



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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September 2, 2009

Natalie Tennant, Secretary of State
State Capitol Complex Suite 157-K
Charleston, WV 25305

2009 SEP -2 AM 9:34
OFFICE OF THE
SECRETARY OF STATE
FILED

Dear Madam Secretary:

This is to advise you that House Bill 2218 which authorized the rules for the Department of Transportation was not properly enrolled. Due to a procedural error, the version of the bill signed by the Governor was not the version of the bill passed by the Legislature. Accordingly, the bill did not become law and the rules are not authorized.

Some of the rules may need to be put into effect now, therefore, it would be appropriate for those rules to be filed as emergency rules. The circumstances necessitating an emergency rule filing are beyond the control of the Division of Motor Vehicles and the Division of Highways.

In our opinion, it would be appropriate under these circumstances to exercise your broad authority under West Virginia Code §29A-3-15 to authorize any emergency rule that may be filed by Motor Vehicles or Highways. We recognize that you are an independent elected constitutional officer. This letter is not meant, nor should it be interpreted, as an attempt to interfere with the operation of your office. Rather, it is an explanation of the unfortunate circumstances which may necessitate action on your part.

If you have any questions regarding this request you may contact either of us or our staff attorney, Rita Pauley. You may reach Mrs. Pauley at 304-357-7815.

Yours truly,

Joseph M. Minard

Senator Joseph M. Minard, Co-chair
Legislative Rule-Making Review Committee

Bonnie Brown

Delegate Bonnie Brown, Co-chair
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