

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Division of Motor Vehicles TITLE NUMBER: 91CSR12

CITE AUTHORITY West Virginia Code 17A-2-9, 17C-16-4

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 12

TITLE OF RULE BEING AMENDED: Motor Vehicle Inspection Manual

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Jane L. Cline
Commissioner

(PROPOSED)
WEST VIRGINIA LEGISLATIVE RULES
DIVISION OF MOTOR VEHICLES
91 CSR 12

Title: Motor Vehicle Inspection Manual

§91-12-1 General

1.1. Scope - This legislative rule relates to the Motor Vehicle Inspection Manual.

1.2. Authority- West Virginia Code §17A-2-9, §17C-16-4.

1.3. Filing Date -

1.4. Effective Date-

1.5. Repeal of Former Rule- This legislative rule repeals and replaces West Virginia Legislative Rules, Division of Motor Vehicles, 91 CSR 6, Vehicle Inspection Manual, as filed ~~May 19, 1965~~ and April 6 2, 1986 and effective April 2, 1986.

1.6. Application and Enforcement - This legislative rule applies to the administration and enforcement of the motor vehicle inspection laws of this state. Enforcement to this rule is vested with the Commissioner of Motor Vehicles and the Superintendent of the State Police.

§91-12-2 Motor Vehicle Inspection Manual

2.1. Incorporation by reference- The Commissioner of Motor Vehicles hereby incorporates by reference the Official Motor Vehicle Inspection Manual as promulgated by the Superintendent of the West Virginia State Police, and as revised April, 1996.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Division of Motor Vehicles

Subject: Motor Vehicle Inspection Manual

PERTINENT DATES

Filed for public comment: June 6, 1996
Public comment period ended: July 15, 1996
Filed following public comment period: August 15, 1996
Filed LRMRC: August 16, 1996
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule repeals and replaces a current legislative rule. It incorporates by reference the Official Motor Vehicle Inspection Manual promulgated by the State Police in 1965 and last revised in April 1996.

AUTHORITY

Statutory authority: W.Va. Code, §17A-2-9 & 17C-16-4, which provide, in part, as follows:

WVC §17A-2-9.

...(b) The commissioner is hereby authorized to adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this chapter and any other laws the enforcement and administration of which are vested in the department...

WVC §17C-16-4.

(a) The commissioner of motor vehicles shall once each year require that every motor vehicle, trailer, semitrailer, and pole trailer registered in this state be inspected and that an official certificate of inspection

and approval be obtained for each such vehicle.

Such inspections shall be made and such certificates obtained with respect to the mechanism, brakes, and equipment of every such vehicle as shall be designated by the commissioner.

The commissioner is hereby authorized to make necessary rules and regulations for the administration and enforcement of this section and to designate any period or periods of time during which owners of any vehicles, subject to this section, shall display upon such vehicles certificates of inspection and approval or shall produce the same upon demand of any officer or employee of the department designated by the commissioner or any police or peace officer when authorized by the commissioner...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

The Division received several comments regarding the stringency of the requirements regarding repaired windshields. It is up to the Committee to determine the reasonableness of these requirements.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has one or two technical modifications to suggest.



West Virginia Legislature
Legislative Rule-Making Review Committee

Room MB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vicki Douglas, Co-Chair

October 15, 1996

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Jane L. Cline, Commissioner
Division of Motor Vehicles
Building 3, Capitol Complex
Charleston, WV 25317

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Motor Vehicle Inspection Manual

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency

X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Steven O. Dale
Div. Motor Vehicles
1st Lt. R. D. Totten
WV State Police
725 Jefferson Road
So. Charleston, WV 25309

Senate Bill No. 195

(By Senator(s) Ross, Anderson, Macnaughtan,
Boley and Buckalew)

[Introduced March 3, 1997; referred to the
Committee on Transportation; and then to the
Committee on the Judiciary.]

A BILL to amend and reenact section one, article eight,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the division of motor vehicles to
promulgate a legislative rule relating to the motor
vehicle inspection manual.

Be it enacted by the Legislature of West Virginia:

That section one, article eight, chapter sixty-four of
the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted, to read
as follows:

ARTICLE 8. AUTHORIZATION FOR DEPARTMENT OF TRANSPORTATION

TO PROMULGATE LEGISLATIVE RULES.

§64-8-1. Division of motor vehicles.

1 (a) The legislative ~~rules~~ rule filed in the state
2 register on the thirty-first day of July, one thousand nine
3 hundred ninety-five, authorized under the authority of
4 section nine, article two, chapter seventeen-a of this
5 code, modified by the division of motor vehicles to meet
6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the
8 nineteenth day of September, one thousand nine hundred
9 ninety-five, relating to the division of motor vehicles
10 (motor vehicle dealers, wreckers/dismantlers/rebuilders,
11 license services, automobile auctions, vehicle leasing
12 companies and administrative due process 91 CSR 6), ~~are~~ is
13 authorized.

14 (b) The legislative ~~rules~~ rule filed in the state
15 register on the twenty-first day of July, one thousand nine
16 hundred ninety-five, authorized under the authority of
17 section three-a, article five-a, chapter seventeen-c of
18 this code, modified by the division of motor vehicles to
19 meet the objections of the legislative rule-making review
20 committee and refiled in the state register on the
21 nineteenth day of September, one thousand nine hundred
22 ninety-five, relating to the division of motor vehicles
23 (motor vehicle alcohol test and lock program, 91 CSR 9),

1 are is authorized.

2 (c) The legislative rule filed in the state register
3 on the fifteenth day of August, one thousand nine hundred
4 ninety-six, authorized under the authority of section nine,
5 article two, chapter seventeen-a, of this code, modified by
6 the division of motor vehicles to meet the objections of
7 the legislative rule-making review committee and refiled in
8 the state register on the twenty-fourth day of October, one
9 thousand nine hundred ninety-six, relating to the division
10 of motor vehicles (motor vehicle inspection manual, 91 CSR
11 12), is authorized.

12

13 NOTE: The purpose of this bill is to authorize the
14 Division of Motor Vehicles to promulgate legislative rules
15 relating to the Motor Vehicle Inspection Manual.

16

17 Strike-throughs indicate language that would be
18 stricken from the present law, and underscoring indicates
19 new language that would be added.

8552

H. B. 2358

1 Bill-DMV, Inspection

(By Delegate(s) Douglas, Hunt, Compton,

Faircloth, Lynch and Riggs)

2

3

[Introduced March 3, 1997; referred to the

4

Committee on Roads and Transportation then the

5

Judiciary.]

6

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9

10 A BILL to amend and reenact section one, article eight,

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14 promulgate a legislative rule relating to the motor

15 vehicle inspection manual.

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22 TO PROMULGATE LEGISLATIVE RULES.

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6 the objections of the legislative rule-making review
7 committee and refiled in the state register on the
8 nineteenth day of September, one thousand nine hundred
9 ninety-five, relating to the division of motor vehicles
10 (motor vehicle dealers, wreckers/dismantlers/rebuilders,
11 license services, automobile auctions, vehicle leasing
12 companies and administrative due process 91 CSR 6), ~~are~~ is
13 authorized.

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16 hundred ninety-five, authorized under the authority of
17 section three-a, article five-a, chapter seventeen-c of
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