be obtained from alternative sources when the Division of Corrections and Rehabilitation is unable to produce them



## HOUSE CALENDAR

Thursday, February 15, 2024

37th Day

11:00 A.M.

### SECOND READING

- Com. Sub. for S. B. 17 - Authorizing Department of Health to promulgate legislative rules
- H. B. 4795 - Relating to permitting an academic medical center to operate an opioid treatment facility.
- H. B. 4855 - Require Division of Purchasing to write contracts in an unbiased manner
- H. B. 4878 - Updating the meaning of federal adjusted gross income and certain other terms used in West Virginia Personal Income Tax Act
- H. B. 4881 - Relating to bringing terms not defined in that act into conformity with the meaning of those terms for federal income tax purposes
- H. B. 4957 - Relating generally to lobbying rules
- H. B. 5038 - Relating to research and economic development agreements for state institutions of higher education
- H. B. 5050 - Relating to authorizing legislative rules regarding higher education.
- H. B. 5263 - Relating to the Consolidated Public Retirement Board and requiring participating public employers to remit retirement contributions and fees by electronic funds transfer
- H. B. 5269 - Relating to the Municipal Police Officers and Firefighters Retirement System
- H. B. 5270 - Relating to the Natural Resources Police Officers Retirement System

### FIRST READING

- H. B. 4429 - Relating to excluding test strips from the definition of drug paraphernalia
- H. B. 4700 - Banning certain persons from sport wagering activities
- H. B. 4777 - Allow staff members in public schools to eat lunch for free if there

is food left over after every student has been fed

H. B. 5194 -

Requiring purchases of certain commodities and services from state use program partners

H. B. 5237 -

Prohibiting driving slow in left lane except under certain circumstances

# WEST VIRGINIA HOUSE OF DELEGATES

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**THURSDAY, FEBRUARY 15, 2024**

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

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**COMMITTEE ON RULES  
10:45 A.M. - BEHIND THE CHAMBER**

**COMMITTEE ON JAILS AND PRISONS  
9:00 A.M. – JUDICIARY COMMITTEE ROOM**

**COMMITTEE ON SENIOR, CHILDREN, AND FAMILY ISSUES  
9:15 A.M. – EAST WING COMMITTEE ROOM**

**COMMITTEE ON FIRE DEPARTMENTS AND EMERGENCY MEDICAL  
SERVICES  
9:30 A.M. – EDUCATION COMMITTEE ROOM**

**COMMITTEE ON ENERGY AND MANUFACTURING  
1:00 P.M. – FINANCE COMMITTEE ROOM**

**COMMITTEE ON TECHNOLOGY AND INFRASTRUCTURE  
2:00 P.M. – EDUCATION COMMITTEE ROOM**

**COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM  
3:00 P.M. – JUDICIARY COMMITTEE ROOM**

**COMMITTEE ON HEALTH AND HUMAN RESOURCES  
3:00 P.M. – EAST WING COMMITTEE ROOM**

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