

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2626

(By Delegate(s) Poore, Marcum, Fleischauer,
Frish and Eldridge)

Passed April 12, 2013

In effect from passage.

WEST VIRGINIA
SECRETARY OF STATE

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HB 2626

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E N R O L L E D

SECRETARY OF STATE

COMMITTEE SUBSTITUTE

for

H. B. 2626

(DELEGATE(S) POORE, MARCUM, FLEISCHAUER,
FRICH, AND ELDRIDGE)

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

AN ACT to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the Department of Military Affairs and Public Safety; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications

presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Protective Services to promulgate a legislative rule relating to contracted police or security services; authorizing the State Fire Commission to promulgate a legislative rule relating to the state building code; authorizing the State Fire Commission to promulgate a legislative rule relating to volunteer firefighters' training, equipment and operating standards; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law enforcement training and certification standards; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to the protocol for law enforcement response to stalking; and authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to the protocol for law enforcement response to child abuse and neglect.

Be it enacted by the Legislature of West Virginia:

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

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

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

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

§64-6-2. State Fire Commission.

1 (a) The legislative rule filed in the State Register on the
2 eighteenth day of July, two thousand twelve, authorized under
3 the authority of section five-b, article three, chapter twenty-nine,
4 of this code, modified by the State Fire Commission to meet the
5 objections of the Legislative Rule-Making Review Committee
6 and refiled in the State Register on the twenty-first day of
7 December, two thousand twelve, relating to the State Fire
8 Commission (state building code, 87 CSR 4), is authorized with
9 the following amendment:

10 New One and Two Family Dwellings over one level in
11 height, New One and Two Family Dwellings containing a
12 basement, and New One and Two Family Dwellings containing
13 a crawl space containing a fuel burning appliance below the first
14 floor, shall provide one of the following methods for fire
15 protection of floors: (1) A 1/2 inch (12.7 mm) gypsum wallboard
16 membrane, 5/8 inch (16 mm) wood structural panel membrane,
17 or equivalent on the underside of the floor framing member; (2)
18 Wood floor assemblies using dimension lumber or structural
19 composite lumber equal or greater than 2 inch by 10 inch (50.8
20 mm by 254 mm) nominal dimension, or other approved floor
21 assemblies demonstrating equivalent fire performance; or (3)
22 An Automatic Fire Sprinkler System as set forth in section
23 R313.2 of the 2009 edition of the International Residential Code
24 for One and Two Family Dwellings: *Provided*, That floor
25 assemblies located directly over a space protected by an
26 automatic sprinkler system as set forth in section R313.2 of the
27 2009 edition of the International Residential Code for One and
28 Two Family Dwellings are exempt from this requirement.;

29 (b) The legislative rule filed in the State Register on the
30 thirty-first day of August, two thousand twelve, authorized under
31 the authority of section five-d, article three, chapter twenty-nine,
32 of this code, modified by the State Fire Commission to meet the
33 objections of the Legislative Rule-Making Review Committee

34 and refiled in the State Register on the twenty-first day of
35 December, two thousand twelve, relating to the State Fire
36 Commission (volunteer firefighters' training, equipment and
37 operating standards, 87 CSR 8), is authorized, with the following
38 amendments:

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

41 "3.7. The Fire Commission, at all times, shall have an
42 equivalency program to allow certification of fire officers in Fire
43 Officer 1 and Fire Officer 2. Any person may apply to this
44 program for certification in either Fire Officer 1, Fire Officer 2,
45 or both. This program shall evaluate a person's practical
46 knowledge and life experience within the fire service, and any
47 previous training that person may have completed. If the person
48 has demonstrated competency in the skills taught in these
49 curricula, then the application shall be granted.

50 3.8. All operators of fire department engines, tankers,
51 aerials, and rescue trucks must have a Firefighter I certification,
52 have a valid driver's license, and must have completed an
53 approved Emergency Vehicle Operations Course (EVOC), or
54 equivalent, and pass any and all testing required for certification:
55 *Provided* that, during maintenance or service of the vehicle, any
56 person operating a vehicle to perform his or her job, may operate
57 that vehicle as long as that person meets all other requirements
58 to operate that vehicle as set forth by statute.

59 Nothing in this rule shall prohibit specialized support
60 members or emergency medical response personnel from
61 operating fire department squads, ambulances and/or emergency
62 medical response vehicles, or prevent ancillary support members
63 of fire departments from operating utility vehicles." and
64 renumbering the remainder of the section;

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

67 “6.10. All fire pumps and hoses, and aerial apparatus shall
68 be tested as least annually for compliance with NFPA 1901,
69 1911, 1961 and 1962. Records of these tests shall be maintained
70 by the department for a minimum of five (5) years and shall be
71 produced by the department upon request of the Fire
72 Commission, Fire Marshal, or governmental entity overseeing
73 the Department.”

74 On page eight, section six, subsection 6.11, by striking out
75 subsection 6.1 l. and the remainder of the section in its entirety
76 and by inserting in lieu thereof, the following:

77 “6.11. All apparatus and associated equipment shall have
78 met the standard for that particular apparatus or piece of
79 equipment as set forth in NFPA 1901 in the year that the
80 apparatus and piece of associated equipment was manufactured,
81 and shall be fully operable.

82 6.12. At all times, at a minimum, the following items shall
83 be transported to the fire scene with the listed apparatus,
84 provided that these items shall only be required if the apparatus
85 is dispatched to an emergency scene:

86 6.12.1 Engine - as defined in NFPA 1901.

87 6.12.1.a. Current Motor Vehicle Inspection.

88 6.12.1.b. Current Emergency Vehicle Permit.

89 6.12.1.c. Fire Pump tested in accordance with subsection
90 6.10.

91 6.12.1.d. 24 foot extension ladder.

92 6.12.1.e. 14 foot straight ladder.

93 6.12.1.f. 800 feet minimum of 2 ½ inch or larger supply hose
94 tested in accordance with subsection 6.10.

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- 95 6.12.1.g. 400 feet minimum of 1 ½ to 2 inch attack hose
96 tested in accordance with subsection 6.10.
- 97 6.12.1.h. sufficient number of nozzles.
- 98 6.12.1.i. two (2) pike poles or equivalent.
- 99 6.12.1.j. 1 pickhead axe.
- 100 6.12.1.k. 1 flathead axe.
- 101 6.12.1.l. 2 hand lights.
- 102 6.12.1.m. 1 dry chemical extinguisher.
- 103 6.12.1.n. 1 first aid kit.
- 104 6.12.1.o. 2 wheel chocks.
- 105 6.12.1.p. 1 SCBA pack (meeting NFPA 1781 standard) for
106 each seat with one spare bottle for each pack.
- 107 6.12.1.q 1 traffic vest for each seat.
- 108 6.12.2. Tanker - as defined in NFPA 1901.
- 109 6.12.2.a. Current Motor Vehicle Inspection.
- 110 6.12.2.b. Current Emergency Vehicle Permit.
- 111 6.12.2.c. If the unit contains a Fire Pump it shall be tested in
112 accordance with subsection 6.10.
- 113 6.12.2.d. If the unit contains a Fire Pump 200 feet minimum
114 of 2 ½ inch or larger supply hose tested in accordance with
115 subsection 6.10.
- 116 6.12.2.e. If the unit contains a Fire Pump 400 feet minimum
117 of 1 ½ to 2 inch attack hose tested in accordance with subsection
118 6.10.

119 6.12.2.f. If the unit contains a Fire Pump sufficient number
120 of nozzles.

121 6.12.2.g. 2 hand lights.

122 6.12.2.h. 1 dry chemical extinguisher.

123 6.12.2.i. 1 first aid kit.

124 6.12.2.j. 2 wheel chocks.

125 6.12.2.k. 1 SCBA pack (meeting NFPA 1781 standard) for
126 each seat with one spare bottle for each pack.

127 6.12.2.l. 1 traffic vest for each seat.

128 6.12.3. Aerial - as defined in NFPA 1901.

129 6.12.3.a. Current Motor Vehicle Inspection.

130 6.12.3.b. Current Emergency Vehicle Permit.

131 6.12.3.c. If the unit contains a Fire Pump it shall be Fire
132 Pump tested in accordance with subsection 6.10.

133 6.12.3.d. Aerial unit tested in accordance with subsection
134 6.10.

135 6.12.3.e. If the unit contains a Fire Pump 800 feet minimum
136 of 2 ½ inch or larger supply hose tested in accordance with
137 subsection 6.10.

138 6.12.3.f. If the unit contains a Fire Pump 400 feet minimum
139 of 1 ½ to 2 inch attack hose tested in accordance with subsection
140 6.10.

141 6.12.3.g. If the unit contains a Fire Pump sufficient number
142 of nozzles.

- 143 6.12.3.h. 4 Ladder Belts.
- 144 6.12.3.i. 2 hand lights.
- 145 6.12.3.j. 1 dry chemical extinguisher.
- 146 6.12.3.k. 1 first aid kit.
- 147 6.12.3.l. 2 wheel chocks.
- 148 6.12.3.m. 1 SCBA pack (meeting NFPA 1781 standard) for
149 each seat with one spare bottle for each pack.
- 150 6.12.3.n. 1 traffic vest for each seat.
- 151 6.12.4. Quint - as defined in NFPA 1901.
- 152 6.12.4.a. Current Motor Vehicle Inspection.
- 153 6.12.4.b. Current Emergency Vehicle Permit.
- 154 6.12.4.c. Fire Pump tested in accordance with subsection
155 6.10.
- 156 6.12.4.d. Aerial unit tested in accordance with subsection
157 6.10.
- 158 6.12.4.e. 300 feet minimum of 2 ½ inch or larger supply
159 hose tested in accordance with subsection 6.10.
- 160 6.12.4.f. 400 feet minimum of 1 ½ to 2 inch attack hose
161 tested in accordance with subsection 6.10.
- 162 6.12.4.g. sufficient number of nozzles.
- 163 6.12.4.h. 4 Ladder Belts.
- 164 6.12.4.i. 2 hand lights.
- 165 6.12.4.j. 1 dry chemical extinguisher.

- 166 6.12.4.k. 1 first aid kit.
- 167 6.12.4.l. 2 wheel chocks.
- 168 6.12.4.m. 1 SCBA pack (meeting NFPA 1781 standard) for
169 each seat with one spare bottle for each pack.
- 170 6.12.4.n. 1 traffic vest for each seat.
- 171 6.12.5. Mini-Pumper - as defined in NFPA 1901.
- 172 6.12.5.a. Current Motor Vehicle Inspection.
- 173 6.12.5.b. Current Emergency Vehicle Permit.
- 174 6.12.5.c. Fire Pump tested in accordance with subsection
175 6.10.
- 176 6.12.5.d. 300 feet minimum of 2 ½ inch or larger supply
177 hose tested in accordance with subsection 6.10.
- 178 6.12.5.e. 400 feet minimum of 1 ½ to 2 inch attack hose
179 tested in accordance with section 6.10.
- 180 6.12.5.f. sufficient number of nozzles.
- 181 6.12.5.g. 2 hand lights.
- 182 6.12.5.h. 1 dry chemical extinguisher.
- 183 6.12.5.i. 1 first aid kit.
- 184 6.12.5.j. 2 wheel chocks.
- 185 6.12.5.k. 1 SCBA pack (meeting NFPA 1781 standard) for
186 each seat with one spare bottle for each pack.
- 187 6.12.5.l. 1 traffic vest for each seat.
- 188 6.12.5 Service Truck - as defined in NFPA 1901.

189 6.12.5.a. Current Motor Vehicle Inspection.

190 6.12.5.b. Current Emergency Vehicle Permit.

191 6.12.5.c. 2 hand lights.

192 6.12.5.d. 1 dry chemical extinguisher.

193 6.12.5.e. 1 first aid kit.

194 6.12.5.f. 2 wheel chocks.

195 6.12.5.g. 1 SCBA pack (meeting NFPA 1781 standard) for
196 each seat with one spare bottle for each pack.

197 6.12.5.h. 1 traffic vest for each seat.

198 6.13. If an apparatus is not capable of transporting the
199 required equipment, as set forth in subsection 6.12, to an
200 emergency scene, a written plan must be kept on file, and be
201 capable of being produced upon demand to the Fire Commission,
202 Fire Marshal, or overseeing governmental agency, setting forth
203 a detailed procedure for transporting all necessary equipment as
204 detailed in subsection 6.12 to the emergency scene, which shall
205 be strictly adhered to. The plan not being able to be produced, or
206 the plan not being adhered to is a violation of this standard and
207 may result in revocation of the department's certification.

208 6.14. At all times, departments shall maintain workers
209 compensation coverage for all personnel.”;

210 And,

211 On page nine, section 8, line three, after the words “Rules
212 §87-6-1 et seq” by inserting a colon and the following:
213 “*Provided*, That, except in situations of imminent danger to life
214 or property, upon application, the Commission shall grant a
215 department a 180 day period of correction, that may be extended
216 upon good cause shown, during which the Commission shall

217 assist a department in correcting deficiencies noted, facilitating
218 training through West Virginia University or the West Virginia
219 Department of Education, and in working with other involved
220 parties, e.g. county commissions, municipal governments or
221 county fire boards.”.

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

1 (a) 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 twenty-nine, chapter thirty,
4 of this code, relating to the Governor’s Committee on Crime,
5 Delinquency and Correction (law enforcement training and
6 certification standards, 149 CSR 2), is authorized with the
7 following amendment:

8 On page twenty-five, subsection 10.2., after the words
9 “minimum period of” by striking out “four (4)” and inserting in
10 lieu thereof “three (3)”.

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

21 (c) The legislative rule filed in the State Register on the
22 sixteenth day of August, two thousand twelve, authorized under
23 the authority of section five, article nine, chapter fifteen, of this
24 code, modified by the Governor’s Committee on Crime,
25 Delinquency and Correction to meet the objections of the

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26 Legislative Rule-Making Review Committee and refiled in the
27 State Register on the fifth day of December, two thousand
28 twelve, relating to the Governor's Committee on Crime,
29 Delinquency and Correction (protocol for law enforcement
30 response to child abuse and neglect, 149 CSR 8), is authorized.

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

Sammy Wells

Chairman, House Committee

Rocky Ferguson
Member ~~Chairman~~, Senate Committee

Originating in the House.

In effect from passage.

Bruce M. Scaf

Clerk of the House of Delegates

Joseph M. Minard
Clerk of the Senate

Rocky Ferguson
Speaker of the House of Delegates

Joseph M. Minard
President of the Senate

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The within is approved this the 30th
day of April, 2013.

Carl Ray Tomblin
Governor

PRESENTED TO THE GOVERNOR

APR 25 2013

Time 11:40 am