

1 **ENROLLED**

2 **Committee Substitute**

3 **For**

4 **H. B. 2248**

5
6 (By Delegates Miley, Iaquina and Fragale)

7 [Passed March 11, 2011; in effect ninety days from passage.]

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9
10 AN ACT to amend and reenact §15-10-5 of the Code of West Virginia,
11 1931, as amended, relating to the extension of state law
12 enforcement authority to federal law enforcement officers
13 under certain circumstances; extending state law enforcement
14 authority to police and investigators with the Department of
15 Veterans Affairs under appropriate circumstances; extending
16 state law enforcement authority to special investigators with
17 the Office of Inspector General under appropriate
18 circumstances; and extending state law enforcement authority
19 to federal air marshals under appropriate circumstances.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §15-10-5 of the Code of West Virginia, 1931, as amended,
22 be amended and reenacted to read as follows:

23 **ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.**

24 **§15-10-5. Federal officers' peace-keeping authority.**

25 (a) Notwithstanding any provision of this code to the

1 contrary, any person who is employed by the United States
2 government as a federal law-enforcement officer and is listed in
3 subsection (b) of this section, has the same authority to enforce
4 the laws of this state, except state or local traffic laws or
5 parking ordinances, as that authority granted to state or local
6 law-enforcement officers, if one or more of the following
7 circumstances exist:

8 (1) The federal law-enforcement officer is requested to
9 provide temporary assistance by the head of a state or local law-
10 enforcement agency or the designee of the head of the agency and
11 that request is within the state or local law-enforcement agency's
12 scope of authority and jurisdiction and is in writing: *Provided,*
13 That the request does not need to be in writing if an emergency
14 situation exists involving the imminent risk of loss of life or
15 serious bodily injury;

16 (2) The federal law-enforcement officer is requested by a
17 state or local law-enforcement officer to provide the officer
18 temporary assistance when the state or local law-enforcement
19 officer is acting within the scope of the officer's authority and
20 jurisdiction and where exigent circumstances exist; or

21 (3) A felony is committed in the federal law-enforcement
22 officer's presence or under circumstances indicating a felony has
23 just occurred.

24 (b) This section applies to the following persons who are
25 employed as full-time federal law-enforcement officers by the
26 United States government and who are authorized to carry firearms

1 while performing their duties:

2 (1) Federal Bureau of Investigation special agents;

3 (2) Drug Enforcement Administration special agents;

4 (3) United States Marshal's Service marshals and deputy
5 marshals;

6 (4) United States postal service inspectors;

7 (5) Internal revenue service special agents;

8 (6) United States secret service special agents;

9 (7) Bureau of alcohol, tobacco, and firearms special agents;

10 (8) Police officers employed pursuant to 40 U.S.C. §§318 and
11 490 at the federal bureau of investigation's criminal justice
12 information services division facility located within this state;

13 (9) Law enforcement commissioned rangers of the national park
14 service;

15 (10) Department of Veterans Affairs Police and Department of
16 Veterans Affairs special investigators;

17 (11) Office of Inspector General special agents; and

18 (12) Federal Air Marshals with the Federal Air Marshal
19 Service.

20 (c) Any person acting under the authority granted pursuant to
21 this section:

22 (1) Has the same authority and is subject to the same
23 exemptions and exceptions to this code as a state or local law-
24 enforcement officer;

25 (2) Is not an officer, employee, or agent of any state or
26 local law-enforcement agency;

1 (3) May not initiate or conduct an independent investigation
2 into an alleged violation of any provision of this code except to
3 the extent necessary to preserve evidence or testimony at risk of
4 loss immediately following an occurrence described in subdivision
5 (3), subsection (a) of this section;

6 (4) Is subject to 28 U.S.C. §1346, the Federal Tort Claims
7 Act; and

8 (5) Has the same immunities from liability as a state or local
9 law-enforcement officer.