

**H. B. 2880**

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(By Delegates Hartman, Williams, Michael, Crosier,  
Perry, Romine and D. Campbell)

(By Request of the Division of Forestry)

[Introduced January 27, 2011; referred to the  
Committee on Natural Resources then the Judiciary.]

10 A BILL to amend and reenact §15-10-3 of the Code of West Virginia,  
11 1931, as amended; to amend said code by adding thereto a new  
12 section, designated §19-1A-6; to amend and reenact §20-7-1 of  
13 said code; and to amend and reenact §30-29-1 of said code, all  
14 relating to establishing forestry officers and special  
15 forestry officers; and providing the Director of the Division  
16 of Forestry the power to establish law-enforcement practices  
17 and procedures for the division.

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

19 That §15-10-3 of the Code of West Virginia, 1931, as amended,  
20 be amended and reenacted; that said code be amended by adding  
21 thereto a new section, designated §19-1A-6; that §20-7-1 of said  
22 code be amended and reenacted; and that §30-29-1 of said code be  
23 amended and reenacted, all to read as follows:

**CHAPTER 15.**

**PUBLIC SAFETY.**

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

2 **§15-10-3. Definitions.**

3 For purposes of this article only, and unless a different  
4 meaning plainly is required:

5 (1) "Criminal justice enforcement personnel" means those  
6 persons within the state criminal justice system who are actually  
7 employed as members of the State Police, members of the Division of  
8 Protective Services, natural resources police officers, chiefs of  
9 police and police of incorporated municipalities, and county  
10 sheriffs and their deputies, and whose primary duties are the  
11 investigation of crime and the apprehension of criminals.

12 (2) "Head of a law-enforcement agency" means the  
13 superintendent of the State Police, the Director of the Division of  
14 Protective Services, the chief natural resources police officer of  
15 the Division of Natural Resources, a chief of police of an  
16 incorporated municipality or a county sheriff.

17 (3) "State or local law-enforcement officer" means any duly  
18 authorized member of a law-enforcement agency who is authorized to  
19 maintain public peace and order, prevent and detect crime, make  
20 arrests and enforce the laws of the state or any county or  
21 municipality thereof, other than parking ordinances, and includes  
22 those persons employed as campus police officers at state  
23 institutions of higher education in accordance with the provisions  
24 of section five, article four, chapter eighteen-b of this code,

1 although those institutions may not be considered law-enforcement  
2 agencies. The term also includes those persons employed as rangers  
3 by the Hatfield-McCoy Regional Recreation Authority in accordance  
4 with the provisions of section six, article fourteen, chapter  
5 twenty of this code, although the authority is not a law-  
6 enforcement agency. The term also includes persons employed as  
7 forestry officers in accordance with the provisions of section six,  
8 article one-a, chapter nineteen, although the Division of Forestry  
9 is not a law-enforcement agency.

10 (4) "Head of campus police" means the superintendent or  
11 administrative head of state or local law-enforcement officers  
12 employed as campus police officers at state institutions of higher  
13 education in accordance with the provisions of section five,  
14 article four, chapter eighteen-b of this code.

15 (5) "Head of the rangers of the Hatfield-McCoy Regional  
16 Recreation Authority" means the superintendent or administrative  
17 head of state or local law-enforcement officers employed as rangers  
18 by the Hatfield-McCoy Regional Recreation Authority in accordance  
19 with the provisions of section six, article fourteen, chapter  
20 twenty of this code.

21 **CHAPTER 19.**

22 **AGRICULTURE.**

23 **ARTICLE 1A. DIVISION OF FORESTRY.**

24 **19-1A-6. Director of Division of Forestry to establish Forestry**

1           **Officers.**

2           (a) The Director of the Division of Forestry has the power to  
3 establish law-enforcement practices and procedures for the Division  
4 of Forestry to address the law-enforcement requirements of the  
5 division. Personnel assigned to the law-enforcement requirements  
6 of the division are designated as "forestry officers." Forestry  
7 officers shall be trained, equipped, supervised and assigned duties  
8 pursuant to the director or his or her designee.

9           (b) Forestry officers shall have jurisdiction while engaged in  
10 the performance of their official duties to:

11           (1) Arrest on sight, without warrant or other court process,  
12 any person or persons committing a criminal offense in violation of  
13 the laws of this state, in the presence of the officer, but no  
14 arrest may be made where any form of administrative procedure is  
15 prescribed by this chapter for the enforcement of the provisions of  
16 this chapter;

17           (2) Carry arms and weapons as may be prescribed by the  
18 director in the course and performance of their duties, but no  
19 license or other authorization is required for this privilege;

20           (3) Execute and serve a search warrant, notice or other  
21 process of law issued under the authority of this chapter or other  
22 laws by a magistrate or court having jurisdiction in the same  
23 manner, with the same authority and with the same legal effect as  
24 a sheriff;

1       (4) Summon aid in making arrests or seizures or in executing  
2 warrants, notices or processes, in the same manner as sheriffs;

3       (5) Enter private lands or waters within the state;

4       (6) Arrest on sight, without warrant or other court process  
5 any person committing a criminal offense in violation of any law of  
6 this state in the presence of the officer on any state-owned lands  
7 and waters and lands and waters under lease by the Division of  
8 Forestry and all national forest lands, waters and parks and U.S.  
9 Corps of Army Engineers' properties within the boundaries of the  
10 State of West Virginia and, in addition to the authority conferred  
11 in other subdivisions of this section, execute all arrest warrants  
12 on these state and national lands, waters and parks and U.S. Corps  
13 of Army Engineers' properties, consistent with the provisions of  
14 article one, chapter sixty-two of this code;

15       (7) Arrest any person who enters upon the land or premises of  
16 another without written permission from the owner of the land or  
17 premises in order to cut, damage or carry away, or cause to be cut,  
18 damaged or carried away, any timber, trees, logs, posts, fruit,  
19 nuts, growing plants or products of any growing plant. Any person  
20 convicted of cutting, damaging or carrying away or causing to be  
21 cut, damaged or carried away any timber, trees, logs, posts,  
22 fruits, nuts, growing plants or products of growing plants is  
23 liable to the owner in the amount of three times the value of the  
24 timber, trees, logs, posts, fruit, nuts, growing plants or products

1 of any growing plant, in addition to and notwithstanding any other  
2 penalties by law provided by section thirteen, article three,  
3 chapter sixty-one of this code;

4       (8) Make a complaint in writing before any court or officer  
5 having jurisdiction, and procure and execute the warrant, when the  
6 officer knows or has reason to believe that a person has violated  
7 a law of this state. The actions of the forestry officer have the  
8 same force and effect as if made by a sheriff;

9       (9) Serve and execute warrants for the arrest of any person  
10 and warrants for the search of any premises, buildings, properties  
11 or conveyances issued by a properly constituted authority in the  
12 same manner, with the same authority, and with the same legal  
13 effect, as a sheriff; and

14       (10) Do all things necessary to carry into effect the  
15 provisions of this chapter.

16       (c) To appoint as special forestry officers any full-time  
17 civil service forest fire control personnel who have satisfactorily  
18 completed a course of training established and administered by the  
19 director or his or her designee. The jurisdiction of forest fire  
20 control personnel appointed as special forestry officers is limited  
21 to the enforcement of the provisions of article three, chapter  
22 twenty of this code and any other duties deemed necessary by the  
23 director to enforce the provisions of articles one-A and one-B of  
24 this chapter.

1 (d) To call upon the Attorney General, the prosecuting  
2 attorneys of the several counties, the department of public safety  
3 and all other law-enforcement officers of the state. He or she  
4 shall have authority to compel compliance with and to prevent  
5 violations and threatened violations of any provisions of this  
6 chapter, lawful rules and regulations promulgated hereunder, and  
7 cease and desist orders issued pursuant hereto. He or she may  
8 invoke the processes of any court for coercive, remedial or  
9 preventive relief by injunction, mandamus or other appropriate  
10 proceedings.

11 **CHAPTER 20.**

12 **NATURAL RESOURCES.**

13 **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

14 **PART I. LAW ENFORCEMENT, PROCEDURES AND PENALTIES.**

15 **§20-7-1. Chief natural resources police officer; natural resources**  
16 **police officers; special and emergency natural**  
17 **resources police officers; subsistence allowance;**  
18 **expenses.**

19 (a) The division's law-enforcement policies, practices and  
20 programs are under the immediate supervision and direction of the  
21 division law-enforcement officer selected by the director and  
22 designated as chief natural resources police officer as provided in  
23 section thirteen, article one of this chapter.

24 (b) Under the supervision of the director, the chief natural

1 resources police officer shall organize, develop and maintain law-  
2 enforcement practices, means and methods geared, timed and  
3 adjustable to seasonal, emergency and other needs and requirements  
4 of the division's comprehensive natural resources program. All  
5 division personnel detailed and assigned to law-enforcement duties  
6 and services under this section shall be known and designated as  
7 natural resources police officers and are under the immediate  
8 supervision and direction of the chief natural resources police  
9 officer. All natural resources police officers shall be trained,  
10 equipped and conditioned for duty and services wherever and  
11 whenever required by division law-enforcement needs.

12 (c) The chief natural resources police officer, acting under  
13 supervision of the director, is authorized to select and appoint  
14 emergency natural resources police officers for a limited period  
15 for effective enforcement of the provisions of this chapter when  
16 considered necessary because of emergency or other unusual  
17 circumstances. The emergency natural resources police officers  
18 shall be selected from qualified civil service personnel of the  
19 division, except in emergency situations and circumstances when the  
20 director may designate officers, without regard to civil service  
21 requirements and qualifications, to meet law-enforcement needs.  
22 Emergency natural resources police officers shall exercise all  
23 powers and duties prescribed in section four of this article for  
24 full-time salaried natural resources police officers except the



1 provisions of subdivision (8) of said section.

2 (d) The chief natural resources police officer, acting under  
3 supervision of the director, is also authorized to select and  
4 appoint as special natural resources police officers any full-time  
5 civil service employee who is assigned to, and has direct  
6 responsibility for management of, an area owned, leased or under  
7 the control of the division and who has satisfactorily completed a  
8 course of training established and administered by the chief  
9 natural resources police officer, when the action is considered  
10 necessary because of law-enforcement needs. The powers and duties  
11 of a special natural resources police officer, appointed under this  
12 provision, is the same within his or her assigned area as  
13 prescribed for full-time salaried natural resources police  
14 officers. The jurisdiction of the person appointed as a special  
15 natural resources police officer, under this provision, shall be  
16 limited to the division area or areas to which he or she is  
17 assigned and directly manages.

18 ~~(e) The chief natural resources police officer, acting under~~  
19 ~~supervision of the director, is also authorized to appoint as~~  
20 ~~special natural resources police officers any full-time civil~~  
21 ~~service forest fire control personnel who have satisfactorily~~  
22 ~~completed a course of training established and administered by the~~  
23 ~~chief natural resources police officer. The jurisdiction of forest~~  
24 ~~fire control personnel appointed as special natural resources~~

1 ~~police officers is limited to the enforcement of the provisions of~~  
2 ~~article three of this chapter.~~

3       ~~(f)~~ The chief natural resources police officer, with the  
4 approval of the director, has the power and authority to revoke any  
5 appointment of an emergency natural resources police officer or of  
6 a special natural resources police officer at any time.

7       ~~(g)~~ (f) Natural resources police officers are subject to  
8 seasonal or other assignment and detail to duty whenever and  
9 wherever required by the functions, services and needs of the  
10 division.

11       ~~(h)~~ (g) The chief natural resources police officer shall  
12 designate the area of primary residence of each natural resources  
13 police officer, including himself or herself. Since the area of  
14 business activity of the division is actually anywhere within the  
15 territorial confines of the State of West Virginia, actual expenses  
16 incurred shall be paid whenever the duties are performed outside  
17 the area of primary assignment and still within the state.

18       ~~(i)~~ (h) Natural resources police officers shall receive, in  
19 addition to their base pay salary, a minimum monthly subsistence  
20 allowance for their required telephone service, dry cleaning or  
21 required uniforms, and meal expenses while performing their regular  
22 duties in their area of primary assignment in the amount of \$130  
23 each month. This subsistence allowance does not apply to special  
24 or emergency natural resources police officers appointed under this

1 section.

2 ~~(j)~~ (i) After June 30, 2010, all those full time law-  
 3 enforcement officers employed by the Division of Natural Resources  
 4 as conservation officers shall be titled and known as natural  
 5 resources police officers. Wherever used in this code the term  
 6 "conservation officer," or its plural, means "natural resources  
 7 police officer," or its plural, respectively.

8 ~~(k)~~ (j) Notwithstanding any provision of this code to the  
 9 contrary, the provisions of subdivision six, subsection c, section  
 10 twelve, article twenty-one, chapter eleven of this code are  
 11 inapplicable to pensions of natural resources police officers paid  
 12 through the Public Employees Retirement System.

13 **CHAPTER 30.**

14 **PROFESSIONS AND OCCUPATIONS.**

15 **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

16 **§30-29-1. Definitions.**

17 For the purposes of this article, unless a different meaning  
 18 clearly appears in the context:

19 "Approved law-enforcement training academy" means any training  
 20 facility which is approved and authorized to conduct law-  
 21 enforcement training as provided in this article;

22 "Chief executive" means the superintendent of the State  
 23 Police; the chief natural resources police officer of the Division  
 24 of Natural Resources; the sheriff of any West Virginia county; any

1 administrative deputy appointed by the chief natural resources  
2 police officer of the Division of Natural Resources; or the chief  
3 of any West Virginia municipal law-enforcement agency;

4 "County" means the fifty-five major political subdivisions of  
5 the state;

6 "Exempt rank" means any noncommissioned or commissioned rank  
7 of sergeant or above;

8 "Governor's Committee on Crime, Delinquency and Correction" or  
9 "Governor's committee" means the Governor's Committee on Crime,  
10 Delinquency and Correction established as a state planning agency  
11 pursuant to section one, article nine, chapter fifteen of this  
12 code;

13 "Law-enforcement officer" means any duly authorized member of  
14 a law-enforcement agency who is authorized to maintain public peace  
15 and order, prevent and detect crime, make arrests and enforce the  
16 laws of the state or any county or municipality thereof, other than  
17 parking ordinances, and includes those persons employed as campus  
18 police officers at state institutions of higher education in  
19 accordance with the provisions of section five, article four,  
20 chapter eighteen-b of this code, and persons employed by the Public  
21 Service Commission as motor carrier inspectors and weight  
22 enforcement officers charged with enforcing commercial motor  
23 vehicle safety and weight restriction laws although those  
24 institutions and agencies may not be considered law-enforcement

1 agencies. The term also includes those persons employed as rangers  
2 by the Hatfield-McCoy Regional Recreation Authority in accordance  
3 with the provisions of section six, article fourteen, chapter  
4 twenty of this code, although the authority may not be considered  
5 a law-enforcement agency: *Provided*, That the subject rangers shall  
6 pay the tuition and costs of training. The term also includes  
7 persons employed as forestry officers in accordance with the  
8 provisions of section six, article one-a, chapter nineteen,  
9 although the Division of Forestry is not a law-enforcement agency.  
10 As used in this article, the term "law-enforcement officer" does  
11 not apply to the chief executive of any West Virginia law-  
12 enforcement agency or any watchman or special natural resources  
13 police officer or special forestry officer;

14 "Law-enforcement official" means the duly appointed chief  
15 administrator of a designated law-enforcement agency or a duly  
16 authorized designee;

17 "Municipality" means any incorporated town or city whose  
18 boundaries lie within the geographic boundaries of the state;

19 "Subcommittee" or "law-enforcement training subcommittee"  
20 means the subcommittee of the Governor's Committee on Crime,  
21 Delinquency and Correction created by section two of this article;  
22 and

23 "West Virginia law-enforcement agency" means any duly  
24 authorized state, county or municipal organization employing one or

1 more persons whose responsibility is the enforcement of laws of the  
2 state or any county or municipality thereof: *Provided, That*  
3 neither the Hatfield-McCoy Regional Recreation Authority, the  
4 Public Service Commission nor any state institution of higher  
5 education is a law-enforcement agency.

NOTE: The purpose of this bill is to authorize the Division of Forestry to establish law-enforcement practices and procedures to address the law-enforcement requirements of the division, and to designate certain personnel as "forestry officers."

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

§19-1A-6 is new; therefore, it has been completely underscored.