WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

House Bill No. 4314
(By Delegates Swartzmiller and DeLong)

Passed February 28, 2002
In Effect Ninety Days from Passage
AN ACT to amend and reenact section one-a, article three, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing reserve officers to carry weapons other than firearms; requiring certification of completion of training; and providing for rule making to establish training requirements.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. DEPUTY OFFICERS AND CONSERVATORS OF THE PEACE.

§6-3-1a. Deputy sheriff's reserve; purpose; appointment and qualifications of members; duties; attire; training; oath; bond; not employee of sheriff or county commission for certain purposes; limitation on liability.
(a) The sheriff of any county may, for the purposes herein-after set forth, designate and appoint a deputy sheriffs’ reserve, hereinafter referred to as “reserve” or “reserves.” A reserve may not be designated or created without the prior approval of the county commission for the establishment of the reserve.

(b) Each sheriff may appoint as members of the reserve bona fide citizens of the county who are of good moral character and who have not been convicted of a felony or other crime involving moral turpitude. Any person so appointed shall serve at the will and pleasure of the sheriff and is not subject to the provisions of article fourteen, chapter seven of this code. A member of the reserve may not engage in any political activity or campaign involving the office of sheriff or from which activity or campaign the sheriff or candidates therefor appointing the member would directly benefit.

(c) Members of the reserves shall not serve as law-enforcement officers, nor carry firearms, but may carry other weapons, provided that the sheriff certifies in writing to the county commission that the reserve has met the special training requirements for the weapon as established by the governor’s committee on crime, delinquency and corrections. The governor’s committee on crime, delinquency and corrections is authorized to promulgate legislative rules and emergency rules pursuant to the provisions of article three, chapter twenty-nine-a of this code to establish appropriate training standards. The reserves may be provided with radio communication equipment for the purpose of maintaining contact with the sheriff’s department or other law-enforcement agencies. The duties of the reserves shall be limited to crowd control or traffic control and direction within the county. In addition, the reserves may perform such other duties of a nonlaw-enforcement nature as are designated by the sheriff or by a deputy sheriff designated and appointed by the sheriff for that purpose: Provided, That a member of the reserves may not aid or assist any law-enforce-
ment officer in enforcing the statutes and laws of this state in any labor trouble or dispute between employer and employee.

(d) Members of the reserves may be uniformed; however, if so uniformed, the uniforms shall clearly differentiate these members from other law-enforcement deputy sheriffs.

(e) After appointment to the reserves but prior to service each member of the reserves shall receive appropriate training and instruction in their functions and authority as well as the limitations of authority. In addition, each member of the reserves shall annually receive in-service training.

(f) Each member of the reserve shall take the same oath as prescribed by section five, article IV of the constitution of the state of West Virginia, but the taking of the oath does not serve to make the member a public officer.

(g) The county commission of each county shall provide for the bonding and liability insurance of each member of the reserve.

(h) A member of the reserve is not an employee of either the sheriff or of the county commission for any purpose or purposes, including, but not limited to, the purposes of workers’ compensation, civil service, unemployment compensation, public employees retirement, public employees insurance or for any other purpose. A member of the reserves may not receive any compensation or pay for any services performed as a member nor may a member use the designated uniform for any other similar work performed.

(i) Neither the county commission nor the sheriff is liable for any of the acts of any member of the reserves except in the case of gross negligence on the part of the county commission or sheriff in the appointment of the member or in the case of gross negligence on the part of either the sheriff or any of his or her deputies in directing any action on the part of the member.
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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 12th day of March, 2002.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/16/02
Time 10:05 am