

COMMITTEE SUBSTITUTE

FOR

H. B. 2248

(BY DELEGATES MILEY, IAQUINTA AND FRAGALE)

(Originating in the Committee on the Judiciary)
[February 8, 2011]

A BILL to amend and reenact §15-10-5 of the Code of West Virginia, 1931, as amended, relating to the extension of state law-enforcement authority to federal law-enforcement officers under certain circumstances; extending state law-enforcement authority to police and investigators with the Department of Veterans Affairs under appropriate circumstances; extending state law-enforcement authority to special investigators with the Office of Inspector General under appropriate

circumstances; and extending state law-enforcement authority to federal air marshals under appropriate circumstances.

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.

1 (a) Notwithstanding any provision of this code to the
2 contrary, any person who is employed by the United States
3 government as a federal law-enforcement officer and is listed
4 in subsection (b) of this section, has the same authority to
5 enforce the laws of this state, except state or local traffic laws
6 or parking ordinances, as that authority granted to state or
7 local law-enforcement officers, if one or more of the
8 following circumstances exist:

9 (1) The federal law-enforcement officer is requested to
10 provide temporary assistance by the head of a state or local
11 law-enforcement agency or the designee of the head of the

12 agency and that request is within the state or local law-
13 enforcement agency's scope of authority and jurisdiction and
14 is in writing: *Provided*, That the request does not need to be
15 in writing if an emergency situation exists involving the
16 imminent risk of loss of life or serious bodily injury;

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

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

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

29 (1) Federal Bureau of Investigation special agents;

- 30 (2) Drug Enforcement Administration special agents;
- 31 (3) United States Marshal's Service marshals and deputy
32 marshals;
- 33 (4) United States postal service inspectors;
- 34 (5) Internal revenue service special agents;
- 35 (6) United States secret service special agents;
- 36 (7) Bureau of alcohol, tobacco, and firearms special
37 agents;
- 38 (8) Police officers employed pursuant to 40 U.S.C. §§318
39 and 490 at the federal bureau of investigation's criminal
40 justice information services division facility located within
41 this state; ~~and~~
- 42 (9) Law-enforcement commissioned rangers of the
43 national park service;
- 44 (10) Department of Veterans Affairs Police and
45 Department of Veterans Affairs special investigators;
- 46 (11) Office of Inspector General special agents; and

47 (12) Federal Air Marshals with the Federal Air Marshal

48 Service.

49 (c) Any person acting under the authority granted
50 pursuant to this section:

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

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

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

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

- 64 (5) Has the same immunities from liability as a state or
65 local 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.