

SB 1003

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2010

ENROLLED

Senate Bill No. 1003

(BY SENATOR TOMBLIN (MR. PRESIDENT),
BY REQUEST OF THE EXECUTIVE)

[Passed May 16, 2010; in effect from passage.]

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AN ACT to amend and reenact §15-2-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-10-3 of said code; to amend and reenact §15-10A-2 of said code; to amend and reenact §17-24A-1 and §17-24A-2 of said code; to amend and reenact §17A-3-23 of said code; to amend and reenact §17C-4-16 of said code, as contained in Chapter 173, Acts of the Legislature, Regular Session, 2010; to amend and reenact §17C-5-4 of said code; to amend and reenact §18B-10-7 of said code; to amend and reenact §19-20A-7 of said code; to amend and reenact §20-1-13 of said code; to amend and reenact §20-2-5, §20-2-15, §20-2-16, §20-2-22, §20-2-22a, §20-2-56a and §20-2-57a of said code; to amend and reenact §20-2-7 of said code, as contained in Chapter 141, Acts of the Legislature, Regular Session, 2010; to amend and reenact §20-7-1, §20-7-1a, §20-7-1b, §20-7-1c, §20-7-1d, §20-7-1e, §20-7-1f, §20-7-2, §20-7-3, §20-7-4 and §20-7-12b of said code; to amend and

reenact §22-15A-19 of said code; to amend and reenact §29-2A-11a of said code; to amend and reenact §29-3-12 of said code; to amend and reenact §30-29-1 of said code; and to amend and reenact §36-8A-1 of said code, all relating generally to conservation officers; renaming conservation officers and fish and game wardens as natural resources police officers; renaming the chief conservation officer as the chief natural resources police officer; clarifying that certain provisions of the West Virginia Code are inapplicable to the pensions of natural resources police officers paid through the Public Employees Retirement System; and making technical amendments throughout.

Be it enacted by the Legislature of West Virginia:

That §15-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §15-10-3 of said code be amended and reenacted; that §15-10A-2 of said code be amended and reenacted; that §17-24A-1 and §17-24A-2 of said code be amended and reenacted; that §17A-3-23 of said code be amended and reenacted; that §17C-4-16 of said code, as contained in Chapter 173, Acts of the Legislature, Regular Session, 2010, be amended and reenacted; that §17C-5-4 of said code be amended and reenacted; that §18B-10-7 of said code be amended and reenacted; that §19-20A-7 of said code be amended and reenacted; that §20-1-13 of said code be amended and reenacted; that §20-2-5, §20-2-15, §20-2-16, §20-2-22, §20-2-22a, §20-2-56a and §20-2-57a of said code be amended and reenacted; that §20-2-7 of said code, as contained in Chapter 141, Acts of the Legislature, Regular Session, 2010, be amended and reenacted; that §20-7-1, §20-7-1a, §20-7-1b, §20-7-1c, §20-7-1d, §20-7-1e, §20-7-1f, §20-7-2, §20-7-3, §20-7-4 and §20-7-12b of said code be amended and reenacted; that §22-15A-19 of said code be amended and reenacted; that §29-2A-11a of said code be amended and reenacted; that §29-3-12 of said code be amended and reenacted; that §30-29-1 of said code be amended and reenacted; and that §36-8A-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.**ARTICLE 2. WEST VIRGINIA STATE POLICE.****§15-2-12. Mission of the State Police; powers of superintendent, officers and members; patrol of turnpike.**

1 (a) The West Virginia State Police shall have the mission
2 of statewide enforcement of criminal and traffic laws with
3 emphasis on providing basic enforcement and citizen
4 protection from criminal depredation throughout the state
5 and maintaining the safety of the state's public streets,
6 roads and highways.

7 (b) The superintendent and each of the officers and
8 members of the division are hereby empowered:

9 (1) To make arrests anywhere within the state of any
10 persons charged with the violation of any law of this state,
11 or of the United States, and when a witness to the pepe-
12 tration of any offense or crime, or to the violation of any
13 law of this state, or of the United States, to make arrests
14 without warrant; to arrest and detain any persons sus-
15 pected of the commission of any felony or misdemeanor
16 whenever a complaint is made and a warrant is issued
17 thereon for the arrest, and the person arrested shall be
18 immediately brought before the proper tribunal for
19 examination and trial in the county where the offense for
20 which the arrest has been made was committed;

21 (2) To serve criminal process issued by any court or
22 magistrate anywhere within this state: *Provided*, That
23 they may not serve civil process; and

24 (3) To cooperate with local authorities in detecting crime
25 and in apprehending any person or persons engaged in or
26 suspected of the commission of any crime, misdemeanor or
27 offense against the law of this state, or of the United
28 States, or of any ordinance of any municipality in this
29 state; and to take affidavits in connection with any

30 application to the Division of Highways, Division of Motor
31 Vehicles and of West Virginia State Police for any license,
32 permit or certificate that may be lawfully issued by these
33 divisions of state government.

34 (c) Members of the West Virginia State Police are hereby
35 designated as forest patrolmen and natural resources
36 police officers throughout the state to do and perform any
37 duties and exercise any powers of forest patrolmen and
38 natural resources police officers, and may apprehend and
39 bring before any court or magistrate having jurisdiction of
40 these matters, anyone violating any of the provisions of
41 chapters twenty, sixty and sixty-one of this code. The
42 West Virginia State Police is at any time subject to the call
43 of the West Virginia Alcohol Beverage Control Commis-
44 sioner to aid in apprehending any person violating any of
45 the provisions of chapter sixty of this code. They shall
46 serve and execute warrants for the arrest of any person
47 and warrants for the search of any premises issued by any
48 properly constituted authority, and shall exercise all of the
49 powers conferred by law upon a sheriff. They may not
50 serve any civil process or exercise any of the powers of an
51 officer in civil matters.

52 (d) Any member of the West Virginia State Police
53 knowing or having reason to believe that any person has
54 violated the law may make complaint in writing before
55 any court or officer having jurisdiction and procure a
56 warrant for the offender, execute the warrant and bring
57 the person before the proper tribunal having jurisdiction.
58 The member shall make return on all warrants to the
59 tribunals and his or her official title shall be "Member of
60 the West Virginia State Police". Members of the West
61 Virginia State Police may execute any summons or process
62 issued by any tribunal having jurisdiction requiring the
63 attendance of any person as a witness before the tribunal
64 and make return thereon as provided by law. Any return
65 by a member of the West Virginia State Police showing the

66 manner of executing the warrant or process has the same
67 force and effect as if made by a sheriff.

68 (e) Each member of the West Virginia State Police, when
69 called by the sheriff of any county, or when directed by the
70 Governor by proclamation, has full power and authority
71 within the county, or within the territory defined by the
72 Governor, to direct and command absolutely the assis-
73 tance of any sheriff, deputy sheriff, chief of police, police-
74 man, natural resources police officer and peace officer of
75 the state, or of any county or municipality therein, or of
76 any able-bodied citizen of the United States, to assist and
77 aid in accomplishing the purposes expressed in this article.
78 When called, any officer or person is, during the time his
79 or her assistance is required, for all purposes a member of
80 the West Virginia State Police and subject to all the
81 provisions of this article.

82 (f) The superintendent may also assign members of the
83 division to perform police duties on any turnpike or toll
84 road, or any section of any turnpike or toll road, operated
85 by the West Virginia Parkways, Economic Development
86 and Tourism Authority: *Provided*, That the authority shall
87 reimburse the West Virginia State Police for salaries paid
88 to the members and shall either pay directly or reimburse
89 the division for all other expenses of the group of members
90 in accordance with actual or estimated costs determined
91 by the superintendent.

92 (g) The West Virginia State Police may develop propos-
93 als for a comprehensive county or multicounty plan on the
94 implementation of an enhanced emergency service tele-
95 phone system and may cause a public meeting on the
96 proposals, all as set forth in section six-a, article six,
97 chapter twenty-four of this code.

98 (h) By July 1, 1993, the superintendent shall establish a
99 network to implement reports of the disappearance of
100 children by local law-enforcement agencies to local school

101 division superintendents and the State Registrar of Vital
102 Statistics. The network shall be designed to establish
103 cooperative arrangements between local law-enforcement
104 agencies and local school divisions concerning reports of
105 missing children and notices to law-enforcement agencies
106 of requests for copies of the cumulative records and birth
107 certificates of missing children. The network shall also
108 establish a mechanism for reporting the identities of all
109 missing children to the State Registrar of Vital Statistics.

110 (i) The superintendent may at his or her discretion and
111 upon the written request of the West Virginia Alcohol
112 Beverage Control Commissioner assist the commissioner
113 in the coordination and enforcement of article sixteen,
114 chapter eleven of this code and chapter sixty of this code.

115 (j) Notwithstanding the provisions of article one-a,
116 chapter twenty of this code, the Superintendent of the
117 West Virginia State Police may sell any surplus real
118 property to which the West Virginia State Police or its
119 predecessors retain title, and deposit the net proceeds into
120 a special revenue account to be utilized for the purchase of
121 additional real property and for repairs to or construction
122 of detachment offices or other facilities required by the
123 West Virginia State Police. There is hereby created a
124 special revolving fund in the State Treasury which shall be
125 designated as the "Surplus Real Property Proceeds Fund".
126 The fund shall consist of all money received from the sale
127 of surplus real property owned by the West Virginia State
128 Police. Moneys deposited in the fund shall only be avail-
129 able for expenditure upon appropriation by the Legisla-
130 ture: *Provided*, That amounts collected which are found
131 from time to time to exceed the funds needed for the
132 purposes set forth in this subsection may be transferred to
133 other accounts or funds and redesignated for other pur-
134 poses by appropriation of the Legislature.

135 (k) Notwithstanding any other provision of this code, the
136 agency for surplus property is hereby empowered to

137 transfer funds generated from the sale of vehicles, other
138 equipment and commodities belonging to the West Vir-
139 ginia State Police to a special revenue account within the
140 West Virginia State Police entitled the West Virginia State
141 Police surplus transfer account. Moneys deposited in the
142 fund shall only be available for expenditure upon appro-
143 priation by the Legislature: *Provided*, That amounts
144 collected which are found from time to time to exceed the
145 funds needed for the purposes set forth in this subsection
146 may be transferred to other accounts or funds and
147 redesignated for other purposes by appropriation of the
148 Legislature. Any funds transferred to this account may be
149 utilized by the superintendent to defray the cost of normal
150 operating needs of the division.

151 (l) If the State Police or any other law-enforcement
152 agency in this state receives a report that a person who has
153 Alzheimer's disease and related dementia is missing, the
154 State Police or any other law-enforcement agency shall
155 immediately open an investigation for the purpose of
156 determining the whereabouts of that missing person. Any
157 policy of the State Police or any other law-enforcement
158 agency relating to a waiting period prior to initiation of an
159 investigation of a missing person does not apply in the
160 case of a person who has Alzheimer's disease or other
161 related dementia of the type referred to in this subsection.

162 (m) Notwithstanding any provision of this code to the
163 contrary, effective on and after July 1, 2007, the expenses
164 and salaries paid to the members of the West Virginia
165 State Police for the monitoring and enforcement duties
166 defined in chapter seventeen-c of this code may not be
167 paid from the State Road Fund or subject to reimburse-
168 ment from the Division of Motor Vehicles but is subject to
169 appropriation by the Legislature.

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-3. Definitions.

1 For purposes of this article only, and unless a different
2 meaning plainly is required:

3 (1) “Criminal justice enforcement personnel” means
4 those persons within the state criminal justice system who
5 are actually employed as members of the State Police,
6 members of the Division of Protective Services, natural
7 resources police officers, chiefs of police and police of
8 incorporated municipalities, and county sheriffs and their
9 deputies, and whose primary duties are the investigation
10 of crime and the apprehension of criminals.

11 (2) “Head of a law-enforcement agency” means the
12 Superintendent of the State Police, the Director of the
13 Division of Protective Services, the chief natural resources
14 police officer of the Division of Natural Resources, a chief
15 of police of an incorporated municipality or a county
16 sheriff.

17 (3) “State or local law-enforcement officer” means any
18 duly authorized member of a law-enforcement agency who
19 is authorized to maintain public peace and order, prevent
20 and detect crime, make arrests and enforce the laws of the
21 state or any county or municipality thereof, other than
22 parking ordinances, and includes those persons employed
23 as campus police officers at state institutions of higher
24 education in accordance with the provisions of section
25 five, article four, chapter eighteen-b of this code, although
26 those institutions may not be considered law-enforcement
27 agencies. The term also includes those persons employed
28 as rangers by the Hatfield-McCoy Regional Recreation
29 Authority in accordance with the provisions of section six,
30 article fourteen, chapter twenty of this code, although the
31 authority is not a law-enforcement agency.

32 (4) “Head of campus police” means the superintendent
33 or administrative head of state or local law-enforcement
34 officers employed as campus police officers at state
35 institutions of higher education in accordance with the

36 provisions of section five, article four, chapter eighteen-b
37 of this code.

38 (5) “Head of the rangers of the Hatfield-McCoy Regional
39 Recreation Authority” means the superintendent or
40 administrative head of state or local law-enforcement
41 officers employed as rangers by the Hatfield-McCoy
42 Regional Recreation Authority in accordance with the
43 provisions of section six, article fourteen, chapter twenty
44 of this code.

ARTICLE 10A. LAW-ENFORCEMENT REEMPLOYMENT ACT.

§15-10A-2. Reemployment of law-enforcement officers.

1 (a) Notwithstanding any provision of this code to the
2 contrary, any honorably retired law-enforcement officer
3 may, at the discretion of the head of a law-enforcement
4 agency, be reemployed subject to the provisions of this
5 article: *Provided*, That a retired law-enforcement officer
6 employed pursuant to this article must be certified pursu-
7 ant to article twenty-nine, chapter thirty.

8 (b) Any person reemployed pursuant to the provisions of
9 this article shall:

10 (1) Receive the same compensation as a regularly
11 enlisted officer of the same rank;

12 (2) Receive credit for all years of service accrued prior to
13 their retirement, as well as service rendered after the date
14 of their reemployment;

15 (3) Exercise the same authority as a regularly enlisted
16 officer of the law-enforcement agency;

17 (4) Wear the same uniform and insignia;

18 (5) Be subject to the same oath;

19 (6) Execute the same bond; and

20 (7) Exercise the same powers and be subject to the same
21 limitations as a regularly enlisted officer of the
22 law-enforcement agency.

23 (c) A person reemployed pursuant to the provisions of
24 this article is ineligible for promotion or reclassification of
25 any type nor eligible for appointment to a temporary rank.

26 (d) A person reemployed pursuant to the provisions of
27 this article may be employed for a period not to exceed
28 two years from the date on which he or she is hired.

29 (e) As used in this article:

30 (1) "Law-enforcement officer" or "officer" means: (A)
31 Any sheriff and any deputy sheriff of any county; (B) any
32 member of a police department in any municipality as
33 defined in section two, article one, chapter eight of this
34 code; and (C) any natural resources police officer of the
35 Division of Natural Resources; and

36 (2) "Head of a law-enforcement agency" means the chief
37 of police of an incorporated municipality; a county sheriff,
38 or the chief natural resources police officer of the Division
39 of Natural Resources.

CHAPTER 17. ROADS AND HIGHWAYS.

**ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED
MOTOR VEHICLES, AND ABANDONED OR INOPERA-
TIVE HOUSEHOLD APPLIANCES.**

§17-24A-1. Definitions.

1 Unless the context clearly indicates a different meaning,
2 as used in this article:

3 (1) "Commissioner" means the Commissioner of the
4 Division of Highways or his or her designee.

5 (2) "Abandoned household appliance" means a refrigera-
6 tor, freezer, range, stove, automatic dishwasher, clothes

7 washer, clothes dryer, trash compactor, television set,
8 radio, air conditioning unit, commode, bed springs,
9 mattress or other furniture, fixtures or appliances to
10 which no person claims ownership and which is not in an
11 enclosed building, a licensed salvage yard or the actual
12 possession of a demolisher.

13 (3) "Abandoned motor vehicle" means any motor
14 vehicle, or major part thereof, which is inoperative and
15 which has been abandoned on public property for any
16 period over five days, other than in an enclosed building
17 or in a licensed salvage yard or at the business establish-
18 ment of a demolisher; or any motor vehicle, or major part
19 thereof, which has remained on private property without
20 consent of the owner or person in control of the property
21 for any period over five days; or any motor vehicle, or
22 major part thereof, which is unattended, discarded,
23 deserted and unlicensed and is not in an enclosed building,
24 a licensed salvage yard or the actual possession of a
25 demolisher: *Provided*, That a motor vehicle, or major part
26 thereof, is not an abandoned motor vehicle if: (a) The
27 owner of the motor vehicle is storing the motor vehicle on
28 the owner's property; (b) the motor vehicle is being stored
29 for the purpose of using its parts on other motor vehicles
30 owned by the owner; (c) the owner owns other motor
31 vehicles similar to the motor vehicle being stored; and (d)
32 the owner is a business licensed to do business in the State
33 of West Virginia and not in the primary business of
34 offering motor vehicles or parts thereof for sale.

35 (4) "Demolisher" means any person licensed by the
36 Commissioner of the Division of Highways whose busi-
37 ness, to any extent or degree, is to convert a motor vehicle
38 or any part thereof or an inoperative household appliance
39 into processed scrap or scrap metal or into saleable parts
40 or otherwise to wreck or dismantle vehicles or appliances.

41 (5) "Enclosed building" means a structure surrounded by
42 walls or one continuous wall and having a roof enclosing

43 the entire structure and includes a permanent appendage
44 thereto.

45 (6) "Enforcement agency" means any of the following or
46 any combination of the following:

47 (a) Public law-enforcement officers of this state, includ-
48 ing natural resources police officers;

49 (b) Public law-enforcement officers of any county, city
50 or town within this state; and

51 (c) The Commissioner of the Division of Highways, his or
52 her duly authorized agents and employees.

53 (7) "Inoperative household appliance" means a refriger-
54 ator, freezer, range, stove, automatic dishwasher, clothes
55 washer, clothes dryer, trash compactor, television set,
56 radio, air conditioning unit, commode, bed springs,
57 mattress or other furniture, fixture or appliance which by
58 reason of mechanical or physical defects can no longer be
59 used for its intended purpose and which is either not
60 serving a functional purpose or use or is not in an enclosed
61 building, a licensed salvage yard or the actual possession
62 of a demolisher.

63 (8) "Junked motor vehicle" means a motor vehicle, or
64 any part thereof which: (a) Is discarded, wrecked, ruined,
65 scrapped or dismantled; (b) cannot pass the state inspec-
66 tion required by article sixteen, chapter seventeen-c of this
67 code; and (c) is either not serving a functional purpose or
68 use or is not in an enclosed building, a licensed salvage
69 yard or the actual possession of a demolisher: *Provided,*
70 That a motor vehicle, or major part thereof, is not a junked
71 motor vehicle if: (a) The owner of the motor vehicle is
72 storing the motor vehicle on the owner's property; (b) the
73 motor vehicle is being stored for the purpose of using its
74 parts on other motor vehicles owned by the owner; (c) the
75 owner owns other motor vehicles similar to the motor

76 vehicle being stored; and (d) the owner is a business
77 licensed to do business in the State of West Virginia and
78 not in the primary business of offering motor vehicles or
79 parts thereof for sale.

80 (9) "Licensed salvage yard" means a salvage yard
81 licensed under article twenty-three of this chapter.

82 (10) "Motor vehicle" means a vehicle which is or was
83 self-propelled, including, but not limited to, automobiles,
84 trucks, buses and motorcycles.

85 (11) "Person" means a natural person, corporation, firm,
86 partnership, association or society and the plural as well
87 as the singular.

**§17-24A-2. Abandonment of motor vehicle prohibited; inoper-
ative household appliances prohibited in certain
places; penalty.**

1 (a) No person may, within this state, abandon a motor
2 vehicle or major part thereof upon the right-of-way of any
3 public highway, upon any other public property or upon
4 any private property without the consent of the owner or
5 person in control of the property, or upon property owned
6 or controlled by that person, unless it be at a licensed
7 salvage yard or at the business establishment of a
8 demolisher, or a business licensed to do business in the
9 State of West Virginia and not in the primary business of
10 offering motor vehicles or parts thereof for sale. Any
11 person who violates any provision of this section is guilty
12 of a misdemeanor and, upon conviction thereof, shall be
13 sentenced and fined as set forth below.

14 (b) No person may, within this state, place or abandon
15 any inoperative household appliance upon the
16 right-of-way of any public highway or upon any other
17 public property; nor may any person, within this state,
18 place or abandon any inoperative household appliance

19 upon any private property unless it be at a licensed
20 salvage yard, solid waste facility, other business autho-
21 rized to accept solid waste or at the business establishment
22 of a demolisher. Any person who violates any provision of
23 this section is guilty of a misdemeanor and, upon convic-
24 tion thereof, shall be sentenced and fined as set forth
25 below.

26 (c) Any person who is guilty of a misdemeanor as
27 described in this section and the abandoned motor vehicle,
28 junked motor vehicle, or inoperative household appliance
29 does not exceed one hundred pounds in weight or
30 twenty-seven cubic feet in size is subject to a fine of not
31 less than \$50 nor more than \$1,000 or, in the discretion of
32 the court, sentenced to perform community service by
33 cleaning up litter from any public highway, road, street,
34 alley or any other public park or public property or waters
35 of the state, as designated by the court, for not less than
36 eight nor more than sixteen hours, or both.

37 (d) Any person who is guilty of a misdemeanor as
38 described in this section and the abandoned motor vehicle,
39 junked motor vehicle or inoperative household appliance
40 is greater than one hundred pounds in weight or
41 twenty-seven cubic feet in size, but less than five hundred
42 pounds in weight or two hundred sixteen cubic feet, is
43 subject to a fine of not less than \$500 nor more than \$2,000
44 or, in the discretion of the court, may be sentenced to
45 perform community service by cleaning up litter from any
46 public highway, road, street, alley or any other public park
47 or public property or waters of the state, as designated by
48 the court, for not less than sixteen nor more than
49 thirty-two hours, or both.

50 (e) Any person who is guilty of a misdemeanor as
51 described in this section and the abandoned motor vehicle,
52 junked motor vehicle or inoperative household appliance
53 is greater than five hundred pounds in weight or two

54 hundred sixteen cubic feet in size is subject to a fine not
55 less than \$2,500 or not more than \$25,000 or confinement
56 in jail for not more than one year, or both. In addition, the
57 violator may be guilty of creating or contributing to an
58 open dump as defined in section two, article fifteen,
59 chapter twenty-two of this code and subject to the en-
60 forcement provisions of section fifteen of said article.

61 (f) Any person convicted of a second or subsequent
62 violation of this section is subject to double the authorized
63 range of fines and community service for the subsection
64 violated.

65 (g) The sentence of litter cleanup shall be verified by
66 natural resources police officers from the Division of
67 Natural Resources or environmental inspectors from the
68 Department of Environmental Protection. Any defendant
69 receiving the sentence of litter cleanup shall provide
70 within a time to be set by the court written acknowledg-
71 ment from a natural resources police officer or environ-
72 mental inspector that the sentence has been completed and
73 the litter has been disposed of lawfully.

74 (h) Any person who has been found by the court to have
75 willfully failed to comply with the terms of a litter cleanup
76 sentence imposed by the court pursuant to this section is
77 subject to, at the discretion of the court, double the
78 amount of the original fines and community service
79 penalties.

**CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE, AND
ANTITHEFT PROVISIONS.**

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE
OF CERTIFICATES OF TITLE.**

**§17A-3-23. Registration plates to state, county, municipal and
other governmental vehicles; use for undercover
activities.**

1 (a) Any motor vehicle designed to carry passengers,
2 owned or leased by the State of West Virginia, or any of its
3 departments, bureaus, commissions or institutions, except
4 vehicles used by the Governor, Treasurer, three vehicles
5 per elected office of the Board of Public Works, vehicles
6 operated by the State Police, not to exceed five vehicles
7 operated by the office of the Secretary of Military Affairs
8 and Public Safety, not to exceed five vehicles operated by
9 the Division of Homeland Security and Emergency
10 Management, vehicles operated by natural resources police
11 officers of the Division of Natural Resources, not to exceed
12 ten vehicles operated by the arson investigators of the
13 office of State Fire Marshal, not to exceed two vehicles
14 operated by the Division of Protective Services, not to
15 exceedsixteen vehicles operated by inspectors of the office
16 of the Alcohol Beverage Control Commissioner and
17 vehicles operated by probation officers employed under
18 the Supreme Court of Appeals may not be operated or
19 driven by any person unless it has displayed and attached
20 to the front thereof, in the same manner as regular motor
21 vehicle registration plates are attached, a plate of the same
22 size as the regular registration plate, with white lettering
23 on a green background bearing the words "West Virginia"
24 in one line and the words "State Car" in another line and
25 the lettering for the words "State Car" shall be of suffi-
26 cient size to be plainly readable from a distance of one
27 hundred feet during daylight.

28 The vehicle shall also have attached to the rear a plate
29 bearing a number and any other words and figures as the
30 Commissioner of Motor Vehicles shall prescribe. The rear
31 plate shall also be green with the number in white.

32 (b) On registration plates issued to vehicles owned by
33 counties, the color shall be white on red with the word
34 "County" on top of the plate and the words "West Vir-
35 ginia" on the bottom. On any registration plates issued to
36 a city or municipality, the color shall be white on blue

37 with the word "City" on top and the words "West Vir-
38 ginia" on the bottom: *Provided*, That after December 31,
39 2006, registration plates issued to a city or municipality
40 law-enforcement department shall include blue lettering
41 on a white background with the word "West Virginia" on
42 top of the plate and shall be further designed by the
43 commissioner to include a law-enforcement shield to-
44 gether with other insignia or lettering sufficient to identify
45 the motor vehicle as a municipal law-enforcement depart-
46 ment motor vehicle. The colors may not be reversed and
47 shall be of reflectorized material. The registration plates
48 issued to counties, municipalities and other governmental
49 agencies authorized to receive colored plates hereunder
50 shall be affixed to both the front and rear of the vehicles.
51 Every municipality shall provide the commissioner with a
52 list of law-enforcement vehicles operated by the
53 law-enforcement department of the municipality, unless
54 otherwise provided in this section, and a fee of \$10 for
55 each vehicle submitted by July 1, 2006.

56 (c) Registration plates issued to vehicles operated by
57 county sheriffs shall be designed by the commissioner in
58 cooperation with the sheriffs' association with the word
59 "Sheriff" on top of the plate and the words "West Vir-
60 ginia" on the bottom. The plate shall contain a gold shield
61 representing the sheriff's star and a number assigned to
62 that plate by the commissioner. Every county sheriff shall
63 provide the commissioner with a list of vehicles operated
64 by the sheriff, unless otherwise provided in this section,
65 and a fee of \$10 for each vehicle submitted by July 1, 2002.

66 (d) The commissioner is authorized to designate the
67 colors and design of any other registration plates that are
68 issued without charge to any other agency in accordance
69 with the motor vehicle laws.

70 (e) Upon application, the commissioner is authorized to
71 issue a maximum of five Class A license plates per appli-

72 cant to be used by county sheriffs and municipalities on
73 law-enforcement vehicles while engaged in undercover
74 investigations.

75 (f) The commissioner is authorized to issue an unlimited
76 number of license plates per applicant to authorized drug
77 and violent crime task forces in the State of West Virginia
78 when the chairperson of the control group of a drug and
79 violent crime task force signs a written affidavit stating
80 that the vehicle or vehicles for which the plates are being
81 requested will be used only for official undercover work
82 conducted by a drug and violent crime task force.

83 (g) The commissioner is authorized to issue twenty Class
84 A license plates to the Criminal Investigation Division of
85 the Department of Revenue for use by its investigators.

86 (h) The commissioner may issue a maximum of ten Class
87 A license plates to the Division of Natural Resources for
88 use by natural resources police officers. The commissioner
89 shall designate the color and design of the registration
90 plates to be displayed on the front and the rear of all other
91 state-owned vehicles owned by the Division of Natural
92 Resources and operated by natural resources police
93 officers.

94 (i) The commissioner is authorized to issue an unlimited
95 number of Class A license plates to the Commission on
96 Special Investigations for state-owned vehicles used for
97 official undercover work conducted by the Commission on
98 Special Investigations. The commissioner is authorized to
99 issue a maximum of two Class A plates to the Division of
100 Protective Services for state-owned vehicles used by the
101 Division of Protective Services in fulfilling its mission.

102 (j) No other registration plate may be issued for, or
103 attached to, any state-owned vehicle.

104 (k) The Commissioner of Motor Vehicles shall have a
105 sufficient number of both front and rear plates produced

106 to attach to all state-owned cars. The numbered registra-
107 tion plates for the vehicles shall start with the number
108 “five hundred” and the commissioner shall issue consecu-
109 tive numbers for all state-owned cars.

110 (l) It is the duty of each office, department, bureau,
111 commission or institution furnished any vehicle to have
112 plates as described herein affixed thereto prior to the
113 operation of the vehicle by any official or employee.

114 (m) The commissioner may issue special registration
115 plates for motor vehicles titled in the name of the Division
116 of Public Transit or in the name of a public transit author-
117 ity as defined in this subsection and operated by a public
118 transit authority or a public transit provider to transport
119 persons in the public interest. For purposes of this subsec-
120 tion, “public transit authority” means an urban mass
121 transportation authority created pursuant to the provi-
122 sions of article twenty-seven, chapter eight of this code or
123 a nonprofit entity exempt from federal and state income
124 taxes under the Internal Revenue Code and whose purpose
125 is to provide mass transportation to the public at large.
126 The special registration plate shall be designed by the
127 commissioner and shall display the words “public transit”
128 or words or letters of similar effect to indicate the public
129 purpose of the use of the vehicle. The special registration
130 plate shall be issued without charge.

131 (n) Any person who violates the provisions of this section
132 is guilty of a misdemeanor and, upon conviction thereof,
133 shall be fined not less than \$50 nor more than \$100.
134 Magistrates have concurrent jurisdiction with circuit
135 courts for the enforcement of this section.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 4. CRASHES.

§17C-4-16. Crashes involving state and municipal property; reports to be provided.

1 Whenever a report of a motor vehicle crash prepared by
2 a member of the West Virginia State Police, natural
3 resources police officer of the Division of Natural Re-
4 sources, a member of a county sheriff's department or a
5 municipal police officer, in the regular course of their
6 duties, indicates that as a result of the crash damage has
7 occurred to any bridge, sign, guardrail or other property,
8 exclusive of licensed motor vehicles, a copy of the report
9 shall, in the case of property belonging to the Division of
10 Highways, be provided to the Commissioner of the Divi-
11 sion of Highways, and, in the case of property belonging to
12 a municipality, be provided to the mayor of that muni-
13 cipality. The copies of the reports shall be provided to the
14 commissioner or mayor, as applicable, without cost to
15 them.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-4. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

1 (a) Any person who drives a motor vehicle in this state is
2 considered to have given his or her consent by the opera-
3 tion of the motor vehicle to a preliminary breath analysis
4 and a secondary chemical test of either his or her blood,
5 breath or urine for the purposes of determining the
6 alcoholic content of his or her blood.

7 (b) A preliminary breath analysis may be administered
8 in accordance with the provisions of section five of this
9 article whenever a law-enforcement officer has reasonable
10 cause to believe a person has committed an offense
11 prohibited by section two of this article or by an ordinance
12 of a municipality of this state which has the same elements
13 as an offense described in section two of this article.

14 (c) A secondary test of blood, breath or urine is inciden-
15 tal to a lawful arrest and is to be administered at the
16 direction of the arresting law-enforcement officer having
17 reasonable grounds to believe the person has committed an
18 offense prohibited by section two of this article or by an
19 ordinance of a municipality of this state which has the
20 same elements as an offense described in section two of
21 this article.

22 (d) The law-enforcement agency that employs the
23 law-enforcement officer shall designate which type of
24 secondary test is to be administered: *Provided*, That if the
25 test designated is a blood test and the person arrested
26 refuses to submit to the blood test, then the
27 law-enforcement officer making the arrest shall designate
28 either a breath or urine test to be administered. Notwith-
29 standing the provisions of section seven of this article, the
30 refusal to submit to a blood test only may not result in the
31 revocation of the arrested person's license to operate a
32 motor vehicle in this state.

33 (e) Any person to whom a preliminary breath test is
34 administered who is then arrested shall be given a written
35 statement advising him or her that his or her refusal to
36 submit to the secondary chemical test pursuant to subsec-
37 tion (d) of this section, will result in the revocation of his
38 or her license to operate a motor vehicle in this state for a
39 period of at least one year and up to life.

40 (f) Any law-enforcement officer who has been properly
41 trained in the administration of any secondary chemical
42 test authorized by this article, including, but not limited
43 to, certification by the Bureau for Public Health in the
44 operation of any equipment required for the collection and
45 analysis of a breath sample, may conduct the test at any
46 location in the county wherein the arrest is made: *Pro-*
47 *vided*, That the law-enforcement officer may conduct the
48 test at the nearest available properly functioning second-

49 any chemical testing device located outside the county in
50 which the arrest was made, if: (i) There is no properly
51 functioning secondary chemical testing device located
52 within the county the arrest was made; or (ii) there is no
53 magistrate available within the county the arrest was
54 made for the arraignment of the person arrested. A
55 law-enforcement officer who is directing that a secondary
56 chemical test be conducted has the authority to transport
57 the person arrested to where the secondary chemical
58 testing device is located.

59 (g) If the arresting officer lacks proper training in the
60 administration of a secondary chemical test, then any
61 other law-enforcement officer who has received training
62 in the administration of the secondary chemical test to be
63 administered may, upon the request of the arresting
64 law-enforcement officer and in his or her presence,
65 conduct the secondary test. The results of a test conducted
66 pursuant to this subsection may be used in evidence to the
67 same extent and in the same manner as if the test had been
68 conducted by the arresting law-enforcement officer.

69 (h) Only the person actually administering or conducting
70 a test conducted pursuant to this article is competent to
71 testify as to the results and the veracity of the test.

72 (i) For the purpose of this article, the term
73 "law-enforcement officer" or "police officer" means: (1)
74 Any member of the West Virginia State Police; (2) any
75 sheriff and any deputy sheriff of any county; (3) any
76 member of a police department in any municipality as
77 defined in section two, article one, chapter eight of this
78 code; (4) any natural resources police officer of the Divi-
79 sion of Natural Resources; and (5) any special police
80 officer appointed by the Governor pursuant to the provi-
81 sions of section forty-one, article three, chapter sixty-one
82 of this code who has completed the course of instruction at
83 a law-enforcement training academy as provided for under

84 the provisions of section nine, article twenty-nine, chapter
85 thirty of this code.

86 (j) A law-enforcement officer who has reasonable cause
87 to believe that person has committed an offense prohibited
88 by section eighteen, article seven, chapter twenty of this
89 code, relating to the operation of a motorboat, jet ski or
90 other motorized vessel, shall follow the provisions of this
91 section in administering, or causing to be administered, a
92 preliminary breath analysis and the secondary chemical
93 test of the accused person's blood, breath or urine for the
94 purpose of determining alcohol content of his or her blood.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTI- TUTIONS OF HIGHER EDUCATION.

§18B-10-7. Tuition and fee waivers for children and spouses of officers, firefighters, National Guard personnel, reserve personnel and active military duty personnel killed in the line of duty.

- 1 (a) Each state institution of higher education shall waive
2 tuition and fees for any person who is the child or spouse
3 of an individual who:
- 4 (1) Was employed or serving as:
- 5 (A) A law-enforcement officer as defined in section one,
6 article twenty-nine, chapter thirty of this code;
- 7 (B) A correctional officer at a state penal institution;
- 8 (C) A parole officer;
- 9 (D) A probation officer;
- 10 (E) A natural resources police officer; or
- 11 (F) A registered firefighter; and

12 (2) Was killed in the line of duty while:

13 (A) Employed by the state or any political subdivision of
14 the state; or

15 (B) A member of a volunteer fire department serving a
16 political subdivision of this state.

17 (b) Each state institution of higher education shall waive
18 tuition and fees for any person who is the child or spouse
19 of:

20 (1) A National Guard member or a member of a reserve
21 component of the Armed Forces of the United States who
22 is a resident of this state and is killed in the line of duty.
23 The member is considered to have been killed in the line of
24 duty if death resulted from performing a duty required by
25 his or her orders or commander while in an official duty
26 status, other than on federal active duty, authorized under
27 federal or state law; or

28 (2) A person on federal or state active military duty who
29 is a resident of this state and is killed in the line of duty.
30 The person is considered to have been killed in the line of
31 duty if death resulted from performance of a duty required
32 by his or her orders or commander while in an official
33 duty status.

34 (c) Any waiver granted pursuant to this section is subject
35 to the following:

36 (1) The recipient may attend any undergraduate course
37 if classroom space is available;

38 (2) The recipient has applied and been admitted to the
39 institution;

40 (3) The recipient has applied for and submitted the Free
41 Application for Federal Student Aid;

42 (4) The recipient has exhausted all other sources of
43 student financial assistance dedicated solely to tuition and

44 fees that exceed other grant assistance that are available
45 to him or her, excluding student loans;

46 (5) Waiver renewal is contingent upon the recipient
47 continuing to meet the academic progress standards
48 established by the institution.

49 (d) The state institution of higher education may require
50 the person to pay:

51 (1) Special fees, including any laboratory fees, if the fees
52 are required of all other students taking a single course or
53 that particular course; and

54 (2) Parking fees.

55 (e) The governing boards may promulgate rules:

56 (1) For determining the availability of classroom space;

57 (2) As each considers necessary to implement this
58 section; and

59 (3) Regarding requirements for attendance, which may
60 not exceed the requirements for other students.

61 (f) The governing boards may extend to persons attend-
62 ing courses and classes under this section any rights,
63 privileges or benefits extended to other students which it
64 considers appropriate.

CHAPTER 19. AGRICULTURE.

ARTICLE 20A. VACCINATION OF DOGS AND CATS FOR RABIES.

§19-20A-7. Enforcement of article.

1 The enforcement of the provisions of this article is in the
2 hands of the sheriff of each county, any of his or her
3 deputies, constables, natural resources police officers, and,
4 if considered necessary, there shall be a special officer to
5 be appointed by the county commission, who is autho-

6 rized, empowered, and directed to inspect rabies, pick up
7 dogs and cats and dispose of dogs which are not taxable or
8 not vaccinated according to this article. The sheriff of
9 each county can have one or more sittings, if considered
10 necessary, in each district of the county, at which he or she
11 shall be present or have present one of his or her deputies
12 or the special officer above provided for, to take charge of
13 all delinquent dogs and cats and homeless dogs and cats
14 that are not vaccinated. The assessor of each county, or
15 one of his or her deputies, shall accompany the veterinar-
16 ian, doctor, or the one who administers the vaccine in
17 these sittings for the purpose of collecting taxes on dogs.
18 All dogs which are not vaccinated and for which taxes are
19 unpaid become the responsibility of the sheriff to catch
20 and dispose of as is provided by law.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-13. Law enforcement and legal services.

1 The director shall select and designate a competent and
2 qualified person to be the chief natural resources police
3 officer, who has the title of colonel and who is responsible
4 for the prompt, orderly and effective enforcement of all of
5 the provisions of this chapter. Under the supervision of
6 the director and subject to personnel qualifications and
7 requirements otherwise prescribed in this chapter, the
8 chief natural resources police officer is responsible for the
9 selection, training, assignment, distribution and discipline
10 of natural resources police officers and the effective
11 discharge of their duties in carrying out the
12 law-enforcement policies, practices and programs of the
13 division in compliance with the provisions of article seven
14 of this chapter and other controlling laws. Except as
15 otherwise provided in this chapter, natural resources
16 police officers are authorized to enter into and upon

17 private lands and waters to investigate complaints and
18 reports of conditions, conduct, practices and activities
19 considered to be adverse to and violative of the provisions
20 of this chapter and to execute writs and warrants and
21 make arrests thereupon.

22 The Attorney General and his or her assistants and the
23 prosecuting attorneys of the several counties shall render
24 to the director, without additional compensation, legal
25 services as the director may require of them in the dis-
26 charge of his or her duties and the execution of his or her
27 powers under and his or her enforcement of the provisions
28 of this chapter. The director, in an emergency and with
29 prior approval of the Attorney General, may employ an
30 attorney to act in proceedings wherein criminal charges
31 are brought against personnel of the department because
32 of action in line of duty. For the attorney services, a
33 reasonable sum, not exceeding \$2,500, may be expended
34 by the director in any one case.

35 The director, if he or she considers the action necessary,
36 may request the Attorney General to appoint an assistant
37 attorney general, who shall perform, under the supervision
38 and direction of the Attorney General, the duties as may
39 be required of him or her by the director. The Attorney
40 General, in pursuance of the request, may select and
41 appoint an assistant attorney general to serve at the will
42 and pleasure of the Attorney General, and the assistant
43 shall receive a salary to be paid out of any funds made
44 available for that purpose by the Legislature to the
45 department.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.

1 Except as authorized by the director, it is unlawful at
2 any time for any person to:

3 (1) Shoot at or to shoot any wild bird or animal unless it
4 is plainly visible to him or her;

5 (2) Dig out, cut out or smoke out, or in any manner take
6 or attempt to take, any live wild animal or wild bird out of
7 its den or place of refuge except as may be authorized by
8 rules promulgated by the director or by law;

9 (3) Make use of, or take advantage of, any artificial light
10 in hunting, locating, attracting, taking, trapping or killing
11 any wild bird or wild animal, or to attempt to do so, while
12 having in his or her possession or subject to his or her
13 control, or for any person accompanying him or her to
14 have in his or her possession or subject to his or her
15 control, any firearm, whether cased or uncased, bow,
16 arrow, or both, or other implement or device suitable for
17 taking, killing or trapping a wild bird or animal: *Provided*,
18 That it is lawful to hunt or take raccoon, opossum or
19 skunk by the use of artificial light subject to the restric-
20 tions set forth in this subdivision: *Provided, however*, That
21 it is lawful to hunt or take coyotes by the use of amber- or
22 red-colored artificial light subject to the restrictions set
23 forth in this subdivision. No person is guilty of a violation
24 of this subdivision merely because he or she looks for,
25 looks at, attracts or makes motionless a wild bird or wild
26 animal with or by the use of an artificial light, unless at
27 the time he or she has in his or her possession a firearm,
28 whether cased or uncased, bow, arrow, or both, or other
29 implement or device suitable for taking, killing or trap-
30 ping a wild bird or wild animal, or unless the artificial
31 light (other than the head lamps of an automobile or other
32 land conveyance) is attached to, a part of or used from
33 within or upon an automobile or other land conveyance.

34 Any person violating the provisions of this subdivision
35 is guilty of a misdemeanor and, upon conviction thereof,
36 shall for each offense be fined not less than \$100 nor more
37 than \$500 and shall be confined in jail for not less than ten
38 days nor more than one hundred days;

39 (4) Hunt for, take, kill, wound or shoot at wild animals
40 or wild birds from an airplane, or other airborne convey-
41 ance, an automobile, or other land conveyance, or from a
42 motor-driven water conveyance, except as authorized by
43 rules promulgated by the director;

44 (5) Take any beaver or muskrat by any means other than
45 by trap;

46 (6) Catch, capture, take or kill by seine, net, bait, trap or
47 snare or like device of any kind any wild turkey, ruffed
48 grouse, pheasant or quail;

49 (7) Destroy or attempt to destroy needlessly or willfully
50 the nest or eggs of any wild bird or have in his or her
51 possession the nest or eggs unless authorized to do so
52 under rules promulgated by or under a permit issued by
53 the director;

54 (8) Except as provided in section six of this article, carry
55 an uncased or loaded gun in any of the woods of this state
56 except during the open firearms hunting season for wild
57 animals and nonmigratory wild birds within any county of
58 the state unless he or she has in his or her possession a
59 permit in writing issued to him or her by the director:
60 *Provided*, That this section does not prohibit hunting or
61 taking of unprotected species of wild animals and wild
62 birds and migratory wild birds, during the open season, in
63 the open fields, open water and open marshes of the state;

64 (9) Have in his or her possession a crossbow with a
65 nocked bolt, a loaded firearm or a firearm from the
66 magazine of which all shells and cartridges have not been
67 removed, in or on any vehicle or conveyance, or its attach-
68 ments, within the state, except as may otherwise be
69 provided by law or regulation. Except as hereinafter
70 provided, between five o'clock postmeridian of one day
71 and seven o'clock antemeridian, eastern standard time of
72 the day following, any unloaded firearm or crossbow,

73 being lawfully carried in accordance with the foregoing
74 provisions, may be so carried only when in a case or taken
75 apart and securely wrapped. During the period from July
76 1 to September 30, inclusive, of each year, the foregoing
77 requirements relative to carrying certain unloaded fire-
78 arms are permissible only from eight-thirty o'clock
79 postmeridian to five o'clock antemeridian, eastern stan-
80 dard time: *Provided*, That the time periods for carrying
81 unloaded and uncased firearms are extended for one hour
82 after the postmeridian times and one hour before the
83 antemeridian times established above if a hunter is
84 preparing to or in the process of transporting or transfer-
85 ring the firearms to or from a hunting site, campsite, home
86 or other place of abode;

87 (10) Hunt, catch, take, kill, trap, injure or pursue with
88 firearms or other implement by which wildlife may be
89 taken after the hour of five o'clock antemeridian on
90 Sunday on private land without the written consent of the
91 landowner any wild animals or wild birds except when a
92 big game season opens on a Monday, the Sunday prior to
93 that opening day will be closed for any taking of wild
94 animals or birds after five o'clock antemeridian on that
95 Sunday: *Provided*, That traps previously and legally set
96 may be tended after the hour of five o'clock antemeridian
97 on Sunday and the person so doing may carry only a
98 twenty-two caliber firearm for the purpose of humanely
99 dispatching trapped animals. Any person violating the
100 provisions of this subdivision is guilty of a misdemeanor
101 and, upon conviction thereof, in addition to any fines that
102 may be imposed by this or other sections of this code, is
103 subject to a \$100 fine;

104 (11) Hunt with firearms or long bow while under the
105 influence of intoxicating liquor;

106 (12) Hunt, catch, take, kill, injure or pursue a wild
107 animal or bird with the use of a ferret;

108 (13) Buy raw furs, pelts or skins of fur-bearing animals
109 unless licensed to do so;

110 (14) Catch, take, kill or attempt to catch, take or kill any
111 fish at any time by any means other than by rod, line and
112 hooks with natural or artificial lures unless otherwise
113 authorized by law or rules issued by the Director: *Pro-*
114 *vided*, That snaring of any species of suckers, carp, fallfish
115 and creek chubs shall at all times be lawful;

116 (15) Employ or hire, or induce or persuade, by the use of
117 money or other things of value, or by any means, any
118 person to hunt, take, catch or kill any wild animal or wild
119 bird except those species on which there is no closed
120 season, or to fish for, catch, take or kill any fish, amphib-
121 ian or aquatic life which is protected by the provisions of
122 this chapter or rules of the director or the sale of which is
123 prohibited;

124 (16) Hunt, catch, take, kill, capture, pursue, transport,
125 possess or use any migratory game or nongame birds
126 included in the terms of conventions between the United
127 States and Great Britain and between the United States
128 and United Mexican States for the protection of migratory
129 birds and wild mammals concluded, respectively, August
130 16, 1916, and February 7, 1936, except during the time and
131 in the manner and numbers prescribed by the federal
132 Migratory Bird Treaty Act, 16 U.S.C. §703, *et seq.*, and
133 regulations made thereunder;

134 (17) Kill, take, catch or have in his or her possession,
135 living or dead, any wild bird other than a game bird; or
136 expose for sale or transport within or without the state
137 any bird except as aforesaid. No part of the plumage, skin
138 or body of any protected bird may be sold or had in
139 possession for sale except mounted or stuffed plumage,
140 skin, bodies or heads of the birds legally taken and stuffed
141 or mounted, irrespective of whether the bird was captured
142 within or without this state, except the English or Euro-

143 pean sparrow (*passer domesticus*), starling (*sturnus*
144 *vulgaris*) and cowbird (*molothrus ater*), which may not be
145 protected and the killing thereof at any time is lawful;

146 (18) Use dynamite or any like explosive or poisonous
147 mixture placed in any waters of the state for the purpose
148 of killing or taking fish. Any person violating the provi-
149 sions of this subdivision is guilty of a felony and, upon
150 conviction thereof, shall be fined not more than \$500 or
151 imprisoned for not less than six months nor more than
152 three years, or both fined and imprisoned;

153 (19) Have a bow and gun, or have a gun and any arrow
154 or arrows, in the fields or woods at the same time;

155 (20) Have a crossbow in the woods or fields or use a
156 crossbow to hunt for, take or attempt to take any wildlife,
157 unless the person possesses a Class Y permit;

158 (21) Take or attempt to take turkey, bear, elk or deer
159 with any arrow unless the arrow is equipped with a point
160 having at least two sharp cutting edges measuring in
161 excess of three fourths of an inch wide;

162 (22) Take or attempt to take any wildlife with an arrow
163 having an explosive head or shaft, a poisoned arrow or an
164 arrow which would affect wildlife by any chemical action;

165 (23) Shoot an arrow across any public highway or from
166 aircraft, motor-driven watercraft, motor vehicle or other
167 land conveyance;

168 (24) Permit any dog owned by him or her or under his or
169 her control to chase, pursue or follow upon the track of
170 any wild animal or wild bird, either day or night, between
171 May 1 and the August 15 next following: *Provided*, That
172 dogs may be trained on wild animals and wild birds,
173 except deer and wild turkeys, and field trials may be held
174 or conducted on the grounds or lands of the owner or by
175 his or her bona fide tenant or tenants or upon the grounds

176 or lands of another person with his or her written permis-
177 sion or on public lands at any time: *Provided, however,*
178 That nonresidents may not train dogs in this state at any
179 time except during the legal small game hunting season:
180 *Provided further,* That the person training said dogs does
181 not have firearms or other implements in his or her
182 possession during the closed season on wild animals and
183 wild birds, whereby wild animals or wild birds could be
184 taken or killed;

185 (25) Conduct or participate in a field trial,
186 shoot-to-retrieve field trial, water race or wild hunt
187 hereafter referred to as trial: *Provided,* That any person,
188 group of persons, club or organization may hold the trial
189 at any time of the year upon obtaining a permit as is
190 provided in section fifty-six of this article. The person
191 responsible for obtaining the permit shall prepare and
192 keep an accurate record of the names and addresses of all
193 persons participating in said trial and make same readily
194 available for inspection by any natural resources police
195 officer upon request;

196 (26) Except as provided in section four of this article,
197 hunt, catch, take, kill or attempt to hunt, catch, take or
198 kill any wild animal, wild bird or wild fowl except during
199 the open season established by rule of the director as
200 authorized by subdivision (6), section seven, article one of
201 this chapter;

202 (27) Hunting on public lands on Sunday after five
203 o'clock antemeridian is prohibited; and

204 (28) Hunt, catch, take, kill, trap, injure or pursue with
205 firearms or other implement which wildlife can be taken,
206 on private lands on Sunday after the hour of five o'clock
207 antemeridian: *Provided,* That the provisions of this
208 subdivision do not apply in any county until the county
209 commission of the county holds an election on the question
210 of whether the provisions of this subdivision prohibiting

211 hunting on Sunday shall apply within the county and the
212 voters approve the allowance of hunting on Sunday in the
213 county. The election is determined by a vote of the
214 resident voters of the county in which the hunting on
215 Sunday is proposed to be authorized. The county commis-
216 sion of the county in which Sunday hunting is proposed
217 shall give notice to the public of the election by publica-
218 tion of the notice as a Class II-0 legal advertisement in
219 compliance with the provisions of article three, chapter
220 fifty-nine of this code and the publication area for the
221 publication is the county in which the election is to be
222 held. The date of the last publication of the notice shall
223 fall on a date within the period of the fourteen consecutive
224 days next preceding the election.

225 On the local option election ballot shall be printed the
226 following:

227 Shall hunting on Sunday be authorized in _____
228 County?

229 Yes No

230 (Place a cross mark in the square opposite your choice.)

231 Any local option election to approve or disapprove of the
232 proposed authorization of Sunday hunting within a county
233 shall be in accordance with procedures adopted by the
234 commission. The local option election may be held in
235 conjunction with a primary or general election or at a
236 special election. Approval shall be by a majority of the
237 voters casting votes on the question of approval or disap-
238 proval of Sunday hunting at the election.

239 If a majority votes against allowing Sunday hunting, no
240 election on the issue may be held for a period of one
241 hundred four weeks. If a majority votes "yes", no election
242 reconsidering the action may be held for a period of five
243 years. A local option election may thereafter be held if a

244 written petition of qualified voters residing within the
245 county equal to at least five percent of the number of
246 persons who were registered to vote in the next preceding
247 general election is received by the county commission of
248 the county in which Sunday hunting is authorized. The
249 petition may be in any number of counterparts. The
250 election shall take place at the next primary or general
251 election scheduled more than ninety days following receipt
252 by the county commission of the petition required by this
253 subsection: *Provided*, That the issue may not be placed on
254 the ballot until all statutory notice requirements have been
255 met. No local law or regulation providing any penalty,
256 disability, restriction, regulation or prohibition of Sunday
257 hunting may be enacted and the provisions of this article
258 preempt all regulations, rules, ordinances and laws of any
259 county or municipality in conflict with this subdivision.

260 (29) Hunt or conduct hunts for a fee where the hunter is
261 not physically present in the same location as the wildlife
262 being hunted within West Virginia.

**§20-2-7. Hunting, trapping or fishing on lands of another;
damages and restitution.**

1 (a) It is unlawful for any person to shoot, hunt, fish or
2 trap upon the fenced, enclosed or posted lands of another
3 person; or to peel trees or timber, build fires or do any
4 other act in connection with shooting, hunting, fishing or
5 trapping on the lands without written permission in his or
6 her possession from the owner, tenant or agent of the
7 owner.

8 (b) Any person who hunts, traps or fishes on land
9 without the permission of the owner, tenant or agent of the
10 owner is guilty of a misdemeanor and, liable to the owner
11 or person suffering damage for all costs and damages for:
12 (1) Killing or injuring any domestic animal, fowl, or
13 private game farm animal; (2) cutting, destroying or
14 damaging any bars, gates or fence or any part of the

15 property; or (3) leaving open any bars or gates resulting in
16 damage to the property.

17 (c) Restitution of the value of the property or animals
18 injured, damaged or destroyed shall be required upon
19 conviction pursuant to sections four and five, article
20 eleven-a, chapter sixty-one of this code. The restitution
21 ordered for private game farm animals shall be equivalent
22 to or greater than the replacement values for deer listed in
23 section five-a in this article.

24 (d) The owner, tenant or agent of the owner may arrest
25 a person violating this section and immediately take him
26 or her before a magistrate. The owner, tenant or agent of
27 the owner is vested with the powers and rights of a natural
28 resources police officer for these purposes. The officers
29 charged with the enforcement of the provisions of this
30 chapter shall enforce the provisions of this section if
31 requested to do so by the owner, tenant or agent of the
32 owner, but not otherwise.

33 (e) The provisions of subsections (b) and (d) of this
34 section related to criminal penalties and being subject to
35 arrest are inapplicable to a person whose dog, without the
36 person's direction or encouragement, travels onto the
37 fenced, enclosed or posted land of another in pursuit of an
38 animal or wild bird: *Provided*, That the pursuit does not
39 result in the taking of game from the fenced, enclosed or
40 posted land and does not result in the killing of domestic
41 animals or fowl or other damage to or on the fenced,
42 enclosed or posted land.

**§20-2-15. Permit to kill deer or other wildlife causing damage
to cultivated crops, trees, commercial nurseries,
homeowners' shrubbery and vegetable gardens;
weapon restrictions.**

1 (a) Whenever it is found that deer or other wildlife are
2 causing damage to cultivated crops, fruit trees, commer-

3 cial nurseries, homeowners' trees, shrubbery or vegetable
4 gardens, the owner or lessee of the lands on which damage
5 is done may report the finding to the natural resources
6 police officer or biologist of the county in which the lands
7 are located or to the director. The director shall then
8 investigate the reported damage and if found substantial,
9 shall issue a permit to the owner or lessee to kill one or
10 more deer or other wildlife in the manner prescribed by
11 the director.

12 (b) In addition to the foregoing, the director shall
13 establish procedures for the issuance of permits or other
14 authorization necessary to control deer or other wildlife
15 causing property damage.

16 (c) All persons attempting to kill deer or other wildlife
17 pursuant to this section are subject to the same minimum
18 caliber restrictions and other firearm restrictions and the
19 same minimum bow poundage and other bow and arrow
20 restrictions that apply when hunting the same animal
21 species during the regular hunting seasons.

§20-2-16. Dogs chasing deer.

1 No person may permit his or her dog to hunt or chase
2 deer. A natural resources police officer shall take into
3 possession any dog known to have hunted or chased deer
4 and the director shall advertise that the dog is in his or her
5 possession, giving a description of the dog and stating the
6 circumstances under which it was taken. The notice shall
7 be published as a Class I legal advertisement in compli-
8 ance with the provisions of article three, chapter fifty-
9 nine of this code, and the publication area for the publica-
10 tion is the county. He or she shall hold the dog for a
11 period of ten days after the date of the publication. If,
12 within ten days, the owner does not claim the dog, the
13 director shall destroy it. In this event the cost of keeping
14 and advertising shall be paid by the director. If, within
15 ten days, the owner claims the dog, he or she may repos-

16 sss it on the payment of costs of advertising and the cost
17 of keep, not exceeding 50¢ per day. A natural resources
18 police officer, or any officer or employee of the director
19 authorized to enforce the provisions of this section, after
20 a bona fide but unsuccessful effort to capture dogs de-
21 tected chasing or pursuing deer, may kill the dogs.

**§20-2-22. Tagging, removing, transporting and reporting bear,
bobcat, deer, wild bear and wild turkey.**

1 (a) Each person killing a bear, bobcat, deer, wild boar or
2 wild turkey found in a wild state shall either attach a
3 completed game tag to the animal or remain with the
4 animal and have upon his or her person a completed game
5 tag before removing the carcass in any manner from where
6 it was killed.

7 (b) While transporting the carcass of a bear, bobcat,
8 deer, wild boar or wild turkey from where it was killed,
9 each person shall either attach a completed game tag to
10 the animal or have upon his or her person a completed
11 game tag.

12 (c) Upon arriving at a residence, camp, hunting lodge,
13 vehicle or vessel each person shall attach a game tag to the
14 killed bear, bobcat, deer, wild boar or wild turkey. The
15 game tag shall remain on the carcass until it is retagged by
16 a natural resources police officer or an official checking
17 station.

18 (d) If a person who does not possess a game tag kills a
19 bear, bobcat, deer, wild boar or wild turkey, he or she shall
20 make a tag. The tag shall bear the name, address and, if
21 applicable, the license number of the hunter and the time,
22 date and county of killing.

23 (e) The carcass of a wild turkey shall be delivered to a
24 natural resources police officer or an official checking
25 station for checking and retagging before it is either

26 skinned or transported beyond the boundaries of the
27 county adjacent to that in which the kill was made.

28 (f) The fresh skin and head or carcass of the deer shall be
29 delivered to a natural resources police officer or an official
30 checking station for checking and retagging before it is
31 transported beyond the boundaries of the county adjacent
32 to that in which the kill was made.

33 (g) A person who kills a bear shall treat the carcass and
34 remains in accordance with the provisions of section
35 twenty-two-a of this article.

36 (h) For each violation of this section a person is subject
37 to the penalties provided in this article.

**§20-2-22a. Hunting, tagging and reporting bear; procedures
applicable to property destruction by bear;
penalties.**

1 (a) A person in any county of this state may not hunt,
2 capture, or kill any bear, or have in his or her possession
3 any bear or bear parts, except during the hunting season
4 for bear and in the manner designated by rules promul-
5 gated by the Division of Natural Resources and as pro-
6 vided in this section. For the purposes of this section, bear
7 parts include, but are not limited to, the pelt, gallbladder,
8 skull and claws of bear.

9 (b) A person who kills a bear shall, within twenty-four
10 hours after the killing, deliver the bear or fresh skin to a
11 natural resources police officer or checking station for
12 tagging. A Division of Natural Resources tag shall be
13 affixed to it before any part of the bear may be trans-
14 ported more than seventy-five miles from the point of kill.
15 The Division of Natural Resources tag shall remain on the
16 skin until it is tanned or mounted. Any bear or bear parts
17 not properly tagged shall be forfeited to the state for
18 disposal to a charitable institution, school or as otherwise
19 designated by the Division of Natural Resources.

20 (c) It is unlawful:

21 (1) To hunt bear without a bear damage stamp as
22 prescribed in section forty-four-b of this article, in
23 addition to a hunting license as prescribed in this article;

24 (2) To hunt a bear with:

25 (A) A shotgun using ammunition loaded with more than
26 one solid ball;

27 (B) A rifle of less than twenty-five caliber using rimfire
28 ammunition; or,

29 (C) A crossbow;

30 (3) To kill or attempt to kill any bear through the use of
31 poison, explosives, snares, steel traps or deadfalls other
32 than as authorized in this section;

33 (4) To shoot at or kill:

34 (A) A bear weighing less than seventy-five pounds live
35 weight or fifty pounds field dressed weight, after removal
36 of all internal organs;

37 (B) Any bear accompanied by a cub; or,

38 (C) Any bear cub so accompanied, regardless of its
39 weight;

40 (5) To possess any part of a bear not tagged in accor-
41 dance with the provisions of this section;

42 (6) To enter a state game refuge with firearms for the
43 purpose of pursuing or killing a bear except under the
44 direct supervision of division personnel;

45 (7) To hunt bear with dogs or to cause dogs to chase bear
46 during seasons other than those designated by the Division
47 of Natural Resources for the hunting of bear;

48 (8) To pursue a bear with a pack of dogs other than the
49 pack used at the beginning of the hunt once the bear is
50 spotted and the chase has begun;

51 (9) To possess, harvest, sell or purchase bear parts
52 obtained from bear killed in violation of this section;

53 (10) To organize for commercial purposes or to profes-
54 sionally outfit a bear hunt or to give or receive any
55 consideration whatsoever or any donation in money, goods
56 or services in connection with a bear hunt notwithstanding
57 the provisions of sections twenty-three and twenty-four of
58 this article; or

59 (11) For any person who is not a resident of this state to
60 hunt bear with dogs or to use dogs in any fashion for the
61 purpose of hunting bear in this state except in legally
62 authorized hunts.

63 (d) The following provisions apply to bear destroying
64 property:

65 (1) (A) Any property owner or lessee who has suffered
66 damage to real or personal property, including loss
67 occasioned by the death or injury of livestock or the
68 unborn issue of livestock, caused by an act of a bear may
69 complain to any natural resources police officer of the
70 Division of Natural Resources for protection against the
71 bear.

72 (B) Upon receipt of the complaint, the officer shall
73 immediately investigate the circumstances of the com-
74 plaint. If the officer is unable to personally investigate the
75 complaint, he or she shall designate a wildlife biologist to
76 investigate on his or her behalf.

77 (C) If the complaint is found to be justified, the officer or
78 designated person may, together with the owner and other
79 residents, proceed to hunt, destroy or capture the bear that
80 caused the property damage: *Provided*, That only the

81 natural resources police officer or the wildlife biologist
82 may determine whether to destroy or capture the bear and
83 whether to use dogs to capture or destroy the bear: *Pro-*
84 *vided, however,* That, if out-of-state dogs are used in the
85 hunt, the owners of the dogs are the only nonresidents
86 permitted to participate in hunting the bear.

87 (2) (A) When a property owner has suffered damage to
88 real or personal property as the result of an act by a bear,
89 the owner shall file a report with the Director of the
90 Division of Natural Resources. The report shall state
91 whether or not the bear was hunted and destroyed and, if
92 so, the sex, weight and estimated age of the bear. The
93 report shall also include an appraisal of the property
94 damage occasioned by the bear duly signed by three
95 competent appraisers fixing the value of the property lost.

96 (B) The report shall be ruled upon and the alleged
97 damages examined by a commission comprised of the
98 complaining property owner, an officer of the division and
99 a person to be jointly selected by the officer and the
100 complaining property owner.

101 (C) The division shall establish the procedures to be
102 followed in presenting and deciding claims under this
103 section in accordance with article three, chapter
104 twenty-nine-a of this code.

105 (D) All claims shall be paid in the first instance from the
106 Bear Damage Fund provided in section forty-four-b of this
107 article. In the event the fund is insufficient to pay all
108 claims determined by the commission to be just and
109 proper, the remainder due to owners of lost or destroyed
110 property shall be paid from the special revenue account of
111 the Division of Natural Resources.

112 (3) In all cases where the act of the bear complained of
113 by the property owner is the killing of livestock, the value
114 to be established is the fair market value of the livestock

115 at the date of death. In cases where the livestock killed is
116 pregnant, the total value is the sum of the values of the
117 mother and the unborn issue, with the value of the unborn
118 issue to be determined on the basis of the fair market
119 value of the issue had it been born.

120 (e) *Criminal penalties.* – (1) Any person who commits a
121 violation of the provisions of this section is guilty of a
122 misdemeanor and, upon conviction thereof, shall be fined
123 not less than \$1,000 nor more than \$5,000, which fine is
124 not subject to suspension by the court, confined in jail not
125 less than thirty nor more than one hundred days, or both
126 fined and confined. Further, the person’s hunting and
127 fishing licenses shall be suspended for two years.

128 (2) Any person who commits a second violation of the
129 provisions of this section is guilty of a misdemeanor and,
130 upon conviction thereof, shall be fined not less than \$2,000
131 nor more than \$7,500, which fine is not subject to suspen-
132 sion by the court, confined in jail not less than thirty days
133 nor more than one year, or both fined and confined. The
134 person’s hunting and fishing licenses shall be suspended
135 for life.

136 (3) Any person who commits a third or subsequent
137 violation of the provisions of this section is guilty of a
138 felony and, upon conviction thereof, shall be fined not less
139 than \$5,000 nor more than \$10,000, which fine is not
140 subject to suspension by the court, imprisoned in a correc-
141 tional facility not less than one year nor more than five
142 years, or both fined and imprisoned.

§20-2-56a. Bird dog training permit.

1 The director may issue a permit to train bird dogs on
2 wild birds or game birds, provided:

3 (1) The fee for the permit is \$10.

4 (2) The training shall be on private land containing a
5 minimum of five acres in a single tract. The permittee
6 must own the land, lease the land or have written permis-
7 sion of landowner for the training.

8 (3) The birds permitted to be used for the training of
9 dogs are quail and pigeons. The quail must be purchased
10 from a licensed commercial game farm. Pigeons may be
11 purchased from a licensed commercial game farm or
12 trapped within the state at any time as long as the person
13 conducting the trapping is legally licensed to do so and
14 also holds the appropriate permit. Each trap must be
15 identified by a waterproof tag attached to the trap that
16 bears the name, address and telephone number of the
17 trapper.

18 (4) The permittee must retain the receipt for two years of
19 all birds purchased from a commercial game farm licensee.

20 (5) The location where the birds are held and all records
21 pertaining to the purchase and dates of training may be
22 inspected by a natural resources police officer.

23 (6) No more than thirty birds may be held by the
24 permittee at any given time. All birds must have a
25 uniquely numbered leg band attached. The leg band must
26 remain with the birds until consumption or until the birds
27 are legally disposed.

28 (7) Birds held under this permit shall be housed and
29 cared for in accordance with the requirements of applica-
30 ble rules.

31 (8) The use of the birds held under this permit shall
32 include the release, recapture and/or the shooting of the
33 birds in conjunction with the training of bird dogs.

34 (9) The person holding birds in captivity under the
35 authority of this permit and the person training his or her
36 bird dog must possess a bird dog training permit.

37 (10) All other laws and rules governing hunting, trap-
38 ping, shooting and training apply.

39 (11) The director may propose rules for legislative
40 approval in accordance with article three, chapter
41 twenty-nine-a of this code, to further restrict bird dog
42 training.

43 (12) Any person violating any provision of this law is
44 subject to the penalties prescribed in section nine, article
45 seven, chapter twenty of this code.

**§20-2-57a. Negligent shooting, wounding or killing of another
person while hunting; duty to render aid; criminal
violations; suspension of hunting and fishing
license; criminal penalties; administrative penal-
ties.**

1 (a) It is unlawful for any person, while engaged in the act
2 of hunting, pursuing, taking or killing wild animals or
3 wild birds, to carelessly or negligently shoot, wound or kill
4 another person.

5 (b) Anyone who negligently shoots, wounds or injures
6 another person while hunting, not resulting in serious
7 bodily injury or death, is guilty of a misdemeanor and,
8 upon conviction thereof, shall be fined not more than
9 \$1,000 or confined in jail not more than six months, or
10 both fined and confined.

11 (c) Anyone who negligently shoots and injures another
12 person while hunting, resulting in serious bodily injury or
13 death, is guilty of a misdemeanor and, upon conviction
14 thereof, shall be fined not more than \$2,500 or confined in
15 jail for not more than one year, or both fined and confined.

16 (d) For purposes of this section, serious bodily injury
17 means bodily injury which creates a substantial risk of
18 death, which causes serious or prolonged disfigurement,

19 prolonged impairment of health or prolonged loss or
20 impairment of the function of any bodily organ.

21 (e) (1) Any person who, while hunting, discharges a
22 firearm or arrow and knows or has reason to know that
23 the discharge has caused bodily harm to another person
24 shall:

25 (A) Immediately investigate the extent of the person's
26 injuries; and

27 (B) Render immediate reasonable assistance to the
28 injured person.

29 (2) As used in this subsection, "reasonable assistance"
30 means aid appropriate to the circumstances, including by
31 not limited to obtaining or attempting to obtain assistance
32 from a natural resources police officer, law-enforcement
33 officer, 911 dispatchers, emergency medical providers and
34 medical personnel.

35 (f) Any person who fails to render aid and assistance to
36 an injured person as required by subsection (e), to an
37 injured party who has not sustained a serious bodily injury
38 is guilty of a misdemeanor and, upon conviction thereof,
39 shall be fined not more than \$2,500 and confined in jail for
40 not more than one year, or both fined and confined.

41 (g) Any person who fails to render aid as required by
42 subsection (e) to an injured party who has sustained a
43 serious bodily injury or dies as a result of their injuries is
44 guilty of a felony and, upon conviction thereof, shall be
45 fined not more than \$5,000 or imprisoned in a correctional
46 facility for not less than one year nor more than five years,
47 or both fined and imprisoned.

48 (h) Any person found guilty of committing a misde-
49 meanor under this section shall have their hunting and
50 fishing licenses suspended for a period of five years from

51 the date of conviction or the date of release from confine-
52 ment, whichever is later.

53 (i) Any person found guilty of committing a felony
54 offense under this section shall have their hunting and
55 fishing licenses suspended for a period of ten years from
56 the date of conviction or the date of release from incarcer-
57 ation, whichever is later.

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.

**PART I. LAW ENFORCEMENT,
PROCEDURES AND PENALTIES.**

**§20-7-1. Chief natural resources police officer; natural re-
sources police officers; special and emergency
natural resources police officers; subsistence
allowance; expenses.**

1 (a) The division's law-enforcement policies, practices
2 and programs are under the immediate supervision and
3 direction of the division law-enforcement officer selected
4 by the director and designated as chief natural resources
5 police officer as provided in section thirteen, article one of
6 this chapter.

7 (b) Under the supervision of the director, the chief
8 natural resources police officers shall organize, develop and
9 maintain law-enforcement practices, means and methods
10 geared, timed and adjustable to seasonal, emergency and
11 other needs and requirements of the division's comprehen-
12 sive natural resources program. All division personnel
13 detailed and assigned to law-enforcement duties and
14 services under this section shall be known and designated
15 as natural resources police officers and are under the
16 immediate supervision and direction of the chief natural
17 resources police officer. All natural resources police
18 officers shall be trained, equipped and conditioned for
19 duty and services wherever and whenever required by
20 division law-enforcement needs.

21 (c) The chief natural resources police officer, acting
22 under supervision of the director, is authorized to select
23 and appoint emergency natural resources police officers
24 for a limited period for effective enforcement of the
25 provisions of this chapter when considered necessary
26 because of emergency or other unusual circumstances.
27 The emergency natural resources police officers shall be
28 selected from qualified civil service personnel of the
29 division, except in emergency situations and circum-
30 stances when the director may designate officers, without
31 regard to civil service requirements and qualifications, to
32 meet law-enforcement needs. Emergency natural re-
33 sources police officers shall exercise all powers and duties
34 prescribed in section four of this article for full-time
35 salaried natural resources police officers except the
36 provisions of subdivision (8) of said section.

37 (d) The chief natural resources police officer, acting
38 under supervision of the director, is also authorized to
39 select and appoint as special natural resources police
40 officers any full-time civil service employee who is
41 assigned to, and has direct responsibility for management
42 of, an area owned, leased or under the control of the
43 division and who has satisfactorily completed a course of
44 training established and administered by the chief natural
45 resources police officer, when the action is considered
46 necessary because of law-enforcement needs. The powers
47 and duties of a special natural resources police officer,
48 appointed under this provision, is the same within his or
49 her assigned area as prescribed for full-time salaried
50 natural resources police officers. The jurisdiction of the
51 person appointed as a special natural resources police
52 officer, under this provision, shall be limited to the
53 division area or areas to which he or she is assigned and
54 directly manages.

55 (e) The chief natural resources police officer, acting
56 under supervision of the director, is also authorized to

57 appoint as special natural resources police officers any
58 full-time civil service forest fire control personnel who
59 have satisfactorily completed a course of training estab-
60 lished and administered by the chief natural resources
61 police officer. The jurisdiction of forest fire control
62 personnel appointed as special natural resources police
63 officers is limited to the enforcement of the provisions of
64 article three of this chapter.

65 (f) The chief natural resources police officer, with the
66 approval of the director, has the power and authority to
67 revoke any appointment of an emergency natural re-
68 sources police officer or of a special natural resources
69 police officer at any time.

70 (g) Natural resources police officers are subject to
71 seasonal or other assignment and detail to duty whenever
72 and wherever required by the functions, services and needs
73 of the division.

74 (h) The chief natural resources police officer shall
75 designate the area of primary residence of each natural
76 resources police officer, including himself or herself.
77 Since the area of business activity of the division is
78 actually anywhere within the territorial confines of the
79 State of West Virginia, actual expenses incurred shall be
80 paid whenever the duties are performed outside the area
81 of primary assignment and still within the state.

82 (i) Natural resources police officers shall receive, in
83 addition to their base pay salary, a minimum monthly
84 subsistence allowance for their required telephone service,
85 dry cleaning or required uniforms, and meal expenses
86 while performing their regular duties in their area of
87 primary assignment in the amount of \$130 each month.
88 This subsistence allowance does not apply to special or
89 emergency natural resources police officers appointed
90 under this section.

91 (j) After June 30, 2010, all those full time
92 law-enforcement officers employed by the Division of
93 Natural Resources as conservation officers shall be titled
94 and known as natural resources police officers. Wherever
95 used in this code the term "conservation officer," or its
96 plural, means "natural resources police officer," or its
97 plural, respectively.

98 (k) Notwithstanding any provision of this code to the
99 contrary, the provisions of subdivision six, subsection c,
100 section twelve, article twenty-one, chapter eleven of this
101 code are inapplicable to pensions of natural resources
102 police officers paid through the Public Employees Retirement
103 System.

**§20-7-1a. Natural resources police officer salary increase based
on length of service.**

1 (a) Effective July 1, 2002, each natural resources police
2 officer shall receive and be entitled to an increase in salary
3 based on length of service, including that heretofore and
4 hereafter served as a natural resources police officer as
5 follows: For five years of service with the division, a
6 natural resources police officer shall receive a salary
7 increase of \$600 per year payable during his or her next
8 three years of service and a like increase at three-year
9 intervals thereafter, with these increases to be cumulative.
10 A salary increase shall be based upon years of service as of
11 July 1 of each year and may not be recalculated until July
12 1 of the following year.

13 Conservation officers in service at the time the amend-
14 ment to this section becomes effective shall be given credit
15 for prior service and shall be paid salaries as the same
16 length of service will entitle them to receive under the
17 provisions hereof.

18 (b) This section does not apply to special or emergency
19 natural resources police officers appointed under the
20 authority of section one of this article.

§20-7-1b. Designation of certain federal law-enforcement officers as special natural resources police officers.

1 The Legislature finds that it is in the mutual interest of
2 the department and certain land management agencies of
3 the United States to cooperate in the enforcement of state
4 statutes and regulations within and adjacent to units of
5 the National Park System, National Forests and U.S.
6 Army Corps of Engineers projects located within the State
7 of West Virginia.

8 Accordingly, the director of the department of natural
9 resources may enter into a written agreement with a
10 federal agency providing for the appointment of employ-
11 ees of the federal agency as special natural resources
12 police officers and setting forth the terms and conditions
13 within which the federal employees may exercise the
14 powers and duties of special natural resources police
15 officers. The terms and conditions in the agreement shall
16 grant a special natural resources police officer appointed
17 pursuant to the agreement the same powers and duties as
18 prescribed for a full-time salaried natural resources police
19 officer of the department, but shall limit a special natural
20 resources police officer in the exercise of his or her powers
21 and duties to areas within the boundaries of the federal
22 units to which the officer is assigned in his or her federal
23 employment and to situations outside the boundaries of
24 the federal units where the exercise is for the mutual aid
25 of natural resources police officers as set forth in the
26 agreement.

27 Any federal employee whose duties involve the enforce-
28 ment of the criminal laws of the United States and who
29 possesses a valid law-enforcement certification issued by
30 a federal land management agency which certifies the
31 meeting of requirements at least equivalent to the
32 law-enforcement officer training requirements promul-

33 gated pursuant to article twenty-nine, chapter thirty of
 34 this code, may be certified under the provisions of said
 35 article twenty-nine and appointed as a special natural
 36 resources police officer under the provisions of this
 37 section. Any special natural resources police officer so
 38 appointed may not receive compensation or benefits from
 39 the state or any political subdivisions thereof for the
 40 performance of his or her duties as a special natural
 41 resources police officer.

§20-7-1c. Natural resources police officer, ranks, salary schedule, base pay, exceptions.

1 (a) Notwithstanding any provision of this code to the
 2 contrary, the ranks within the law-enforcement section of
 3 the Division of Natural Resources are colonel, lieutenant
 4 colonel, major, captain, lieutenant, sergeant, corporal,
 5 natural resources police officer first class, senior natural
 6 resources police officer, natural resources police officer
 7 and natural resources police officer-in-training. Each
 8 officer while in uniform shall wear the insignia of rank as
 9 provided by the chief natural resources police officer.

10 (b) Beginning on July 1, 2002, and continuing thereafter,
 11 natural resources police officers shall be paid the mini-
 12 mum annual salaries based on the following schedule:

13	ANNUAL SALARY SCHEDULE (BASE PAY)	
14	SUPERVISORY AND NONSUPERVISORY RANKS	
15	Natural Resources	
16	Police Officer In Training	
17	(first year until end of probation)	\$26,337
18	Natural Resources Police Officer	
19	(second year)	\$29,768
20	Natural Resources Police	
21	Officer (third year)	\$30,140
22	Senior Natural Resources	
23	Police Officer (fourth and fifth year)	\$30,440

24	Senior Natural Resources	
25	Police Officer First Class	
26	(after fifth year)	\$32,528
27	Senior Natural Resources	
28	Police Officer (after tenth year)	\$33,104
29	Senior Natural Resources	
30	Police Officer (after fifteenth year)	\$33,528
31	Corporal (after sixteenth year)	\$36,704
32	Sergeant	\$40,880
33	First Sergeant	\$42,968
34	Lieutenant	\$47,144
35	Captain	\$49,232
36	Major	\$51,320
37	Lieutenant Colonel	\$53,408
38	Colonel	

39 Natural resources police officers in service at the time
40 the amendment to this section becomes effective shall be
41 given credit for prior service and shall be paid salaries as
42 the same length of service will entitle them to receive
43 under the provisions of this section.

44 (c) This section does not apply to special or emergency
45 natural resources police officers appointed under the
46 authority of section one of this article.

47 (d) Nothing in this section prohibits other pay increases
48 as provided under section two, article five, chapter five of
49 this code: *Provided*, That any across-the-board pay
50 increase granted by the Legislature or the Governor will
51 be added to, and reflected in, the minimum salaries set
52 forth in this section; and that any merit increases granted
53 to an officer over and above the annual salary schedule
54 listed in subsection (b) of this section are retained by an
55 officer when he or she advances from one rank to another.

**§20-7-1d. Awarding service revolver upon retirement; disposal
of service weapon when replaced due to routine
wear; and furnishing uniform for burial.**

1 (a) Upon the retirement of any full-time salaried natural
2 resources police officer, the chief natural resources police
3 officer shall award to the retiring natural resources police
4 officer his or her service revolver, without charge, upon
5 determining:

6 (1) That the natural resources police officer is retiring
7 honorably with at least twenty-five years of recognized
8 law-enforcement service as determined by the chief
9 natural resources police officer; or

10 (2) That the natural resources police officer is retiring
11 with less than twenty-five years of service based upon a
12 determination that he or she is totally physically disabled
13 as a result of service with the division.

14 (b) Notwithstanding the provisions of subsection (a) of
15 this section, the chief natural resources police officer may
16 not award a service revolver to any natural resources
17 police officer who has been declared mentally incompetent
18 by a licensed physician or any court of law, or who, in the
19 opinion of the chief natural resources police officer,
20 constitutes a danger to any person or the community.

21 (c) The disposal of law-enforcement service weapons,
22 when replaced due to routine wear, does not fall under the
23 jurisdiction of the agency for surplus property, within the
24 Purchasing Division of the Department of Administration.
25 The chief natural resources police officer may offer these
26 surplus weapons for sale to any active or retired Division
27 of Natural Resources law-enforcement officer, at fair
28 market value, with the proceeds from any sales used to
29 offset the cost of the new weapons.

30 (d) Upon the death of any current or honorably retired
31 natural resources police officer, the chief natural resources
32 police officer shall, upon request of the deceased officer's
33 family, furnish a full uniform for burial of the deceased
34 officer.

§20-7-1e. Natural resources police officer performing duties for private persons; penalty; providing extraordinary law enforcement or security services by contract.

1 (a) Any natural resources police officer who hires
2 himself or herself to any person, firm or corporation to
3 guard private property, or who demands or receives from
4 any person, firm or corporation any money or other thing
5 of value as a consideration for the performance of, or the
6 failure to perform, his or her duties under the regulations
7 of the chief natural resources police officer and the
8 provisions of this section, is guilty of a misdemeanor and,
9 upon conviction thereof, shall be fined not less than \$25
10 nor more than \$200, or confined in jail for not more than
11 four months, or both fined and confined.

12 (b) Notwithstanding any other provision of this section
13 to the contrary, the chief natural resources police officer
14 may contract with the public, military or private entities
15 to provide extraordinary law enforcement or security
16 services by the Division of Natural Resources when it is
17 determined by the chief natural resources police officer to
18 be in the public interest. The chief natural resources
19 police officer may assign personnel, equipment or facili-
20 ties, and the division shall be reimbursed for the wages,
21 overtime wages, benefits and costs of providing the
22 contract services as negotiated between the parties. The
23 compensation paid to natural resources police officers by
24 virtue of contracts provided in this section shall be paid
25 from a special account and are excluded from any formu-
26 lation used to calculate an employee's benefits. All
27 requests for obtaining extraordinary law enforcement or
28 security services shall be made to the chief natural re-
29 sources police officer in writing and shall explain the
30 funding source and the authority for making the request.
31 No officer of the division is required to accept any assign-
32 ment made pursuant to this subsection. Every officer

33 assigned to duty hereunder shall be paid according to the
34 hours and overtime hours actually worked notwithstand-
35 ing that officer's status as exempt personnel under the
36 "Federal Labor Standards Act" or applicable state
37 statutes. Every contract entered into under this subsection
38 shall contain the provision that in the event of public
39 disaster or emergency where the reassignment to official
40 duty of the officer is required, neither the division nor any
41 of its officers or other personnel are liable for any damages
42 incurred as the result of the reassignment. Further, any
43 entity contracting with the Division of Natural Resources
44 under this section shall also agree as part of that contract
45 to hold harmless and indemnify the state, Division of
46 Natural Resources and its personnel from any liability
47 arising out of employment under that contract.

48 The director is authorized to propose legislative rules,
49 subject to approval by the Legislature, in accordance with
50 chapter twenty-nine-a of this code relating to the imple-
51 mentation of contracts entered into pursuant to this
52 subsection: *Provided*, That the rules expressly prohibit
53 private employment of officers in circumstances involving
54 labor disputes.

**§20-7-1f. Awarding service revolver to special natural re-
sources police officers upon retirement; furnish-
ing uniform for burial.**

1 (a) Upon the retirement of any special natural resources
2 police officer selected and appointed pursuant to section
3 one of this article, the chief of the officer's section shall
4 award to the retiring special natural resources police
5 officer his or her service revolver, without charge, upon
6 determining:

7 (1) That the special natural resources police officer is
8 retiring honorably with at least twenty-five years of
9 recognized special law-enforcement service as determined
10 by the chief natural resources police officer; or

11 (2) That the special natural resources police officer is
12 retiring with less than twenty-five years of service based
13 upon a determination that he or she is totally physically
14 disabled as a result of service with the division.

15 (b) Notwithstanding the provisions of subsection (a) of
16 this section, the section chief may not award a service
17 revolver to any special natural resources police officer who
18 has been declared mentally incompetent by a licensed
19 physician or any court of law, or who, in the opinion of the
20 chief natural resources police officer constitutes a danger
21 to any person or the community.

22 (c) Upon the death of any current or honorably retired
23 special natural resources police officer, the respective
24 chief shall, upon request of the deceased officer's family,
25 furnish a full uniform for burial of the deceased officer.

**§20-7-2. Qualifications of natural resources police officers;
right of retired officer to receive complete stan-
dard uniform; right of retired officer to acquire
uniform; and right of retired officer to acquire
badge.**

1 In addition to civil service qualifications and require-
2 ments, persons selected as natural resources police officers
3 shall have reached their eighteenth birthday at the time of
4 appointment, be in good physical condition and of good
5 moral character, temperate in habits and may not have
6 been convicted of a felony. Whenever possible and
7 practicable, preference in selection of natural resources
8 police officers shall be given honorably discharged United
9 States Military personnel. Each natural resources police
10 officer, before entering upon the discharge of his or her
11 duties, shall take and subscribe to the oath of office
12 prescribed in article IV, section 5 of the Constitution of
13 West Virginia, which executed oath shall be filed with the
14 director.

15 The director shall prescribe the kind, style and material
16 of uniforms to be worn by natural resources police offi-
17 cers. Uniforms and other equipment furnished to the
18 natural resources police officers are and remain the
19 property of the state, except as hereinafter provided in this
20 section.

21 A natural resources police officer, upon honorable
22 retirement, is authorized to maintain at his or her own cost
23 a complete standard uniform from the law-enforcement
24 agency of which he or she was a member, and shall be
25 issued an identification card indicating his or her honor-
26 able retirement from the law-enforcement agency. The
27 uniform may be worn by the officer in retirement only on
28 the following occasions: Police Officer's Memorial Day,
29 Law Enforcement Appreciation Day, at the funeral of a
30 law-enforcement officer or during any other police
31 ceremony. The honorably retired officer is authorized to
32 acquire a badge of the law-enforcement agency from
33 which he or she is retired with the word "retired" placed
34 on it.

§20-7-3. Powers and duties of other law officers.

1 The sheriffs and constables of the several counties of the
2 state, police officers of any city and members of the State
3 Police are vested, within their respective jurisdictions,
4 with all of the powers and authority of natural resources
5 police officers without requirement of any additional oath
6 or bond. Immediately upon making any arrest or execut-
7 ing any process under provisions of this chapter, each
8 officer shall report thereon to the director.

§20-7-4. Powers and duties of natural resources police officers.

1 (a) Natural resources police officers and other persons
2 authorized to enforce the provisions of this chapter are
3 under the supervision and direction of the director in the
4 performance of their duties.

5 (b) Natural resources police officers have statewide
6 jurisdiction and have authority to:

7 (1) Arrest on sight, without warrant or other court
8 process, any person or persons committing a criminal
9 offense in violation of the laws of this state, in the pres-
10 ence of the officer, but no arrest may be made where any
11 form of administrative procedure is prescribed by this
12 chapter for the enforcement of the provisions of this
13 chapter;

14 (2) Carry arms and weapons as may be prescribed by the
15 director in the course and performance of their duties, but
16 no license or other authorization is required for this
17 privilege;

18 (3) Search and examine, in the manner provided by law,
19 any boat, vehicle, automobile, conveyance, express or
20 railroad car, fish box, fish bucket or creel, game bag or
21 game coat or other place in which hunting and fishing
22 paraphernalia, wild animals, wild birds, fish, amphibians
23 or other forms of aquatic life could be concealed, packed
24 or conveyed whenever they have reason to believe that
25 they would thereby secure or discover evidence of the
26 violation of the provisions of this chapter;

27 (4) Execute and serve a search warrant, notice or other
28 process of law issued under the authority of this chapter
29 or other law relating to wildlife, forests, and all other
30 natural resources, by a magistrate or court having juris-
31 diction in the same manner, with the same authority and
32 with the same legal effect as a sheriff;

33 (5) Require the operator of any motor vehicle or other
34 conveyance on or about the public highways or roadways,
35 or in or near the fields and streams of this state, to stop for
36 the purpose of allowing the natural resources police
37 officers to conduct game-kill surveys;

38 (6) Summon aid in making arrests or seizures or in
39 executing warrants, notices or processes, in the same
40 manner as sheriffs;

41 (7) Enter private lands or waters within the state while
42 engaged in the performance of their official duties;

43 (8) Arrest on sight, without warrant or other court
44 process, subject to the limitations set forth in subdivision
45 (1) of this section, any person or persons committing a
46 criminal offense in violation of any law of this state in the
47 presence of the officer on any state-owned lands and
48 waters and lands and waters under lease by the Division
49 of Natural Resources and all national forest lands, waters
50 and parks and U.S. Corps of Army Engineers' properties
51 within the boundaries of the State of West Virginia and, in
52 addition to the authority conferred in other subdivisions
53 of this section, execute all arrest warrants on these state
54 and national lands, waters and parks and U.S. Corps of
55 Army Engineers' properties, consistent with the provisions
56 of article one, chapter sixty-two of this code;

57 (9) Arrest any person who enters upon the land or
58 premises of another without written permission from the
59 owner of the land or premises in order to cut, damage or
60 carry away, or cause to be cut, damaged or carried away,
61 any timber, trees, logs, posts, fruit, nuts, growing plants or
62 products of any growing plant. Any person convicted of
63 cutting, damaging or carrying away or causing to be cut,
64 damaged or carried away any timber, trees, logs, posts,
65 fruits, nuts, growing plants or products of growing plants
66 is liable to the owner in the amount of three times the
67 value of the timber, trees, logs, posts, fruit, nuts, growing
68 plants or products of any growing plant, in addition to and
69 notwithstanding any other penalties by law provided by
70 section thirteen, article three, chapter sixty-one of this
71 code;

72 (10) Make a complaint in writing before any court or
73 officer having jurisdiction, and procure and execute the
74 warrant, when the officer knows or has reason to believe
75 that a person has violated a law of this state. The actions
76 of the natural resources police officer have the same force
77 and effect as if made by a sheriff;

78 (11) Serve and execute warrants for the arrest of any
79 person and warrants for the search of any premises,
80 buildings, properties or conveyances issued by a properly
81 constituted authority in the same manner, with the same
82 authority, and with the same legal effect, as a sheriff; and

83 (12) Do all things necessary to carry into effect the
84 provisions of this chapter.

§20-7-12b. Boating safety education certificate.

1 (a) Except as otherwise provided in subsection (c) of this
2 section, beginning on January 1, 2001, no person born on
3 or after December 31, 1986, may operate a motorboat or
4 personal watercraft on any waters of this state without
5 first having obtained a certificate of boating safety
6 education from this or any other state, which certificate
7 was obtained by satisfactorily completing a course of
8 instruction in boating safety education administered by
9 the United States coast guard auxiliary; the United States
10 power squadron; the West Virginia Division of Natural
11 Resources; any person certified to teach the course admin-
12 istered by West Virginia natural resources boating safety
13 education section personnel; or any person authorized to
14 teach the course prescribed by the national association of
15 state boating law administrators in this or any other state.

16 (b) Any person who is subject to subdivision (a) of this
17 section shall possess the certificate of boating safety
18 education when operating a motorboat or personal
19 watercraft on the waters of this state and shall show the
20 certificate on demand of any West Virginia natural

21 resources police officers or other law-enforcement officer
22 authorized to enforce the provisions of this chapter.

23 (c) The following persons are exempt from the require-
24 ments of subsection (a) of this section:

25 (1) A person who is a nonresident of this state and who
26 is visiting the state for sixty days or less in a motorboat or
27 personal watercraft from another state if that person:

28 (A) Is fifteen years of age or older; and

29 (B) Has been issued a boating safety education certifi-
30 cate by his or her state of residence in accordance with the
31 criteria recommended by the national association of state
32 boating law administration.

33 (2) A person who is visiting the state for ninety days or
34 less in a motorboat or personal watercraft from a country
35 other than the United States;

36 (3) A person who is operating a motorboat or personal
37 watercraft in connection with commercial purposes; and

38 (4) A person who is operating a motorboat or personal
39 watercraft which was purchased by the person within the
40 previous forty-five-day period and who has not been
41 previously charged with a violation of any provision of
42 this chapter involving the use or registration of a motor-
43 boat or personal watercraft.

44 (d) The division shall issue a certificate of boating safety
45 education to a person who:

46 (1) Passes any course prescribed in subsection (a) of this
47 section; or

48 (2) Passes a boating safety equivalency examination
49 administered by persons authorized to administer a
50 boating safety education course as outlined in subsection
51 (a) of this section. Upon request, the division shall pro-

52 vide, without charge, boating safety education materials
53 to persons who plan to take the boating safety equivalency
54 examination.

55 (e) No person who owns a motorboat or personal
56 watercraft or who has charge over a motorboat or personal
57 watercraft may authorize or knowingly permit it to be
58 operated in violation of subsection (a) of this section.

59 (f) The provisions of subsection (a) of this section may
60 only be enforced as a secondary action when the officer
61 detains an operator of a motorboat or personal watercraft
62 upon probable cause of a violation of another provision of
63 this code or rules adopted in accordance with the code. A
64 person may not be taken immediately to a court or deten-
65 tion facility solely for a violation of subsection (a) of this
66 section.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRON- MENTAL ACTION PLAN.

§22-15A-19. Recycling assessment fee; regulated motor carri- ers; dedication of proceeds; criminal penalties.

1 (a) *Imposition.* – A recycling assessment fee is hereby
2 levied and imposed upon the disposal of solid waste at all
3 solid waste disposal facilities in this state, to be collected
4 at the rate of \$2 per ton or part of a ton of solid waste.
5 The fee imposed by this section is in addition to all other
6 fees levied by law.

7 (b) *Collection, return, payment and records.* – The
8 person disposing of solid waste at the solid waste disposal
9 facility shall pay the fee imposed by this section, whether
10 or not that person owns the solid waste, and the fee shall
11 be collected by the operator of the solid waste facility who
12 shall remit it to the Tax Commissioner:

13 (1) The fee imposed by this section accrues at the time
14 the solid waste is delivered to the solid waste disposal
15 facility;

16 (2) The operator shall remit the fee imposed by this
17 section to the Tax Commissioner on or before the fifteenth
18 day of the month next succeeding the month in which the
19 fee accrued. Upon remittance of the fee, the operator shall
20 file returns on forms and in the manner as prescribed by
21 the Tax Commissioner;

22 (3) The operator shall account to the state for all fees
23 collected under this section and shall hold them in trust
24 for the state until they are remitted to the Tax Commis-
25 sioner;

26 (4) If any operator fails to collect the fee imposed by this
27 section, he or she is personally liable for the amount that
28 he or she failed to collect, plus applicable additions to tax,
29 penalties and interest imposed by article ten, chapter
30 eleven of this code;

31 (5) Whenever any operator fails to collect, truthfully
32 account for, remit the fee or file returns with the fee as
33 required in this section, the Tax Commissioner may serve
34 written notice requiring the operator to collect the fees
35 which become collectible after service of the notice, to
36 deposit the fees in a bank approved by the Tax Commis-
37 sioner, in a separate account, in trust for and payable to
38 the Tax Commissioner, and to keep the amount of the fees
39 in the account until remitted to the Tax Commissioner.
40 The notice remains in effect until a notice of cancellation
41 is served on the operator or owner by the Tax Commis-
42 sioner;

43 (6) Whenever the owner of a solid waste disposal facility
44 leases the solid waste facility to an operator, the operator
45 is primarily liable for collection and remittance of the fee
46 imposed by this section and the owner is secondarily liable

47 for remittance of the fee imposed by this section. How-
48 ever, if the operator fails, in whole or in part, to discharge
49 his or her obligations under this section, the owner and the
50 operator of the solid waste facility are jointly and sever-
51 ally responsible and liable for compliance with the provi-
52 sions of this section;

53 (7) If the operator or owner responsible for collecting the
54 fee imposed by this section is an association or corpora-
55 tion, the officers of the association or corporation are
56 liable, jointly and severally, for any default on the part of
57 the association or corporation, and payment of the fee and
58 any additions to tax, penalties and interest imposed by
59 article ten, chapter eleven of this code may be enforced
60 against them and against the association or corporation
61 which they represent; and

62 (8) Each person disposing of solid waste at a solid waste
63 disposal facility and each person required to collect the fee
64 imposed by this section shall keep complete and accurate
65 records in the form required by the Tax Commissioner in
66 accordance with the rules of the Tax Commissioner.

67 (c) *Regulated motor carriers.* – The fee imposed by this
68 section is a necessary and reasonable cost for motor
69 carriers of solid waste subject to the jurisdiction of the
70 Public Service Commission under chapter twenty-four-a
71 of this code. Notwithstanding any provision of law to the
72 contrary, upon the filing of a petition by an affected motor
73 carrier, the Public Service Commission shall, within
74 fourteen days, reflect the cost of the fee in the motor
75 carrier's rates for solid waste removal service. In calculat-
76 ing the amount of the fee to the motor carrier, the Com-
77 mission shall use the national average of pounds of waste
78 generated per person per day as determined by the United
79 States Environmental Protection Agency.

80 (d) *Definition.* – For purposes of this section, “solid
81 waste disposal facility” means any approved solid waste

82 facility or open dump in this state and includes a transfer
83 station when the solid waste collected at the transfer
84 station is not finally disposed of at a solid waste facility
85 within this state that collects the fee imposed by this
86 section.

87 Nothing in this section authorizes in any way the
88 creation or operation of or contribution to an open dump.

89 (e) *Exemptions.* – The following transactions are exempt
90 from the fee imposed by this section:

91 (1) Disposal of solid waste at a solid waste facility by the
92 person who owns, operates or leases the solid waste
93 disposal facility if it is used exclusively to dispose of waste
94 originally produced by that person in his or her regular
95 business or personal activities or by persons utilizing the
96 facility on a cost-sharing or nonprofit basis;

97 (2) Reuse or recycling of any solid waste; and

98 (3) Disposal of residential solid waste by an individual
99 not in the business of hauling or disposing of solid waste
100 on the days and times designated by the Secretary by rule
101 as exempt from the fee imposed pursuant to section eleven,
102 article fifteen, chapter twenty-two of this code.

103 (f) *Procedure and administration.* – Notwithstanding
104 section three, article ten, chapter eleven of this code, each
105 and every provision of the West Virginia Tax Procedure
106 and Administration Act set forth in article ten, chapter
107 eleven of this code applies to the fee imposed by this
108 section with like effect as if the act were applicable only
109 to the fee imposed by this section and were set forth in
110 extenso in this section.

111 (g) *Criminal penalties.* – Notwithstanding section two,
112 article nine, chapter eleven of this code, sections three
113 through seventeen, article nine, chapter eleven of this code
114 apply to the fee imposed by this section with like effect as

115 if the sections were the only fee imposed by this section
116 and were set forth in extenso in this section.

117 (h) *Dedication of proceeds.* – The proceeds of the fee
118 collected pursuant to this section shall be deposited by the
119 Tax Commissioner, at least monthly, in a special revenue
120 account designated as the Recycling Assistance Fund
121 which is hereby continued and transferred to the Depart-
122 ment of Environmental Protection. The secretary shall
123 allocate the proceeds of the fund as follows:

124 (1) Fifty percent of the total proceeds shall be provided
125 in grants to assist municipalities, counties and other
126 interested parties in the planning and implementation of
127 recycling programs, public education programs and
128 recycling market procurement efforts, established pursu-
129 ant to this article. The Secretary shall promulgate rules,
130 in accordance with chapter twenty-nine-a of this code,
131 containing application procedures, guidelines for eligibil-
132 ity, reporting requirements and other matters considered
133 appropriate: *Provided,* That persons responsible for
134 collecting, hauling or disposing of solid waste who do not
135 participate in the collection and payment of the solid
136 waste assessment fee imposed by this section in addition
137 to all other fees and taxes levied by law for solid waste
138 generated in this state which is destined for disposal, are
139 not eligible to receive grants under the provisions of this
140 article;

141 (2) Twelve and one-half percent of the total proceeds
142 shall be expended for personal services and benefit
143 expenses of full-time salaried natural resources police
144 officers;

145 (3) Twelve and one-half percent of the total proceeds
146 shall be directly allocated to the solid waste planning
147 fund;

148 (4) Twelve and one-half percent of the total proceeds
149 shall be transferred to the Solid Waste Reclamation and
150 Environmental Response Fund, established pursuant to
151 section eleven, article fifteen, chapter twenty-two of this
152 code, to be expended by the Department of Environmental
153 Protection to assist in the funding of the pollution preven-
154 tion and open dumps program (PPOD) which encourages
155 recycling, reuse, waste reduction and clean-up activities;
156 and

157 (5) Twelve and one-half percent of the total proceeds
158 shall be deposited in the Hazardous Waste Emergency
159 Response Fund established in article nineteen of this
160 chapter.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 2A. STATE AERONAUTICS COMMISSION.

§29-2A-11a. Implied consent to test; administration at direc- tion of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

1 Any person who operates an aircraft in this state is
2 considered to have given his or her consent by the opera-
3 tion thereof to a preliminary breath analysis and a second-
4 ary chemical test of either his or her blood, breath or urine
5 for the purposes of determining the alcoholic content of
6 his or her blood. A preliminary breath analysis may be
7 administered in accordance with the provisions of section
8 eleven-b of this article whenever a law-enforcement
9 officer has reasonable cause to believe a person to have
10 committed an offense prohibited by section eleven of this
11 article. A secondary test of blood, breath or urine shall be
12 incidental to a lawful arrest and shall be administered at
13 the direction of the arresting law-enforcement officer
14 having reasonable grounds to believe the person to have

15 committed an offense prohibited by said section. The
16 law-enforcement agency by which the law-enforcement
17 officer is employed shall designate which one of the
18 aforesaid secondary tests shall be administered: *Provided,*
19 That if the test so designated is a blood test and the person
20 so arrested refuses to submit to the blood test, then the
21 law-enforcement officer making the arrest shall designate
22 in lieu thereof either a breath or urine test to be adminis-
23 tered.

24 For the purpose of this article, the term
25 "law-enforcement officer" means and is limited to: (1) Any
26 member of the State Police; (2) any sheriff and any deputy
27 sheriff of any county; (3) any member of a police depart-
28 ment in any municipality as defined in section two, article
29 one, chapter eight of this code; and (4) any natural re-
30 sources police officer of the Division of Natural Resources.
31 If any municipality or the Division of Natural Resources
32 does not have available to its law-enforcement officers the
33 testing equipment or facilities necessary to conduct any
34 secondary test which a law-enforcement officer may
35 administer under this article, any member of the West
36 Virginia State Police, the sheriff of the county wherein the
37 arrest is made or any deputy of the sheriff or any municipi-
38 pal law-enforcement officer of another municipality
39 within the county wherein the arrest is made may, upon
40 the request of the arresting law-enforcement officer and in
41 his or her presence, conduct a secondary test and the
42 results of the test may be used in evidence to the same
43 extent and in the same manner as if the test had been
44 conducted by the arresting law-enforcement officer. Only
45 the person actually administering or conducting the test is
46 competent to testify as to the results and the veracity of
47 the test.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12. Powers and duties of State Fire Marshal.

1 (a) *Enforcement of laws.* – The State Fire Marshal and
2 any other person authorized to enforce the provisions of
3 this article under the supervision and direction of the
4 State Fire Marshal has the authority to enforce all laws of
5 the state having to do with:

6 (1) Prevention of fire;

7 (2) The storage, sale and use of any explosive, combusti-
8 ble or other dangerous article or articles in solid, flamma-
9 ble liquid or gas form;

10 (3) The installation and maintenance of equipment of all
11 sorts intended to extinguish, detect and control fires;

12 (4) The means and adequacy of exit, in case of fire, from
13 buildings and all other places in which persons work, live
14 or congregate, from time to time, for any purpose, except
15 buildings used wholly as dwelling houses for no more than
16 two families;

17 (5) The suppression of arson; and

18 (6) Any other thing necessary to carry into effect the
19 provisions of this article including, but not limited to,
20 confiscating any materials, chemicals, items, or personal
21 property owned, possessed or used in direct violation of
22 the State Fire Code.

23 (b) *Assistance upon request.* – Upon request, the State
24 Fire Marshal shall assist any chief of any recognized fire
25 company or department. Upon the request of any federal
26 law-enforcement officer, state police officer, natural
27 resources police officer or any county or municipal
28 law-enforcement officer, the State Fire Marshal, any
29 deputy state fire marshal or assistant state fire marshal
30 employed pursuant to section eleven of this article and any
31 person deputized pursuant to subsection (j) of this section
32 may assist in the lawful execution of the requesting
33 officer's official duties: *Provided*, That the State Fire

34 Marshal or other person authorized to act under this
35 subsection shall at all times work under the direct supervi-
36 sion of the requesting officer.

37 (c) *Enforcement of rules.* – The State Fire Marshal shall
38 enforce the rules promulgated by the State Fire Commis-
39 sion as authorized by this article.

40 (d) *Inspections generally.* – The State Fire Marshal shall
41 inspect all structures and facilities, other than one- and
42 two-family dwellinghouses, subject to the State Fire Code
43 and this article, including, but not limited to, state, county
44 and municipally owned institutions, all public and private
45 schools, health care facilities, theaters, churches and other
46 places of public assembly to determine whether the
47 structures or facilities are in compliance with the State
48 Fire Code.

49 (e) *Right of entry.* – The State Fire Marshal may, at all
50 reasonable hours, enter any building or premises, other
51 than dwelling houses, for the purpose of making an
52 inspection which he or she may consider necessary under
53 the provisions of this article. The State Fire Marshal and
54 any deputy state fire marshal or assistant state fire
55 marshal approved by the State Fire Marshal may enter
56 upon any property, or enter any building, structure or
57 premises, including dwelling houses during construction
58 and prior to occupancy, for the purpose of ascertaining
59 compliance with the conditions set forth in any permit or
60 license issued by the office of the State Fire Marshal
61 pursuant to subdivision (1), subsection (a), section
62 twelve-b of this article or of article three-b of this chapter.

63 (f) *Investigations.* – The State Fire Marshal may, at any
64 time, investigate as to the origin or circumstances of any
65 fire or explosion or attempt to cause fire or explosion
66 occurring in the state. The State Fire Marshal has the
67 authority at all times of the day or night, in performance
68 of the duties imposed by the provisions of this article, to

69 investigate where any fires or explosions or attempt to
70 cause fires or explosions may have occurred, or which at
71 the time may be burning. Notwithstanding the above
72 provisions of this subsection, prior to entering any build-
73 ing or premises for the purposes of the investigation, the
74 state Fire Marshal shall obtain a proper search warrant:
75 *Provided*, That a search warrant is not necessary where
76 there is permissive waiver or the State Fire Marshal is an
77 invitee of the individual having legal custody and control
78 of the property, building or premises to be searched.

79 (g) *Testimony.* – The State Fire Marshal, in making an
80 inspection or investigation when in his or her judgment
81 the proceedings are necessary, may take the statements or
82 testimony under oath of all persons who may be cognizant
83 of any facts or have any knowledge about the matter to be
84 examined and inquired into and may have the statements
85 or testimony reduced to writing; and shall transmit a copy
86 of the statements or testimony so taken to the prosecuting
87 attorney for the county wherein the fire or explosion or
88 attempt to cause a fire or explosion occurred. Notwith-
89 standing the above, no person may be compelled to testify
90 or give any statement under this subsection.

91 (h) *Arrests; warrants.* – The State Fire Marshal, any
92 full-time deputy fire marshal or any full-time assistant
93 fire marshal employed by the State Fire Marshal pursuant
94 to section eleven of this article is hereby authorized and
95 empowered and any person deputized pursuant to subsec-
96 tion (j) of this section may be authorized and empowered
97 by the State Fire Marshal:

98 (1) To arrest any person anywhere within the confines of
99 the State of West Virginia, or have him or her arrested, for
100 any violation of the arson-related offenses of article three,
101 chapter sixty-one of this code or of the explosives-related
102 offenses of article three-e of said chapter: *Provided*, That
103 any and all persons so arrested shall be forthwith brought
104 before the magistrate or circuit court.

105 (2) To make complaint in writing before any court or
106 officer having jurisdiction and obtain, serve and execute
107 an arrest warrant when knowing or having reason to
108 believe that anyone has committed an offense under any
109 provision of this article, of the arson-related offenses of
110 article three, chapter sixty-one of this code or of the
111 explosives-related offenses of article three-e of said
112 chapter. Proper return shall be made on all arrest war-
113 rants before the tribunal having jurisdiction over the
114 violation.

115 (3) To make complaint in writing before any court or
116 officer having jurisdiction and obtain, serve and execute
117 a warrant for the search of any premises that may possess
118 evidence or unlawful contraband relating to violations of
119 this article, of the arson-related offenses of article three,
120 chapter sixty-one of this code or of the explosives-related
121 offenses of article three-e of said chapter. Proper return
122 shall be made on all search warrants before the tribunal
123 having jurisdiction over the violation.

124 (i) *Witnesses and oaths.* – The State Fire Marshal is
125 empowered and authorized to issue subpoenas and sub-
126 poenas duces tecum to compel the attendance of persons
127 before him or her to testify in relation to any matter which
128 is, by the provision of this article, a subject of inquiry and
129 investigation by the state Fire Marshal and cause to be
130 produced before him or her such papers as he or she may
131 require in making the examination. The State Fire
132 Marshal is hereby authorized to administer oaths and
133 affirmations to persons appearing as witnesses before him
134 or her. False swearing in any matter or proceeding
135 aforesaid is considered perjury and is punishable as
136 perjury.

137 (j) *Deputizing members of fire departments in this state.*
138 – The State Fire Marshal may deputize a member of any
139 fire department, duly organized and operating in this
140 state, who is approved by the chief of his or her depart-

141 ment and who is properly qualified to act as his or her
142 assistant for the purpose of making inspections with the
143 consent of the property owner or the person in control of
144 the property and the investigations as may be directed by
145 the State Fire Marshal, and the carrying out of orders as
146 may be prescribed by him or her, to enforce and make
147 effective the provisions of this article and any and all rules
148 promulgated by the State Fire Commission under author-
149 ity of this article: *Provided*, That in the case of a volunteer
150 fire department, only the chief thereof or his or her single
151 designated assistant may be so deputized.

152 (k) *Written report of examinations.* – The State Fire
153 Marshal shall, at the request of the county commission of
154 any county or the municipal authorities of any incorpo-
155 rated municipality in this state, make to them a written
156 report of the examination made by him or her regarding
157 any fire happening within their respective jurisdictions.

158 (l) *Report of losses by insurance companies.* – It is the
159 duty of each fire insurance company or association doing
160 business in this state, within ten days after the adjustment
161 of any loss sustained by it that exceeds \$1,500, to report to
162 the State Fire Marshal information regarding the amount
163 of insurance, the value of the property insured and the
164 amount of claim as adjusted. This report is in addition to
165 any information required by the State Insurance Commis-
166 sioner. Upon the request of the owner or insurer of any
167 property destroyed or injured by fire or explosion, or in
168 which an attempt to cause a fire or explosion may have
169 occurred, the State Fire Marshal shall report in writing to
170 the owner or insurer the result of the examination regard-
171 ing the property.

172 (m) *Issuance of permits and licenses.* – the State Fire
173 Marshal is authorized to issue permits, documents and
174 licenses in accordance with the provisions of this article or
175 of article three-b of this chapter. The State Fire Marshal
176 may require any person who applies for a permit to use

177 explosives, other than an applicant for a license to be a
178 pyrotechnic operator under section twenty-four of this
179 article, to be fingerprinted and to authorize the State Fire
180 Marshal to conduct a criminal records check through the
181 criminal identification bureau of the West Virginia State
182 Police and a national criminal history check through the
183 Federal Bureau of Investigation. The results of any
184 criminal records or criminal history check shall be sent to
185 the State Fire Marshal.

186 (n) *Issuance of citations for fire and life safety violations.*
187 – the State Fire Marshal, any deputy fire marshal and any
188 assistant fire marshal employed pursuant to section eleven
189 of this article are hereby authorized, and any person
190 deputized pursuant to subsection (j) of this section may be
191 authorized by the State Fire Marshal to issue citations, in
192 his or her jurisdiction, for fire and life safety violations of
193 the State Fire Code and as provided for by the rules
194 promulgated by the State Fire Commission in accordance
195 with article three, chapter twenty-nine-a of this code:
196 *Provided*, That a summary report of all citations issued
197 pursuant to this section by persons deputized under
198 subsection (j) of this section shall be forwarded monthly to
199 the State Fire Marshal in the form and containing infor-
200 mation as he or she may by rule require, including the
201 violation for which the citation was issued, the date of
202 issuance, the name of the person issuing the citation and
203 the person to whom the citation was issued. The State
204 Fire Marshal may at any time revoke the authorization of
205 a person deputized pursuant to subsection (j) of this
206 section to issue citations, if in the opinion of the State Fire
207 Marshal, the exercise of authority by the person is inap-
208 propriate.

209 Violations for which citations may be issued include, but
210 are not limited to:

211 (1) Overcrowding places of public assembly;

212 (2) Locked or blocked exits in public areas;

213 (3) Failure to abate a fire hazard;

214 (4) Blocking of fire lanes or fire department connections;
215 and

216 (5) Tampering with, or rendering inoperable except
217 during necessary maintenance or repairs, on-premise
218 firefighting equipment, fire detection equipment and fire
219 alarm systems.

220 (o) *Required training; liability coverage.* – No person
221 deputized pursuant to subsection (j) of this section may be
222 authorized to issue a citation unless that person has
223 satisfactorily completed a law-enforcement officer train-
224 ing course designed specifically for fire marshals. The
225 course shall be approved by the Law-enforcement Train-
226 ing Subcommittee of the Governor’s Committee on
227 Criminal Justice and Highway Safety and the State Fire
228 Commission. In addition, no person deputized pursuant to
229 subsection (j) of this section may be authorized to issue a
230 citation until evidence of liability coverage of the person
231 has been provided, in the case of a paid municipal fire
232 department by the municipality wherein the fire depart-
233 ment is located, or in the case of a volunteer fire depart-
234 ment, by the county commission of the county wherein the
235 fire department is located or by the municipality served by
236 the volunteer fire department and that evidence of liabil-
237 ity coverage has been filed with the State Fire Marshal.

238 (p) *Penalties for violations.* – Any person who violates
239 any fire and life safety rule of the State Fire Code is guilty
240 of a misdemeanor and, upon conviction thereof, shall be
241 fined not less than \$100 nor more than \$1,000 or confined
242 in jail not more than ninety days, or both fined and
243 confined.

244 Each and every day during which any violation of the
245 provisions of this article continues after knowledge or
246 official notice that same is illegal is a separate offense.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

1 For the purposes of this article, unless a different
2 meaning clearly appears in the context:

3 “Approved law-enforcement training academy” means
4 any training facility which is approved and authorized to
5 conduct law-enforcement training as provided in this
6 article;

7 “Chief executive” means the Superintendent of the State
8 Police; the chief natural resources police officer of the
9 Division of Natural Resources; the sheriff of any West
10 Virginia county; any administrative deputy appointed by
11 the chief natural resources police officer of the Division of
12 Natural Resources; or the chief of any West Virginia
13 municipal law-enforcement agency;

14 “County” means the fifty-five major political subdivi-
15 sions of the state;

16 “Exempt rank” means any noncommissioned or commis-
17 sioned rank of sergeant or above;

18 “Governor’s Committee on Crime, Delinquency and
19 Correction” or “Governor’s committee” means the Gover-
20 nor’s Committee on Crime, Delinquency and Correction
21 established as a state planning agency pursuant to section
22 one, article nine, chapter fifteen of this code;

23 “Law-enforcement officer” means any duly authorized
24 member of a law-enforcement agency who is authorized to
25 maintain public peace and order, prevent and detect

26 crime, make arrests and enforce the laws of the state or
27 any county or municipality thereof, other than parking
28 ordinances, and includes those persons employed as
29 campus police officers at state institutions of higher
30 education in accordance with the provisions of section
31 five, article four, chapter eighteen-b of this code, and
32 persons employed by the Public Service Commission as
33 motor carrier inspectors and weight enforcement officers
34 charged with enforcing commercial motor vehicle safety
35 and weight restriction laws although those institutions
36 and agencies may not be considered law-enforcement
37 agencies. The term also includes those persons employed
38 as rangers by the Hatfield-McCoy Regional Recreation
39 Authority in accordance with the provisions of section six,
40 article fourteen, chapter twenty of this code, although the
41 authority may not be considered a law-enforcement
42 agency: *Provided*, That the subject rangers shall pay the
43 tuition and costs of training. As used in this article, the
44 term "law-enforcement officer" does not apply to the chief
45 executive of any West Virginia law-enforcement agency or
46 any watchman or special natural resources police officer;

47 "Law-enforcement official" means the duly appointed
48 chief administrator of a designated law-enforcement
49 agency or a duly authorized designee;

50 "Municipality" means any incorporated town or city
51 whose boundaries lie within the geographic boundaries of
52 the state;

53 "Subcommittee" or "law-enforcement training subcom-
54 mittee" means the subcommittee of the Governor's
55 Committee on Crime, Delinquency and Correction created
56 by section two of this article; and

57 "West Virginia law-enforcement agency" means any
58 duly authorized state, county or municipal organization
59 employing one or more persons whose responsibility is the

60 enforcement of laws of the state or any county or municipi-
61 pality thereof: *Provided*, That neither the Hatfield-McCoy
62 Regional Recreation Authority, the Public Service Com-
63 mission nor any state institution of higher education is a
64 law-enforcement agency.

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 8A. UNCLAIMED STOLEN PROPERTY HELD BY LAW-EN- FORCEMENT AGENCIES.

§36-8A-1. Definitions.

1 For purposes of this article, unless a different meaning
2 clearly appears in the context:

3 (a) “Chief executive” means the Superintendent of the
4 State Police; the chief natural resources police officer of
5 the Division of Natural Resources; the sheriff of any West
6 Virginia county; or the chief of any West Virginia municipi-
7 pal law-enforcement agency.

8 (b) “Item” means any item of unclaimed stolen property
9 or any group of similar items considered together for
10 purposes of reporting, donation, sale or destruction under
11 this article.

12 (c) “Law-enforcement agency” means any duly autho-
13 rized state, county or municipal organization of the State
14 of West Virginia employing one or more persons whose
15 responsibility is the enforcement of laws of the state or
16 any county or municipality thereof: *Provided*, That neither
17 the Hatfield-McCoy Regional Recreation Authority nor
18 any state institution of higher education is a
19 law-enforcement agency.

20 (d) “Nonprofit organization” means: (i) Any nonprofit
21 charitable organization; or (ii) any agency of the State of
22 West Virginia the purpose of which is to provide health,
23 recreational or educational services to citizens of the State
24 of West Virginia.

25 (e) "Stolen property" means any tangible personal
26 property, including cash and coins, which is confiscated by
27 or otherwise comes into the custody of a law-enforcement
28 agency during the course of a criminal investigation or the
29 performance of any other authorized law-enforcement
30 activity, whether or not the property was or can be proven
31 to have been stolen.

32 (f) "Treasurer" means the State Treasurer or his or her
33 authorized designee for purposes of the administration of
34 this article.

35 (g) "Unclaimed stolen property" is stolen property:

36 (1) Which has been held by a law-enforcement agency
37 for at least six months, during which time the rightful
38 owner has not claimed it;

39 (2) For which the chief executive determines that there
40 is no reasonable likelihood of its being returned to its
41 rightful owner; and

42 (3) Which the chief executive determines to have no
43 evidentiary value.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *3rd*
Day of *June*, 2010.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 21 2010

Time 3:25 pm