

1 **Committee Substitute**

2 **For**

3 **H. B. 2248**

4
5 (By Delegates Miley, Iaquinta and Fragale)

6 (Originating in the Committee on the Judiciary)

7
8 [February 8, 2011]

9
10 A BILL 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 and

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

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

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

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

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

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

26 (2) Is not an officer, employee, or agent of any state or

1 local law-enforcement agency;

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

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

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

This bill adds police with the Department of Veterans Affairs, special agents with the Office of Inspector General and Marshals with the Federal Air Marshal Service to the list of federal law enforcement officers who are granted the same authority to enforce the laws of the state as is granted to state law enforcement officers under certain circumstances.

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