

Senate Bill No. 570

(By Senators Browning, Laird, Williams, Palumbo, Foster and
Plymale)

[Introduced February 21, 2011; referred to the Committee on
Government Organization.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8 and §30-41-9, all relating to creating the Volunteer for Nonprofit Youth Organizations Exemption from Licensing, Certification and Permitting Act; exempting certain volunteers for nonprofit youth organizations from licensing, certification and permitting; stating purpose; defining terms; exempting certain medical service professionals; exempting certain emergency medical personnel; exempting certain law-enforcement officers; stating duties of the nonprofit youth organization; defining liability of the volunteers and the nonprofit youth organizations; and declaring the sections of said article severable.

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

2 That the Code of West Virginia, 1931, as amended, be amended
3 by adding thereto a new article, designated §30-41-1, §30-41-2,
4 §30-41-3, §30-41-4, §30-41-5, §30-41-6, §30-41-7, §30-41-8 and
5 §30-41-9, all to read as follows:

6 **ARTICLE 41. VOLUNTEER FOR NONPROFIT YOUTH ORGANIZATIONS EXEMPTION**
7 **FROM LICENSING, CERTIFICATION AND PERMITTING ACT.**

8 **§30-41-1. Short title.**

9 This article may be cited as the "The Volunteer for Nonprofit
10 Youth Organizations Exemption from Licensing, Certification and
11 Permitting Act."

12 **§30-41-2. Legislative purpose.**

13 The Legislature finds that adventure and recreational
14 activities attractive to nonprofit youth organizations interested
15 in training and inspiring young people from other parts of the
16 United States and throughout the world will contribute
17 significantly to the economy of West Virginia, and enhance the
18 state's reputation as a place to visit and transact business. It
19 is further recognized that nonprofit youth organizations must rely
20 on volunteers to staff and support their events and programs and
21 that some of the volunteers are medical, nursing, emergency medical
22 service and law-enforcement professionals licensed, certified or
23 permitted in other states. Because of the large number of
24 volunteers required to support those events and programs, the

1 benefits these events and programs provide to youth, the
2 multicounty areas those events and programs may cover and the
3 number of agencies potentially involved in granting licenses,
4 certifications and permits for those volunteers to provide those
5 services in this state, it is in the state's best interest to
6 exempt those volunteers for the periods of time they engage in
7 volunteer work at those events and programs.

8 **§30-41-3. Definitions.**

9 In this article, unless a different meaning plainly is
10 required:

11 (a) "Appropriate West Virginia licensing agency" means the
12 board, department, division or other agency charged with the
13 licensing, certification or permitting of persons performing
14 services of the nature and kind described or duties provided for in
15 this article and the head of such agencies responsible for the
16 duties imposed by this code.

17 (b) "Emergency medical service personnel" means any person
18 licensed, certified or permitted in another state to provide
19 emergency medical services who but for this section would be
20 required to obtain a certification from the Commissioner of the
21 Bureau for Public Health pursuant to the requirements of section
22 four-c, article eight, chapter sixteen of this code to perform such
23 services in this state.

24 (c) "Law-enforcement officer" means a person licensed,

1 certified or permitted by employed on a full time basis in another
2 state, who has attended a training program approved by a governing
3 authority of a political subdivision to provide law enforcement
4 services who but for this section would be required to obtain
5 certification pursuant to the requirements of section four-c,
6 article eight, chapter sixteen of this code to perform those
7 services in this state.

8 (d) "Medical services professional" means any person who is
9 licensed, certified or permitted in another state to provide
10 medical professional services who, but for this section would be
11 required to obtain a license, certification or permit to perform
12 such services in this state and who is a:

13 (1) Practitioner of medicine or surgery as defined in section
14 three, article four-b, chapter thirty of this code;

15 (2) Physicians assistant as defined in section three, article
16 sixteen, chapter thirty of this code;

17 (3) Dentist or dental assistant as defined in section three,
18 article four, chapter thirty of this code;

19 (4) Nurse as defined in article seven or seven-a, chapter
20 thirty of this code;

21 (5) Any osteopathic physician or surgeon as defined in section
22 two, article fourteen, chapter thirty of this code;

23 (6) Any assistant to osteopathic physician or surgeon as
24 defined in section one, article fourteen-a, chapter thirty of this

1 code; or

2 (7) Any physical therapist as defined in section three,
3 article twenty, chapter thirty of this code.

4 (e) "Nonprofit youth organization" means any nonprofit
5 organization, including any subsidiary, affiliated or other related
6 entity within its corporate or business structure, that has been
7 chartered by the United States Congress to help train young people
8 to do things for themselves and others, and that has established an
9 area of at least six thousand contiguous acres within West Virginia
10 in which to provide adventure or recreational activities for these
11 young people and others.

12 **§30-41-4. Exemption from licensing and permitting requirements for**
13 **Medical Service Professionals.**

14 Any medical services professional in good standing with the
15 applicable regulatory agency in another state who has a valid and
16 unrestricted license, certificate or permit issued by the
17 regulatory authority for which he or she is licensed or certified
18 shall, notwithstanding any other provision of this code, be exempt
19 from obtaining a license, certification or permit from any board,
20 agency or regulatory authority of this state while providing
21 services within the limits of his or her license, certificate or
22 permit from the issuing authority in connection with any event or
23 program offered by a nonprofit youth organization and serving as a
24 volunteer, without compensation. Any such services shall at all

1 times be performed under guidelines approved by the appropriate
2 West Virginia licensing agency.

3 **§30-41-5. Exemption from licensing and permitting requirements for**
4 **emergency medical personnel.**

5 Any emergency medical service personnel in good standing with
6 the applicable regulatory agency in another state who has a valid
7 and unrestricted license, certificate or permit issued by the
8 regulatory authority for which he or she is licensed or certified
9 shall, notwithstanding any other provision of this code, be exempt
10 from obtaining a license, certification or permit from any board,
11 agency or regulatory authority of this state while providing
12 services within the limits of his or her license, certificate or
13 permit from the issuing authority in connection with any event or
14 program offered by a nonprofit youth organization, and serving as
15 a volunteer, without compensation. Any such services shall at all
16 times be performed under guidelines approved by the appropriate
17 West Virginia licensing agency.

18 **§30-41-6. Exemption from certification requirements for law**
19 **enforcement officers.**

20 (a) Any law-enforcement officer licensed, certified or
21 permitted by and who is in good standing with the applicable
22 regulatory agency in another state shall, notwithstanding any other
23 provision of this code, be exempt from obtaining a license,
24 certification or permit from any regulatory authority of this state

1 while providing services within the limits of his or her license,
2 certification or permit in connection with any event or program
3 offered by a nonprofit youth organization, and serving as a
4 volunteer, without compensation. Any such services shall at all
5 times be performed under guidelines approved by the Superintendent
6 of the West Virginia State Police.

7 (b) The West Virginia State Police may deputize
8 law-enforcement officers exempted by this section as if they were
9 certified pursuant to section five, article twenty-nine, chapter
10 thirty of this code for a period of no more than thirty days in any
11 calendar year. The superintendent has sole discretion in
12 determining whether to deputize any such person. Any person
13 deputized under this section must be a registered volunteer of the
14 nonprofit youth organization and be recommended to be deputized by
15 the designated representative of the nonprofit youth organization
16 to the Superintendent of the West Virginia State Police. The
17 jurisdiction for these deputized officers shall be limited to:

18 (1) The property owned by the nonprofit youth organization;

19 (2) Any street, road or thoroughfare, except controlled access
20 and open country highways, immediately adjacent to or passing
21 through the property owned by the nonprofit youth organization and
22 to which the officer has been assigned by a member of the West
23 Virginia State Police; and

24 (3) Areas of operations in support of an event sponsored by

1 the nonprofit youth organization as directed by a member of the
2 West Virginia State Police. Any person deputized pursuant to this
3 section shall at all times be subject to the direction of any West
4 Virginia law-enforcement officer assigned to work with or supervise
5 the officer.

6 (c) The deputation pursuant to this section may not supersede
7 in any way the authority or duty of any other West Virginia
8 law-enforcement officer to preserve law and order on the premises.

9 **§30-41-7. Duties of nonprofit youth organization.**

10 (a) The nonprofit youth organization for whom volunteers
11 exempt from licensing, certification or permitting under the
12 provisions of this article shall meet the following requirements
13 before any such volunteer is allowed to provide volunteer services:

14 (1) That medical services professional receive at least four
15 hours of instruction approved by the appropriate licensing
16 authority within twelve months of performing any volunteer
17 services;

18 (2) That emergency medical service personnel receive at least
19 four hours of instruction approved by the appropriate West Virginia
20 licensing agency within twelve months of performing any volunteer
21 services; and

22 (3) That law-enforcement officers receive at least four hours
23 of instruction approved by the Superintendent of the West Virginia
24 State Police within twelve months of providing any volunteer

1 services.

2 (b) Instruction required by this section may be accomplished
3 by webinar, video conference or other remote means as may be
4 approved by the appropriate West Virginia licensing agency.

5 (c) The nonprofit youth organization providing emergency
6 medical services shall have obtained a license to operate an
7 Emergency Medical Services Agency pursuant to section six-a,
8 article four-c, chapter sixteen of this code and the Commissioner
9 of the Bureau of Public Health shall make such adjustments to the
10 Licensing Standards to reflect the nature of the services provided
11 by the volunteers of the nonprofit youth organization and the size,
12 scope and interests being served by any event or program of such
13 organization.

14 (d) The nonprofit youth organization for whom volunteer
15 services are provided under this article shall, prior to volunteer
16 services being rendered, maintain the following information on each
17 person providing volunteer services under this article:

18 (1) Name, position, address and phone number;

19 (2) Date(s) and location(s) where volunteer will provide
20 services;

21 (3) A copy of the permit, certificate or license;

22 (4) Evidence that the instruction required by this article has
23 been provided;

24 (5) A letter from the authority issuing the permit,

1 certificate or license stating that the permit, certificate or
2 license is valid and in good standing dated no more than one
3 hundred twenty days prior to any volunteer services being
4 performed; and

5 (6) An acknowledgment signed by the volunteer that the rules,
6 regulations and procedures established by the nonprofit youth
7 organization have been received and reviewed: *Provided*, That the
8 appropriate West Virginia licensing agency may waive any of these
9 requirements to the extent the information is otherwise available
10 to it by other means. All such information shall be maintained by
11 the youth services organization for five years from the date of
12 volunteer service and shall be available for inspection by the
13 appropriate representative of the appropriate West Virginia
14 licensing agency, who may report on the performance and conduct of
15 such individual to the license, permit or certificate issuing
16 authority of any individual exempted under this article.

17 **§30-41-8. Liability of volunteers and nonprofit youth**
18 **organizations for volunteer services.**

19 (a) Any claim arising out of the services provided by medical
20 services professionals, emergency medical services personnel or
21 law-enforcement officers exempt from licensing, certification or
22 permitting pursuant to this article shall be determined in the same
23 manner and by the same standards as if the volunteer was licensed,
24 certified or permitted in the State of West Virginia.

1 (b) The nonprofit youth organization for whom volunteer
2 services are provided under this article shall carry liability
3 insurance in limits of no less than \$1 million per person, and \$1
4 million per occurrence and \$50,000 for property damage and this
5 insurance shall extend to the acts of any volunteers providing
6 services under this article and shall be primary to any other
7 available insurance.

8 (c) The liability of medical services professionals, emergency
9 medical services personnel and law-enforcement officers exempt from
10 licensing, certification or permitting pursuant to this article
11 shall be limited to the amount of liability insurance available to
12 them under section (b) of this section.

13 (d) The appropriate West Virginia licensing agency may not be
14 liable for any harm or claim arising solely out of the actions of
15 any medical services professional, emergency medical services
16 personnel and law-enforcement officer exempt from licensing,
17 certification or permitting pursuant to this article.

18 **§30-41-9. Severability.**

19 If any provision of this article or the application thereof to
20 any person or circumstance is held unconstitutional or invalid, the
21 unconstitutionality or invalidity may not affect other provisions
22 or applications of this article or chapter, and to this end the
23 provisions of this article and chapter are declared to be
24 severable.

NOTE: The purpose of this bill is to exempt medical services professionals, emergency medical services personnel and law-enforcement officers who volunteer at nonprofit youth organizations in the state from certain licensing, certification or permitting requirements.

This article is new; therefore, strike-throughs and underscoring have been omitted.