

HB 2348 S

FILED

2007 MAR 27 PM 5:03

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2007



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2348**

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



Passed March 9, 2007

In Effect Ninety Days from Passage

ENROLLED

COMMITTEE SUBMITTED 27 PM 5:03

FOR

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**H. B. 2348**

(BY DELEGATES STEMPLE, WEBSTER, MAHAN,  
VARNER, CANN, PETHTEL, SHAVER,  
KOMINAR, ARGENTO, BEACH AND CROSIER)

[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.**

**§15-5-6. Emergency powers of Governor.**

1 The provisions of this section shall be operative only  
2 during the existence of a state of emergency. The existence  
3 of a state of emergency may be proclaimed by the Governor  
4 or by concurrent resolution of the Legislature if the Governor

5 in such proclamation, or the Legislature in such resolution,  
6 finds that an attack upon the United States has occurred or is  
7 anticipated in the immediate future, or that a natural or man-  
8 made disaster of major proportions has actually occurred or  
9 is imminent within the state, and that the safety and welfare  
10 of the inhabitants of this state require an invocation of the  
11 provisions of this section. Any such emergency, whether  
12 proclaimed by the Governor or by the Legislature, shall  
13 terminate upon the proclamation of the termination thereof by  
14 the Governor, or the passage by the Legislature of a  
15 concurrent resolution terminating such emergency.

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

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

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

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

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

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

44 (f) To control ingress and egress to and from a disaster  
45 area, the movement of persons within the area and the  
46 occupancy of premises therein;

47 (g) To suspend the provisions of any regulatory statute  
48 prescribing the procedures for conduct of state business or  
49 the orders, rules or regulations of any state agency, if strict  
50 compliance therewith would in any way prevent, hinder or  
51 delay necessary action in coping with the emergency;

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

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

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

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

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

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

1 No powers granted under this article to state or local  
2 authorities may be interpreted to authorize the seizure or  
3 confiscation of a firearm from a person during a declared  
4 state of emergency unless that firearm is unlawfully  
5 possessed or unlawfully carried by the person, or the person  
6 is otherwise engaged in a criminal act.

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

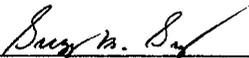
  
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Chairman Senate Committee

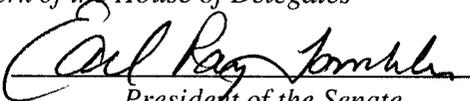
  
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Chairman House Committee

Originating in the House.

In effect ninety days from passage.

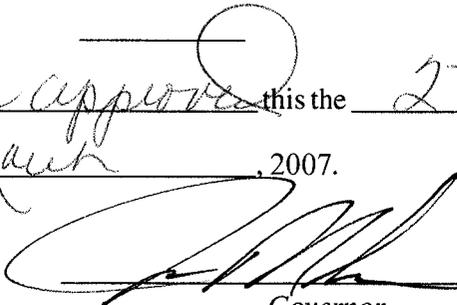
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 2<sup>th</sup>  
day of March, 2007.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 22 2007

Time 3:50 p