WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007

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ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 2348

(By Delegates Stemple, Webster, Mahan, Vamer, Cann, Pethtel, Shaver, Kominar, Argento, Beach and Crosier)

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Passed March 9, 2007

In Effect Ninety Days from Passage
AN ACT to amend and reenact § 15-5-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated § 15-5-19a, all relating to the possession of firearms during a proclaimed state of emergency; and clarifying the powers and authorities granted by said article with respect thereto.

Be it enacted by the Legislature of West Virginia:

That § 15-5-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated § 15-5-19a, all to read as follows:

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.


1 The provisions of this section shall be operative only
during the existence of a state of emergency. The existence
of a state of emergency may be proclaimed by the Governor
or by concurrent resolution of the Legislature if the Governor
in such proclamation, or the Legislature in such resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural or man-made disaster of major proportions has actually occurred or is imminent within the state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. Any such emergency, whether proclaimed by the Governor or by the Legislature, shall terminate upon the proclamation of the termination thereof by the Governor, or the passage by the Legislature of a concurrent resolution terminating such emergency.

So long as such state of emergency exists, the Governor shall have and may exercise the following additional emergency powers:

(a) To enforce all laws, rules and regulations relating to the provision of emergency services and to assume direct operational control of any or all emergency service forces and helpers in the state;

(b) To sell, lend, lease, give, transfer or deliver materials or perform functions relating to emergency services on such terms and conditions as he or she shall prescribe and without regard to the limitations of any existing law and to account to the State Treasurer for any funds received for such property;

(c) To procure materials and facilities for emergency services by purchase, condemnation under the provisions of chapter fifty-four of this code or seizure pending institution of condemnation proceedings within thirty days from the seizing thereof and to construct, lease, transport, store, maintain, renovate or distribute such materials and facilities. Compensation for property so procured shall be made in the manner provided in chapter fifty-four of this code;

(d) To obtain the services of necessary personnel, required during the emergency, and to compensate them for their services from his or her contingent funds or such other funds as may be available to him or her;

(e) To provide and compel the evacuation of all or part of the population from any stricken or threatened area within the state and to take such steps as are necessary for the receipt and care of such evacuees;

(f) To control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premises therein;
(g) To suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules or regulations of any state agency, if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency;

(h) To utilize such available resources of the state and of its political subdivisions as are reasonably necessary to cope with the emergency;

(i) To suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms, explosives and combustibles;

(j) To make provision for the availability and use of temporary emergency housing; and

(k) To perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population.

No powers granted under this section may be interpreted to authorize the seizure or confiscation of a firearm from a person unless that firearm is unlawfully possessed or unlawfully carried by the person, or the person is otherwise engaged in a criminal act.

§15-5-19a. Possession of firearms during a declared state of emergency.

No powers granted under this article to state or local authorities may be interpreted to authorize the seizure or confiscation of a firearm from a person during a declared state of emergency unless that firearm is unlawfully possessed or unlawfully carried by the person, or the person is otherwise engaged in a criminal act.
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 27th day of March, 2007.

Governor
PRESENTED TO THE GOVERNOR

MAR 22 2007

Time 3:50