

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973

ENROLLED

Committee Substitute
for
HOUSE BILL No. 615

(By Mr. Smirl and Mr. Rollins)

PASSED March 1 1973

In Effect from Passage



FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 3-6-73

517

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COMMITTEE SUBSTITUTE
FOR
House Bill No. 615
(By MRS. SMIRL and MR. ROLLINS)

[Originating in the House Committee on the Judiciary]

[Passed March 1, 1973; in effect from passage.]

AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-nine-b, relating generally to airport security; setting forth certain legislative findings and a statement of purpose; defining terms; granting plenary power and authority to airport operator to manage and control airport, to promulgate rules and regulations concerning same and to enforce such rules and regulations; providing criminal offenses and penalties; relating to jurisdiction of justices of the peace; requiring rules and regulations as to airport security; authorizing airport police officers; relating to arrangements and compensation for airport police officers; vesting in airport operators and airport police officers plenary power and authority to enforce federal, state and local law, ordinances, rules and regulations, including rules and regulations of airport operator; requiring an airport police officer to qualify, to wear a uniform, badge or other indicia of authority and to carry deadly weapon; relating to termination of assignment and relief from duty of airport police officers; relating to power and authority of airport police officers; exempting airport police officers from requirement for license to carry deadly weapon; relating to insurance coverage of or bond for airport police officers; and requiring certain security measures.

Be it enacted by the Legislature of West Virginia:

That chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended, by adding thereto a new article, designated article twenty-nine-b, to read as follows:

ARTICLE 29B. AIRPORT SECURITY.

§8-29B-1. Legislative findings and purpose.

1 The Legislature hereby finds and declares that there is an
2 ever increasing need to eliminate the hijacking of aircraft,
3 air piracy and other criminal and terrorist activities involving
4 air passengers, airport personnel, aircraft and airport property
5 and facilities. This article is enacted in view of this finding
6 and the purpose of this article is to facilitate the providing of
7 airport security.

§8-29B-2. Definitions.

1 As used in this article:

2 (1) "Aircraft" means any contrivance now known, or here-
3 after invented, and used for flight in the air and which is
4 operated by an air carrier holding a certificate issued by the
5 civil aeronautics board of the department of transportation of
6 the United States.

7 (2) "Airport" means any area of land or water which is
8 used, or intended for use, for the landing and takeoff of
9 aircraft, as defined above, and any appurtenant areas which
10 are used, or intended for use, for airport buildings or other
11 airport facilities or rights-of-way, together with all airport
12 buildings and facilities located thereon.

13 (3) "Airport operator" means a governing body, regional
14 airport authority or county airport authority, under articles
15 twenty-eight, twenty-nine or twenty-nine-a of this chapter, or
16 a board, commission, authority or committee operating under
17 any local act of the Legislature, charged with the operation and
18 management of an airport.

19 (4) "Airport police officer" means any individual assigned,
20 appointed or designated by an airport operator, to serve as a
21 police officer at an airport.

§8-29B-3. Rules and regulations; airport security; rules and regulations; penalties.

1 Each airport operator shall have plenary power and authority
2 to manage and control the airport under its jurisdiction, to
3 promulgate rules and regulations concerning the management
4 and control of such airport and to enforce any such rules
5 and regulations so promulgated. Any rules and regulations
6 promulgated shall be printed and posted in a conspicuous
7 public place on the airport premises. The violation of any
8 such rule or regulation shall constitute a misdemeanor, and any
9 person convicted of any such violation shall be punished by a
10 fine of not less than five dollars nor more than one hundred
11 dollars or by imprisonment in jail for a period not exceeding
12 thirty days, or by both such fine and imprisonment. Justices
13 of the peace of the county shall have concurrent jurisdiction
14 with the circuit court and other courts of record having
15 criminal jurisdiction of any misdemeanor offenses arising
16 under this article. Violation of any such rule or regulation
17 which also constitutes the violation of any federal or state law
18 or municipal ordinance may be prosecuted and punished as a
19 violation of such federal or state law or municipal ordinance
20 rather than under the provisions of this article. It shall be the
21 duty of every airport operator in this state to promulgate all
22 rules and regulations deemed necessary for airport security.

§8-29B-4. Arrangements for airport police officers; uniform and badge; firearm required.

1 (a) To enforce any federal or state law or rules and
2 regulations relating to airports and airport security and any
3 rules and regulations promulgated by the airport operator, to
4 protect air passengers, airport personnel, aircraft and the
5 airport and to preserve law and order in connection therewith,
6 the airport operator shall have plenary power and authority to
7 make arrangements for one or more airport police officers,
8 pursuant to the provisions of subsections (b) and (c) of this
9 section.

10 (b) In those instances in which the airport operator is the
11 governing body of a municipality, and if requested by such
12 airport operator, one or more police officers of such municipi-
13 pality shall be assigned by the mayor thereof to serve as an

14 airport police officer or officers. In those instances in which
15 the airport operator is the governing body of a county or is a
16 county airport authority, and if requested by such airport
17 operator, one or more deputy sheriffs of such county may be
18 assigned by the sheriff of such county, in his discretion, to
19 serve as airport police officer or officers. Compensation for the
20 performance of duties by any such officer assigned as an
21 airport police officer shall be paid as agreed between the
22 airport operator and the mayor or sheriff, as the case may be.

23 (c) In lieu of or in addition to obtaining one or more
24 airport police officers pursuant to the provisions of subsection
25 (b) of this section and in all instances in which the airport
26 operator is other than as specified in said subsection (b), the
27 airport operator may provide for the appointment and super-
28 vision of, or contract for the furnishing by any private security
29 force and the designation by such airport operator of, one or
30 more airport police officers, and pay the agreed compensation
31 thereto or therefor. Any person appointed or designated as an
32 airport police officer pursuant to the provisions of this sub-
33 section (c) shall, before entering upon the performance of his
34 duties, qualify in the same manner as is required of a con-
35 stable by the taking and filing of an oath of office as required
36 by article one, chapter six of this code and by the filing of an
37 official bond as required by article two of said chapter six.

38 (d) The airport operator may terminate the assignment of
39 an airport police officer assigned pursuant to the provisions of
40 subsection (b) of this section by notice to the mayor or sheriff,
41 as the case may be, who made the assignment, and the airport
42 operator may relieve any person appointed or designated,
43 pursuant to the provisions of subsection (c) of this section,
44 from his duty as an airport police officer, by filing a notice
45 to such effect in the office in which such person's oath of
46 office as an airport police officer was officially filed.

47 (e) The airport operator shall specify a uniform, badge or
48 other indicia of authority to be worn by all airport police
49 officers while on duty: *Provided*, That as to any airport police
50 officer who is either a municipal police officer or deputy
51 sheriff, the uniform, badge or other indicia of authority
52 specified shall be the uniform, badge or other indicia of
53 authority worn by such individual as a municipal police officer
54 or deputy sheriff, as the case may be.

55 (f) Every airport police officer shall be trained in the
56 use of firearms and shall, unless otherwise provide by rules
57 and regulations promulgated by the airport operator, carry a
58 firearm at all times while on duty.

**§8-29B-5. Jurisdiction of airport police officers; insurance coverage;
bonds.**

1 In any area under the jurisdiction and control of the airport
2 operator, or in connection with the airport, or in pursuit of one
3 or more individuals therefrom, any airport police officer shall
4 have (1) all of the power and authority which a regularly
5 appointed deputy sheriff of a county in this state has in en-
6 forcing the criminal laws of this state; (2) full power and
7 authority to enforce any and all federal law and rules and
8 regulations relating to airports, air passengers, baggage inspec-
9 tion, the screening of air passengers and other airport security
10 measures; (3) full power and authority to enforce any and all
11 rules and regulations promulgated by the airport operator;
12 and (4) the power to search persons, packages, containers and
13 baggage and the power to arrest persons: *Provided*, That the
14 foregoing provisions of this section shall under no circum-
15 stances whatever be construed as in any way limiting the
16 power and authority of a municipal police officer or deputy
17 sheriff who has been assigned to serve as an airport police
18 officer which he has by virtue of his being a municipal police
19 officer or deputy sheriff, and under no circumstances whatever
20 shall the assignment or appointment or designation of one or
21 more airport police officers at an airport be deemed in any
22 way to supersede or limit the power and authority of other
23 peace officers to preserve law and order at such airport.

24 Consistent with the provisions of section five, article seven,
25 chapter sixty-one of this code, any municipal police officer or
26 deputy sheriff assigned as an airport police officer pursuant to
27 the provisions of subsection (b), section four of this article,
28 and (notwithstanding any provision of this code to the con-
29 trary) any person appointed or designated as an airport police
30 officer pursuant to the provisions of subsection (c), section four
31 of this article, shall not be required to obtain a state license to
32 carry a deadly weapon, as provided for in section two, article
33 seven of said chapter sixty-one. Any municipal police officer or
34 deputy sheriff assigned as an airport police officer pursuant to

35 the provisions of subsection (b), section four of this article
36 shall not be required to furnish any bond under section five,
37 article seven of said chapter sixty-one other than the bond
38 furnished thereunder as such municipal police officer or deputy
39 sheriff. When one or more policies of public liability insurance
40 are obtained providing insurance coverage for legal liability of
41 an airport police officer for bodily injury, personal injury
42 or damage (including, but not limited to, false arrest and
43 false imprisonment) and property damage, and affording
44 said airport police officer insurance coverage against any
45 and all legal liability arising from, growing out of, or by
46 reason of or in any way connected with, any acts or omis-
47 sions of said airport police officer in the performance of
48 his official duties, and so long as the coverage aforesaid re-
49 mains in full force and effect as to such airport police officer,
50 then the bond specified in section five, article seven of said
51 chapter sixty-one shall not be required as to such airport
52 police officer; otherwise such bond shall be required and must
53 be furnished.

§8-29B-6. Required security measures.

1 In addition to any and all other security measures which
2 may be required by an airport operator, and unless otherwise
3 provided by rules and regulations promulgated by such airport
4 operator, at least one airport police officer must be present
5 prior to, at the point of, and throughout the final passenger
6 screening process prior to the boarding of an aircraft at an
7 airport (other than a charter or commuter flight), and such
8 police officer shall be present continuously until all doors on
9 such aircraft being boarded are closed and such aircraft has
10 taxied away from the boarding area. An airport police officer
11 shall have the same duty and responsibility in the event such
12 aircraft returns to the boarding area prior to takeoff.

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

H. Darrel Parkey
Chairman Senate Committee

Clarence C. Christensen
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Roberson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. T. Brotherton Jr.
President of the Senate

Lewis T. McNamee
Speaker House of Delegates

The within *approved* this the *5th*
March
day of _____, 1973.

Arch A. Moore Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/5/73

Time 1:05 p.m.