

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2720

BY DELEGATE PETHTEL, LOVEJOY, SHOTT, BOGGS,

PAYNTER AND HARSHBARGER

[Introduced January 29, 2019; Referred
to the Committee on Fire Departments and
Emergency Medical Services then the Judiciary.]

1 A BILL to amend and reenact §5-3-6 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §6-3-1a of said code; to amend said code by adding thereto a new section,
 3 designated §7-15-19; to amend said code by adding thereto a new section, designated
 4 §8-15-28; and to amend said code by adding thereto a new section, designated §16-4C-
 5 24, all relating to authorizing certain investigators and first responders to carry firearms;
 6 authorizing supervising entities to authorize investigators employed by the attorney
 7 general, reserve deputy sheriffs, ambulance crew members, firefighters, rescue squad
 8 members and emergency service personnel to carry firearms; specifying the training
 9 required for such persons to be eligible to carry a firearm; and, for first responders,
 10 allowing for reimbursement for the cost of the training.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
 COMMISSIONS, OFFICERS, PROGRAMS, ETC.**

ARTICLE 3. ATTORNEY GENERAL.

§5-3-6. Attorney General's investigators authority to carry concealed weapon.

1 ~~(a) The Attorney General may allow, consistent with the provisions of this section, an~~
 2 ~~investigator to carry a concealed firearm while performing his or her official duties~~ The Attorney
 3 General may allow an investigator who has met the standards set forth in §61-7-4 of this code to
 4 carry a firearm or concealed weapon while performing the investigator's official duties if the
 5 investigator has obtained and maintains firearms training and certification which is equivalent to
 6 that which is required of members of the State Police. The designated investigator must also
 7 possess a license to carry a concealed deadly weapon in the manner prescribed in §61-7-1 et

8 seq. of this code, or otherwise be exempted from the code’s provisions.

9 ~~(b) An investigator employed by the Attorney General may carry a concealed firearm~~
10 ~~approved by the Attorney General solely for purposes of defense of self or others if the investigator~~
11 ~~has:~~

12 ~~(1) Obtained the written authorization by the Attorney General;~~

13 ~~(2) Been determined not to be prohibited from possessing a firearm under state or federal~~
14 ~~law;~~

15 ~~(3) Obtained and maintains a concealed handgun license pursuant to §61-7-1 et seq. of~~
16 ~~this code; and~~

17 ~~(4) Successfully completed a firearms training and certification program equivalent to that~~
18 ~~provided to officers attending the entry level law enforcement certification course provided at the~~
19 ~~West Virginia State Police Academy. The investigator must thereafter successfully complete an~~
20 ~~annual firearms qualification counsel equivalent to that required of certified law enforcement~~
21 ~~officers as established by legislative rule. The Attorney General may reimburse the investigator~~
22 ~~for the cost of the training and requalification.~~

23 ~~(e) (b)~~ Neither the state, a political subdivision, an agency nor an employee of the state
24 acting in an official capacity, may be held personally liable for an act of an investigator employed
25 by the Attorney General if the act or omission was done in good faith while the investigator was
26 performing official duties or responsibilities under the office of the Attorney General.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

**§6-3-1a, Deputy sheriff’s reserve; purpose; appointment and qualifications of members;
duties; equipment; attire; training; oath; bond; not employee of sheriff of county
commission for certain purposes; limitation on liability.**

1 (a) The sheriff of any county may, for the purposes hereinafter set forth, designate and

2 appoint a deputy sheriffs' reserve, hereinafter referred to as "reserve" or "reserves." A reserve
3 may not be designated or created without the prior approval of the county commission for the
4 establishment of the reserve.

5 (b) Each sheriff may appoint as members of the reserve bona fide citizens of the county
6 who are of good moral character and who have not been convicted of a felony or other crime
7 involving moral turpitude. Any person so appointed shall serve at the will and pleasure of the
8 sheriff and is not subject to the provisions of article fourteen, chapter seven of this code. A
9 member of the reserve may not engage in any political activity or campaign involving the office of
10 sheriff or from which activity or campaign the sheriff or candidates therefor appointing the member
11 would directly benefit.

12 (c) Members of the reserves shall not serve as law-enforcement officers, nor carry
13 firearms, except that a member of the reserves may carry a firearm ~~approved by the sheriff while~~
14 ~~acting in the capacity as a reserve deputy sheriff solely for purpose of defense of self or others if~~
15 that member has:

16 (1) Obtained the written authorization of the sheriff; and

17 ~~(2) Been determined not to be prohibited from possessing a firearm under state or federal~~
18 ~~law; and~~

19 ~~(3)~~ (2) Successfully completed a firearms training and certification program equivalent to
20 that provided to officers attending the entry level law-enforcement certification course provided at
21 the West Virginia State Police Academy. The member must thereafter successfully complete an
22 annual firearms qualification course equivalent to that required of certified law-enforcement
23 officers as established by legislative rule. The department may reimburse the member for the cost
24 of the training and requalification.

25 Members may carry other weapons, provided that the sheriff certifies in writing to the
26 county commission that the reserve has met the special training requirements for the weapon as
27 established by the Governor's Committee on Crime, Delinquency and Corrections. The

28 Governor's Committee on Crime, Delinquency and Corrections may propose legislative rules for
29 promulgation and emergency rules pursuant to the provisions of §29A-3-1 *et seq.* of this code to
30 establish appropriate training standards. The reserves may be provided with radio communication
31 equipment for the purpose of maintaining contact with the sheriff's department or other law-
32 enforcement agencies. The duties of the reserves shall be limited to crowd control or traffic control
33 and direction within the county. In addition, the reserves may perform any other duties of a
34 nonlaw-enforcement nature designated by the sheriff or by a deputy sheriff designated and
35 appointed by the sheriff for that purpose: *Provided*, That a member of the reserves may not aid
36 or assist any law-enforcement officer in enforcing the statutes and laws of this state in any labor
37 trouble or dispute between employer and employee.

38 (d) Members of the reserves may be uniformed; however, if uniformed, the uniforms shall
39 clearly differentiate these members from other law-enforcement deputy sheriffs.

40 (e) After appointment to the reserves, but prior to service each member of the reserves
41 shall receive appropriate training and instruction in his or her functions and authority as well as
42 the limitations of authority. In addition, each member of the reserves shall annually receive in-
43 service training.

44 (f) Each member of the reserve shall take the same oath as prescribed by section five,
45 article IV of the Constitution of the State of West Virginia, but the taking of the oath does not serve
46 to make the member a public officer.

47 (g) The county commission of each county shall provide for the bonding and liability
48 insurance of each member of the reserve.

49 (h) A member of the reserve is not an employee of either the sheriff or of the county
50 commission for any purpose or purposes, including, but not limited to, the purposes of workers'
51 compensation, civil service, unemployment compensation, public employees retirement, public
52 employees insurance, or for any other purpose. A member of the reserves may not receive any
53 compensation or pay for any services performed as a member, nor may a member use the

54 designated uniform for any other similar work performed.

55 (i) Neither the county commission nor the sheriff is liable for any of the acts of any member
56 of the reserves except in the case of gross negligence on the part of the county commission or
57 sheriff in the appointment of the member or in the case of gross negligence on the part of either
58 the sheriff or any of his or her deputies in directing any action on the part of the member.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 15. EMERGENCY AMBULANCE SERVICE ACT OF 1975.

§7-15-19. Ambulance crew's authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, an authority may authorize an
2 emergency medical service member to carry a handgun in the course of performing his or her
3 official duties if the member has first successfully completed an initial firearms training course
4 equivalent to that provided to officers attending the entry level law-enforcement certification
5 course provided at the West Virginia State Police Academy, and thereafter, successfully
6 completes an annual firearms qualification course equivalent to that required of certified law-
7 enforcement officers as established by legislative rule.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-28. Firefighters' and rescue squad members' authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, a department may authorize a
2 firefighter or rescue squad member to carry a handgun in the course of performing his or her
3 official duties if the member has first successfully completed an initial firearms training course
4 equivalent to that provided to officers attending the entry level law-enforcement certification
5 course provided at the West Virginia State Police Academy, and thereafter, successfully
6 completes an annual firearms qualification course equivalent to that required of certified law-

7 enforcement officers as established by legislative rule.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-24. Emergency medical service personnel's authority to carry firearm.

1 Notwithstanding any provision of this code to the contrary, an emergency medical service
2 agency may authorize emergency medical service personnel to carry a handgun in the course of
3 performing official duties if that person has first successfully completed an initial firearms training
4 course equivalent to that provided to officers attending the entry level law-enforcement
5 certification course provided at the West Virginia State Police Academy, and thereafter,
6 successfully completes an annual firearms qualification course equivalent to that required of
7 certified law-enforcement officers as established by legislative rule.

NOTE: The purpose of this bill is to authorize supervising entities to authorize reserve deputies, ambulance crew members, firefighters, rescue squad members and emergency service personnel to carry firearms. It specifies the training required for them to be eligible to carry a firearm and allows them to be reimbursed for the cost of the training.

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