

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

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H. B. 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.

1 (a) The sheriff of any county may, for the purposes herein-
2 after set forth, designate and appoint a deputy sheriffs' reserve,
3 hereinafter referred to as "reserve" or "reserves." A reserve may
4 not be designated or created without the prior approval of the
5 county commission for the establishment of the reserve.

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

16 (c) Members of the reserves shall not serve as law-enforce-
17 ment officers, nor carry firearms, but may carry other weapons,
18 provided that the sheriff certifies in writing to the county
19 commission that the reserve has met the special training
20 requirements for the weapon as established by the governor's
21 committee on crime, delinquency and corrections. The gover-
22 nor's committee on crime, delinquency and corrections is
23 authorized to promulgate legislative rules and emergency rules
24 pursuant to the provisions of article three, chapter twenty-nine-a
25 of this code to establish appropriate training standards. The
26 reserves may be provided with radio communication equipment
27 for the purpose of maintaining contact with the sheriff's
28 department or other law-enforcement agencies. The duties of
29 the reserves shall be limited to crowd control or traffic control
30 and direction within the county. In addition, the reserves may
31 perform such other duties of a nonlaw-enforcement nature as
32 are designated by the sheriff or by a deputy sheriff designated
33 and appointed by the sheriff for that purpose: *Provided*, That a
34 member of the reserves may not aid or assist any law-enforce-

35 ment officer in enforcing the statutes and laws of this state in
36 any labor trouble or dispute between employer and employee.

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

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

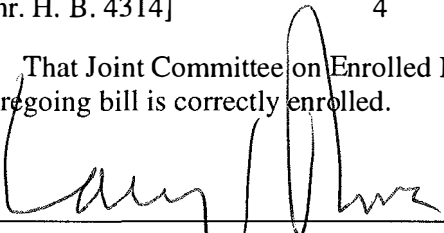
45 (f) Each member of the reserve shall take the same oath as
46 prescribed by section five, article IV of the constitution of the
47 state of West Virginia, but the taking of the oath does not serve
48 to make the member a public officer.

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

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

61 (i) Neither the county commission nor the sheriff is liable
62 for any of the acts of any member of the reserves except in the
63 case of gross negligence on the part of the county commission
64 or sheriff in the appointment of the member or in the case of
65 gross negligence on the part of either the sheriff or any of his or
66 her deputies in directing any action on the part of the member.

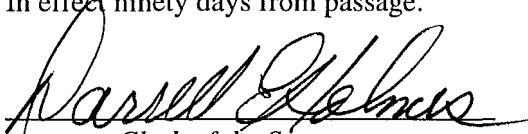
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee

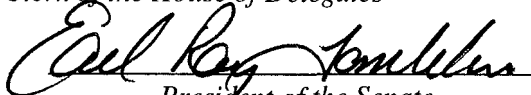

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

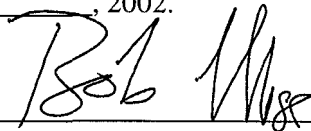

Clerk of the Senate


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

3/6/02

Time

10:05 am