

HB 4611 S

FILED

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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4611

(By Mr. Speaker, Mr. Kiss)



Passed March 11, 2006

In Effect from Passage

FILED

2006 APR -3 P 4: 15

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4611

(BY MR. SPEAKER, MR. KISS)

[Passed March 11, 2006; in effect from passage.]

AN ACT to amend and reenact §15-5-11 of the Code of West Virginia, 1931, as amended, relating to immunity from civil liability in certain circumstances; providing immunity from civil liability for death or injury to any person or damage to any property caused by a member of a duly qualified mine rescue team designated by a mine operator performing or engaging in emergency rescue services; and providing that certain emergency programs may be established by the division of homeland security and emergency management and not limited to the office of emergency services.

Be it enacted by the Legislature of West Virginia:

That §15-5-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY
MANAGEMENT.**

**§15-5-11. Immunity and exemption; “duly qualified emergency
service worker” defined.**

1 (a) All functions hereunder and all other activities relating
2 to emergency services are hereby declared to be governmental
3 functions. Neither the state nor any political subdivision nor any
4 agency of the state or political subdivision nor, except in cases
5 of willful misconduct, any duly qualified emergency service
6 worker complying with or reasonably attempting to comply
7 with this article or any order, rule, regulation or ordinance
8 promulgated pursuant to this article, shall be liable for the death
9 of or injury to any person or for damage to any property as a
10 result of such activity. This section does not affect the right of
11 any person to receive benefits or compensation to which he or
12 she would otherwise be entitled under this article, chapter
13 twenty-three of this code, any Act of Congress or any other law.

14 (b) Any requirement for a license to practice any profes-
15 sional, mechanical or other skill does not apply to an authorized
16 emergency service worker who shall, in the course of perform-
17 ing his or her duties, practice such skill during an emergency.

18 (c) As used in this section, "duly qualified emergency
19 service worker" means:

20 (1) Any duly qualified full or part-time paid, volunteer or
21 auxiliary employee of this state, or any other state, territory,
22 possession or the District of Columbia, of the federal govern-
23 ment, of any neighboring country or political subdivision
24 thereof or of any agency or organization performing emergency
25 services in this state subject to the order or control of or
26 pursuant to the request of the state or any political subdivision
27 thereof.

28 (2) Duly qualified instructors and properly supervised
29 students in recognized educational programs where emergency
30 services are taught. A recognized educational program shall
31 include any program in an educational institution existing under
32 the laws of this state and such other educational programs as

33 shall be established by the Division of Homeland Security and
34 Emergency Management or otherwise under this article.

35 (3) A member of any duly qualified mine rescue team
36 designated by a mine operator pursuant to the provisions of
37 section thirty-five, article one, chapter twenty-two-a of this
38 code who is performing or engaging in emergency rescue
39 services.

40 (d) A duly qualified emergency service worker performing
41 his or her duty in this state pursuant to any lawful agreement,
42 compact or arrangement for mutual aid and assistance to which
43 the state or a political subdivision is a party shall possess the
44 same powers, duties, immunities and privileges he or she would
45 possess if performing the same duties in his or her own state,
46 province or political subdivision thereof.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



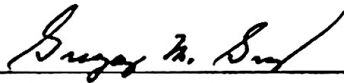
Chairman House Committee

Originating in the House.

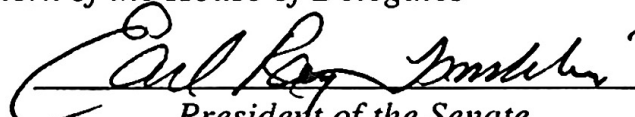
In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates




President of the Senate



Speaker of the House of Delegates

The within is approved this the 3rd
day of April, 2006.



Governor

PRESENTED TO THE
GOVERNOR

MAR 3 0 2006

Time 2:55 pm