

Senate Bill No. 460

(By Senators Laird, Williams, D. Facemire and Fanning)

[Introduced February 8, 2011; referred to the Committee on
Natural Resources; and then to the Committee on Finance.]

A BILL to amend and reenact §15-10-3 of the Code of West Virginia,
1931, as amended; to amend said code by adding thereto a new
section, designated §19-1A-6; to amend and reenact §20-7-1 of
said code; and to amend and reenact §30-29-1 of said code, all
relating to establishing forestry officers and special
forestry officers; and providing the Director of the Division
of Forestry the power to establish law-enforcement practices
and procedures for the division.

Be it enacted by the Legislature of West Virginia:

That §15-10-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted; that said code be amended by adding
thereto a new section, designated §19-1A-6; that §20-7-1 of said
code be amended and reenacted; and that §30-29-1 of said code be
amended and reenacted, all to read as follows:

CHAPTER 15.

PUBLIC SAFETY.

1 **ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.**

2 **§15-10-3. Definitions.**

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

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

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

17 (3) "State or local law-enforcement officer" means any duly
18 authorized member of a law-enforcement agency who is authorized to
19 maintain public peace and order, prevent and detect crime, make
20 arrests and enforce the laws of the state or any county or
21 municipality thereof, other than parking ordinances, and includes
22 those persons employed as campus police officers at state
23 institutions of higher education in accordance with the provisions
24 of section five, article four, chapter eighteen-b of this code,
25 although those institutions may not be considered law-enforcement

1 agencies. The term also includes those persons employed as rangers
2 by the Hatfield-McCoy Regional Recreation Authority in accordance
3 with the provisions of section six, article fourteen, chapter
4 twenty of this code, although the authority is not a law-
5 enforcement agency. The term also includes persons employed as
6 forestry officers in accordance with the provisions of section six,
7 article one-a, chapter nineteen, although the Division of Forestry
8 is not a law-enforcement agency.

9 (4) "Head of campus police" means the superintendent or
10 administrative head of state or local law-enforcement officers
11 employed as campus police officers at state institutions of higher
12 education in accordance with the provisions of section five,
13 article four, chapter eighteen-b of this code.

14 (5) "Head of the rangers of the Hatfield-McCoy Regional
15 Recreation Authority" means the superintendent or administrative
16 head of state or local law-enforcement officers employed as rangers
17 by the Hatfield-McCoy Regional Recreation Authority in accordance
18 with the provisions of section six, article fourteen, chapter
19 twenty of this code.

20 **CHAPTER 19.**

21 **AGRICULTURE.**

22 **ARTICLE 1A. DIVISION OF FORESTRY.**

23 **19-1A-6. Director of Division of Forestry to establish Forestry**

24 **Officers.**

1 (a) The Director of the Division of Forestry has the power to
2 establish law-enforcement practices and procedures for the Division
3 of Forestry to address the law-enforcement requirements of the
4 division. Personnel assigned to the law-enforcement requirements
5 of the division are designated as "forestry officers. "Forestry
6 officers shall be trained, equipped, supervised and assigned duties
7 pursuant to the director or his or her designee.

8 (b) Forestry officers shall have jurisdiction while engaged in
9 the performance of their official duties to:

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

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

19 (3) Execute and serve a search warrant, notice or other
20 process of law issued under the authority of this chapter or other
21 laws by a magistrate or court having jurisdiction in the same
22 manner, with the same authority and with the same legal effect as
23 a sheriff;

24 (4) Summon aid in making arrests or seizures or in executing
25 warrants, notices or processes, in the same manner as sheriffs;

1 (5) Enter private lands or waters within the state;

2 (6) Arrest on sight, without warrant or other court process
3 any person committing a criminal offense in violation of any law of
4 this state in the presence of the officer on any state-owned lands
5 and waters and lands and waters under lease by the Division of
6 Forestry and all national forest lands, waters and parks and U.S.
7 Corps of Army Engineers' properties within the boundaries of the
8 State of West Virginia and, in addition to the authority conferred
9 in other subdivisions of this section, execute all arrest warrants
10 on these state and national lands, waters and parks and U.S. Corps
11 of Army Engineers' properties, consistent with the provisions of
12 article one, chapter sixty-two of this code;

13 (7) Arrest any person who enters upon the land or premises of
14 another without written permission from the owner of the land or
15 premises in order to cut, damage or carry away, or cause to be cut,
16 damaged or carried away, any timber, trees, logs, posts, fruit,
17 nuts, growing plants or products of any growing plant. Any person
18 convicted of cutting, damaging or carrying away or causing to be
19 cut, damaged or carried away any timber, trees, logs, posts,
20 fruits, nuts, growing plants or products of growing plants is
21 liable to the owner in the amount of three times the value of the
22 timber, trees, logs, posts, fruit, nuts, growing plants or products
23 of any growing plant, in addition to and notwithstanding any other
24 penalties by law provided by section thirteen, article three,
25 chapter sixty-one of this code;

1 (8) Make a complaint in writing before any court or officer
2 having jurisdiction, and procure and execute the warrant, when the
3 officer knows or has reason to believe that a person has violated
4 a law of this state. The actions of the forestry officer have the
5 same force and effect as if made by a sheriff;

6 (9) Serve and execute warrants for the arrest of any person
7 and warrants for the search of any premises, buildings, properties
8 or conveyances issued by a properly constituted authority in the
9 same manner, with the same authority, and with the same legal
10 effect, as a sheriff; and

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

13 (c) To appoint as special forestry officers any full-time
14 civil service forest fire control personnel who have satisfactorily
15 completed a course of training established and administered by the
16 director or his or her designee. The jurisdiction of forest fire
17 control personnel appointed as special forestry officers is limited
18 to the enforcement of the provisions of article three, chapter
19 twenty of this code and any other duties deemed necessary by the
20 director to enforce the provisions of articles one-A and one-B of
21 this chapter.

22 (d) To call upon the Attorney General, the prosecuting
23 attorneys of the several counties, the department of public safety
24 and all other law-enforcement officers of the state. He or she
25 shall have authority to compel compliance with and to prevent

1 violations and threatened violations of any provisions of this
2 chapter, lawful rules and regulations promulgated hereunder, and
3 cease and desist orders issued pursuant hereto. He or she may
4 invoke the processes of any court for coercive, remedial or
5 preventive relief by injunction, mandamus or other appropriate
6 proceedings.

7 **CHAPTER 20.**

8 **NATURAL RESOURCES.**

9 **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

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

11 **§20-7-1. Chief natural resources police officer; natural resources**
12 **police officers; special and emergency natural**
13 **resources police officers; subsistence allowance;**
14 **expenses.**

15 (a) The division's law-enforcement policies, practices and
16 programs are under the immediate supervision and direction of the
17 division law-enforcement officer selected by the director and
18 designated as chief natural resources police officer as provided in
19 section thirteen, article one of this chapter.

20 (b) Under the supervision of the director, the chief natural
21 resources police officer shall organize, develop and maintain law-
22 enforcement practices, means and methods geared, timed and
23 adjustable to seasonal, emergency and other needs and requirements
24 of the division's comprehensive natural resources program. All

1 division personnel detailed and assigned to law-enforcement duties
2 and services under this section shall be known and designated as
3 natural resources police officers and are under the immediate
4 supervision and direction of the chief natural resources police
5 officer. All natural resources police officers shall be trained,
6 equipped and conditioned for duty and services wherever and
7 whenever required by division law-enforcement needs.

8 (c) The chief natural resources police officer, acting under
9 supervision of the director, is authorized to select and appoint
10 emergency natural resources police officers for a limited period
11 for effective enforcement of the provisions of this chapter when
12 considered necessary because of emergency or other unusual
13 circumstances. The emergency natural resources police officers
14 shall be selected from qualified civil service personnel of the
15 division, except in emergency situations and circumstances when the
16 director may designate officers, without regard to civil service
17 requirements and qualifications, to meet law-enforcement needs.
18 Emergency natural resources police officers shall exercise all
19 powers and duties prescribed in section four of this article for
20 full-time salaried natural resources police officers except the
21 provisions of subdivision (8) of said section.

22 (d) The chief natural resources police officer, acting under
23 supervision of the director, is also authorized to select and
24 appoint as special natural resources police officers any full-time
25 civil service employee who is assigned to, and has direct

1 responsibility for management of, an area owned, leased or under
2 the control of the division and who has satisfactorily completed a
3 course of training established and administered by the chief
4 natural resources police officer, when the action is considered
5 necessary because of law-enforcement needs. The powers and duties
6 of a special natural resources police officer, appointed under this
7 provision, is the same within his or her assigned area as
8 prescribed for full-time salaried natural resources police
9 officers. The jurisdiction of the person appointed as a special
10 natural resources police officer, under this provision, shall be
11 limited to the division area or areas to which he or she is
12 assigned and directly manages.

13 ~~(e) The chief natural resources police officer, acting under~~
14 ~~supervision of the director, is also authorized to appoint as~~
15 ~~special natural resources police officers any full-time civil~~
16 ~~service forest fire control personnel who have satisfactorily~~
17 ~~completed a course of training established and administered by the~~
18 ~~chief natural resources police officer. The jurisdiction of forest~~
19 ~~fire control personnel appointed as special natural resources~~
20 ~~police officers is limited to the enforcement of the provisions of~~
21 ~~article three of this chapter.~~

22 (f) The chief natural resources police officer, with the
23 approval of the director, has the power and authority to revoke any
24 appointment of an emergency natural resources police officer or of
25 a special natural resources police officer at any time.

1 ~~(g)~~ (f) Natural resources police officers are subject to
2 seasonal or other assignment and detail to duty whenever and
3 wherever required by the functions, services and needs of the
4 division.

5 ~~(h)~~ (g) The chief natural resources police officer shall
6 designate the area of primary residence of each natural resources
7 police officer, including himself or herself. Since the area of
8 business activity of the division is actually anywhere within the
9 territorial confines of the State of West Virginia, actual expenses
10 incurred shall be paid whenever the duties are performed outside
11 the area of primary assignment and still within the state.

12 ~~(i)~~ (h) Natural resources police officers shall receive, in
13 addition to their base pay salary, a minimum monthly subsistence
14 allowance for their required telephone service, dry cleaning or
15 required uniforms, and meal expenses while performing their regular
16 duties in their area of primary assignment in the amount of \$130
17 each month. This subsistence allowance does not apply to special
18 or emergency natural resources police officers appointed under this
19 section.

20 ~~(j)~~ (i) After June 30, 2010, all those full time law-
21 enforcement officers employed by the Division of Natural Resources
22 as conservation officers shall be titled and known as natural
23 resources police officers. Wherever used in this code the term
24 "conservation officer," or its plural, means "natural resources
25 police officer," or its plural, respectively.

1 ~~(k)~~ (j) Notwithstanding any provision of this code to the
 2 contrary, the provisions of subdivision six, subsection c, section
 3 twelve, article twenty-one, chapter eleven of this code are
 4 inapplicable to pensions of natural resources police officers paid
 5 through the Public Employees Retirement System.

6 **CHAPTER 30.**

7 **PROFESSIONS AND OCCUPATIONS.**

8 **ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**

9 **§30-29-1. Definitions.**

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

12 "Approved law-enforcement training academy" means any training
 13 facility which is approved and authorized to conduct law-
 14 enforcement training as provided in this article;

15 "Chief executive" means the superintendent of the State
 16 Police; the chief natural resources police officer of the Division
 17 of Natural Resources; the sheriff of any West Virginia county; any
 18 administrative deputy appointed by the chief natural resources
 19 police officer of the Division of Natural Resources; or the chief
 20 of any West Virginia municipal law-enforcement agency;

21 "County" means the fifty-five major political subdivisions of
 22 the state;

23 "Exempt rank" means any noncommissioned or commissioned rank
 24 of sergeant or above;

1 "Governor's Committee on Crime, Delinquency and Correction" or
2 "Governor's committee" means the Governor's Committee on Crime,
3 Delinquency and Correction established as a state planning agency
4 pursuant to section one, article nine, chapter fifteen of this
5 code;

6 "Law-enforcement officer" means any duly authorized member of
7 a law-enforcement agency who is authorized to maintain public peace
8 and order, prevent and detect crime, make arrests and enforce the
9 laws of the state or any county or municipality thereof, other than
10 parking ordinances, and includes those persons employed as campus
11 police officers at state institutions of higher education in
12 accordance with the provisions of section five, article four,
13 chapter eighteen-b of this code, and persons employed by the Public
14 Service Commission as motor carrier inspectors and weight
15 enforcement officers charged with enforcing commercial motor
16 vehicle safety and weight restriction laws although those
17 institutions and agencies may not be considered law-enforcement
18 agencies. The term also includes those persons employed as rangers
19 by the Hatfield-McCoy Regional Recreation Authority in accordance
20 with the provisions of section six, article fourteen, chapter
21 twenty of this code, although the authority may not be considered
22 a law-enforcement agency: *Provided*, That the subject rangers shall
23 pay the tuition and costs of training. The term also includes
24 persons employed as forestry officers in accordance with the
25 provisions of section six, article one-a, chapter nineteen,

1 although the Division of Forestry is not a law-enforcement agency.
2 As used in this article, the term "law-enforcement officer" does
3 not apply to the chief executive of any West Virginia law-
4 enforcement agency or any watchman or special natural resources
5 police officer or special forestry officer;

6 "Law-enforcement official" means the duly appointed chief
7 administrator of a designated law-enforcement agency or a duly
8 authorized designee;

9 "Municipality" means any incorporated town or city whose
10 boundaries lie within the geographic boundaries of the state;

11 "Subcommittee" or "law-enforcement training subcommittee"
12 means the subcommittee of the Governor's Committee on Crime,
13 Delinquency and Correction created by section two of this article;
14 and

15 "West Virginia law-enforcement agency" means any duly
16 authorized state, county or municipal organization employing one or
17 more persons whose responsibility is the enforcement of laws of the
18 state or any county or municipality thereof: *Provided, That*
19 neither the Hatfield-McCoy Regional Recreation Authority, the
20 Public Service Commission nor any state institution of higher
21 education is a law-enforcement agency.

NOTE: The purpose of this bill is to authorize the Division of Forestry to establish law-enforcement practices and procedures to address the law-enforcement requirements of the division, and to designate certain personnel as "forestry officers."

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.

§19-1A-6 is new; therefore, strike-throughs and underscoring have been omitted.