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NEW PROPOSED RULES FILED FOR PUBLIC COMMENT THIS WEEK			
AGENCY	**RULE/TYPE**	**AUTHORITY**	**HEARING/COMMENT PERIOD/LOCATION**
Medical Imaging & Radiation Therapy Tech. Bd of Examiners (18-1)	Rules of the WV Medical Imaging and Radiation Therapy Tech. Bd. of Examiners (Legislative)	§30-23-5	Written Comments Only May 1, 2015, 5:00 pm WV Medical Imaging & Radiation Therapy Tech Bd of Examiners PO Box 638 Cool Ridge, WV 25825-0638 wvrtboe@suddenlinkmail.com Fax: (304) 787-3030

NO NEW EMERGENCY RULES WERE FILED THIS WEEK				
AGENCY	**RULE/TYPE**	**AUTHORITY**	**EFFECTIVE DATE**	**DATE NOTICE FOR HEARING**

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GUIDE FOR USING THE RULE MONITOR IN THE STATE REGISTER

Column	1.	Agency Name, (Title and Series Number)
Column	2.	Rule Title, Price and Type
Column	3.	Date Notice of Public Hearing or Comment Period Filed
Column	4.	Date of Public Hearing or Last Date Comments Will Be Received
Column	5.	Date Emergency Rule Filed, Emergency Amendments Filed, Emergency Rule Decision (ERD) Number & Date ERD Filed (Effective Date of Emergency Rule)
Column	6.	Date Agency Approved Legislative Rules Filed.
Column	7.	Date Review by the Legislative Rule-Making Review Committee & Action Taken **Please Note** The Board of Education, Board of Trustees & Board of Directors File Their Rules With the Educational Over-Sight Committee
Column	8.	Legislative Action
Column	9.	Date Agency Final Files Legislative, Procedural or Interpretive Rules. This is the Final Step for Procedural & Interpretive Rules
Column	10.	Date Rule is Effective

- Titles followed by an asterisk (**) indicate that the rule is in effect as an emergency
- Emergency rules will not have a "Notice" date until the agency files one but the rule will appear in Columns 1, 2 & 5. An Agency must file for either a public hearing or public comment period either before filing as an emergency or no more than 30 days after filing the rule as an emergency
- If more than one date appears in a column, it means the agency has repeated that step (ex. - holding an additional public hearing)
- If a particular step is not required by law for a particular rule, the "N/A" will appear in the excluded step column
- Once a rule becomes effective & the effective date appears in Column 10, the rule will be removed from the monitor after the rule is distributed in the loose leaf version of the Code of State Rules

CROSS REFERENCE OF RULE MONITOR TITLE NUMBERS AND AGENCIES

TITLE NUMBER		NAME OF AGENCY
TITLE	3	BARBERS AND COSMETOLOGISTS
TITLE	7	PROFESSIONAL ENGINEERS
TITLE	10	LICENSED PRACTICAL NURSES
TITLE	11	MEDICINE
TITLE	13	OCCUPATIONAL THERAPY
TITLE	14	OPTOMETRY
TITLE	15	PHARMACY
TITLE	16	PHYSICAL THERAPY
TITLE	17	PSYCHOLOGISTS
TITLE	20	SANITARIANS
TITLE	24	OSTEOPATHY
TITLE	25	SOCIAL WORK EXAMINERS
TITLE	26	VETERINARY MEDICINE
TITLE	27	COUNSELING
TITLE	29	SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY
TITLE	33	OFFICE OF WASTE MANAGEMENT (FORMERLY PART OF TITLE 47)
TITLE	35	OFFICE OF OIL AND GAS
TITLE	36	COAL MINE HEALTH & SAFETY
TITLE	38	MINING & RECLAMATION
TITLE	42	LABOR
TITLE	45	OFFICE OF AIR QUALITY
TITLE	47	OFFICE OF WATER RESOURCES
TITLE	48	MINES TRAINING EDUCATION & CERTIFICATION
TITLE	56	MINERS' HEALTH, SAFETY AND TRAINING
TITLE	58	NATURAL RESOURCES
TITLE	60	ENVIRONMENTAL PROTECTION, SECRETARY'S OFFICE
TITLE	61	AGRICULTURE
TITLE	63	CONSERVATION AGENCY
TITLE	64	HEALTH
TITLE	65	HEALTH CARE AUTHORITY
TITLE	69	HEALTH & HUMAN RESOURCES
TITLE	76	SENIOR SERVICES
TITLE	78	HUMAN SERVICES
TITLE	81	STATE POLICE
TITLE	82	CULTURE AND HISTORY
TITLE	85	WORKERSCOMPENSATION BY THE INSURANCE COMMISSION
TITLE	86	VETERANS AFFAIRS
TITLE	87	FIRE COMMISSION
TITLE	90	CORRECTIONS
TITLE	91	MOTOR VEHICLES
TITLE	94	REGIONAL JAIL & CORRECTIONAL FACILITY AUTHORITY
TITLE	96	WORKFORCE WEST VIRGINIA
TITLE	110	TAX DEPARTMENT
TITLE	112	TREASURER
TITLE	113	HEALTH INSURANCE PLAN
TITLE	114	INSURANCE
TITLE	126	EDUCATION
TITLE	127	SECONDARY SCHOOLS ACTIVITIES COMM.
TITLE	133	HIGHER EDUCATION POLICY COMMISSION
TITLE	135	COMMUNITY & TECHNICAL COLLEGE EDUCATION
TITLE	143	PERSONNEL
TITLE	144	TOURISM
TITLE	146	STATE ELECTION COMMISSION
TITLE	148	ADMINISTRATION
TITLE	149	CRIME, DELINQUENCY AND CORRECTION
TITLE	150	PUBLIC SERVICE COMMISSION
TITLE	153	SECRETARY OF STATE
TITLE	157	DIVISION OF HIGWAYS
TITLE	158	ETHICS COMMISSION
TITLE	162	CONSOLIDATED PUBLIC RETIREMENT BOARD
TITLE	172	STATE RAIL AUTHORITY
TITLE	175	ALCOHOL BEVERAGE CONTROL COMMISSION
TITLE	176	ALCOHOL BEVERAGE CONTROL COMMISSION – BEER
TITLE	177	ATHLETIC COMMISSION
TITLE	178	RACING COMMISSION
TITLE	179	LOTTERY
TITLE	184	PARKWAYS ECONOMIC DEV. & TOURISM AUTHORITY
TITLE	190	REAL ESTATE APPRAISER LICENSING & CERTIFICATION BOARD
TITLE	191	FAMILY PROTECTION SERVICES BOARD
TITLE	199	EXPLOSIVES & BLASTING
TITLE	204	HATFIELD-MCCOY REGIONAL RECREATION AUTHORITY
TITLE	205	OUTDOOR HERITAGE CONSERVATION FUND
TITLE	207	COALFIELD COMMUNITY DEVELOPMENT
TITLE	210	GOHELP

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Administration (148-1)	Purchasing Division Legislative	6/18/2014	7/21/2014		7/30/2014	Modified & Approved 9/11/2014 Filed 9/16/2014	SB 142 HB 2302 BUNDLED SB 142		
Administration (148-3)	State Owned Vehicles Legislative	6/18/2014	7/18/2014		7/29/2014	Modified & Approved 9/11/2014 Filed 9/16/2014	SB 148 HB 2303 BUNDLED SB 142		
Administration (148-4)	State Plan for the Operation of the WV State Agency for Surplus Property Legislative	6/26/2014	7/28/2014		7/30/2014	Modified & Approved 9/11/2014 Filed 9/16/2014	SB 143 HB 2304 BUNDLED SB 142		
Administrative Hearings (105-1)	Appeal Procedures Legislative	7/1/2014	7/31/2014		7/31/2014	Modified & Approved 12/17/2014 Filed 12/23/2014	SB 193 HB 2305 BUNDLED SB 192		
Agriculture (61-1)	Animal Disease Control Legislative	7/2/2014	8/1/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/19/2014 12/15/2014	SB 211 HB 2306 BUNDLED SB 199		
Agriculture (61-4B)	Frozen Desserts and Imitation Frozen Desserts Legislative	6/27/2014	7/282014		7/29/2014	Modified & Approved 10/23/2014 Filed 10/30/2014	SB 210 HB 2315 BUNDLED SB 199		
Agriculture (61-11B)	Auctioneers Legislative	7/1/2014	7/31/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/19/2014	SB 212 HB 2307 BUNDLED SB 199		
Agriculture (61-12)	Fee Structure for the Pesticide Control Act of 1990 Legislative	6/27/2014	7/28/2014		7/29/2014	Modified & Approved 10/23/2014 Filed 10/30/2014	SB 213 HB 2308 BUNDLED SB 199		
Agriculture (61-14)	WV Plant Pest Act Legislative	7/1/2014	7/31/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 10/30/2014	SB 214 HB 2309 BUNDLED SB 199		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Agriculture (61-16)	Inspection of Meat and Poultry Legislative	5/15/2014	7/3/2014		7/22/2014	Approved 10/23/2014	SB 215 HB 2276 BUNDLED SB 199		
Agriculture (61-24)	WV Spay Neuter Assistance Program Legislative	6/25/2014	7/25/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/19/2014 12/15/2014	SB 216 HB 2310 SB 199		
Agriculture (61-29)	Industrial Hemp Legislative	7/2/2014	8/1/2014		8/1/2014	Recommend Withdrawal 11/20/2014 Modified Filed 12/10/2014 Modified & Approved 12/17/2014 Filed 12/23/2014 12/30/2014	SB 221 HB 2311 BUNDLED SB 199		
Agriculture (61-30)	Dangerous Wild Animal Rule Legislative	7/2/2014	8/1/2014		8/1/2014	Modified with certain amendments & Approved 11/20/2014 Filed 11/20/2014 12/15/2014	SB 222 HB 2361 BUNDLED SB 199		
Agriculture (61-31)	Livestock Care Standards Legislative	7/1/2014	7/31/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/19/2014 12/15/2014	SB 217 HB 2312 BUNDLED SB 199		
Agriculture (61-32)	Equine Rescue Facilities Legislative	7/1/2014	7/31/2014		8/1/2014	Modified & Approved 12/17/2014 Filed 12/12/2014 Filed 12/23/2014	SB 218 HB 2313 BUNDLED SB 199		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Agriculture (61-33)	Rural Rehabilitation Loan Program Legislative	7/1/2014	7/31/2014	7/8/2014 Approved 7/10/2014	8/1/2014	Modified with certain amendments & Approved 11/20/2014 Filed 11/20/2014 12/15/2014	SB 219 HB 2362 BUNDLED SB 199		
Agriculture (61-35)	Aquaculture Importation Legislative	7/1/2014	7/31/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/19/2014	SB 220 HB 2314 BUNDLED SB 199		
Air Quality (45-14)	Permits for Construction and Major Modification of Major Stationary Sources for the Prevention of Significant Deterioration of Air Quality Legislative	6/4/2014	7/7/2014		7/23/2014	Approved 9/11/2014	SB 164 HB 2282 BUNDLED HB 2283		
Air Quality (46-16)	Standards of Performance for New Stationary Sources Legislative	6/4/2014	7/7/2014		7/23/2014	Approved 9/11/2014	SB 163 HB 2283 BUNDLED HB 2283		
Air Quality (45-25)	Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities Legislative	6/4/2014	7/7/2014		7/23/2014	Approved 9/11/2014	SB 162 HB 2284 BUNDLED HB 2283		
Air Quality (45-30)	Requirements for Operating Permits Legislative	6/4/2014	7/7/2014		7/23/2014	Approved 9/11/2014	SB 169 HB 2285 BUNDLED HB 2283		
Air Quality (45-34)	Emission Standards for Hazardous Air Pollutants Legislative	6/4/2014	7/7/2014		7/25/2014	Approved 9/11/2014	SB 168 HB 2286 BUNDLED HB 2283		
Alcohol Beverage Control Comm. (175-2)	Private Club Licensing Legislative	6/13/2014	7/13/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 10/29/2014	SB 191 HB 2316 BUNDLED SB 187		
Alcohol Beverage Control Comm-Beer (176-1)	Nonintoxicating Beer Licensing and Operations Procedures Legislative	6/24/2014	7/24/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 10/29/2014 11/6/2014	SB 190 HB 2317 BUNDLED SB 187		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Community & Technical College Ed. (135-12)	Capital Project Management Legislative	12/16/2013	1/16/2014		1/28/2014		HB 2892		
Community & Technical College Ed. (135-17)	Transferability of Credits and Grades at WV Public College and Universities Procedural	1/6/2015	2/6/2015					2/11/2015	3/13/2015
Community & Technical College Ed. (135-23)	Basic Guidelines and Standards for Admissions at Comm. & Tech. Colleges Procedural	1/6/2015	2/6/2015					2/11/2015	3/13/2015
Community & Technical College Ed. (136-25)	Residency Classification for Admission and Fee Purposes Procedural	2/3/2015	3/6/2015						
Conservation Committee (63-2)	WV Conservation Agency Financial Assistance Programs Legislative	6/13/2014	7/14/2014		7/28/2014	Modified & Approved 11/20/2014 Filed 11/21/2014	SB 195 HB 2358		
Consolidated Public Retirement Board (162-7)	Refund, Reinstatement, Retroactive Service, Loan and Employer Error Interest Factors Legislative	6/24/2014	7/24/2014		7/31/2014	Approved 9/11/2014	SB 144 HB 2278 BUNDLED SB 142		
Consolidated Public Retirement Board (162-8)	Service Credit for Accrued and Unused Sick and Annual Leave Legislative	6/24/2014	7/24/2014		7/31/2014	Approved 9/11/2014	SB 229 HB 2279 BUNDLED SB 142		
Consolidated Public Retirement Board (162-10)	Deputy Sheriff Retirement System Legislative	6/24/2014	7/24/2014		7/31/2014	Approved 9/11/2014	SB 145 HB 2277 BUNDLED SB 142		
Crime, Delinquency and Correction (149-2)	Law Enforcement Training and Certification Standards Legislative	8/4/2014	9/5/2014		9/9/2014	Modified & Approved 10/23/2014 Filed 10/29/2014	SB 194 HB 2327 BUNDLED SB 199		
Dentistry (5-1)	Rule for the WV Bd. of Dentistry Legislative	5/14/2014	6/13/2014		7/25/2014	Modified & Approved 12/17/2014 Filed 12/17/2014	SB 207 HB 2318 BUNDLED SB 199		
Dentistry (5-2)	Formation and Approval of Professional Limitied Liability Companies Legislative	5/14/2014	6/13/2014		7/25/2014	Approved 12/17/2014	SB 206 HB 2280 BUNDLED SB 199		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Dentistry (5-6)	Formation and Approval of Dental Corporations; and Dental Practice Ownership Legislative	5/14/2014	6/13/2014		7/25/2014	Approved 12/17/2014	SB 209 HB 2281 BUNDLED SB 199		
Dentistry (5-9)	Application Procedures for Licensure or Certificate Procedural	12/17/2014	1/16/2014					2/18/2015	4/1/2015
Dentistry (5-15)	Dental Recovery Networks Legislative	6/11/2014	7/11/2014	6/11/2014 Approved 7/10/2014	7/25/2014	Modified & Approved 12/17/2014 Filed 12/17/2014	SB 208 HB 2319 BUNDLED SB 199		
Education (126-32)	Issuance of the State of WV High School Equivalency Diploma Legislative Exempt	4/11/2013	5/13/2013						
Education (126-44CC)	Next Generation Content Standards and Objectives for Science in West Virginia Schools (2520.3C) Legislative Exempt	1/15/2015	2/17/2015						
Education (126-44M)	Next Generation Standards for Career and Technical Education in WV Schools (2520.13) Legislative Exempt	12/11/2014	1/12/2015					2/13/2015	3/16/2015
Education (126-94)	Procedures for the Collection, Maintenance and Disclosure of Student Data (4350) Legislative Exempt	1/15/2015	2/27/2015					3/12/2015	4/13/2015
Enterprise Resource Planning Board (213-1)	Enterprise Resouce Planning System User Fee Legislative	4/7/2014	5/9/2014	4/7/2014 Approved 4/22/2014	6/26/2014	Approved 10/23/2014	SB 198 HB 2291 BUNDLED SB 199		
Environmental Protection – Secretary's Office (60-4)	Awarding of WV Stream Partners Program Grants Rule Legislative	6/26/2014	7/25/2014		7/29/2014	Approved 11/20/2014	SB 160 HB 2287 BUNDLED HB 2283		
Family Protection Services Board (191-1)	Operation of the Family Protection Advisory Board Legislative	6/27/2014	7/28/2014		7/30/2014	Modified & Approved 12/17/2014 Filed 12/30/2014	SB 180 HB 2320 BUNDLED SB 199		
Family Protection Services Board (191-2)	Family Protection Programs, Outreach Services and Shelter Legislative	6/27/2014	7/28/2014		7/30/2014	Modified & Approved 12/17/2014 Filed 12/17/2014	SB 178 HB 2321 BUNDLED SB 199		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Family Protection Services Board (191-3)	Perpetrator Intervention Programs Licensure Legislative	6/27/2014	7/28/2014		7/30/2014	Modified & Approved 12/17/2014 Filed 12/17/2014	SB 228 HB 2322 BUNDLED SB 199		
Family Protection Services Board (191-4)	Monitored Parenting and Exchange Program Certification Legislative	6/27/2014	7/28/2014		7/30/2014	Modified & Approved 12/17/2014 Filed 12/17/2014	SB 179 HB 2323 BUNDLED SB 199		
Family Protection Services Board (191-5)	Perpetrator Intervention Programs Licensure for Correctional Institutions Legislative	6/27/2014	7/28/2014		7/30/2014	Modified & Approved 12/17/2014 Filed 12/17/2014	SB 181 HB 2324 BUNDLED SB 199		
Fire Commission (87-8)	Volunteer Firefighters' Training, Equipment and Operating Standards Legislative	5/23/2014	6/24/2014	7/1/2014 Approved 8/11/2014	7/1/2014	Approved 12/17/2014 Filed 12/31/2014 Modified Withdrawn 1/6/2015	SB 184 HB 2292 BUNDLED SB 182		
Fire Marshal (103-3)	Supervision of Fire Protection Work Legislative	5/29/2014	6/30/2014		7/1/2014	Modified & Approved 12/17/2014 Filed 12/31/2014	SB 185 HB 2325 BUNDLED SB 182		
Forestry (22-1)	Ginseng Regulations Legislative	6/27/2014	7/31/2014		8/1/2014	Modified & Approved 9/11/2014 Filed 9/18/2014	SB 159 HB 2326 BUNDLED SB 170		
Health (64-3)	Public Water Systems Legislative	7/1/2014	7/31/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 10/23/2014	SB 175 HB 2333 BUNDLED SB 175		
Health (64-13)	Nursing Home Licensure Rule Legislative	6/27/2014	7/28/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/6/2014	SB 176 HB 2328 BUNDLED SB 175		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Health (64-27)	Statewide Trauma/Emergency Care System Legislative	6/27/2014	7/28/2014		7/31/2014	Modified & Approved 9/11/2014 Filed 10/14/2014	SB 177 HB 2331 BUNDLED SB 175		
Health (64-29)	Fatality and Mortality Review Team Legislative	6/27/2014	7/28/2014		7/31/2014	Modified & Approved 9/11/2014 Filed 10/14/2014	SB 172 HB 2332 BUNDLED SB 175		
Health (64-60)	Medication Administered and Performance of Health Maintenance Tasks by Unlicensed Personnel Legislative	6/27/2014	7/28/2014		7/31/2014	Modified & Approved 10/23/2014 Filed 11/5/2014	SB 173 HB 2329 BUNDLED SB 175		
Health & Human Resources (69-6)	Nurse Aide Abuse Registry Legislative	6/27/2014	7/28/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/6/2014	SB 174 HB 2330 BUNDLED SB 275		
Health & Human Resources (69-8)	Chronic Pain Management Clinic Licensure Legislative	6/18/2014	7/18/2014	5/20/2014 Approved 6/30/2014	7/31/2014	Approved 10/23/2014	SB 171 HB 2293 BUNDLED SB 275		
Higher Education Policy Comm. (133-12)	Capital Project Management Legislative	12/12/2013	1/13/2014		1/24/2014		HB 2892		
Higher Education Policy Comm. (133-26)	Underwood-Smith Teacher Scholarship Program Legislative	2/24/2014	3/26/2014	2/24/2014 Effective 2/24/2014	4/4/2014	Approved 6/2/2014	HB 2892		
Higher Education Policy Comm. (133-58)	Nursing Scholarship Program Legislative	8/4/2014	9/4/2014	8/1/2014 Effective 8/1/2014			HB 2892		
Information Services and Communications Division (161-3)	Procedures for Sanitization, Retirement and Disposition of Information Technology Equipment Legislative	6/24/2014	7/24/2014		7/30/2014	Modified & Approved 9/11/2014			
THE ABOVE RULE HAS BEEN REASSIGNED TO "OFFICE OF TECHNOLOGY" 163-1									
Insurance Commission (114-11E)	Annuity Disclosure Legislative	6/24/2014	7/24/2014		8/1/2014	Modifed & Approved 9/11/2014 Filed 9/15/2014	SB 189 HB 2334 BUNDLED SB 187		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Insurance Commission (114-45)	Recognizing Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities Legislative	6/24/2014	7/24/2014		8/1/2014	Approved 9/11/2014	SB 188 HB 2294 BUNDLED SB 187		
Labor (42-9)	Child Labor Legislative	6/23/2014	7/23/2014		7/30/2014	Modified & Approved 11/20/2014 Filed 12/2/2014	SB 154 HB 2340 BUNDLED SB 170		
Labor (42-17)	Amusement Rides and Amusement Attractions Safety Act Legislative	6/18/2014	7/18/2014		7/30/2014	Modified & Approved 11/20/2014 Filed 12/2/2014	SB 153 HB 2335 BUNDLED SB 170		
Labor (42-26)	Weights and Measures Calibration Fees Legislative	6/18/2014	7/18/2014		7/30/2014	Modified & Approved 11/20/2014 Filed 12/2/2014	SB 158 HB 2336 BUNDLED SB 170		
Labor (42-31)	Verifying the Legal Employment Status of Workers Legislative	6/18/2014	7/18/2014		7/30/2014	Modified & Approved 12/17/2014 Filed 12/29/2014	SB 156 HB 2337 BUNDLED SB 170		
Labor (42-32)	Supervision of Plumbing Work Legislative	6/18/2014	7/18/2014		7/30/2014	Modified & Approved 11/20/2014 Filed 12/2/2014	SB 155 HB 2338 BUNDLED SB 170		
Labor (42-34)	Regulation of Heating, Ventilating and Cooling Work Legislative	6/18/2014	7/18/2014		7/30/2014	Modified & Approved 11/20/2014 Filed 12/2/2014	SB 157 HB 2339 BUNDLED SB 170		
Medical Imaging & Radiation Therapy Tech. Bd. of Exam. (18-1)	Rules of the WV Medical Imaging & Radiation Therapy Tech Bd of Exam Legislative	3/6/2015	5/1/2015						
Medicine (11-1B)	Licensure, Disciplinary and Complaint Procedures, Continuing Education, Physician Assistants Legislative	4/30/2014	5/30/2014	4/30/2014 Approved 6/6/2014 Amendment 6/12/2014 Approved 6/17/2014	7/22/2014	Modified & Approved 11/20/2014 Filed 11/20/2014	SB 197 HB 2341 BUNDLED SB 199		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Miners' Health, Safety and Training (56-20)	Rules Governing the Safety of Those Employed In and Around Quarries in WV Legislative	6/25/2014	7/25/2014		7/29/2014	Modified & Approved 9/11/2014 Filed 9/16/2014	SB 270 HB 2342 BUNDLED SB 170		
Motor Vehicles (91-4)	Examination and Issuance of Driver's License Legislative	6/26/2014	7/27/2014		8/1/2014	Modified & Approved 12/17/2014 Filed 12/31/2014	SB 192 HB 2343 BUNDLED SB 192		
Natural Resources (58-12)	Commercial Whitewater Outfitters Legislative	7/2/2014	8/1/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 11/21/2014	SB 152 HB 2344 BUNDLED SB 170		
Natural Resources (58-26)	Special Boating Rules Legislative	6/23/2014	7/23/2014		7/30/2014	Approved 10/23/2014	SB 151 HB 2295 BUNDLED SB 170		
Natural Resources (58-41)	Wildlife Damage Control Agents Legislative	6/23/2014	7/23/2014		7/30/2014	Modified & Approved 9/11/2014 Filed 9/29/2014	SB 150 HB 2345 BUNDLED SB 170		
Natural Resources (58-46)	Defining the Terms Used In All Hunting and Trapping Legislative	6/23/2014	7/23/2014		7/30/2014	Approved 9/11/2014	SB 146 HB 2296 BUNDLED SB 170		
Natural Resources (58-49)	General Hunting Legislative	6/23/2014	7/23/2014		7/30/2014	Modified & Approved 10/23/2014 Filed 11/7/2014	SB 148 HB 2346 BUNDLED SB 170		
Natural Resources (58-67)	Lifetime Hunting, Trapping and Fishing Licenses Legislative	6/23/2014	7/23/2014		7/30/2014	Approved 9/11/2014	SB 149 HB 2297 BUNDLED SB 170		
Natural Resources (58-71)	Hunting, Trapping and Fishing License and Stamp Fees Legislative	6/23/2014	7/23/2014		7/30/2014	Approved 9/11/2014	SB 147 HB 2298 BUNDLED SB 170		

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AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Office of Technology (163-1,formerly 161-3)	Procedures for Sanitization, Retirement and Disposition of Information Technology Equipment Legislative	6/24/2014	7/24/2014		7/30/2014	Modified & Approved 9/11/2014 Filed 10/3/2014	SB 183 HB 2347 BUNDLED SB 142		
Osteopathic Medicine (24-2)	Osteopathic Physician Assistants Legislative	6/3/2014	7/3/2014	5/12/2014 Approved 6/6/2014	7/31/2014	Modified & Approved 11/20/2014 Filed 11/25/2014	SB 202 HB 2348 BUNDLED SB 199		
Osteopathic Medicine (24-5)	Fees for Services Rendered by the Board of Osteopathy Legislative	6/3/2014	7/3/2014	5/12/2014 Approved 6/6/2014	7/31/2014	Approved 11/20/2014	SB 201 HB 2299 BUNDLED SB 199		
Pharmacy (15-1)	Licensure and Practice of Pharmacy Legislative	6/27/2014	7/27/2014		8/1/2014	Modified & Approved 11/20/2014 Filed 1/8/2015	SB 223 HB 2349 BUNDLED SB 199		
Pharmacy (15-7)	Registration of Pharmacy Technicians Legislative	6/25/2014	7/26/2014		8/1/2014	Modified & Approved 11/20/2014 Filed 1/8/2015	SB 204 HB 2351 BUNDLED SB 199		
Pharmacy (15-8)	Controlled Substances Monitoring Legislative	6/27/2014	7/27/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 1/8/2015	SB 205 HB 2352 BUNDLED SB 199		
Pharmacy (15-12)	Immunizations Administered by Pharmacists Legislative	6/25/2014	7/26/2014		8/1/2014	Modified & Approved 10/23/2014 Filed 1/8/2015	SB 203 HB 2350 BUNDLED SB 199		
Physical Therapy (16-4)	Fees for Physical Therapist and Physical Therapists Assistant Legislative	3/31/2014	5/1/2014		5/9/2014	Approved 10/23/2014	SB 200 HB 2300 BUNDLED SB 199		
Professional Engineers (7-1)	Examination, Licensure and Practice of Professional Engineers Legislative	1/27/2014 10/15/2014	3/3/2014 11/17/2014	12/27/2013 Approved 1/2/2014	3/27/2014 Withdrawn 12/3/2014 Filed 12/3/2014 Recommend Withdraw 12/17/2014		SB 199 HB 2364 BUNDLED SB 199		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Public Service Comm. (150-6)	The Government of Telephone Utilities Legislative Exempt	1/7/2015	3/6/2015						
Racing Commission (178-1)	Thoroughbred Racing Legislative	6/24/2014	7/24/2014		7/29/2014	Approved 9/11/2014	SB 187 HB 2301 BUNDLED SB 187		
Real Estate Appraiser Licensing & Cert. Bd. (190-5)	Requirements for Registration and Renewal of Appraisal Management Companies Legislative	6/6/2014	7/9/2014	6/6/2014 Approved 7/10/2014	8/1/2014	Modified & Approved 12/17/2014 Filed 12/23/2014	SB 197 HB 2353 BUNDLED SB 199		
Secretary of State (153-20)	Procedures for Recount of Election Results Legislative	6/16/2014	7/21/2014		7/22/2014	Modified & Approved 9/11/2014 Filed 9/9/2014	SB 224 HB 2354 BUNDLED SB 199		
Secretary of State (153-45)	Standards and Guidelines for Electronic Notarization Legislative	5/28/2014	6/26/2014	5/20/2014 Approved 6/30/2014	8/1/2014	Modified & Approved 9/11/2014 Filed 9/9/2014	SB 225 HB 2355 BUNDLED SB 199		
Secretary of State (153-46)	Notaries Public Legislative	5/28/2014	6/26/2014	5/20/2014 Approved 6/30/2014	8/1/2014	Modified & Approved 9/11/2014 Filed 9/9/2014	SB 226 HB 2356 BUNDLED SB 199		
Secretary of State (153-50)	Schedule of Fees Legislative	5/28/2014	6/26/2014	5/20/2014 Approved 6/30/2014	8/1/2014	Modified & Approved 9/11/2014 Filed 9/9/2014	SB 227 HB 2357 BUNDLED SB 199		
Senior Services (76-3)	WV State Plan for Aging – Title V Interpretive	10/17/2014	11/17/2014						
State Police (81-9)	WV DNA Databank Legislative	6/25/2014	7/25/2014		7/25/2014	Modified & Approved 12/17/2014 Filed 12/30/2014	SB 182 HB 2359 BUNDLED SB 182		
Tax Department (110-1Q)	Appointment of Special Assessors by the State Tax Commissioner	6/24/2014	7/24/2014		7/31/2014	Modified & Approved 9/11/2014 Filed 9/26/2014	SB 186 HB 2360 BUNDLED SB 187		

RULE MONITOR

AGENCY/SERIES NO	RULE	NOTICE	HEARING	EMER RULE	SEC/STATE	LRMRC-ACTION	LEGIS	FINAL FILE	EFFECTIVE
Veterans' Assistance (86-2)	State Home for Veterans-Fiscal Legislative	5/29/2014	6/28/2014	5/28/2014 Approved 6/2/2014	8/1/2014				
Veterans' Assistance (86-4)	VA Headstones or Markers Legislative	5/28/2014	6/28/2014		8/1/2014				
Waste Management, Div. of Water & Wast Mgmt. (33-1)	Solid Waste Management Rule Legislative	6/30/2014	7/30/2014	6/30/2014 Approved 7/10/2014		Modified & Approved 10/23/2014 Filed 10/22/2014 Modified w/certain amendments & Approved 12/17/2014	SB 165 HB 2363 BUNDLED HB 2283		
Waste Management, Div. of Water & Waste Mgmt. (33-20)	Hazardous Waste Management System Legislative	6/24/2014	Hearing 7/24/2014 Written Comments 7/28/2014		7/30/2014	Approved 11/20/2014	SB 161 HB 2288 BUNDLED HB 2283		
Water Resources, Div. of Water & Waste Mgmt. (47-2)	Requirements Governing Water Quality Standards Legislative	6/4/2014	Hearing 7/1/2014 Written Comments 7/21/2014		8/1/2014	Approved 12/17/2014	SB 167 HB 2289 BUNDLED HB 2283		
Water Resources, Div. of Water & Waste Mgmt. (47-30)	WV/NPDES Rule for Coal Mining Facilities Legislative	6/24/2014	7/24/2014		7/25/2014	Approved 12/17/2014	SB 166 HB 2290 BUNDLED HB 2283		
Water Resources, Div. of Water & Waste Mgmt. (47-63)	Aboveground Storage Tanks Legislative	12/22/2014	1/21/2015						
Water Resources, Div. of Water & Waste Mgmt. (47-64)	Aboveground Storage Tank Fee Assessments Legislative	2/5/2015	3/10/2015						

WEST VIRGINIA SECRETARY OF STATE

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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3/12/2015 9:24:37 AM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

FORM 5 – NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY **Education**

RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-094**

RULE NAME **Procedures for the Collection, Maintenance and Disclosure of Student Data (4350)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE, THE EFFECTIVE DATE OF THIS RULE IS

Monday, April 13, 2015

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Charles K Heinlein – By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 126-094 Rule Id: 9700 Document: 26528

LEGISLATIVE

WV INCOME MAINTENANCE MANUAL
MANUAL MATERIAL TRANSMISSION

DATE:	March 1, 2015	CHANGE NUMBER: 698	
TO:	ALL INCOME MAINTENANCE MANUAL HOLDERS		

DELETE			INSERT OR CHANGE		
PAGES	CHAPTER	DATED	PAGES	CHAPTER	DATED
i	27	10/14	i	27	3/15
Appendix A A-1 – A-2	27	6/09	Appendix A A-1 – A-16	27	3/15
Appendix B B-1	27	6/09	Appendix B B-1	27	3/15
			Appendix C C-1 – C-2	27	3/15

This change is being made to update NEMT policy.

Chapter 27
Updated TOC.
Appendix A: NEMT Policy obsolete after October 1, 2014.
Appendix B: Public Forms obsolete after October 1, 2014.
Appendix C: Hospitals with Border Status for Medicaid obsolete after October 1, 2014, previously Appendix A.

Policy questions should be directed to the DFA Policy Units.

RAPIDS questions should be directed to the RAPIDS Help Desk.

FILED 2015 MAR -6 P 1:19 OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Attachment

DW-17
Rev. 10/04

WV INCOME MAINTENANCE MANUAL
MANUAL MATERIAL TRANSMISSION

DATE:	March 1, 2015	CHANGE NUMBER: 701
TO:	ALL INCOME MAINTENANCE MANUAL HOLDERS	

DELETE			INSERT OR CHANGE		
PAGES	CHAPTER	DATED	PAGES	CHAPTER	DATED
C-1	7	3/14	C-1	7	3/15
A-1	10	1/15	A-1	10	3/15

This change was made to Chapter 7, Appendix C and to Chapter 10, Appendix A to update the income guidelines used for WV CHIP and Medicaid which are based on the Federal Poverty Level (FPL). The new amounts are effective March 2015.

The additional monthly amounts for Needs Groups which exceed 10 persons are provided only for the Worker's use as a guide for screening potential eligibility. Manually-calculated amounts, using the additional monthly amounts, may differ slightly from the RAPIDS amounts. This is a result of the method used to calculate monthly amounts based on annual amounts provided by the U.S. Department of Health and Human Services. The monthly amounts which are programmed into RAPIDS must be used to determine eligibility.

Policy questions should be directed to the DFA Economic Services Policy Unit.

RAPIDS questions should be directed to the RAPIDS Help Desk.

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2015 MAR -6 P 1:19
OFFICE WEST VIRGINIA
SECRETARY OF STATE

DW-17

Rev. 10/04

LEGISLATIVE

WV INCOME MAINTENANCE MANUAL
MANUAL MATERIAL TRANSMISSION

DATE:	March 1, 2015	CHANGE NUMBER: 702
TO:	ALL INCOME MAINTENANCE MANUAL HOLDERS	

DELETE			INSERT OR CHANGE		
PAGES	CHAPTER	DATED	PAGES	CHAPTER	DATED
B-1 – B-2	2	3/13	B-1 – B-2	2	3/15
B-5	2	3/13	B-5	2	3/15
B-6	2	3/08	B-6	2	3/08
B-7 – B-8	2	3/07	B-7	2	3/15
			B-8	2	3/07
C-1	2	3/13	C-1	2	3/15
			C-2	2	3/14
E-1	10	3/13	E-1 – E-2	10	3/15
E-2	10	2/12			

This Change was made to indicate the Cost-of-Living Adjustment (COLA) for 2015. The COLA is 1.7% effective January 2015. All automatic updates through the data system are effective March 2015.

The RAPIDS COLA Mass Change occurred over the weekend of January 31 - February 1, 2015. RAPIDS reports for the COLA update became available January 31, 2015. Case updates that are required to be completed manually by a Worker must be completed by adverse action deadline in February, effective March 2015. RAPIDS notified designated Supervisors electronically regarding Pickle Assistance Groups affected by the COLA.

Chapter 2:

Appendix B and Appendix C: Updated with the COLA for 2015 and the new SSI amounts of $733 for a single individual and $1,100 for a couple. The Medicare Part B premium remains unchanged at $104.90 for 2015; indicated special procedures for 2015 Mass Change.

Chapter 10:

Appendix E: Updated PAC Methods 1 and 2.

FILED
2015 MAR -6 P 1:19
OFFICE WEST VIRGINIA
SECRETARY OF STATE

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Earl Ray Tomblin
Governor

John C. Musgrave
Director

March 9, 2015

Honorable Natalie Tennant
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

FILED
2015 MAR -9 P 1:46
OFFICE WEST VIRGINIA
SECRETARY OF STATE

Dear Secretary Tennant:

Pursuant to W. Va. Code §29-22A-5(a), the West Virginia State Lottery is, from time to time, to adopt game rules pertaining to Racetrack Video Lottery which are specifically authorized by W. Va. Code §§29-22A-1 et seq.

Enclosed are game rules for "HOT HOT SUPER JACKPOT – Panda's Jade", HOT HOT SUPER JACKPOT – Reels o"Dublin", and HOT HOT SUPER JACKAPOT – 2X Wild & Crazy" manufactured by WMS Gaming, Inc. for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

John C. Musgrave
Director

JCM/mr

Enclosures: HOT HOT SUPER JACKPOT – Panda's Jade
HOT HOT SUPER JACKPOT – Reels o"Dublin
HOT HOT SUPER JACKAPOT – 2X Wild & Crazy

LEGISLATIVE

P.O. BOX 2067
CHARLESTON, WV 25327

PHONE: 304-558-0500
1-800-WVA-CASH

Earl Ray Tomblin
Governor

John C. Musgrave
Director

March 9, 2015

Honorable Natalie Tennant
West Virginia Secretary of State
Attn: Administrative Law Division
1900 Kanawha Boulevard, East
Charleston, WV 25305-0771

FILED
2015 MAR -9 P 1:46
OFFICE WEST VIRGINIA
SECRETARY OF STATE

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Enclosed are game rules for "Big Bang Bucks", "Pure Platinum", "Rampaging Rhino", and "Thunder Dragon" games manufactured by Ainsworth Game Technology for lottery terminals located at all four licensed racetracks in the State.

Please file these documents as a game rule.

Sincerely,

John C. Musgrave
Director

JCM/mr

Enclosures: Big Bang Bucks
Pure Platinum
Rampaging Rhino
Thunder Dragon

www.wvlottery.com

WEST VIRGINIA SECRETARY OF STATE

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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3/6/2015 4:09:38 PM

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

LEGISLATIVE

FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE (Page 1)

AGENCY **Medical Imaging And Radiation Therapy Technology Board Of Examiners**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **18-01**

RULE NAME **Rules Of The West Virginia Medical Imaging And Radiation Therapy Technology Boards Of Examiners**

CITE AUTHORITY **§30-23-5**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Friday, May 01, 2015 5:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
wvrtboe@suddenlinkmail.com; FAX: 304-787-3030, or
WV Medical Imaging & Radiation Therapy Technology Board of Examiners
PO Box 638
Cool Ridge, WV 25825-0638

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Nancy A Godby -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

Title-Series: 18-01 Rule Id: 9723 Document: 26526

Orders Report

Docket Number	Agency	Respondent	Date Rendered
15-AP-FINCON-02000	**Insurance Commission**	Seechange Health Insurance Company	3/5/2015
14-102-W	**Medicine, West Virginia Board Of**	Mark Jason Akers, MD	2/27/2015
14-114-W	**Medicine, West Virginia Board Of**	Donald Ryan Lewis, Jr, MD	2/27/2015
14-119-W	**Medicine, West Virginia Board Of**	Bradley Jess Richardson, MD	2/27/2015
14-113-W	**Medicine, West Virginia Board Of**	Johnsey L. Leef, Jr, MD	2/27/2015
14-104-W	**Medicine, West Virginia Board Of**	Jason Allan Castle, MD	3/3/2015
P-15-010	**Real Estate Commission**	Amber Elizabeth Mouser	3/4/2015
P-15-010	**Real Estate Commission**	Charessa Wilkinson	3/4/2015

FILED

2015 MAR 10 P 1:32

OFFICE WEST VIRGINIA
SECRETARY OF STATE

State of West Virginia
Office of the Attorney General

Patrick Morrisey
Attorney General

(304) 558-2021
Fax (304) 558-0140

March 2, 2015

The Honorable Walt Helmick
Commissioner
West Virginia Department of Agriculture
1900 Kanawha Blvd. E.
Charleston, WV 25305

Dear Commissioner Helmick:

You have asked for an Opinion of the Attorney General regarding whether a West Virginia auctioneer license is required under certain specific circumstances. This Opinion is being issued pursuant to West Virginia Code § 5-3-1, which provides that the Attorney General "shall give written opinions and advice upon questions of law . . . whenever required to do so, in writing, by . . . the commissioner of agriculture." To the extent this Opinion relies on facts, it is based solely upon the factual assertions set forth in your correspondence with the Attorney General's Office.

In your letter, you ask whether an auctioneer license is required under the law in two circumstances. The first situation is when an individual or business (in- or out-of-state) contracts with a West Virginia resident to sell that resident's real or personal property in an online auction. You explain that this "most frequently comes up when a person contracts with an out-of-state business to sell the entire contents of an estate located in" West Virginia. These online auctions are "akin to a silent auction—with bids being taken over the internet and the highest responsible bidder winning." The company "doing the listing, price setting[,] and selling is not the individual/entity that owns the property." The second situation is when the owner of a rented storage unit sells at an auction the contents of that storage unit to recoup unpaid rent. These individuals "frequently advertise the sale as an auction, call out bids using a typical auctioneer's cadence (ie: describe the item, start/set a bid price, work the bid price up, and decide when to end the bidding) and recoup more than the unpaid rent."

Your letter thus raises two legal questions, each addressed in turn below:

(1) Is a West Virginia auctioneer license required to sell the real and personal property of a West Virginia estate through an online auction? (2) Is a West Virginia auctioneer's license required to sell the contents of a storage unit at a live auction to recoup unpaid rent owed on the unit?

AG OPINION

Question One: Is a West Virginia Auctioneer License Required To Sell the Real and Personal Property of a West Virginia Estate Through an Online Auction?

The West Virginia Code sets forth specific requirements for conducting an "auction" as "an auctioneer" "in this State." Specifically, Section 19-2C-2 prohibits a person from conducting "an auction as an auctioneer in this State" without a license issued by the West Virginia Department of Agriculture. The statute defines "auctioneer" as "a person who sells goods or real estate at public auction for another on commission or for other compensation." W. Va. Code § 19-2C-1(a). In turn, a "public auction" is defined as "any public sale of real or personal property when offers or bids are made by prospective purchasers and the property sold to the highest bidder." *Id.* § 19-2C-1(e). To our knowledge, the West Virginia Supreme Court of Appeals has never interpreted these provisions of law.

We conclude that the best reading of the law does not require an individual to obtain an auctioneer's license to sell the property, real or personal, of a West Virginia estate through an online auction. Various parts of the law suggest that the Legislature intended for the licensing requirement to apply to auctions that physically take place in West Virginia. *See Smith v. State Workmen's Comp. Comm'r*, 159 W. Va. 108, 115, 219 S.E.2d 361, 365 (1975) ("In ascertaining the legislative intent, effect must be given to each part of the statute and to the statute as a whole so as to accomplish the general purpose of the legislation"). Most important, a license is only required for persons conducting an auction "in this State." W. Va. Code § 19-2C-2. In addition, the law mandates that an auctioneer "[p]romptly *produce for inspection* his or her license at all sales conducted by or participated in by the licensee when requested to do so by any person." *Id.* § 19-2C-5 (emphasis added). This "inspection" requirement suggests that the Legislature had in-person auctions in mind; after all, an auctioneer could not permit his *actual* license to be promptly inspected if he were conducting an auction online. Finally, the law's advertising restrictions mandate that any "advertis[ement] [of] an auction sale by a licensed auctioneer" include "prominently" the "principal auctioneer or auctioneers who *physically conduct* the sale." *Id.* § 19-2C-10 (emphasis added). Taken together with the other provisions, this requirement is further evidence that the Legislature contemplated that live auctions would be subject to the licensing requirement.

This reading of the statute is supported by the fact that the Legislature has, in other areas of law, expressly provided for the inclusion of Internet or website-based businesses that interact with West Virginia consumers, while it has not done so in this area of the law. For instance, a company may not engage in currency exchange "*in this state*" without obtaining a license. W. Va. Code § 32A-2-2 (emphasis added). The statute then goes on to clarify that "a person is considered to be engaging in those businesses *in this state* if he or she makes available, from a location inside or outside this state, an internet website West Virginia citizens may access in order to enter into those transactions by electronic means." *Id.* (emphasis added). Similarly, in the context of the State's use tax, the phrase "[r]etailer engaging in business *in this state*" is defined specifically to include "the service of operating a website or Internet-based business from a location within the state." W. Va. Code § 11-15A-1(8) (emphasis added). Here, in

contrast, auctioneering licenses are required for auctions "in this State," and the Legislature has not made specific reference to online auctions, even though it has amended the relevant statutory provisions as recently as last year. *See* 2014 West Virginia Laws Ch. 16 (H.B. 4410) (removing "other security agreements" from the exception for property sold pursuant to a deed of trust, defining "escrow account," updating requirements for license renewals, and authorizing rulemaking by the Commissioner of the Department of Agriculture).

In addition, other state attorneys general have determined not to apply similar auctioneering license statutes in certain online contexts. Most recently, the Minnesota Attorney General has concluded that Minnesota law—which requires a license "to conduct the business of an auctioneer in the state"—did not mandate "the issuance of an auctioneer's license by a county for the sale of property physically located within that county through an online auction website such as eBay." Minn. Op. Att'y Gen. 16-B, 2014 WL 5343573, at *1 (Oct. 17, 2014); Minn. Stat. Ann. § 330.01(a). The North Dakota Attorney General has opined that "sales similar to those conducted by eBay are not auctions within the contemplation" of North Dakota's auctioneering statute, which defines an "auctioneer" as "a person, who for a compensation or valuable consideration, sells or offers for sale either real or personal property at public auction as a whole or partial vocation." N.D. Op. Att'y Gen. 2005-L-40, 2005 WL 3015979, at *1 (Nov. 4, 2005); N.D. Cent. Code Ann. § 51-05.1-04. The Tennessee Attorney General has determined that "Internet drop-off stores, which assist individuals in selling items through Internet sites such as eBay, do not fit the statutory definition of 'auction' or 'auctioneer.'" Tenn. Op. Att'y Gen. 06-053, 2006 WL 1197446, at *1 (Mar. 27, 2006). While these opinions each involved differently worded statutes and different questions than that specifically presented here, they reflect a general approach to reading auctioneering license statutes "carefully" so as to "leave the decision of whether or not to regulate Internet auction-type sites to the considered judgment of the [state legislatures]." *Id.*, 2006 WL 1197446, at *4.

Finally, this reading of the statute is supported by the fundamental legal principle that the law must give fair notice as to what conduct is prohibited, especially where criminal sanctions may be imposed, as is the case here. *See* W. Va. Code § 19-2C-8(a). This principle vindicates two components of due process: (1) fair notice so that prohibited conduct can be avoided; and (2) prevention of arbitrary law enforcement. *See State ex rel. Whitman v. Fox*, 1160 W. Va. 633, 638-39, 236 S.E.2d 565, 569-70 (1977). A corollary to this legal principle is the rule of lenity, which provides "that in construing an ambiguous criminal statute," a court will strictly construe the statute in favor of the defendant. *State v. Stone*, 229 W. Va. 271, 277, 728 S.E.2d 155, 161 (2012) (quotations and alteration omitted); *State ex rel. Morgan v. Trent*, 195 W. Va. 257, 263, 465 S.E.2d 257, 263 (1995). Given the absence of a clear indication that the Legislature intended for this licensing regime and its criminal sanctions to apply to the conduct in question, we believe these longstanding principles further require the statutes to be interpreted to exclude such conduct.

We recognize that the statutory provisions could plausibly be construed to require an individual to obtain an auctioneer's license to sell the property of a West Virginia Estate through an online auction. But for the many reasons above, we believe that the better reading of the law

AG OPINION

is not to require a license in those circumstances and, in general, to leave to the Legislature the option to expressly articulate whether and in what circumstances a license would be required for conducting an online auction. We note that a number of States have chosen to enact provisions expressly addressing the issue of auctioneering licenses for online auctions. *See, e.g.*, N.D. Cent. Code Ann. § 51-05.1-04(5) ("A person conducting, or employed by a person conducting, an internet auction is not an auctioneer or clerk within the meaning of this chapter."); 225 Ill. Comp. Stat. Ann. 407/10-27(b) (requiring registration for online auctions when the entity providing the listing service, the property to be sold, the prospective seller, or the prospective buyer is located in Illinois); 63 Pa. Cons. Stat. Ann. § 734.2 ("The term 'auction' or 'sale at auction' excludes any sale conducted through an online Internet bidding platform.").

Question Two: Is a West Virginia Auctioneer's License Required To Sell the Contents of a Storage Unit at a Live Auction To Recoup Unpaid Rent Owed on the Unit?

We conclude that a West Virginia auctioneer's license is required for a storage company to sell at auction in West Virginia the contents of a storage facility, unless the storage company becomes the owner of the property to be sold or obtains a judicial order providing for the sale. As noted above, an auctioneer's license is required to conduct "in this State" "for another" for compensation "any public sale of real or personal property when offers or bids are made by prospective purchasers and the property sold to the highest bidder." W. Va. Code § 19-2C-1; *id.* § 19-2C-2. There are two exceptions that might apply here: auctioneers do not include (1) "[p]ersons conducting sales at auctions conducted by or under the direction of any public authority or pursuant to any judicial order or direction," and (2) "[t]he owner of any real or personal property when personally sold at auction by the owner and the owner has not personally conducted an auction within the previous twelve-month period." *Id.* at § 19-2C-1(a).

The analysis is necessarily case-by-case. As you have described it, these sales do appear to qualify as auctions, since they are conducted in-person and the individuals "frequently advertise the sale as an auction [and] call out bids using a typical auctioneer's cadence (ie: describe the item, start/set a bid price, work the bid price up, and decide when to end the bidding)." Moreover, the owner of the storage unit does not own the property being sold, but rather is selling it on behalf of the property owner to satisfy the property owner's debt, and is retaining the proceeds of the sale as compensation.

In some cases, however, one of the two exceptions to licensing may apply. Under West Virginia law, the owner of a storage unit has a lien on the personal property in the storage unit and may retain possession of the contents as security for the debt owed. W. Va. Code § 38-11-3. How this lien is satisfied will vary from case to case and may affect the need for an auctioneer's license. For example, the parties may expressly provide in the rental agreement that ownership of the property will automatically transfer under certain conditions, *see id.* § 38-11-14, after which time the owner of the storage unit (and now owner of the property) could sell the property at auction under the exception permitting a property owner a limited right to auction his or her own property. Absent a specific contractual provision, however, the owner must follow the procedures outlined in West Virginia Code § 38-11-14 for enforcement of the lien, including

AG OPINION

notifying the renter, demanding payment on the claim, and bringing suit on the debt. If the storage facility obtains a favorable judgment, it might then sell the property at auction without a license either as the owner of the property or pursuant to a judicial order.

Sincerely,

Patrick Morrisey
Attorney General

Elbert Lin
Solicitor General

WEST VIRGINIA HEALTH CARE AUTHORITY
CERTIFICATE OF NEED
100 Dee Drive
Charleston, West Virginia 25311-1600

FILED

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OTHER

March 9, 2015

LEGAL NOTICE

James L. Pitrolo, Jr., Chairman, West Virginia Health Care Authority, announces the following Certificate of Need activities for the week ending **March 6, 2015.**

LETTERS OF INTENT FOR EXPEDITED REVIEW RECEIVED

March 4, 2015 – Bio-Medical Applications of West Virginia, Inc. d/b/a Fresenius Medical Care Monongalia County, Raleigh, North Carolina, CON File #15-6-10438-R, for the establishment of a new 10 station dialysis facility in Morgantown, Monongalia County; capital expenditure: $1,558,582.

March 4, 2015 – Kanawha Hospice Care, Inc., South Charleston, Kanawha County, CON File #15-3-10439-Y, for the addition of two (2) inpatient hospice beds at KHC's inpatient hospice facility at Thomas Memorial Hospital, South Charleston, Kanawha County; capital expenditure: $200,000.

March 6, 2015 – FC Domino Acquisition, LLC, FC Domino Holdco I, LLC, FC Domino Holdco II, LLC, Safanad Senior Care Investment Partnership VI, LP, Alpharetta, Georgia, CON File #15-6-10444-A, for the acquisition of the real property (land, building and equipment) of the Arbors at Fairmont, a nursing home located in Fairmont, Marion County; capital expenditure: $1,269,217.

LETTERS OF INTENT FOR EXEMPTION

March 5, 2015 – Cavalier MDI, LLC, Hudson, Ohio, CON File #15-WV-10441-X, for the purchase of the assets of Mobile Diagnostic Imaging, LLC; capital expenditure: $85,000.

March 6, 2015 – Ms. Kimberly Rea, Ripley, Jackson County, CON File #15-5-10442-X, for the purchase of all of the membership interests of Ohio Valley Sleep Diagnostics, LLC; capital expenditure: $193,000.

Any person desiring to request a public hearing on the above referenced matters should contact the Certificate of Need office on or before March 24, 2015.

LETTER OF INTENT EXPIRED

W.Va. (C.S.R. § 65-7-11.3) states, in part, that letters of intent are effective for one year from the date of their filing. The following represents a letter of intent that has expired:

February 5, 2015 – Cavalier MDI, LLC, Hudson, Ohio, CON File #15-WV-10412-A, for the purchase of assets of Mobile Diagnostic Imaging, LLC; capital expenditure: $85,000. The letter of intent was previously advertised as an expedited application instead of an exemption.

Further information may be obtained on any of the above-referenced projects by contacting Timothy E. Adkins, Director, Certificate of Need Division.