

1 **H. B. 2999**

2
3 (By Delegates J. Miller (By Request), Householder,
4 Cowles and Iaquina)

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6 [Introduced February 3, 2011; referred to the
7 Committee on the Judiciary.]

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9
10 A BILL to amend and reenact §15-10-5 of the Code of West Virginia,
11 1931, as amended, relating to the addition of marshals and
12 deputy marshals of the Federal Air Marshal Service to the list
13 of federal law enforcement authorized to act under this
14 section.

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

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

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

19 **§15-10-5. Federal officers' peace-keeping authority.**

20 (a) Notwithstanding any provision of this code to the
21 contrary, any person who is employed by the United States
22 government as a federal law-enforcement officer and is listed in
23 subsection (b) of this section, has the same authority to enforce
24 the laws of this state, except state or local traffic laws or
25 parking ordinances, as that authority granted to state or local
26 law-enforcement officers if one or more of the following
27 circumstances exist:

28 (1) The federal law-enforcement officer is requested to

1 provide temporary assistance by the head of a state or local law-
2 enforcement agency or the designee of the head of the agency and
3 that request is within the state or local law-enforcement agency's
4 scope of authority and jurisdiction and is in writing. ~~Provided,~~
5 ~~That~~~~Provided,~~~~That~~ The request does not need to be in writing if an
6 emergency situation exists involving the imminent risk of loss of
7 life or serious bodily injury;

8 (2) The federal law-enforcement officer is requested by a
9 state or local law-enforcement officer to provide the officer
10 temporary assistance when the state or local law-enforcement
11 officer is acting within the scope of the officer's authority and
12 jurisdiction and where exigent circumstances exist; or

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

16 (b) This section applies to the following persons who are
17 employed as full-time federal law-enforcement officers by the
18 United States Government and who are authorized to carry firearms
19 while performing their duties:

20 (1) Federal Bureau of Investigation special agents;

21 (2) Drug Enforcement Administration special agents;

22 (3) United States Marshal's Service marshals and deputy
23 marshals;

24 (4) United States Postal Service inspectors;

25 (5) Internal Revenue Service special agents;

26 (6) United States Secret Service special agents;

1 (7) Bureau of Alcohol, Tobacco, and Firearms special agents;

2 (8) Police officers employed pursuant to 40 U.S.C. §§318 and
3 490 at the Federal Bureau of Investigation's Criminal Justice
4 Information Services Division facility located within this state;
5 ~~and~~

6 (9) Law enforcement commissioned rangers of the National Park
7 Service; and

8 (10) Federal Air Marshal's Service marshals and deputy
9 marshals.

10 (c) Any person acting under the authority granted pursuant to
11 this section:

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

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

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

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

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

NOTE: The purpose of this bill is to add marshals and deputy marshals from the Federal Air Marshal Service to the list of federal law enforcement governmental employees who can act under the conditions set forth in this section.

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