

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.]

7

8

9

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.