

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 2626**

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

5 (Originating in the Committee on the Judiciary)

6
7
8 [March 26, 2013]

9
10 A BILL 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.

19 (b) The legislative rule filed in the State Register on the
20 thirty-first day of August, two thousand twelve, authorized under
21 the authority of section five-d, article three, chapter twenty-
22 nine, of this code, modified by the State Fire Commission to meet
23 the objections of the Legislative Rule-Making Review Committee and
24 refiled in the State Register on the twenty-first day of December,

1 two thousand twelve, relating to the State Fire Commission
2 (volunteer firefighters' training, equipment and operating
3 standards, [87 CSR 8](#)), is authorized, with the following amendments:

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

6 "3.7. The Fire Commission, at all times, shall have an
7 equivalency program to allow certification of fire officers in Fire
8 Officer 1 and Fire Officer 2. Any person may apply to this program
9 for certification in either Fire Officer 1, Fire Officer 2, or
10 both. This program shall evaluate a person's practical knowledge
11 and life experience within the fire service, and any previous
12 training that person may have completed. If the person has
13 demonstrated competency in the skills taught in these curricula,
14 then the application shall be granted.

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

24 Nothing in this rule shall prohibit specialized support

1 members or emergency medical response personnel from operating fire
2 department squads, ambulances and/or emergency medical response
3 vehicles, or prevent ancillary support members of fire departments
4 from operating utility vehicles.” and renumbering the remainder of
5 the section;

6 On page eight, after subsection 6.9, by inserting a new
7 subsection, designated 6.10., to read as follows:

8 “6.10. All fire pumps and hoses, and aerial apparatus shall be
9 tested as least annually for compliance with NFPA 1901, 1911, 1961
10 and 1962. Records of these tests shall be maintained by the
11 department for a minimum of five (5) years and shall be produced by
12 the department upon request of the Fire Commission, Fire Marshal,
13 or governmental entity overseeing the Department.”

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

17 “6.11. All apparatus and associated equipment shall have met
18 the standard for that particular apparatus or piece of equipment as
19 set forth in NFPA 1901 in the year that the apparatus and piece of
20 associated equipment was manufactured, and shall be fully operable.

21 6.12. At all times, at a minimum, the following items shall
22 be transported to the fire scene with the listed apparatus,
23 provided that these items shall only be required if the apparatus
24 is dispatched to an emergency scene:

1 6.12.1 Engine - as defined in NFPA 1901.

2 6.12.1.a. Current Motor Vehicle Inspection.

3 6.12.1.b. Current Emergency Vehicle Permit.

4 6.12.1.c. Fire Pump tested in accordance with
5 subsection 6.10.

6 6.12.1.d. 24 foot extension ladder.

7 6.12.1.e. 14 foot straight ladder.

8 6.12.1.f. 800 feet minimum of 2 ½ inch or larger
9 supply hose tested in accordance with subsection
10 6.10.

11 6.12.1.g. 400 feet minimum of 1 ½ to 2 inch attack
12 hose tested in accordance with subsection 6.10.

13 6.12.1.h. sufficient number of nozzles.

14 6.12.1.i. two (2) pike poles or equivalent.

15 6.12.1.j. 1 pickhead axe.

16 6.12.1.k. 1 flathead axe.

17 6.12.1.l. 2 hand lights.

18 6.12.1.m. 1 dry chemical extinguisher.

19 6.12.1.n. 1 first aid kit.

20 6.12.1.o. 2 wheel chocks.

21 6.12.1.p. 1 SCBA pack (meeting NFPA 1781 standard)
22 for each seat with one spare bottle for each pack.

23 6.12.1.q 1 traffic vest for each seat.

24 6.12.2. Tanker - as defined in NFPA 1901.

1 6.12.2.a. Current Motor Vehicle Inspection.

2 6.12.2.b. Current Emergency Vehicle Permit.

3 6.12.2.c. If the unit contains a Fire Pump it
4 shall be tested in accordance with subsection
5 6.10.

6 6.12.2.d. If the unit contains a Fire Pump 200
7 feet minimum of 2 ½ inch or larger supply hose
8 tested in accordance with subsection 6.10.

9 6.12.2.e. If the unit contains a Fire Pump 400
10 feet minimum of 1 ½ to 2 inch attack hose tested
11 in accordance with subsection 6.10.

12 6.12.2.f. If the unit contains a Fire Pump
13 sufficient number of nozzles.

14 6.12.2.g. 2 hand lights.

15 6.12.2.h. 1 dry chemical extinguisher.

16 6.12.2.i. 1 first aid kit.

17 6.12.2.j. 2 wheel chocks.

18 6.12.2.k. 1 SCBA pack (meeting NFPA 1781 standard)
19 for each seat with one spare bottle for each pack.

20 6.12.2.l. 1 traffic vest for each seat.

21 6.12.3. Aerial - as defined in NFPA 1901.

22 6.12.3.a. Current Motor Vehicle Inspection.

23 6.12.3.b. Current Emergency Vehicle Permit.

24 6.12.3.c. If the unit contains a Fire Pump it

1 shall be Fire Pump tested in accordance with
2 subsection 6.10.

3 6.12.3.d. Aerial unit tested in accordance with
4 subsection 6.10.

5 6.12.3.e. If the unit contains a Fire Pump 800
6 feet minimum of 2 ½ inch or larger supply hose
7 tested in accordance with subsection 6.10.

8 6.12.3.f. If the unit contains a Fire Pump 400
9 feet minimum of 1 ½ to 2 inch attack hose tested
10 in accordance with subsection 6.10.

11 6.12.3.g. If the unit contains a Fire Pump
12 sufficient number of nozzles.

13 6.12.3.h. 4 Ladder Belts.

14 6.12.3.i. 2 hand lights.

15 6.12.3.j. 1 dry chemical extinguisher.

16 6.12.3.k. 1 first aid kit.

17 6.12.3.l. 2 wheel chocks.

18 6.12.3.m. 1 SCBA pack (meeting NFPA 1781 standard)
19 for each seat with one spare bottle for each pack.

20 6.12.3.n. 1 traffic vest for each seat.

21 6.12.4. Quint - as defined in NFPA 1901.

22 6.12.4.a. Current Motor Vehicle Inspection.

23 6.12.4.b. Current Emergency Vehicle Permit.

24 6.12.4.c. Fire Pump tested in accordance with

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

1 6.10.

2 6.12.5.e. 400 feet minimum of 1 ½ to 2 inch attack

3 hose tested in accordance with section 6.10.

4 6.12.5.f. sufficient number of nozzles.

5 6.12.5.g. 2 hand lights.

6 6.12.5.h. 1 dry chemical extinguisher.

7 6.12.5.i. 1 first aid kit.

8 6.12.5.j. 2 wheel chocks.

9 6.12.5.k. 1 SCBA pack (meeting NFPA 1781 standard)

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

11 6.12.5.l. 1 traffic vest for each seat.

12 6.12.5 Service Truck - 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. 2 hand lights.

16 6.12.5.d. 1 dry chemical extinguisher.

17 6.12.5.e. 1 first aid kit.

18 6.12.5.f. 2 wheel chocks.

19 6.12.5.g. 1 SCBA pack (meeting NFPA 1781 standard)

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

21 6.12.5.h. 1 traffic vest for each seat.

22 6.13. If an apparatus is not capable of transporting the

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

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

1 capable of being produced upon demand to the Fire Commission, Fire
2 Marshal, or overseeing governmental agency, setting forth a
3 detailed procedure for transporting all necessary equipment as
4 detailed in subsection 6.12 to the emergency scene, which shall be
5 strictly adhered to. The plan not being able to be produced, or
6 the plan not being adhered to is a violation of this standard and
7 may result in revocation of the department's certification.

8 6.14. At all times, departments shall maintain workers
9 compensation coverage for all personnel.";

10 And,

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

21 **§64-6-3. Governor's Committee on Crime, Delinquency, and**
22 **Correction.**

23 (a) The legislative rule filed in the State Register on the
24 thirty-first day of August, two thousand twelve, authorized under

1 the authority of section three, article twenty-nine, chapter
2 thirty, of this code, relating to the Governor's Committee on
3 Crime, Delinquency and Correction (law enforcement training and
4 certification standards, [149 CSR 2](#)), is authorized.

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

15 (c) The legislative rule filed in the State Register on the
16 sixteenth day of August, two thousand twelve, authorized under the
17 authority of section five, article nine, chapter fifteen, of this
18 code, modified by the Governor's Committee on Crime, Delinquency
19 and Correction to meet the objections of the Legislative Rule-
20 Making Review Committee and refiled in the State Register on the
21 fifth day of December, two thousand twelve, relating to the
22 Governor's Committee on Crime, Delinquency and Correction (protocol
23 for law enforcement response to child abuse and neglect, [149 CSR](#)
24 [8](#)), is authorized.

