



FILED  
SEP 13 11 31 AM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Legislative Rule-Making Review Committee*

*State Capitol - Room MB-49  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0610  
(304) 347-4840  
(304) 347-4919 FAX*

*email: tanders@mail.wvnet.edu*

*Senator Mike Ross, Co-Chairman  
Delegate Mark Hunt, Co-Chairman  
Debra A. Graham, Counsel*

*Joseph A. Altizer, Associate Counsel  
Rita Pauley, Associate Counsel  
Teri Anderson, Administrative Assistant*

September 11, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: John Montgomery  
State Tax Commission  
P.O. Box 1005  
Charleston, WV 25324

FROM: Legislative Rule-Making Review Committee

**Proposed Rule: Exchange of Information Agreement Between the State Tax Division and the Alcohol Beverage Control Administration, 110CSR50B**

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
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 Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

**SCANNED**

FILED

DAG

ANALYSIS OF PROPOSED LEGISLATIVE RULES <sup>AUG 24</sup> PM '00

Agency: Tax Commissioner

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Subject: Exchange of Information Agreement Between the State Tax  
Division and the Alcohol Beverage Control Administration,  
110CSR50B

PERTINENT DATES

Filed for public comment: June 30, 2000  
Public comment period ended: July 31, 2000  
Filed following public comment period: August 18, 2000  
Filed LRMRC: August 18, 2000  
Filed as emergency:

Fiscal Impact: None

FILED  
AUG 24 1 34 PM '00  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

ABSTRACT

The proposed rule is new. It authorizes the Tax Commissioner and the Alcohol Beverage Control Administration to enter into a written agreement to exchange information which would facilitate premium collection, tax collection or licensure requirements.

AUTHORITY

Statutory authority: W.Va. Code, §11-10-5s, which provides, in part, as follows:

...(4) Notwithstanding any provision in this code to the contrary, the tax commissioner may enter into written exchange of information agreements with the commissioners of labor, employment security and workers' compensation to disclose and receive return information: **Provided**, That the tax commissioner may promulgate rules

pursuant to chapter twenty-nine-a of this code regarding further agencies with which written exchange of information agreements may be sought: **Provided, however,** That the tax commissioner may not promulgate emergency rules regarding further agencies with which written exchange of information agreements may be sought. Such agreements shall be published in the state register and shall only be for the purpose of facilitating premium collection, tax collection and facilitating licensure requirements directly enforced, administered or collected by the respective agencies. The provisions of this subsection shall not be construed to preclude or limit disclosure of tax information authorized by other provisions of this code. Any confidential return information so disclosed shall remain confidential in the hands of such other division to the extent provided by section five-d of this article and by other applicable federal or state laws...

#### 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?

Yes.

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 PROVISIONS OF THE CODE?

Yes.

VIII. OTHER

Counsel has technical modifications to suggest.