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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 399

(By Senator BUCKALEW)



PASSED MARCH 9, 1995

In Effect 90 days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 399

(SENATOR BUCKALEW, *original sponsor*)

[Passed March 9, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to mission of the division of public safety; powers of the superintendent, officers and members; patrol of turnpike; sale of surplus property; and use of generated funds.

Be it enacted by the Legislature of West Virginia:

That section twelve, article two, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. DIVISION OF PUBLIC SAFETY.

§15-2-12. Mission of the division; powers of superintendent, officers and members; patrol of turnpike.

- 1 (a) The West Virginia division of public safety shall
- 2 have the mission of statewide enforcement of criminal
- 3 and traffic laws with emphasis on providing basic
- 4 enforcement and citizen protection from criminal

5 depredation throughout the state and maintaining the
6 safety of the state's public streets, roads and highways.

7 (b) The superintendent and each of the officers and
8 members of the division are hereby empowered:

9 (1) To make arrests anywhere within the state of any
10 persons charged with the violation of any law of this
11 state, or of the United States, and when a witness to the
12 perpetration of any offense or crime, or to the violation
13 of any law of this state, or of the United States, to make
14 arrests without warrant; to arrest and detain any persons
15 suspected of the commission of any felony or misde-
16 meanor whenever a complaint is made and a warrant is
17 issued thereon for the arrest, and the person arrested
18 shall be immediately brought before the proper tribunal
19 for examination and trial in the county where the offense
20 for which the arrest has been made was committed;

21 (2) To serve criminal process issued by any court or
22 magistrate anywhere within this state: *Provided*, That
23 they may not serve civil process; and

24 (3) To cooperate with local authorities in detecting
25 crime and in apprehending any person or persons
26 engaged in or suspected of the commission of any crime,
27 misdemeanor or offense against the law of this state, or
28 of the United States, or of any ordinance of any munici-
29 pality in this state; and to take affidavits in connection
30 with any application to the division of highways, division
31 of motor vehicles and division of public safety of West
32 Virginia for any license, permit or certificate that may be
33 lawfully issued by these divisions of state government.

34 (c) Members of the division of public safety are hereby
35 designated as forest patrolmen and game and fish
36 wardens throughout the state to do and perform any
37 duties and exercise any powers of forest patrolmen and
38 game and fish wardens, and may apprehend and bring
39 before any court or magistrate having jurisdiction of
40 these matters, anyone violating any of the provisions of

41 chapters twenty, sixty and sixty-one of this code. The
42 division of public safety is at any time subject to the call
43 of the West Virginia alcohol beverage control commis-
44 sioner to aid in apprehending any person violating any of
45 the provisions of chapter sixty of this code. They shall
46 serve and execute warrants for the arrest of any person
47 and warrants for the search of any premises issued by
48 any properly constituted authority, and shall exercise all
49 of the powers conferred by law upon a sheriff. They may
50 not serve any civil process or exercise any of the powers
51 of such officer in civil matters.

52 (d) Any member of the division of public safety know-
53 ing or having reason to believe that any person has
54 violated the law may make complaint in writing before
55 any court or officer having jurisdiction and procure a
56 warrant for the offender, execute the warrant and bring
57 the person before the proper tribunal having jurisdic-
58 tion. The member shall make return on all warrants to
59 the tribunals and his or her official title shall be "mem-
60 ber of the division of public safety". Members of the
61 division of public safety may execute any summons or
62 process issued by any tribunal having jurisdiction
63 requiring the attendance of any person as a witness
64 before the tribunal and make return thereon as provided
65 by law. Any return by a member of the division of public
66 safety showing the manner of executing the warrant or
67 process has the same force and effect as if made by a
68 sheriff.

69 (e) Each member of the division of public safety, when
70 called by the sheriff of any county, or when directed by
71 the governor by proclamation, has full power and
72 authority within the county, or within the territory
73 defined by the governor, to direct and command abso-
74 lutely the assistance of any sheriff, deputy sheriff, chief
75 of police, policeman, game and fish warden and peace
76 officer of the state, or of any county or municipality
77 therein, or of any able-bodied citizen of the United
78 States, to assist and aid in accomplishing the purposes

79 expressed in this article. When called, any officer or
80 person is, during the time his or her assistance is re-
81 quired, for all purposes a member of the division of
82 public safety and subject to all the provisions of this
83 article.

84 (f) The superintendent may also assign members of the
85 division to perform police duties on any turnpike or toll
86 road, or any section of any turnpike or toll road, oper-
87 ated by the West Virginia parkways, economic develop-
88 ment and tourism authority: *Provided*, That the author-
89 ity shall reimburse the division of public safety for
90 salaries paid to the members and shall either pay di-
91 rectly or reimburse the division for all other expenses of
92 the group of members in accordance with actual or
93 estimated costs determined by the superintendent.

94 (g) The division of public safety may develop proposals
95 for a comprehensive county or multicounty plan on the
96 implementation of an enhanced emergency service
97 telephone system and may cause a public meeting on the
98 proposals, all as set forth in section six-a, article six,
99 chapter twenty-four of this code.

100 (h) The superintendent may also assign members of the
101 division to administer tests for the issuance of commer-
102 cial drivers' licenses, operator and junior operator
103 licenses as provided for in section seven, article two,
104 chapter seventeen-b of this code: *Provided*, That the
105 division of motor vehicles shall reimburse the division of
106 public safety for salaries and employee benefits paid to
107 the members, and shall either pay directly or reimburse
108 the division for all other expenses of the group of mem-
109 bers in accordance with actual costs determined by the
110 superintendent.

111 (i) The superintendent shall be reimbursed by the
112 division of motor vehicles for salaries and employee
113 benefits paid to members of the division of public safety
114 and shall either be paid directly or reimbursed by the
115 division of motor vehicles for all other expenses of the

116 group of members in accordance with actual costs
117 determined by the superintendent, for services per-
118 formed by the members relating to the duties and
119 obligations of the division of motor vehicles set forth in
120 chapters seventeen, seventeen-a, seventeen-b, seventeen-
121 c and seventeen-d of this code.

122 (j) By the first day of July, one thousand nine hundred
123 ninety-three, the superintendent shall establish a
124 network to implement reports of the disappearance of
125 children by local law-enforcement agencies to local
126 school division superintendents and the state registrar of
127 vital statistics. The network shall be designed to estab-
128 lish cooperative arrangements between local law-en-
129 forcement agencies and local school divisions concerning
130 reports of missing children and notices to law-enforce-
131 ment agencies of requests for copies of the cumulative
132 records and birth certificates of missing children. The
133 network shall also establish a mechanism for reporting
134 the identities of all missing children to the state registrar
135 of vital statistics.

136 (k) The superintendent may at his or her discretion and
137 upon the written request of the West Virginia alcohol
138 beverage control commissioner assist the commissioner
139 in the coordination and enforcement of article sixteen,
140 chapter eleven of this code and chapter sixty of this
141 code.

142 (l) Notwithstanding the provisions of article one-a,
143 chapter twenty of this code, the superintendent of the
144 division of public safety may sell any surplus real
145 property to which the division of public safety or its
146 predecessors retain title, and deposit the net proceeds
147 into a special revenue account to be utilized for the
148 purchase of additional real property and for repairs to or
149 construction of detachment offices or other facilities
150 required by the division of public safety. There is hereby
151 created a special revolving fund in the state treasury
152 which shall be designated as the "surplus real property

153 proceeds fund". The fund shall consist of all money
154 received from the sale of surplus real property owned by
155 the division of public safety. Moneys deposited in the
156 fund shall only be available for expenditure upon
157 appropriation by the Legislature: *Provided*, That
158 amounts collected which are found from time to time to
159 exceed the funds needed for the purposes set forth in this
160 subsection may be transferred to other accounts or funds
161 and redesignated for other purposes by appropriation of
162 the Legislature.

163 (m) Notwithstanding any other provision of this code,
164 the agency for surplus property is hereby empowered to
165 transfer funds generated from the sale of vehicles, other
166 equipment and commodities belonging to the division of
167 public safety to a special revenue account within the
168 division of public safety entitled the division of public
169 safety surplus transfer account. Moneys deposited in the
170 fund shall only be available for expenditure upon
171 appropriation by the Legislature: *Provided*, That
172 amounts collected which are found from time to time to
173 exceed the funds needed for the purposes set forth in this
174 subsection may be transferred to other accounts or funds
175 and redesignated for other purposes by appropriation of
176 the Legislature. Any funds transferred to this account
177 may be utilized by the superintendent to defray the cost
178 of normal operating needs of the division.

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

Randy Schooner
.....
Chairman Senate Committee

Ernest E. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell Atkins
.....
Clerk of the Senate

Donald J. Hoff
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul Abner
.....
Speaker House of Delegates

The within *is approved* this the *21st*
day of *March*, 1995.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/16/95

Time 10:37am