



WRAP-UP

The Newsletter of the West Virginia Legislature

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Changing Times and Attitudes Reflected in the West Virginia Code

by Katrina Harper

On Feb. 14, the Governor signed into law the first bills of the 2008 Regular Session. These bills, like the vast majority of the bills the Legislature passes, made changes to the West Virginia Code, the organized, categorized collection of the state's laws.

Ever since President Abraham Lincoln issued the proclamation that admitted the state of West Virginia into the Union, laws have governed the state, its wild and wonderful landscape and all its inhabitants. While the official law of the state is contained in the West Virginia Constitution and the Acts of the Legislature, the Code remains the quickest and most efficient legal resource for West Virginians.

Over the years, changing times have caused certain aspects of the Code to be molded according to a more modern society. These changes are brought about through legislative acts and are not intended to alter the original beliefs laid out in West Virginia's Constitution. Instead, they allow the state to be more flexible to the needs of its people. As the state's citizenry has increased, so has the necessity to create law more applicable to the people.

As West Virginia's population has grown from approximately 18,500 in 1863 to over 1.8 million today, the expansion of the State Code was inevitable. Over the years, the Code has grown exponentially in scope and size. In 1884, the printed Code was a mere 910 pages, contained in a single volume. Now, the Code spans 29 volumes and thousands of pages. This current multi-volume Code reflects the state's growth and the progress that the legislature has made to meet the constantly changing needs of West Virginians.

One result of its burgeoning size is that several obsolete or obscure laws remain in the Code. One such law prohibits a



On the Banks of the Kanawha River

The exterior of West Virginia's State Capitol is made of Buff Indiana Limestone. Over 700 train carloads of limestone were used in the construction of the Capitol. Buff Indiana Limestone was used on other well-known buildings throughout the country including the Empire State Building and the United States Pentagon.

photo: Max Hunt

person from wearing a hat or head covering that blocks the view of others in a theater where an admission fee is charged -- a misdemeanor offense, with a fine of \$2 - \$10. Another allows court judges to fine people who curse in public or are publicly intoxicated \$1 for each offense. In addition, a law dating back to 1919 attempts to thwart rebellious individuals -- making it unlawful to display or possess a red or black flag that indicates support of ideals or institutions that are antagonistic to the Constitution and Laws of West Virginia and the United States.

Dueling was once a common practice early in our nation's history. It is now illegal but remnants of this extinct practice can still be found in State Code. Mocking or taunting a person for refusing to participate in a duel is still a misdemeanor offense, punishable by up to six months in jail and a fine of \$100. Also, a person convicted of participating in a duel cannot hold public office.

These laws are often removed or altered to make them more relevant and while they are still on the books, they rarely are, if ever, applied today. Although these laws are no longer needed in today's society, they remain a part of the current West Virginia Code and reveal some interesting aspects of our state's history.

In certain instances, the Code must be changed to meet the demands of a changing society and its beliefs. During the period of Prohibition, 1920 to 1933, state and federal laws eliminating the sale and possession of alcohol were passed. In 1923,



In the House

As of 4:00 p.m., Wednesday, February 20, the 43rd day of the 2008 Regular Session, 1338 bills have been introduced in the House. Of these, a total of 58 have passed the House and have gone to the Senate for consideration. Some of the bills passed this week include:

House Bill 4389 would remove the requirement that resident traffic law violators sign citations.

House Bill 4512 would allow the State Fire Marshal to license engineered suppression systems installers, portable fire extinguisher technicians, pre-engineered suppression systems installers and pre-engineered suppression systems technicians.

House Bill 4513 would include newborn screenings as a covered benefit by the Public Employees Insurance Agency, the State Children's Health Insurance Program, the Medicaid program and all health insurance providers that extend their benefit packages to include pregnancy coverage.

A Sampling of Bills Introduced In the House

House Bill 4528 would require mandatory community service upon conviction of a misdemeanor offense of driving under the influence. For a first offense, the bill would require the individual to serve 50 hours of community service within six months from the date of conviction or the release from confinement. For a second offense, the bill would require the individual to serve 75 hours of community service. For a third offense and every offense after that, the individual would be required to serve 100 hours of community service within six months. The bill would also create a national registry of such offenders to be maintained by the Criminal Identification Division of the State Police.

House Bill 4529 would suspend the future issuing of licenses for new video lotteries unless expressly authorized by the West Virginia Legislature.

House Bill 4533 would exempt law enforcement officers on official duty from paying tolls on the West Virginia Turnpike. This bill would be applicable to officers in both marked and un-marked law enforcement vehicles.

House Bill 4536 would require that persons who maintain 20 or more adult cats or dogs to apply to register as a kennel.

House Bill 4546 would require the West Virginia Health Care Authority to ensure that all patient-specific, protected health information for prescription drugs be disclosed only with the permission of the patient in compliance with state confidentiality laws and the provisions of the Health Insurance Portability and Accountability Act of 1996. Violations would be punishable by a civil penalty of up to \$15,000.

House Bill 4555 would prohibit banks or lending institutions from raising any sort of loan interest rates due to a loan-seeker's failure to pay any other non-related debt.

House Bill 4561 would allow the names of West Virginia veterans killed in action in the Kosovo, Afghanistan or Iraq conflicts to be inscribed on the Veterans Memorial on the State Capitol Complex.

House Bill 4566 would allow individuals giving donations to scholarship programs

Completed Legislative Action (Week of Feb. 14 - 20, 2008)

Senate Bill 257 will repeal outdated provisions of the West Virginia Code relating to the operation of the penitentiary by the Commissioner of Public Institutions, the hiring of inmates as domestics and the hiring out of inmates by contract.

Senate Bill 258 will repeal outdated code provisions relating to Huttonsville Correctional Center.

Senate Bill 262 will repeal outdated code provisions relating to the Denmark State Hospital.

House Bill 4327 will amend the range of compensation that may be paid to operators of charitable bingo and charitable raffles to no more than 120 percent of the state minimum wage.

to receive a tax credit of \$1 for every dollar donated. There would be no cap as to how much a person could donate or how much a person could receive in tax credits for the donations.

House Bill 4568 would require accident and sickness insurance providers, as well as health management organizations (HMOs), to cover certain Lyme disease treatments. Benefits provided would include diagnostic testing and long-term antibiotic treatment for chronic Lyme disease when determined medically necessary by a physician. Insurance providers would not be allowed to deny coverage for these treatments because they are considered too experimental or unproven.

House Bill 4580 would designate December 7, "Pearl Harbor Day," as a legal state holiday.

House Bill 4592 would allow anyone involved in a motor vehicle accident to have access to basic information about the other driver for the purposes of making an insurance claim. This basic information would include: the name and address of each individual involved in the accident; the make, year and model of each vehicle involved; insurance in-

The West Virginia Legislature's Reference and Information Center

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In the Senate

As of 4:00 p.m., Wednesday, February 20, 2008, the 43rd day of the 2008 Regular Session, 777 bills have been introduced in the Senate. Of those, 20 have passed the Senate and have gone to the House for consideration. These include:

Senate Bill 9 would create a hunter safety program in schools. The program would be available to students in grades 8-12 over a two-week period during the school year as part of physical education classes. The hunter safety orientation program would be voluntary to students, but if a student chooses not to participate in the program, he or she would participate in another physical education activity. The program would provide information for handling and shooting firearms in hunting, sports competition and in the home.

Senate Bill 13 would modify the West Virginia Dental Practice Act by allowing dental hygienists to treat patients without direct supervision of a dentist and creating a special volunteer license for retired dentists who want to volunteer at free clinics.

Senate Bill 145 would allow a person to use force, including deadly force, against a criminal or intruder in a situation where the person has the legal right to defend themselves in their own residence. Complete civil defense would not be available to persons who commit or escape from the commission of a felony or to resist a police officer acting in the course of duty.

Senate Bill 156 would provide tuition waivers to state colleges and universities for children and spouses of National Guard and active military duty personnel killed in the line of duty.

Senate Bill 193 would allow consumer lenders to sell home and automobile membership plans to their customers. Lenders would be required to provide these plans under a voluntary basis to the customer, offer security for the property interests, provide

copies and allow the customer to cancel the plan within 30 days with a full refund.

Senate Bill 201 would prohibit a former participant to join a retirement plan as a new member with the same or different public employer from receiving any benefits because of their former participation in a retirement plan. A person would be ineligible if they have been convicted of a crime or served less than honorable duty.

Senate Bill 207 would allow the Consolidated Public Retirement Board to correct any change or employer error in the records of the Department of the Deputy Sheriff Retirement System or any participating employer if the error affects payments. In addition, disability benefit payments would begin the first day of the month following termination of employment and receipt of the disability retirement application by the Consolidated Public Retirement Board.

Senate Bill 208 would clarify that all retirement systems administered by the Consolidated Public Retirement Board are included for employer pick-up provisions for federal tax purposes.

Senate Bill 290 would reduce the fine for health care professionals whose licenses may be expired, lapsed or terminated who practice for less than three months. The bill establishes an additional felony offense for a health care professional that practice without a valid, active license and causing serious bodily injury.

Senate Bill 301 would eliminate the minimum requirement of \$500 for an eligible rollover distribution paid directly to an eligible retirement plan for the State Police Retirement Fund. The surviving spouse would be included in the annual annuity adjustment and when a deceased member has no surviving spouse, dependant child or dependant parent, the contributions are to be paid to a named beneficiary or beneficiaries.

Senate Bill 317 would update physician and podiatrist licensing requirements. This bill would allow applicants 10 years to pass all components of the medical examination instead of seven and require applicants who fail components of the exam after three tries to come before the Board of Medicine. The Board of Medicine would also be allowed to grant medical licenses under extraordinary circumstances.

Senate Bill 325 would clarify the matching program for the deferred compensation plan for state employees is available only to employees who receive compensation for 12 monthly pay periods or 24 semi-monthly pay periods during a fiscal year.

Senate Bill 519 would extend the sunset provision for the Hazardous Waste Management Fee Fund from June 30, 2008, to June 30, 2010.

Senate Bill 545 would require electronic filing of tax returns for taxpayers that had a total annual remittance of \$100,000 or more, authorizes the tax commissioner to combine all tax assessments resulting from one audit into a combined single assessment and eliminates the biennial renewal requirement for business registration certificates granted before July 1, 2010.

Senate Bill 596 would update definitions to conform to changes made by the Governing Board of the Streamlined Sales and Use Tax Agreement.

Senate Bill 673 would make a supplemental appropriation to the Department of Health and Human Resources for social services.

Senate Bill 674 would make supplemental appropriations for the Department of Administration and Department of Military Affairs and Public Safety.

Senate Bill 570 would allow county commissions to be involved in joint economic development efforts.

Senate Bill 579 would allow a border city whose sanitary sewer system is located in another state to appoint two additional non-resident members to its sanitary board.

Senate Bill 606 would give teachers who are regularly employed on a full-time basis hiring preference for summer school programs over substitute and part-time teachers.

West Virginia Legislature's Web site

Designed to strengthen your connection to West Virginia's legislators and the laws that govern this state, the West Virginia Legislature's Web site provides you with access to various resources, including contact information, legislation and educational materials. The Legislature's online Bulletin Board maintains prompt information during legislative sessions through the Legislature's Calendars, Meetings, Abstracts, Indexes and Journals. Citizens also can view the entire West Virginia Code, interactive district maps, committee agendas and membership information at: <http://www.legis.state.wv.us>

beer, wine and liquor were banned in the State Code. Only intoxicating drinks produced before July 1, 1914, and stored according to federal guidelines were allowed to be sold. Manufacturing, selling or storing contraband beverages in West Virginia was a misdemeanor, subject to a \$100 to \$500 fine and a two to six month jail sentence. A second offense was considered a felony, punishable by one to five years in prison.

In 1935, two years after the end of Prohibition, the Legislature passed House Bill 119, and amended the State Code once again. The bill, which allowed the sale and possession of alcoholic beverages, was enacted into law and became Chapter 60 of the West Virginia State Code. This bill established the West Virginia Liquor Control Commission, and charged them with regulating the sale of alcohol at the retail and wholesale levels. Also,

the term intoxicating liquors was further defined and divided into beer, alcohol, non-intoxicating beer, wine and spirits. This amendment is representative of how the Code has changed in order to stay aligned with federal laws and the nation's culture.

As West Virginia has progressed, so has state law. The West Virginia Codes of 1868 and 1923 provided a foundation for the current state Code, which has been in effect since 1931. As bills are passed, it is amended annually and will continue to be modified without compromising its original integrity to meet West Virginia's evolving society.

Today, citizens can view the Code in printed form at their local library or county courthouse. The Legislature's Web site provides the easiest and most immediate way to access the complete West Virginia Code. Please visit our us at: www.legis.state.wv.us

formation from each driver such as the insurance company, the policy number and contact information for the insurance company; contact information for the police officer which responded to the scene of the accident and the time, location and date of the accident.

House Bill 4597 would make it a felony to wager money or other valuables at animal fighting ventures. The bill would make it a felony offense for an individual to own, lease or have any other financial connection to the premises where animal fighting occurs when the individual has knowledge of the operation. Any person guilty of this would be fined between \$1,000 and \$5,000, sentenced to prison for one to five years, or both.

House Bill 4650 would require that all justices on the West Virginia Supreme Court of Appeals and all circuit court judges be elected during the general election but on a separate, non-partisan ballot.