

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **for**

4 **H. B. 2626**

5 (Delegates Poore, Marcum, Fleischauer, Frich, and Eldridge)

6 [Passed April 12, 2013; in effect from passage.]

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10 AN ACT to amend and reenact article 6, chapter 64 of the Code of
11 West Virginia, 1931, as amended, relating generally to the
12 promulgation of administrative rules by the Department of
13 Military Affairs and Public Safety and the procedures relating
14 thereto; legislative mandate or authorization for the
15 promulgation of certain legislative rules by various executive
16 or administrative agencies of the Department of Military
17 Affairs and Public Safety; authorizing certain of the agencies
18 to promulgate certain legislative rules in the form that the
19 rules were filed in the State Register; authorizing certain of
20 the agencies to promulgate certain legislative rules with
21 various modifications presented to and recommended by the
22 Legislative Rule-Making Review Committee; authorizing certain
23 of the agencies to promulgate certain legislative rules as
24 amended by the Legislature; authorizing certain of the
25 agencies to promulgate certain legislative rules with various

1 modifications presented to and recommended by the Legislative
2 Rule-Making Review Committee and as amended by the
3 Legislature; authorizing the Division of Protective Services
4 to promulgate a legislative rule relating to contracted police
5 or security services; authorizing the State Fire Commission to
6 promulgate a legislative rule relating to the state building
7 code; authorizing the State Fire Commission to promulgate a
8 legislative rule relating to volunteer firefighters' training,
9 equipment and operating standards; authorizing the Governor's
10 Committee on Crime, Delinquency and Correction to promulgate
11 a legislative rule relating to law enforcement training and
12 certification standards; authorizing the Governor's Committee
13 on Crime, Delinquency and Correction to promulgate a
14 legislative rule relating to the protocol for law enforcement
15 response to stalking; and authorizing the Governor's Committee
16 on Crime, Delinquency and Correction to promulgate a
17 legislative rule relating to the protocol for law enforcement
18 response to child abuse and neglect.

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

20 That article 6, chapter 64 of the Code of West Virginia, 1931,
21 as amended, be amended and reenacted to read as follows:

22 **ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND**
23 **PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.**

24 **§64-6-1. Division of Protective Services.**

1 The legislative rule filed in the State Register on the
2 thirty-first day of August, two thousand twelve, authorized under
3 the authority of section three, article two-d, chapter fifteen of
4 this code, modified by the Division of Protective Services to meet
5 the objections of the Legislative Rule-Making Review Committee and
6 refiled in the State Register on the seventeenth day of January,
7 two thousand thirteen, relating to the Division of Protective
8 Services (contracted police or security services, [99 CSR 5](#)), is
9 authorized.

10 **§64-6-2. State Fire Commission.**

11 (a) The legislative rule filed in the State Register on the
12 eighteenth day of July, two thousand twelve, authorized under the
13 authority of section five-b, article three, chapter twenty-nine, of
14 this code, modified by the State Fire Commission to meet the
15 objections of the Legislative Rule-Making Review Committee and
16 refiled in the State Register on the twenty-first day of December,
17 two thousand twelve, relating to the State Fire Commission (state
18 building code, [87 CSR 4](#)), is authorized with the following
19 amendment: New One and Two Family Dwellings over one level in
20 height, New One and Two Family Dwellings containing a basement, and
21 New One and Two Family Dwellings containing a crawl space
22 containing a fuel burning appliance below the first floor, shall
23 provide one of the following methods for fire protection of floors:
24 (1) A 1/2 inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16

1 mm) wood structural panel membrane, or equivalent on the underside
2 of the floor framing member; (2) Wood floor assemblies using
3 dimension lumber or structural composite lumber equal or greater
4 than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or
5 other approved floor assemblies demonstrating equivalent fire
6 performance; or (3) An Automatic Fire Sprinkler System as set
7 forth in section R313.2 of the 2009 edition of the International
8 Residential Code for One and Two Family Dwellings: *Provided*, That
9 floor assemblies located directly over a space protected by an
10 automatic sprinkler system as set forth in section R313.2 of the
11 2009 edition of the International Residential Code for One and Two
12 Family Dwellings are exempt from this requirement.

13 (b) The legislative rule filed in the State Register on the
14 thirty-first day of August, two thousand twelve, authorized under
15 the authority of section five-d, article three, chapter twenty-
16 nine, of this code, modified by the State Fire Commission to meet
17 the objections of the Legislative Rule-Making Review Committee and
18 refiled in the State Register on the twenty-first day of December,
19 two thousand twelve, relating to the State Fire Commission
20 (volunteer firefighters' training, equipment and operating
21 standards, [87 CSR 8](#)), is authorized, with the following amendments:

22 On page three, section three, by striking out subsection 3.7,
23 and inserting in lieu thereof, the following:

24 "3.7. The Fire Commission, at all times, shall have an

1 equivalency program to allow certification of fire officers in Fire
2 Officer 1 and Fire Officer 2. Any person may apply to this program
3 for certification in either Fire Officer 1, Fire Officer 2, or
4 both. This program shall evaluate a person's practical knowledge
5 and life experience within the fire service, and any previous
6 training that person may have completed. If the person has
7 demonstrated competency in the skills taught in these curricula,
8 then the application shall be granted.

9 3.8. All operators of fire department engines, tankers,
10 aerials, and rescue trucks must have a Firefighter I certification,
11 have a valid driver's license, and must have completed an approved
12 Emergency Vehicle Operations Course (EVOC), or equivalent, and pass
13 any and all testing required for certification: *Provided that,*
14 during maintenance or service of the vehicle, any person operating
15 a vehicle to perform his or her job, may operate that vehicle as
16 long as that person meets all other requirements to operate that
17 vehicle as set forth by statute.

18 Nothing in this rule shall prohibit specialized support
19 members or emergency medical response personnel from operating fire
20 department squads, ambulances and/or emergency medical response
21 vehicles, or prevent ancillary support members of fire departments
22 from operating utility vehicles." and renumbering the remainder of
23 the section;

24 On page eight, after subsection 6.9, by inserting a new

1 subsection, designated 6.10., to read as follows:

2 "6.10. All fire pumps and hoses, and aerial apparatus shall be
3 tested as least annually for compliance with NFPA 1901, 1911, 1961
4 and 1962. Records of these tests shall be maintained by the
5 department for a minimum of five (5) years and shall be produced by
6 the department upon request of the Fire Commission, Fire Marshal,
7 or governmental entity overseeing the Department."

8 On page eight, section six, subsection 6.11, by striking out
9 subsection 6.11. and the remainder of the section in its entirety
10 and by inserting in lieu thereof, the following:

11 "6.11. All apparatus and associated equipment shall have met
12 the standard for that particular apparatus or piece of equipment as
13 set forth in NFPA 1901 in the year that the apparatus and piece of
14 associated equipment was manufactured, and shall be fully operable.

15 6.12. At all times, at a minimum, the following items shall
16 be transported to the fire scene with the listed apparatus,
17 provided that these items shall only be required if the apparatus
18 is dispatched to an emergency scene:

19 6.12.1 Engine - as defined in NFPA 1901.

20 6.12.1.a. Current Motor Vehicle Inspection.

21 6.12.1.b. Current Emergency Vehicle Permit.

22 6.12.1.c. Fire Pump tested in accordance with
23 subsection 6.10.

24 6.12.1.d. 24 foot extension ladder.

- 1 6.12.1.e. 14 foot straight ladder.
- 2 6.12.1.f. 800 feet minimum of 2 ½ inch or larger
- 3 supply hose tested in accordance with subsection
- 4 6.10.
- 5 6.12.1.g. 400 feet minimum of 1 ½ to 2 inch attack
- 6 hose tested in accordance with subsection 6.10.
- 7 6.12.1.h. sufficient number of nozzles.
- 8 6.12.1.i. two (2) pike poles or equivalent.
- 9 6.12.1.j. 1 pickhead axe.
- 10 6.12.1.k. 1 flathead axe.
- 11 6.12.1.l. 2 hand lights.
- 12 6.12.1.m. 1 dry chemical extinguisher.
- 13 6.12.1.n. 1 first aid kit.
- 14 6.12.1.o. 2 wheel chocks.
- 15 6.12.1.p. 1 SCBA pack (meeting NFPA 1781 standard)
- 16 for each seat with one spare bottle for each pack.
- 17 6.12.1.q 1 traffic vest for each seat.
- 18 6.12.2. Tanker - as defined in NFPA 1901.
- 19 6.12.2.a. Current Motor Vehicle Inspection.
- 20 6.12.2.b. Current Emergency Vehicle Permit.
- 21 6.12.2.c. If the unit contains a Fire Pump it
- 22 shall be tested in accordance with subsection
- 23 6.10.
- 24 6.12.2.d. If the unit contains a Fire Pump 200

1 feet minimum of 2 ½ inch or larger supply hose
2 tested in accordance with subsection 6.10.

3 6.12.2.e. If the unit contains a Fire Pump 400
4 feet minimum of 1 ½ to 2 inch attack hose tested
5 in accordance with subsection 6.10.

6 6.12.2.f. If the unit contains a Fire Pump
7 sufficient number of nozzles.

8 6.12.2.g. 2 hand lights.

9 6.12.2.h. 1 dry chemical extinguisher.

10 6.12.2.i. 1 first aid kit.

11 6.12.2.j. 2 wheel chocks.

12 6.12.2.k. 1 SCBA pack (meeting NFPA 1781 standard)
13 for each seat with one spare bottle for each pack.

14 6.12.2.l. 1 traffic vest for each seat.

15 6.12.3. Aerial - as defined in NFPA 1901.

16 6.12.3.a. Current Motor Vehicle Inspection.

17 6.12.3.b. Current Emergency Vehicle Permit.

18 6.12.3.c. If the unit contains a Fire Pump it
19 shall be Fire Pump tested in accordance with
20 subsection 6.10.

21 6.12.3.d. Aerial unit tested in accordance with
22 subsection 6.10.

23 6.12.3.e. If the unit contains a Fire Pump 800
24 feet minimum of 2 ½ inch or larger supply hose

1 tested in accordance with subsection 6.10.

2 6.12.3.f. If the unit contains a Fire Pump 400
3 feet minimum of 1 ½ to 2 inch attack hose tested
4 in accordance with subsection 6.10.

5 6.12.3.g. If the unit contains a Fire Pump
6 sufficient number of nozzles.

7 6.12.3.h. 4 Ladder Belts.

8 6.12.3.i. 2 hand lights.

9 6.12.3.j. 1 dry chemical extinguisher.

10 6.12.3.k. 1 first aid kit.

11 6.12.3.l. 2 wheel chocks.

12 6.12.3.m. 1 SCBA pack (meeting NFPA 1781 standard)
13 for each seat with one spare bottle for each pack.

14 6.12.3.n. 1 traffic vest for each seat.

15 6.12.4. Quint - as defined in NFPA 1901.

16 6.12.4.a. Current Motor Vehicle Inspection.

17 6.12.4.b. Current Emergency Vehicle Permit.

18 6.12.4.c. Fire Pump tested in accordance with
19 subsection 6.10.

20 6.12.4.d. Aerial unit tested in accordance with
21 subsection 6.10.

22 6.12.4.e. 300 feet minimum of 2 ½ inch or larger
23 supply hose tested in accordance with subsection
24 6.10.

- 1 6.12.4.f. 400 feet minimum of 1 ½ to 2 inch attack
- 2 hose tested in accordance with subsection 6.10.
- 3 6.12.4.g. sufficient number of nozzles.
- 4 6.12.4.h. 4 Ladder Belts.
- 5 6.12.4.i. 2 hand lights.
- 6 6.12.4.j. 1 dry chemical extinguisher.
- 7 6.12.4.k. 1 first aid kit.
- 8 6.12.4.l. 2 wheel chocks.
- 9 6.12.4.m. 1 SCBA pack (meeting NFPA 1781 standard)
- 10 for each seat with one spare bottle for each pack.
- 11 6.12.4.n. 1 traffic vest for each seat.
- 12 6.12.5. Mini-Pumper - as defined in NFPA 1901.
- 13 6.12.5.a. Current Motor Vehicle Inspection.
- 14 6.12.5.b. Current Emergency Vehicle Permit.
- 15 6.12.5.c. Fire Pump tested in accordance with
- 16 subsection 6.10.
- 17 6.12.5.d. 300 feet minimum of 2 ½ inch or larger
- 18 supply hose tested in accordance with subsection
- 19 6.10.
- 20 6.12.5.e. 400 feet minimum of 1 ½ to 2 inch attack
- 21 hose tested in accordance with section 6.10.
- 22 6.12.5.f. sufficient number of nozzles.
- 23 6.12.5.g. 2 hand lights.
- 24 6.12.5.h. 1 dry chemical extinguisher.

1 6.12.5.i. 1 first aid kit.

2 6.12.5.j. 2 wheel chocks.

3 6.12.5.k. 1 SCBA pack (meeting NFPA 1781 standard)

4 for each seat with one spare bottle for each pack.

5 6.12.5.l. 1 traffic vest for each seat.

6 6.12.5 Service Truck - as defined in NFPA 1901.

7 6.12.5.a. Current Motor Vehicle Inspection.

8 6.12.5.b. Current Emergency Vehicle Permit.

9 6.12.5.c. 2 hand lights.

10 6.12.5.d. 1 dry chemical extinguisher.

11 6.12.5.e. 1 first aid kit.

12 6.12.5.f. 2 wheel chocks.

13 6.12.5.g. 1 SCBA pack (meeting NFPA 1781 standard)

14 for each seat with one spare bottle for each pack.

15 6.12.5.h. 1 traffic vest for each seat.

16 6.13. If an apparatus is not capable of transporting the

17 required equipment, as set forth in subsection 6.12, to an

18 emergency scene, a written plan must be kept on file, and be

19 capable of being produced upon demand to the Fire Commission, Fire

20 Marshal, or overseeing governmental agency, setting forth a

21 detailed procedure for transporting all necessary equipment as

22 detailed in subsection 6.12 to the emergency scene, which shall be

23 strictly adhered to. The plan not being able to be produced, or

24 the plan not being adhered to is a violation of this standard and

1 may result in revocation of the department's certification.

2 6.14. At all times, departments shall maintain workers
3 compensation coverage for all personnel.";

4 And,

5 On page nine, section 8, line three, after the words "Rules
6 §87-6-1 et seq" by inserting a colon and the following: "Provided,
7 That, except in situations of imminent danger to life or property,
8 upon application, the Commission shall grant a department a 180 day
9 period of correction, that may be extended upon good cause shown,
10 during which the Commission shall assist a department in correcting
11 deficiencies noted, facilitating training through West Virginia
12 University or the West Virginia Department of Education, and in
13 working with other involved parties, e.g. county commissions,
14 municipal governments or county fire boards."

15 **§64-6-3. Governor's Committee on Crime, Delinquency, and**
16 **Correction.**

17 (a) The legislative rule filed in the State Register on the
18 thirty-first day of August, two thousand twelve, authorized under
19 the authority of section three, article twenty-nine, chapter
20 thirty, of this code, relating to the Governor's Committee on
21 Crime, Delinquency and Correction (law enforcement training and
22 certification standards, [149 CSR 2](#)), is authorized with the
23 following amendment:

24 On page twenty-five, subsection 10.2., after the words

1 "minimum period of" by striking out "four (4)" and inserting in
2 lieu thereof "three (3)".

3 (b) The legislative rule filed in the State Register on the
4 sixteenth day of August, two thousand twelve, authorized under the
5 authority of section nine-a, article two, chapter sixty-one, of
6 this code, modified by the Governor's Committee on Crime,
7 Delinquency and Correction to meet the objections of the
8 Legislative Rule-Making Review Committee and refiled in the State
9 Register on the fifth day of December, two thousand twelve,
10 relating to the Governor's Committee on Crime, Delinquency and
11 Correction (protocol for law enforcement response to stalking, [149](#)
12 [CSR 7](#)), is authorized.

13 (c) The legislative rule filed in the State Register on the
14 sixteenth day of August, two thousand twelve, authorized under the
15 authority of section five, article nine, chapter fifteen, of this
16 code, modified by the Governor's Committee on Crime, Delinquency
17 and Correction to meet the objections of the Legislative Rule-
18 Making Review Committee and refiled in the State Register on the
19 fifth day of December, two thousand twelve, relating to the
20 Governor's Committee on Crime, Delinquency and Correction (protocol
21 for law enforcement response to child abuse and neglect, [149 CSR](#)
22 [8](#)), is authorized.