

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969

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ENROLLED

Can Sub for
HOUSE BILL No. 617

(By *Mr. Origination in the Committee*
on the Judiciary)
—●—

PASSED March 7, 1969 1969

In Effect Ninety days from Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-12-69

617

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 617
(Originating in the Committee on the Judiciary)

[Passed March 7, 1969; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, three, four and five, article six, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section one-a, all relating to the suppression and control of riots, routs and unlawful assemblages; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four and five, article six, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted;

and that said article be further amended by adding thereto a new section, designated section one-a, all to read as follows:

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-1. Riots and unlawful assemblages; suppression.

1 All members of the department of public safety, all
2 sheriffs within their respective counties and all mayors
3 within their respective jurisdiction, may suppress riots,
4 routs and unlawful assemblages. It shall be the duty of
5 each of them to go among, or as near as may be with safe-
6 ty, to persons riotously, tumultuously, or unlawfully as-
7 sembled, and in the name of the law command them to
8 disperse; and if they shall not thereupon immediately and
9 peaceably disperse, such member of the department of
10 public safety, sheriff or mayor giving the command, and
11 any other present, shall command the assistance of all
12 persons present, and of all or any part of other law en-
13 forcement personnel available to him, as need be, in
14 arresting and securing those so assembled. If any person
15 present, on being required to give his assistance, depart,
16 or fail to obey, he shall be deemed a rioter.

§61-6-1a. Riots and unlawful assemblages; control.

1 Members of the department of public safety, sheriffs
2 and mayors, and those acting under their order, may,
3 when engaged in suppressing a riot, rout or unlawful
4 assemblage, cordon off any area or areas threatened by
5 such riot, rout or unlawful assemblage, and may take
6 all actions which are necessary and reasonable under the
7 emergency to restore law and order, and such actions
8 may be, but are not limited to, the following:

9 (a) Prohibit the sale, offering for sale, dispensing,
10 furnishing or transportation of firearms or other dan-
11 gerous weapons, ammunition, dynamite or other dan-
12 gerous explosives in, to or from such areas.

13 (b) Prohibit the sale, offering for sale, dispensing,
14 furnishing or consumption of alcoholic beverages or non-
15 intoxicating beer in a public place in such areas, and
16 prohibit the transportation of alcoholic beverages or
17 nonintoxicating beer in, to or from such areas.

18 (c) Impose curfews, as required, to control movement
19 of persons in, to and from such areas.

20 (d) Enter a private dwelling or other building or
21 other private place in such areas when in fresh pursuit
22 of a rioter, when in search of a sniper who has fired upon
23 a person from such a dwelling or other building or place
24 or when in search of firearms, other dangerous weapons,
25 ammunition, dynamite or other dangerous explosives
26 when there is reason to believe that such items are
27 stored in the said dwelling, building or place and that
28 they will be removed therefrom before a search warrant
29 could be obtained.

30 No person shall wilfully fail to obey a lawful order
31 of any mayor, sheriff, deputy sheriff, municipal police
32 officer, member of the department of public safety, or
33 other officer, given pursuant to this section.

34 Any person who violates an order given pursuant to the
35 authority of this section shall be guilty of a misdemeanor,
36 and, upon conviction thereof, shall be fined not more than
37 five hundred dollars, or imprisoned in the county jail
38 not more than six months, or both fined and imprisoned.

§61-6-2. Commitment and recognizance of rioters.

1 If any person be arrested for a riot, rout or unlawful

2 assemblage, he shall be taken without unreasonable de-
3 lay before a justice of the county in which the arrest
4 is made who shall commit him to jail, unless he shall
5 enter into a recognizance, with sufficient security, to
6 appear before the court having jurisdiction of the offense,
7 at its next term, to answer therefor, and in the mean-
8 time to be of good behavior and to keep the peace.

**§61-6-3. Failure of mayor or sheriff to exercise powers at riots
and unlawful assemblages; penalty.**

1 If any member of the department of public safety,
2 sheriff or mayor have notice of a riotous, tumultuous, or
3 unlawful assemblage in his respective jurisdiction as pro-
4 vided in section one of this article, and fail to proceed
5 immediately to the place of such assemblage, or as near
6 as he may safely go, or fail to exercise his authority for
7 suppressing it and arresting the offenders, he shall be
8 fined not exceeding one hundred dollars.

**§61-6-4. Summoning of persons to aid in suppressing riots and
unlawful assemblages.**

1 If any person engaged in such assemblage, being com-
2 manded, as hereinbefore provided, to disperse or to peace-

3 ably leave the scene of such assemblage, fail to do so
4 without delay, any such member of the department of
5 public safety, sheriff or mayor may require the aid of a
6 sufficient number of persons, in arms or otherwise, and
7 proceed, in such manner as he may deem expedient, to
8 disperse and suppress such assemblage, and arrest and
9 secure those engaged in it.

**§61-6-5. Death of person in suppression of riot and unlawful
assemblages.**

1 If, by any means taken under the authority of this
2 article to disperse any such assemblage or arrest those
3 engaged in it, any person present, as spectator or other-
4 wise, be killed or wounded, and neither malice, nor pre-
5 meditation be present, any member of the department of
6 public safety, sheriff, or mayor exercising such authority,
7 and everyone acting under his order, shall be held guilt-
8 less; and if the member of the department of public safety,
9 sheriff or mayor, or any person acting under the order
10 of either of them, be killed or wounded in taking such
11 means, or by the rioters, all persons engaged in such
12 assemblage shall be deemed guilty of such killing or
13 wounding.

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

William Tompao
Chairman Senate Committee

Phyllis J. Luitedge
The Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Thomas Reese
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Lloyd Garrison
President of the Senate

Irvin F. Boiarkey
Speaker House of Delegates

The within approved this the 14th
day of March, 1969.

Arch. A. Shaare Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/11/69
Time 2:00 p.m.

~~RECEIVED~~

MAR 17 9 10 PM '69

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA