

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



# ENROLLED

HOUSE BILL No. 78

(By Mr. Hubbard)



PASSED March 10 1953

In Effect Thirty Days from Passage



78

**ENROLLED**

**House Bill No. 78**

(By MR. HUBBARD)

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[Passed March 10, 1953; in effect ninety days from passage.]

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AN ACT to amend and reenact sections three and five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the powers and duties of the mayor and the powers and duties of the sergeant and policemen of a municipality.

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

That sections three and five, article four, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. *Powers and Duties of Mayor.*—The mayor  
2 shall be the chief executive officer of the town, when  
3 not otherwise provided by law, and shall take care that  
4 the orders, by-laws, ordinances, acts and resolutions of  
5 the council thereof are faithfully executed. He shall be  
6 ex officio a justice and conservator of the peace within

7 the town, and shall, within the same, have and exercise  
8 all of the powers, both civil and criminal, and per-  
9 form all duties vested by law in a justice of the  
10 peace, except that he shall have no jurisdiction in civil  
11 cases or causes of action arising out of the corporate  
12 limits of the town. He shall have the same power to issue  
13 attachments in civil suits as a justice of his county has,  
14 though the cause of action arose out of his town. But  
15 in such case he shall have no power to try the same  
16 but such attachments shall be returnable and be heard  
17 before some justice of his county. Upon complaint he  
18 shall have authority to issue a search warrant in con-  
19 nection with the violation of a municipal ordinance.  
20 Any search warrant, warrant of arrest or other process  
21 issued by him may be directed to the chief of  
22 police or any member of the police department  
23 of the town, and the same may be executed at any  
24 place within the county or counties in which the town  
25 is situated. He shall have control of the police of the  
26 town and may appoint special police officers whenever  
27 he deems it necessary, except when otherwise provided

28 by law; and it shall be his duty especially to see that  
29 the peace and good order of the town are preserved,  
30 and that persons and property therein are protected;  
31 and to this end he may cause the arrest and detention  
32 of all riotous and disorderly persons in the town before  
33 issuing his warrant therefor. He shall have power to  
34 issue executions for all fines, penalties and costs imposed  
35 by him, or he may require the immediate payment  
36 thereof, and, in default of such payment, he may commit  
37 the party in default to the jail of the county or counties  
38 in which such town is situated, or other place of imprison-  
39 ment in such corporation, if there be one, until the  
40 fine or penalty and costs shall be paid; but the term  
41 of imprisonment in such case shall not exceed thirty  
42 days. He shall, from time to time, recommend to the  
43 council such measures as he may deem needful for the  
44 welfare of the town. The expense of maintaining any  
45 person committed to the jail of the county by him,  
46 except it be to answer an indictment, or be under the  
47 provisions of sections eight and nine, article eighteen,  
48 chapter fifty in this code, shall be paid by the town

49 and taxed as part of the costs of the proceeding. But  
50 such mayor shall not receive any money belonging to  
51 the state or to individuals, unless he shall give bond and  
52 security required of a justice of the peace by article one,  
53 chapter fifty of this code; and all the provisions of said  
54 article one relating to moneys received by justices shall  
55 apply to like moneys received by such mayor.

Sec. 5. *Powers and Duties of Sergeant and Policemen;*

2 *Bond of Sergeant.*—In addition to the powers and duties  
3 prescribed in section two, article seven of this chapter,  
4 the sergeant, chief of police and any member of the  
5 police department of the town shall have all the powers,  
6 rights and privileges within the corporate limits of the  
7 town in regard to the arrest of persons, the collection  
8 of claims, and the execution and return of any search  
9 warrant, warrant of arrest or other process that can  
10 legally be exercised by a constable of a district within  
11 the same. In order to arrest for violation of municipal  
12 ordinances and as to all matters arising within the  
13 corporate limits and coming within the scope of his  
14 official duties, the powers of the sergeant or of any

15 policeman shall extend anywhere within the county or  
16 counties in which the municipality is situated. For an  
17 offense committed in his presence, such officer may  
18 arrest the offender without a warrant and take him  
19 before the mayor or other police court to be dealt with  
20 according to law. He and his sureties shall be liable to  
21 all the fines, penalties and forfeitures that a constable  
22 of a district is liable to, for any failure or dereliction in  
23 such office, to be recovered in the same manner and  
24 in the same courts in which such fines, penalties and  
25 forfeitures are now recovered against such constable.  
26 The sergeant shall, before entering upon the duties  
27 of his office, execute a bond, conditioned according to  
28 law, with surety satisfactory to the council, payable  
29 to the town, in such penalty not less than one thousand  
30 dollars, as the council may prescribe.

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

*Wm. Kirby*  
Chairman Senate Committee

*A. A. Ambler*  
Chairman House Committee

Originated in the House of Delegates

Takes effect *Thirty days from* passage.

*Thomas H. Jones*  
Clerk of the Senate

*J. Z. Aliff*  
Clerk of the House of Delegates

*Ralph H. Brown*  
President of the Senate

*Wm. C. Malone*  
Speaker House of Delegates

The within *approved* this the *16th* day of *March*, 1953.

*William C. Malone*  
Governor

FILED IN THE OFFICE OF THE SECRETARY OF STATE

MAR 16 1953

at York, Va.

D. PITT O'BRIEN,

SECRETARY OF STATE