

H. B. 2248

(By Delegates Miley, Iaquina and Fragale)
[Introduced January 12, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §15-10-5 of the Code of West Virginia, 1931, as amended, relating to allowing employees of the Department of Veterans Affairs and special agents within the Office of Inspector General to carry firearms while performing their duties.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

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

(a) Notwithstanding any provision of this code to the contrary, any person who is employed by the United States government as a federal law-enforcement officer and is listed in subsection (b) of this section, has the same authority to enforce

1 the laws of this state, except state or local traffic laws or
2 parking ordinances, as that authority granted to state or local
3 law-enforcement officers, if one or more of the following
4 circumstances exist:

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

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

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

21 (b) This section applies to the following persons who are
22 employed as full-time federal law-enforcement officers by the
23 United States government and who are authorized to carry firearms
24 while performing their duties:

- 1 (1) Federal Bureau of Investigation special agents;
- 2 (2) Drug Enforcement Administration special agents;
- 3 (3) United States Marshal's Service marshals and deputy
4 marshals;
- 5 (4) United States postal service inspectors;
- 6 (5) Internal revenue service special agents;
- 7 (6) United States secret service special agents;
- 8 (7) Bureau of alcohol, tobacco, and firearms special agents;
- 9 (8) Police officers employed pursuant to 40 U.S.C. §§318 and
10 490 at the federal bureau of investigation's criminal justice
11 information services division facility located within this state;
12 and
- 13 (9) Law enforcement commissioned rangers of the national park
14 service; and
- 15 (10) Employees of the Department of Veterans Affairs and
16 special agents within the Office of Inspector General.
- 17 (c) Any person acting under the authority granted pursuant to
18 this section:
- 19 (1) Has the same authority and is subject to the same
20 exemptions and exceptions to this code as a state or local law-
21 enforcement officer;
- 22 (2) Is not an officer, employee, or agent of any state or
23 local law-enforcement agency;
- 24 (3) May not initiate or conduct an independent investigation

1 into an alleged violation of any provision of this code except to
2 the extent necessary to preserve evidence or testimony at risk of
3 loss immediately following an occurrence described in subdivision
4 (3), subsection (a) of this section;

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

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

NOTE: The purpose of this bill is to allow employees of the Department of Veterans Affairs and special agents within the Office of Inspector General to carry firearms while performing their duties.

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