

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5220**

By Delegates Tully, Smith, Horst, Linville, Mallow,

Sheedy, Hite, Brooks, Phillips, E. Pritt, and

Longanacre

[Introduced January 26, 2024; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §11-9-2a of the Code of West Virginia, 1931, as amended, relating to  
 2 authorizing investigators of the criminal investigation in the criminal investigation division  
 3 of the state Tax Division to carry firearms.

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

**ARTICLE 9. CRIMES AND PENALTIES.**

**§11-9-2a. Criminal investigation division established; funding of same.**

1 (a) *Criminal investigation division.* -- A criminal investigation division consisting of no more  
 2 than 12 investigators, of which one investigator shall serve as division director, plus necessary  
 3 support staff, all of whom are exempt from the classified service, is hereby established in the state  
 4 Tax Division for the purpose of assuring compliance with laws and rules pertaining to the taxes,  
 5 fees or credits administered under §11-10-1-*et seq.* of this code, including, but not limited to, the  
 6 provisions of §47-20-1 *et seq.*, , §47-21-1 *et seq.*, and §47-23-1 *et seq.* of this code, but not  
 7 including income taxes, imposed on individuals by §11-21-1 *et seq.* article of this code.

8 (b) *Special audits division.* -- A special audits division consisting of no more than eight tax  
 9 examiners, plus necessary support staff, all of whom are covered by the classified service, is  
 10 hereby established in the auditing section of the state Tax Division for purposes of assuring  
 11 compliance with laws and rules pertaining to taxes, fees or credits administered under §11-10-1-*et*  
 12 *seq.* of this code, including, but not limited to, the provisions of §47-20-1 *et seq.*, §47-21-1 *et seq.*,  
 13 and §47-23-1 *et seq.* of this code, but not including income taxes imposed on individuals by §11-  
 14 21-1 of this code.

15 (c) The Legislature hereby finds that the enforcement of the laws and rules pertaining to  
 16 the taxes, fees or credits administered under §11-10-1 *et seq.* of this code, as are applicable to  
 17 persons whose residence or principal place of business is outside of the State of West Virginia,  
 18 requires greater efforts and investigation than required for resident persons subject thereto, and  
 19 does further find that there is a greater rate of noncompliance with said laws and rules by  
 20 nonresident persons. Therefore, the criminal investigation division and the special audits division

21 created in subsections (a) and (b) of this section are hereby directed to expend a significant  
22 amount of their efforts to ensure compliance with the laws and rules pertaining to taxes, fees or  
23 credits administered under §11-10-1 *et seq.* of this code in accordance with the authority provided  
24 in this section, by persons whose residence or principal place of business is located outside the  
25 State of West Virginia.

26 (d) *Deposits of certain fees.* -- Charitable bingo fees imposed by §47-20-1 *et seq.* of this  
27 code; charitable raffle fees imposed by §47-21-1 *et seq.* of this code; and charitable raffle boards  
28 and games fees imposed by §47-21-1 *et seq.* of this code in an amount not to exceed the amount  
29 appropriated by the Legislature in any fiscal year shall be deposited in a special revenue account  
30 established in the Office of the Treasurer. The special revenue account shall be used to support  
31 compliance expenditures relating to the establishment, operation, maintenance and support of the  
32 criminal investigation division established in subsection (a) of this section and the special audits  
33 division established in subsection (b) of this section. The expenditures may include, but shall not  
34 be limited to, employee compensation, equipment, office supplies and travel expenses. On the last  
35 day of each fiscal year, unencumbered funds in the special revenue account in excess of \$150,000  
36 shall be transferred to the General Revenue Fund.

37 (e) *Investigators.* -- Investigators employed in the criminal investigation division shall have  
38 a background in accounting or law enforcement or related fields pursuant to §30-29-1 *et seq.* of  
39 this code, or its equivalent. Any investigator designated by the Tax Commissioner shall have all the  
40 lawful powers delegated to members of the division of public safety ~~except the power to carry~~  
41 ~~firearms and shall have the authority to~~ may enforce the provisions of this article and the criminal  
42 provisions of any other article of this code to which this article applies, in any county or municipality  
43 of this state. The Tax Commissioner shall establish additional standards as he or she considers  
44 applicable or necessary. Any employee shall, before entering upon the discharge of his or her  
45 duties, execute a bond with security in the sum of \$3,500, payable to the State of West Virginia,  
46 conditioned for the faithful performance of the employee's duties and the bond shall be approved

47 as to form by the Attorney General and shall be filed with the Secretary of State for preservation in  
48 that office. The division of public safety, any county sheriff or deputy sheriff and any municipal  
49 police officer upon request by the Tax Commissioner is hereby authorized to assist the Tax  
50 Commissioner in enforcing the provisions of this article and any criminal penalty provision of any  
51 article of this code to which this article applies.

52 (f) Notwithstanding any provision of this code to the contrary, the criminal investigation  
53 division of the Tax Commissioner may allow, consistent with this section, an investigator employed  
54 or contracted by the board to carry a concealed firearm while performing his or her official duties.

55 (g) An investigator employed by the board or contracted by the criminal investigation  
56 division of the Tax Commissioner may carry a concealed firearm while performing his or her official  
57 duties solely for the purposes of defense of self or others if the investigator has:

58 (1) Been determined not to be prohibited from possessing a firearm under state or federal  
59 law;

60 (2) Obtained and maintains a concealed handgun license pursuant to §61-7-1 et seq. of  
61 this code; and

62 (3) Successfully completed a firearms training and certification program equivalent to that  
63 provided to officers attending an entry level law-enforcement certification course provided at the  
64 West Virginia State Police Academy. The investigator shall thereafter successfully complete an  
65 annual firearms qualification course equivalent to that required of certified law-enforcement  
66 officers as established by legislative rule. The criminal investigation division of the Tax  
67 Commissioner may reimburse the investigator for the cost of the training and requalification.

68 (h) Neither the state, a political subdivision, an agency, nor an employee of the state acting  
69 in an official capacity may be held personally liable for an act of an investigator employed by the  
70 criminal investigation division of the Tax Commissioner if the act or omission was done in good  
71 faith while the investigator was performing official duties on behalf of the board.

72 (f) (i) Class A license plates. -- Notwithstanding the provisions of §17A-3-1 et seq. of this

73 code, upon application by the Tax Commissioner and payment of fees, the Commissioner of Motor  
74 Vehicles shall issue a maximum of 20 Class A license plates to be used on state owned or leased  
75 vehicles assigned to investigators employed in the criminal investigation division.

76 ~~(g)~~ (j) *Reports.* -- On July 1, of each year, beginning in the year 1994, the Tax  
77 Commissioner shall present a written report to the joint committee on government operations on  
78 the division's compliance with the provisions of this section, including, but not limited to, activities  
79 of the divisions created by this section and disbursement of funding.

NOTE: The purpose of this bill is to authorize investigators of the criminal investigation in  
the criminal investigation division of the state Tax Division to carry firearms.

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