WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2001

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2587

(By Mr. Speaker, Mr. Kiss, and Delegates Staton, Amores, Coleman, Warner, Douglas and Stemple)

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Passed April 3, 2001

In Effect Ninety Days from Passage
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COMMITTEE SUBSTITUTE

FOR

H. B. 2587

(BY MR. SPEAKER, MR. KISS, AND DELEGATES STATON,
AMORES, COLEMAN, WARNER, DOUGLAS AND STEMPELE)

[Passed April 3, 2001; in effect ninety days from passage.]

AN ACT to amend article ten, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five; and to amend and reenact section six, article seven, chapter sixty-one of said code, all relating to permitting federal law-enforcement officers to assist state, county and municipal law-enforcement officers in enforcing state laws on request or if a felony is committed in the officer's presence; and permitting federal law-enforcement officers to carry weapons off duty.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five; and that section six,
article seven, chapter sixty-one of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-5. Federal officers' peace-keeping authority.

(a) Notwithstanding any provision of this code to the contrary, any person who is employed by the United States government as a federal law-enforcement officer and is listed in subsection (b) of this section, has the same authority to enforce the laws of this state, except state or local traffic laws or parking ordinances, as that authority granted to state or local law-enforcement officers, if one or more of the following circumstances exist:

(1) The federal law-enforcement officer is requested to provide temporary assistance by the head of a state or local law-enforcement agency or the designee of the head of the agency and that request is within the state or local law-enforcement agency's scope of authority and jurisdiction and is in writing: Provided, That the request does not need to be in writing if an emergency situation exists involving the imminent risk of loss of life or serious bodily injury;

(2) The federal law-enforcement officer is requested by a state or local law-enforcement officer to provide the officer temporary assistance when the state or local law-enforcement officer is acting within the scope of the officer's authority and jurisdiction and where exigent circumstances exist; or

(3) A felony is committed in the federal law-enforcement officer's presence or under circumstances indicating a felony has just occurred.
(b) This section applies to the following persons who are employed as full-time federal law-enforcement officers by the United States government and who are authorized to carry firearms while performing their duties:

1. Federal bureau of investigation special agents;
2. Drug enforcement administration special agents;
3. United States marshal's service marshals and deputy marshals;
4. United States postal service inspectors;
5. Internal revenue service special agents;
6. United States secret service special agents;
7. Bureau of alcohol, tobacco, and firearms special agents;
8. Police officers employed pursuant to 40 U.S.C. §§318 and 490 at the federal bureau of investigation’s criminal justice information services division facility located within this state; and
9. Law enforcement commissioned rangers of the national park service.

(c) Any person acting under the authority granted pursuant to this section:

1. Has the same authority and is subject to the same exemptions and exceptions to this code as a state or local law-enforcement officer;
2. Is not an officer, employee, or agent of any state or local law-enforcement agency;
(3) May not initiate or conduct an independent investigation into an alleged violation of any provision of this code except to the extent necessary to preserve evidence or testimony at risk of loss immediately following an occurrence described in subdivision (3), subsection (a) of this section;

(4) Is subject to 28 U.S.C. §1346, the Federal Tort Claims Act; and

(5) Has the same immunities from liability as a state or local law-enforcement officer.

(d) For purposes of this section, a state or local law-enforcement officer means any duly authorized member of a law-enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality thereof, other than parking ordinances, and includes those persons employed as campus police officers at state institutions of higher education in accordance with the provisions of section five, article four, chapter eighteen-b of this code, although those institutions may not be considered law-enforcement agencies. The term also includes those persons employed as rangers by the Hatfield-McCoy regional recreation authority in accordance with the provisions of section six, article fourteen, chapter twenty of this code, although the authority may not be considered a law-enforcement agency.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-6. Exceptions as to prohibitions against carrying concealed deadly weapons.

1 The licensure provisions set forth in this article do not apply to:
(1) Any person carrying a deadly weapon upon his or her own premises; nor shall anything herein prevent a person from carrying any firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business, nor shall anything herein prohibit a person from possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

(2) Any person who is a member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state, or from the United States for the purpose of target practice, from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;

(3) Any law-enforcement officer or law-enforcement official as defined in section one, article twenty-nine, chapter thirty of this code;

(4) Any employee of the West Virginia division of corrections duly appointed pursuant to the provisions of section five, article five, chapter twenty-eight of this code while the employee is on duty;

(5) Any member of the armed forces of the United States or the militia of this state while the member is on duty;

(6) Any circuit judge, including any retired circuit judge designated senior status by the supreme court of appeals of
West Virginia, prosecuting attorney, assistant prosecuting attorney or a duly appointed investigator employed by a prosecuting attorney;

(7) Any probation officer appointed under the provisions of section five, article twelve, chapter sixty-two of this code;

(8) Any resident of another state who has been issued a license to carry a concealed weapon by a state or a political subdivision which has entered into a reciprocity agreement with this state shall be exempt from the licensing requirements of section four of this article. The governor may execute reciprocity agreements on behalf of the state of West Virginia with states or political subdivisions which have similar gun permitting laws and which recognize and honor West Virginia licenses issued pursuant to section four of this article;

(9) Any federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer’s duty.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 33rd day of April, 2001.

Governor
PRESENTED TO THE:
GOVERNOR
Date 4/10/01
Time 2:00 p.m.