WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

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ENROLLED

House Bill No. 3110

(By Delegates Shaver, Talbott, Hartman, Williams, Varner, Azinger, Evans and Crosier)

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Passed March 11, 2010

In Effect Ninety Days From Passage
ENROLLED

H. B. 3110

(by Delegates Shaver, Talbott, Hartman, Williams, Varner, Azinger, Evans and Crosier)

[Passed March 11, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §15-2-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-10-3 of said code; to amend and reenact §15-10A-2 of said code; to amend and reenact §17-24A-1 and §17-24A-2 of said code; to amend and reenact §17A-3-23 of said code; to amend and reenact §17C-4-16 of said code; to amend and reenact §17C-5-4 of said code; to amend and reenact §18B-10-7 of said code; to amend and reenact §19-20A-7 of said code; to amend and reenact §20-1-13 of said code; to amend and reenact §20-2-5, §20-2-7, §20-2-15, §20-2-16, §20-2-22, §20-2-22a, §20-2-56a and §20-2-57a of said code; to amend and reenact §20-7-1, §20-7-1a, §20-7-1b, §20-7-1c, §20-7-1d, §20-7-1e, §20-7-1f, §20-7-2, §20-7-3, §20-7-4 and §20-7-12b of said code; to amend and reenact §22-15A-19 of said code; to amend and reenact §29-2A-11a of said code; to amend and reenact §29-3-12 of said code; to amend and reenact §30-29-1 of said code; and to amend and reenact §36-8A-1 of said code, all relating to renaming conservation officers to be natural resources police officers.

Be it enacted by the Legislature of West Virginia:
That §15-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §15-10-3 of said code be amended and reenacted; that §15-10A-2 of said code be amended and reenacted; that §17-24A-1 and §17-24A-2 of said code be amended and reenacted; that §17A-3-23 of said code be amended and reenacted; that §17C-4-16 of said code be amended and reenacted; that §17C-5-4 of said code be amended and reenacted; that §18B-10-7 of said code be amended and reenacted; that §19-20A-7 of said code be amended and reenacted; that §20-1-13 of said code be amended and reenacted; that §20-1-5, §20-2-7, §20-2-15, §20-2-16, §20-2-22, §20-2-22a, §20-2-56a and §20-2-57a of said code be amended and reenacted; that §20-7-1, §20-7-1a, §20-7-1b, §20-7-1c, §20-7-1d, §20-7-1e, §20-7-1f, §20-7-2, §20-7-3, §20-7-4 and §20-7-12b of said code be amended and reenacted; that §22-15A-19 of said code be amended and reenacted; that §29-2A-11a be amended and reenacted; that §29-3-12 of said code be amended and reenacted; that §30-29-1 of said code be amended and reenacted; and that §36-8A-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-12. Mission of the State Police; powers of superintendent, officers and members; patrol of turnpike.

1 (a) The West Virginia State Police shall have the mission of statewide enforcement of criminal and traffic laws with emphasis on providing basic enforcement and citizen protection from criminal depredation throughout the state and maintaining the safety of the state’s public streets, roads and highways.

7 (b) The superintendent and each of the officers and members of the division are hereby empowered:
(1) To make arrests anywhere within the state of any persons charged with the violation of any law of this state, or of the United States, and when a witness to the perpetration of any offense or crime, or to the violation of any law of this state, or of the United States, to make arrests without warrant; to arrest and detain any persons suspected of the commission of any felony or misdemeanor whenever a complaint is made and a warrant is issued thereon for the arrest, and the person arrested shall be immediately brought before the proper tribunal for examination and trial in the county where the offense for which the arrest has been made was committed;

(2) To serve criminal process issued by any court or magistrate anywhere within this state: Provided, That they may not serve civil process; and

(3) To cooperate with local authorities in detecting crime and in apprehending any person or persons engaged in or suspected of the commission of any crime, misdemeanor or offense against the law of this state, or of the United States, or of any ordinance of any municipality in this state; and to take affidavits in connection with any application to the Division of Highways, Division of Motor Vehicles and of West Virginia State Police for any license, permit or certificate that may be lawfully issued by these divisions of state government.

(c) Members of the West Virginia State Police are hereby designated as natural resources police officers throughout the state to do and perform any duties and exercise any powers of natural resources police officers, and may apprehend and bring before any court or magistrate having jurisdiction of these matters, anyone violating any of the provisions of chapters twenty, sixty and sixty-one of this code. The West Virginia State Police is at any time subject to the call of the West Virginia Alcohol Beverage Control Commissioner to
aid in apprehending any person violating any of the provisions of chapter sixty of this code. They shall serve and execute warrants for the arrest of any person and warrants for the search of any premises issued by any properly constituted authority, and shall exercise all of the powers conferred by law upon a sheriff. They may not serve any civil process or exercise any of the powers of an officer in civil matters.

(d) Any member of the West Virginia State Police knowing or having reason to believe that any person has violated the law may make complaint in writing before any court or officer having jurisdiction and procure a warrant for the offender, execute the warrant and bring the person before the proper tribunal having jurisdiction. The member shall make return on all warrants to the tribunals and his or her official title shall be “member of the West Virginia State Police”. Members of the West Virginia State Police may execute any summons or process issued by any tribunal having jurisdiction requiring the attendance of any person as a witness before the tribunal and make return thereon as provided by law. Any return by a member of the West Virginia State Police showing the manner of executing the warrant or process has the same force and effect as if made by a sheriff.

(e) Each member of the West Virginia State Police, when called by the sheriff of any county, or when directed by the Governor by proclamation, has full power and authority within the county, or within the territory defined by the Governor, to direct and command absolutely the assistance of any sheriff, deputy sheriff, chief of police, policeman, natural resources police officer and peace officer of the state, or of any county or municipality therein, or of any able-bodied citizen of the United States, to assist and aid in accomplishing the purposes expressed in this article. When called, any officer or person is, during the time his or her
assistance is required, for all purposes a member of the West Virginia State Police and subject to all the provisions of this article.

(f) The superintendent may also assign members of the division to perform police duties on any turnpike or toll road, or any section of any turnpike or toll road, operated by the West Virginia Parkways, Economic Development and Tourism Authority: Provided, That the authority shall reimburse the West Virginia State Police for salaries paid to the members and shall either pay directly or reimburse the division for all other expenses of the group of members in accordance with actual or estimated costs determined by the superintendent.

(g) The West Virginia State Police may develop proposals for a comprehensive county or multicounty plan on the implementation of an enhanced emergency service telephone system and may cause a public meeting on the proposals, all as set forth in section six-a, article six, chapter twenty-four of this code.

(h) By the first day of July, one thousand nine hundred ninety-three, the superintendent shall establish a network to implement reports of the disappearance of children by local law-enforcement agencies to local school division superintendents and the State Registrar of Vital Statistics. The network shall be designed to establish cooperative arrangements between local law-enforcement agencies and local school divisions concerning reports of missing children and notices to law-enforcement agencies of requests for copies of the cumulative records and birth certificates of missing children. The network shall also establish a mechanism for reporting the identities of all missing children to the State Registrar of Vital Statistics.
(i) The superintendent may at his or her discretion and upon the written request of the West Virginia Alcohol Beverage Control Commissioner assist the commissioner in the coordination and enforcement of article sixteen, chapter eleven of this code and chapter sixty of this code.

(j) Notwithstanding the provisions of article one-a, chapter twenty of this code, the superintendent of the West Virginia State Police may sell any surplus real property to which the West Virginia State Police or its predecessors retain title, and deposit the net proceeds into a special revenue account to be utilized for the purchase of additional real property and for repairs to or construction of detachment offices or other facilities required by the West Virginia State Police. There is hereby created a special revolving fund in the State Treasury which shall be designated as the "surplus real property proceeds fund". The fund shall consist of all money received from the sale of surplus real property owned by the West Virginia State Police. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature: Provided, That amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.

(k) Notwithstanding any other provision of this code, the agency for surplus property is hereby empowered to transfer funds generated from the sale of vehicles, other equipment and commodities belonging to the West Virginia State Police to a special revenue account within the West Virginia State Police entitled the West Virginia State Police surplus transfer account. Moneys deposited in the fund shall only be available for expenditure upon appropriation by the Legislature: Provided, That amounts collected which are found from time to time to exceed the funds needed for the purposes set forth
in this subsection may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. Any funds transferred to this account may be utilized by the superintendent to defray the cost of normal operating needs of the division.

(1) If the State Police or any other law-enforcement agency in this state receives a report that a person who has Alzheimer's disease and related dementia is missing, the State Police or any other law-enforcement agency shall immediately open an investigation for the purpose of determining the whereabouts of that missing person. Any policy of the State Police or any other law-enforcement agency relating to a waiting period prior to initiation of an investigation of a missing person shall not apply in the case of a person who has Alzheimer's disease or other related dementia of the type referred to in this subsection.

(m) Notwithstanding any provision of this code to the contrary, effective on and after the first day of July, two thousand seven, the expenses and salaries paid to the members of the West Virginia State Police for the monitoring and enforcement duties defined in chapter seventeen-c of this code may not be paid from the state road fund or subject to reimbursement from the Division of Motor Vehicles but shall be subject to appropriation by the Legislature.

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-3. Definitions.

For purposes of this article only, and unless a different meaning plainly is required:

(1) "Criminal justice enforcement personnel" means those persons within the state criminal justice system who are
actually employed as members of the Division of Public Safety, members of the Division of Protective Services, natural resources police officers, chiefs of police and police of incorporated municipalities, and county sheriffs and their deputies, and whose primary duties are the investigation of crime and the apprehension of criminals.

(2) “Head of a law-enforcement agency” means the Superintendent of the Division of Public Safety, the director of the Division of Protective Services, the chief natural resources police officer of the Division of Natural Resources, a chief of police of an incorporated municipality or a county sheriff.

(3) “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.

(4) “Head of campus police” means the superintendent or administrative head of state or local law-enforcement officers 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.
(5) "Head of the rangers of the Hatfield-McCoy regional recreation authority" means the superintendent or administrative head of state or local law-enforcement officers 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.

ARTICLE 10A. LAW-ENFORCEMENT REEMPLOYMENT ACT.


(a) Notwithstanding any provision of this code to the contrary, any honorably retired law-enforcement officer may, at the discretion of the head of a law-enforcement agency, be reemployed subject to the provisions of this article: Provided, That a retired law-enforcement officer employed pursuant to this article must be certified pursuant to article twenty-nine, chapter thirty.

(b) Any person reemployed pursuant to the provisions of this article shall:

(1) Receive the same compensation as a regularly enlisted officer of the same rank;

(2) Receive credit for all years of service accrued prior to their retirement, as well as service rendered after the date of their reemployment;

(3) Exercise the same authority as a regularly enlisted officer of the law-enforcement agency;

(4) Wear the same uniform and insignia;

(5) Be subject to the same oath;
(6) Execute the same bond; and

(7) Exercise the same powers and be subject to the same
limitations as a regularly enlisted officer of the
law-enforcement agency.

(c) A person reemployed pursuant to the provisions of
this article is ineligible for promotion or reclassification of
any type nor eligible for appointment to a temporary rank.

(d) A person reemployed pursuant to the provisions of
this article may be employed for a period not to exceed two
years from the date on which he or she is hired.

(e) As used in this article:

(1) “Law-enforcement officer” or “officer” means: (A)
Any sheriff and any deputy sheriff of any county; (B) any
member of a police department in any municipality as
defined in section two, article one, chapter eight of this code;
and (C) any natural resources police officer of the Division
of Natural Resources; and

(2) “Head of a law-enforcement agency” means the chief
of police of an incorporated municipality; a county sheriff, or
the chief natural resources police officer of the Division of
Natural Resources.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR
VEHICLES, JUNKED MOTOR
VEHICLES, AND ABANDONED OR
INOPERATIVE HOUSEHOLD
APPLIANCES.

1 Unless the context clearly indicates a different meaning, as used in this article:

3 (1) “Commissioner” means the commissioner of the Division of Highways or his or her designee.

5 (2) “Abandoned household appliance” means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixtures or appliances to which no person claims ownership and which is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.

(3) “Abandoned motor vehicle” means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public property for any period of time over five days, other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher; or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period of time over five days; or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, That a motor vehicle, or major part thereof, shall not be considered an abandoned motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner’s property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a
(4) "Demolisher" means any person licensed by the commissioner of the Division of Highways whose business, to any extent or degree, is to convert a motor vehicle or any part thereof or an inoperative household appliance into processed scrap or scrap metal or into saleable parts or otherwise to wreck or dismantle vehicles or appliances.

(5) "Enclosed building" means a structure surrounded by walls or one continuous wall and having a roof enclosing the entire structure and includes a permanent appendage thereto.

(6) "Enforcement agency" means any of the following or any combination of the following:

(a) Public law-enforcement officers of this state, including natural resources police officers;

(b) Public law-enforcement officers of any county, city or town within this state; and

(c) The Commissioner of the Division of Highways, his or her duly authorized agents and employees.

(7) "Inoperative household appliance" means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixture or appliance which by reason of mechanical or physical defects can no longer be used for its intended purpose and which is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.
(8) "Junked motor vehicle" means a motor vehicle, or any part thereof which: (a) Is discarded, wrecked, ruined, scrapped or dismantled; (b) cannot pass the state inspection required by article sixteen, chapter seventeen-c of this code; and (c) is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher. Provided, That a motor vehicle, or major part thereof, shall not be considered a junked motor vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner's property; (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being stored; and (d) the owner is a business licensed to do business in the state of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale.

(9) "Licensed salvage yard" means a salvage yard licensed under article twenty-three of this chapter.

(10) "Motor vehicle" means a vehicle which is or was self-propelled, including, but not limited to, automobiles, trucks, buses and motorcycles.

(11) "Person" means a natural person, corporation, firm, partnership, association or society and the plural as well as the singular.

§17-24A-2. Abandonment of motor vehicle prohibited; inoperative household appliances prohibited in certain places; penalty.

(a) No person shall, within this state, abandon a motor vehicle or major part thereof upon the right-of-way of any public highway, upon any other public property or upon any private property without the consent of the owner or person in control of the property, or upon property owned or
controlled by that person, unless it be at a licensed salvage
yard or at the business establishment of a demolisher, or a
business licensed to do business in the state of West Virginia
and not in the primary business of offering motor vehicles or
parts thereof for sale. Any person who violates any provision
of this section shall be guilty of a misdemeanor and, upon
conviction thereof, shall be sentenced and fined as set forth
below.

(b) No person shall, within this state, place or abandon
any inoperative household appliance upon the right-of-way
of any public highway or upon any other public property; nor
shall any person, within this state, place or abandon any
inoperative household appliance upon any private property
unless it be at a licensed salvage yard, solid waste facility,
other business authorized to accept solid waste or at the
business establishment of a demolisher. Any person who
violates any provision of this section shall be guilty of a
misdemeanor and, upon conviction thereof, shall be
sentenced and fined as set forth below.

(c) Any person who is guilty of a misdemeanor as
described in this section and the abandoned motor vehicle,
junked motor vehicle, or inoperative household appliance
does not exceed one hundred pounds in weight or twenty-
seven cubic feet in size is subject to a fine of not less than
fifty dollars nor more than one thousand dollars or, in the
discretion of the court, sentenced to perform community
service by cleaning up litter from any public highway, road,
street, alley or any other public park or public property or
waters of the state, as designated by the court, for not less
than eight nor more than sixteen hours, or both.

(d) Any person who is guilty of a misdemeanor as
described in this section and the abandoned motor vehicle,
junked motor vehicle or inoperative household appliance is
greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet, is subject to a fine of not less than five hundred dollars nor more than two thousand dollars or, in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property or waters of the state, as designated by the court, for not less than sixteen nor more than thirty-two hours, or both.

(e) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle or inoperative household appliance is greater than five hundred pounds in weight or two hundred sixteen cubic feet in size is subject to a fine not less than twenty-five hundred dollars or not more than twenty-five thousand dollars or confinement in a county or regional jail for not more than one year, or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in section two, article fifteen, chapter twenty-two of this code and subject to the enforcement provisions of section fifteen of said article.

(f) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

(g) The sentence of litter cleanup shall be verified by natural resources police officers from the Division of Natural Resources or environmental inspectors from the Department of Environmental Protection. Any defendant receiving the sentence of litter cleanup shall provide within a time to be set by the court written acknowledgment from a natural resources police officer or environmental inspector that the
sentence has been completed and the litter has been disposed of lawfully.

(h) Any person who has been found by the court to have willfully failed to comply with the terms of a litter cleanup sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-23. Registration plates to state, county, municipal and other governmental vehicles; use for undercover activities.

(a) Any motor vehicle designed to carry passengers, owned or leased by the State of West Virginia, or any of its departments, bureaus, commissions or institutions, except vehicles used by the Governor, Treasurer, three vehicles per elected office of the board of Public Works, vehicles operated by the State Police, not to exceed five vehicles operated by the office of the Secretary of Military Affairs and Public Safety, not to exceed five vehicles operated by the Division of Homeland Security and Emergency Management, vehicles operated by natural resources police officers of the Division of Natural Resources, not to exceed ten vehicles operated by the arson investigators of the office of State Fire Marshal, not to exceed two vehicles operated by the Division of Protective Services, not to exceed sixteen vehicles operated by inspectors of the office of the Alcohol Beverage Control
Commissioner and vehicles operated by probation officers employed under the Supreme Court of Appeals may not be operated or driven by any person unless it has displayed and attached to the front thereof, in the same manner as regular motor vehicle registration plates are attached, a plate of the same size as the regular registration plate, with white lettering on a green background bearing the words “West Virginia” in one line and the words “State Car” in another line and the lettering for the words “State Car” shall be of sufficient size to be plainly readable from a distance of one hundred feet during daylight.

The vehicle shall also have attached to the rear a plate bearing a number and any other words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate shall also be green with the number in white.

(b) On registration plates issued to vehicles owned by counties, the color shall be white on red with the word “County” on top of the plate and the words “West Virginia” on the bottom. On any registration plates issued to a city or municipality, the color shall be white on blue with the word “City” on top and the words “West Virginia” on the bottom. Provided, That after the thirty-first day of December, two thousand six, registration plates issued to a city or municipality law-enforcement department shall include blue lettering on a white background with the word “West Virginia” on top of the plate and shall be further designed by the commissioner to include a law-enforcement shield together with other insignia or lettering sufficient to identify the motor vehicle as a municipal law-enforcement department motor vehicle. The colors may not be reversed and shall be of reflectorized material. The registration plates issued to counties, municipalities and other governmental agencies authorized to receive colored plates hereunder shall be affixed to both the front and rear of the vehicles. Every
municipality shall provide the commissioner with a list of law-enforcement vehicles operated by the law-enforcement department of the municipality, unless otherwise provided in this section, and a fee of ten dollars for each vehicle submitted by the first day of July, two thousand six.

(c) Registration plates issued to vehicles operated by county sheriffs shall be designed by the commissioner in cooperation with the sheriffs' association with the word "Sheriff" on top of the plate and the words "West Virginia" on the bottom. The plate shall contain a gold shield representing the sheriff's star and a number assigned to that plate by the commissioner. Every county sheriff shall provide the commissioner with a list of vehicles operated by the sheriff, unless otherwise provided in this section, and a fee of ten dollars for each vehicle submitted by the first day of July, two thousand two.

(d) The commissioner is authorized to designate the colors and design of any other registration plates that are issued without charge to any other agency in accordance with the motor vehicle laws.

(e) Upon application, the commissioner is authorized to issue a maximum of five Class A license plates per applicant to be used by county sheriffs and municipalities on law-enforcement vehicles while engaged in undercover investigations.

(f) The commissioner is authorized to issue an unlimited number of license plates per applicant to authorized drug and violent crime task forces in the State of West Virginia when the chairperson of the control group of a drug and violent crime task force signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used only for official undercover work conducted by a drug and violent crime task force.
(g) The commissioner is authorized to issue twenty Class A license plates to the Criminal Investigation Division of the Department of Revenue for use by its investigators.

(h) The commissioner may issue a maximum of ten Class A license plates to the Division of Natural Resources for use by natural resources police officers. The commissioner shall designate the color and design of the registration plates to be displayed on the front and the rear of all other state-owned vehicles owned by the Division of Natural Resources and operated by natural resources police officers.

(i) The commissioner is authorized to issue an unlimited number of Class A license plates to the Commission on Special Investigations for state-owned vehicles used for official undercover work conducted by the Commission on Special Investigations. The commissioner is authorized to issue a maximum of two Class A plates to the Division of Protective Services for state-owned vehicles used by the Division of Protective Services in fulfilling its mission.

(j) No other registration plate may be issued for, or attached to, any state-owned vehicle.

(k) The Commissioner of Motor Vehicles shall have a sufficient number of both front and rear plates produced to attach to all state-owned cars. The numbered registration plates for the vehicles shall start with the number “five hundred” and the commissioner shall issue consecutive numbers for all state-owned cars.

(l) It is the duty of each office, department, bureau, commission or institution furnished any vehicle to have plates as described herein affixed thereto prior to the operation of the vehicle by any official or employee.

(m) The commissioner may issue special registration plates for motor vehicles titled in the name of the Division of
Public Transit or in the name of a public transit authority as defined in this subsection and operated by a public transit authority or a public transit provider to transport persons in the public interest. For purposes of this subsection, “public transit authority” means an urban mass transportation authority created pursuant to the provisions of article twenty-seven, chapter eight of this code or a nonprofit entity exempt from federal and state income taxes under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large. The special registration plate shall be designed by the commissioner and shall display the words “public transit” or words or letters of similar effect to indicate the public purpose of the use of the vehicle. The special registration plate shall be issued without charge.

(n) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars nor more than one hundred dollars. Magistrates have concurrent jurisdiction with circuit courts for the enforcement of this section.

CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

ARTICLE 4. ACCIDENTS.

§17C-4-16. Accidents involving state and municipal property; reports to be provided.

Whenever a report of a motor vehicle accident prepared by a member of the West Virginia State Police, natural resources police officer of the Division of Natural Resources, a member of a county sheriff's department or a municipal police officer, in the regular course of their duties, indicates that as a result of the accident damage has occurred to any bridge, sign, guardrail or other property, exclusive of licensed
motor vehicles, a copy of the report shall, in the case of
property belonging to the Division of Highways, be provided
to the Commissioner of the Division of Highways, and, in the
case of property belonging to a municipality, be provided to
the mayor of that municipality. The copies of the reports
shall be provided to the commissioner or mayor, as
applicable, without cost to them.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-4. Implied consent to test; administration at direction
of law-enforcement officer; designation of type of
test; definition of law-enforcement officer.

(a) Any person who drives a motor vehicle in this state is
deemed to have given his or her consent by the operation of
the motor vehicle to a preliminary breath analysis and a
secondary chemical test of either his or her blood, breath or
urine for the purposes of determining the alcoholic content of
his or her blood.

(b) A preliminary breath analysis may be administered in
accordance with the provisions of section five of this article
whenever a law-enforcement officer has reasonable cause to
believe a person has committed an offense prohibited by
section two of this article or by an ordinance of a
municipality of this state which has the same elements as an
offense described in section two of this article.

(c) A secondary test of blood, breath or urine is incidental
to a lawful arrest and is to be administered at the direction of
the arresting law-enforcement officer having reasonable
grounds to believe the person has committed an offense
prohibited by section two of this article or by an ordinance of
a municipality of this state which has the same elements as an
offense described in section two of this article.
(d) The law-enforcement agency that employs the law-enforcement officer shall designate which type of secondary test is to be administered: Provided, That if the test designated is a blood test and the person arrested refuses to submit to the blood test, then the law-enforcement officer making the arrest shall designate either a breath or urine test to be administered. Notwithstanding the provisions of section seven of this article, the refusal to submit to a blood test only may not result in the revocation of the arrested person’s license to operate a motor vehicle in this state.

(e) Any person to whom a preliminary breath test is administered who is then arrested shall be given a written statement advising him or her that his or her refusal to submit to the secondary chemical test pursuant to subsection (d) of this section, will result in the revocation of his or her license to operate a motor vehicle in this state for a period of at least one year and up to life.

(f) Any law-enforcement officer who has been properly trained in the administration of any secondary chemical test authorized by this article, including, but not limited to, certification by the Division of Health in the operation of any equipment required for the collection and analysis of a breath sample, may conduct the test at any location in the county wherein the arrest is made: Provided, That the law-enforcement officer may conduct the test at the nearest available properly functioning secondary chemical testing device located outside the county in which the arrest was made, if (i) there is no properly functioning secondary chemical testing device located within the county the arrest was made or (ii) there is no magistrate available within the county the arrest was made for the arraignment of the person arrested. A law-enforcement officer who is directing that a secondary chemical test be conducted has the authority to transport the person arrested to where the secondary chemical testing device is located.
(g) If the arresting officer lacks proper training in the administration of a secondary chemical test, then any other law-enforcement officer who has received training in the administration of the secondary chemical test to be administered may, upon the request of the arresting law-enforcement officer and in his or her presence, conduct the secondary test. The results of a test conducted pursuant to this subsection may be used in evidence to the same extent and in the same manner as if the test had been conducted by the arresting law-enforcement officer.

(h) Only the person actually administering or conducting a test conducted pursuant to this article is competent to testify as to the results and the veracity of the test.

(i) For the purpose of this article, the term "law-enforcement officer" or "police officer" means: (1) Any member of the West Virginia State Police; (2) any sheriff and any deputy sheriff of any county; (3) any member of a police department in any municipality as defined in section two, article one, chapter eight of this code; (4) any natural resources police officer of the Division of Natural Resources; and (5) any special police officer appointed by the Governor pursuant to the provisions of section forty-one, article three, chapter sixty-one of this code who has completed the course of instruction at a law-enforcement training academy as provided for under the provisions of section nine, article twenty-nine, chapter thirty of this code.

(j) A law-enforcement officer who has reasonable cause to believe that person has committed an offense prohibited by section eighteen, article seven, chapter twenty of this code, relating to the operation of a motorboat, jet ski or other motorized vessel, shall follow the provisions of this section in administering, or causing to be administered, a preliminary breath analysis and the secondary chemical test of the
accused person’s blood, breath or urine for the purpose of
determining alcohol content of his or her blood.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 10. FEES AND OTHER MONEY COLLECTED
AT STATE INSTITUTIONS OF HIGHER
EDUCATION.

§18B-10-7. Tuition and fee waivers for children and spouses of
officers, firefighters, National Guard personnel,
reserve personnel and active military duty
personnel killed in the line of duty.

(a) Each state institution of higher education shall waive
tuition and fees for any person who is the child or spouse of
an individual who:

(1) Was employed or serving as:

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

(B) A correctional officer at a state penal institution;

(C) A parole officer;

(D) A probation officer;

(E) A natural resources police officer; or

(F) A registered firefighter; and

(2) Was killed in the line of duty while:

(A) Employed by the state or any political subdivision of
the state; or
(B) A member of a volunteer fire department serving a political subdivision of this state.

(b) Each state institution of higher education shall waive tuition and fees for any person who is the child or spouse of:

(1) A National Guard member or a member of a reserve component of the armed forces of the United States who is a resident of this state and is killed in the line of duty. The member is considered to have been killed in the line of duty if death resulted from performing a duty required by his or her orders or commander while in an official duty status, other than on federal active duty, authorized under federal or state law; or

(2) A person on federal or state active military duty who is a resident of this state and is killed in the line of duty. The person is considered to have been killed in the line of duty if death resulted from performance of a duty required by his or her orders or commander while in an official duty status.

(c) Any waiver granted pursuant to this section is subject to the following:

(1) The recipient may attend any undergraduate course if classroom space is available;

(2) The recipient has applied and been admitted to the institution;

(3) The recipient has applied for and submitted the Free Application for Federal Student Aid;

(4) The recipient has exhausted all other sources of student financial assistance dedicated solely to tuition and fees that exceed other grant assistance that are available to him or her, excluding student loans;
(5) Waiver renewal is contingent upon the recipient continuing to meet the academic progress standards established by the institution.

(d) The state institution of higher education may require the person to pay:

(1) Special fees, including any laboratory fees, if the fees are required of all other students taking a single course or that particular course; and

(2) Parking fees.

(e) The governing boards may promulgate rules:

(1) For determining the availability of classroom space;

(2) As each considers necessary to implement this section; and

(3) Regarding requirements for attendance, which may not exceed the requirements for other students.

(f) The governing boards may extend to persons attending courses and classes under this section any rights, privileges or benefits extended to other students which it considers appropriate.

CHAPTER 19. AGRICULTURE.

ARTICLE 20A. VACCINATION OF DOGS AND CATS FOR RABIES.


The enforcement of the provisions of this article shall be in the hands of the sheriff of each county, any of his deputies,
constables, natural resources police officers, and, if deemed necessary, there shall be a special officer to be appointed by the county commission, who is authorized, empowered, and directed to inspect rabies, pick up dogs and cats and dispose of dogs which are not taxable or not vaccinated according to this article. The sheriff of each county can have one or more sittings, if deemed necessary, in each district of the county, at which he shall be present or have present one of his deputies or the special officer above provided for, to take charge of all delinquent dogs and cats and homeless dogs and cats that are not vaccinated. The assessor of each county, or one of his deputies, shall accompany the veterinarian, doctor, or the one who administers the vaccine in these sittings for the purpose of collecting taxes on dogs. All dogs which are not vaccinated and for which taxes are unpaid shall become the responsibility of the sheriff to catch and dispose of as is provided by law.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

20-1-13. Law enforcement and legal services.

The director shall select and designate a competent and qualified person to be the chief natural resources police officer, who shall have the title of colonel and be responsible for the prompt, orderly and effective enforcement of all of the provisions of this chapter. Under the supervision of the director and subject to personnel qualifications and requirements otherwise prescribed in this chapter, the chief natural resources police officer shall be responsible for the selection, training, assignment, distribution and discipline of natural resources police officers and the effective discharge of their duties in carrying out the law-enforcement policies, practices and programs of the division in compliance with the
provisions of article seven of this chapter and other
controlling laws. Except as otherwise provided in this
chapter, natural resources police officers are hereby
authorized to enter into and upon private lands and waters to
investigate complaints and reports of conditions, conduct,
practices and activities considered to be adverse to and
violative of the provisions of this chapter and to execute writs
and warrants and make arrests thereupon.

The attorney general and his or her assistants and the
prosecuting attorneys of the several counties shall render to
the director, without additional compensation, the legal
services as the director may require of them in the discharge
of his or her duties and the execution of his or her powers
under and his or her enforcement of the provisions of this
chapter. The director, in an emergency and with prior
approval of the attorney general, may employ an attorney to
act in proceedings wherein criminal charges are brought
against personnel of the department because of action in line
of duty. For the attorney services, a reasonable sum, not
exceeding two thousand five hundred dollars, may be
expended by the director in any one case.

The director, if he or she deems the action necessary, may
request the attorney general to appoint an assistant attorney
general, who shall perform, under the supervision and
direction of the attorney general, the duties as may be
required of him or her by the director. The attorney general,
in pursuance of the request, may select and appoint an
assistant attorney general to serve at the will and pleasure of
the attorney general, and the assistant shall receive a salary to
be paid out of any funds made available for that purpose by
the Legislature to the department.

ARTICLE 2. WILDLIFE RESOURCES.
§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.

Except as authorized by the director, it is unlawful at any time for any person to:

1. Shoot at or to shoot any wild bird or animal unless it is plainly visible to him or her;

2. Dig out, cut out or smoke out, or in any manner take or attempt to take, any live wild animal or wild bird out of its den or place of refuge except as may be authorized by rules promulgated by the director or by law;

3. Make use of, or take advantage of, any artificial light in hunting, locating, attracting, taking, trapping or killing any wild bird or wild animal, or to attempt to do so, while having in his or her possession or subject to his or her control, or for any person accompanying him or her to have in his or her possession or subject to his or her control, any firearm, whether cased or uncased, bow, arrow, or both, or other implement or device suitable for taking, killing or trapping a wild bird or animal: Provided, That it is lawful to hunt or take raccoon, opossum or skunk by the use of artificial light subject to the restrictions set forth in this subdivision: Provided, however, That it is lawful to hunt or take coyotes by the use of amber- or red-colored artificial light subject to the restrictions set forth in this subdivision. No person is guilty of a violation of this subdivision merely because he or she looks for, looks at, attracts or makes motionless a wild bird or wild animal with or by the use of an artificial light, unless at the time he or she has in his or her possession a firearm, whether cased or uncased, bow, arrow, or both, or other implement or device suitable for taking, killing or trapping a wild bird or wild animal, or unless the artificial light (other than the head lamps of an automobile or other
land conveyance) is attached to, a part of or used from within
or upon an automobile or other land conveyance.

Any person violating the provisions of this subdivision is
guilty of a misdemeanor and, upon conviction thereof, shall
for each offense be fined not less than one hundred dollars
nor more than five hundred dollars and shall be imprisoned
in jail for not less than ten days nor more than one hundred
days;

(4) Hunt for, take, kill, wound or shoot at wild animals or
wild birds from an airplane, or other airborne conveyance, an
automobile, or other land conveyance, or from a
motor-driven water conveyance, except as authorized by
rules promulgated by the director;

(5) Take any beaver or muskrat by any means other than
by trap;

(6) Catch, capture, take or kill by seine, net, bait, trap or
snare or like device of any kind any wild turkey, ruffed
grouse, pheasant or quail;

(7) Destroy or attempt to destroy needlessly or willfully
the nest or eggs of any wild bird or have in his or her
possession the nest or eggs unless authorized to do so under
rules promulgated by or under a permit issued by the director;

(8) Except as provided in section six of this article, carry
an uncased or loaded gun in any of the woods of this state
except during the open firearms hunting season for wild
animals and nonmigratory wild birds within any county of
the state unless he or she has in his or her possession a permit
in writing issued to him or her by the director: Provided,
that this section shall not prohibit hunting or taking of
unprotected species of wild animals and wild birds and
migratory wild birds, during the open season, in the open
fields, open water and open marshes of the state;

(9) Have in his or her possession a crossbow with a
nocked bolt, a loaded firearm or a firearm from the magazine
of which all shells and cartridges have not been removed, in
or on any vehicle or conveyance, or its attachments, within
the state, except as may otherwise be provided by law or
regulation. Except as hereinafter provided, between five
o'clock postmeridian of one day and seven o'clock
antemeridian, eastern standard time of the day following, any
unloaded firearm or crossbow, being lawfully carried in
accordance with the foregoing provisions, shall be so carried
only when in a case or taken apart and securely wrapped.
During the period from the first day of July to the thirtieth
day of September, inclusive, of each year, the foregoing
requirements relative to carrying certain unloaded firearms
are permissible only from eight-thirty o'clock postmeridian
to five o'clock antemeridian, eastern standard time:
Provided, That the time periods for carrying unloaded and
uncased firearms are extended for one hour after the
postmeridian times and one hour before the antemeridian
times established above if a hunter is preparing to or in the
process of transporting or transferring the firearms to or from
a hunting site, campsite, home or other place of abode;

(10) Hunt, catch, take, kill, trap, injure or pursue with
firearms or other implement by which wildlife may be taken
after the hour of five o'clock antemeridian on Sunday on
private land without the written consent of the landowner any
wild animals or wild birds except when a big game season
opens on a Monday, the Sunday prior to that opening day will
be closed for any taking of wild animals or birds after five
o'clock antemeridian on that Sunday: Provided, That traps
previously and legally set may be tended after the hour of
five o'clock antemeridian on Sunday and the person so doing
may carry only a twenty-two caliber firearm for the purpose
of humanely dispatching trapped animals. Any person
violating the provisions of this subdivision is guilty of a
misdemeanor and, upon conviction thereof, in addition to any
fines that may be imposed by this or other sections of this
code, shall be subject to a one hundred dollar fine;

(11) Hunt with firearms or long bow while under the
influence of intoxicating liquor;

(12) Hunt, catch, take, kill, injure or pursue a wild animal
or bird with the use of a ferret;

(13) Buy raw furs, pelts or skins of fur-bearing animals
unless licensed to do so;

(14) Catch, take, kill or attempt to catch, take or kill any
fish at any time by any means other than by rod, line and
hooks with natural or artificial lures unless otherwise
authorized by law or rules issued by the Director: Provided,
That snaring of any species of suckers, carp, fallfish and
creek chubs shall at all times be lawful;

(15) Employ or hire, or induce or persuade, by the use of
money or other things of value, or by any means, any person
to hunt, take, catch or kill any wild animal or wild bird except
those species on which there is no closed season, or to fish
for, catch, take or kill any fish, amphibian or aquatic life
which is protected by the provisions of this chapter or rules
of the director or the sale of which is prohibited;

(16) Hunt, catch, take, kill, capture, pursue, transport,
possess or use any migratory game or nongame birds
included in the terms of conventions between the United
States and Great Britain and between the United States and
United Mexican States for the protection of migratory birds
and wild mammals concluded, respectively, the sixteenth day of August, one thousand nine hundred sixteen, and the seventh day of February, one thousand nine hundred thirty-six, except during the time and in the manner and numbers prescribed by the federal Migratory Bird Treaty Act, 16 U.S.C. §703, et seq., and regulations made thereunder;

(17) Kill, take, catch or have in his or her possession, living or dead, any wild bird other than a game bird; or expose for sale or transport within or without the state any bird except as aforesaid. No part of the plumage, skin or body of any protected bird shall be sold or had in possession for sale except mounted or stuffed plumage, skin, bodies or heads of the birds legally taken and stuffed or mounted, irrespective of whether the bird was captured within or without this state, except the English or European sparrow (passer domesticus), starling (sturnus vulgaris) and cowbird (molothrus ater), which may not be protected and the killing thereof at any time is lawful;

(18) Use dynamite or any like explosive or poisonous mixture placed in any waters of the state for the purpose of killing or taking fish. Any person violating the provisions of this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than five hundred dollars or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(19) Have a bow and gun, or have a gun and any arrow or arrows, in the fields or woods at the same time;

(20) Have a crossbow in the woods or fields or use a crossbow to hunt for, take or attempt to take any wildlife, unless the person possesses a Class Y permit;

(21) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is equipped with a point having
at least two sharp cutting edges measuring in excess of three fourths of an inch wide;

(22) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

(23) Shoot an arrow across any public highway or from aircraft, motor-driven watercraft, motor vehicle or other land conveyance;

(24) Permit any dog owned by him or her or under his or her control to chase, pursue or follow upon the track of any wild animal or wild bird, either day or night, between the first day of May and the fifteenth day of August next following: Provided, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner or by his or her bona fide tenant or tenants or upon the grounds or lands of another person with his or her written permission or on public lands at any time: Provided, however, That nonresidents may not train dogs in this state at any time except during the legal small game hunting season: Provided, further, That the person training said dogs does not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds, whereby wild animals or wild birds could be taken or killed;

(25) Conduct or participate in a field trial, shoot-to-retrieve field trial, water race or wild hunt hereafter referred to as trial: Provided, That any person, group of persons, club or organization may hold the trial at any time of the year upon obtaining a permit as is provided in section fifty-six of this article. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in said trial
and make same readily available for inspection by any
natural resources police officer upon request;

(26) Except as provided in section four of this article,
hunt, catch, take, kill or attempt to hunt, catch, take or kill
any wild animal, wild bird or wild fowl except during the
open season established by rule of the director as authorized
by subdivision (6), section seven, article one of this chapter;

(27) Hunting on public lands on Sunday after five o’clock
antemeridian is prohibited; and

(28) Hunt, catch, take, kill, trap, injure or pursue with
firearms or other implement which wildlife can be taken, on
private lands on Sunday after the hour of five o’clock
antemeridian: Provided, That the provisions of this
subdivision do not apply in any county until the county
commission of the county holds an election on the question
of whether the provisions of this subdivision prohibiting
hunting on Sunday shall apply within the county and the
voters approve the allowance of hunting on Sunday in the
county. The election is determined by a vote of the resident
voters of the county in which the hunting on Sunday is
proposed to be authorized. The county commission of the
county in which Sunday hunting is proposed shall give notice
to the public of the election by publication of the notice as a
Class II-0 legal advertisement in compliance with the
provisions of article three, chapter fifty-nine of this code and
the publication area for the publication shall be the county in
which the election is to be held. The date of the last
publication of the notice shall fall on a date within the period
of the fourteen consecutive days next preceding the election.

On the local option election ballot shall be printed the
following:
Shall hunting on Sunday be authorized in ______ County?

[ ] Yes   [ ] No

(Place a cross mark in the square opposite your choice.)

Any local option election to approve or disapprove of the proposed authorization of Sunday hunting within a county shall be in accordance with procedures adopted by the commission. The local option election may be held in conjunction with a primary or general election or at a special election. Approval shall be by a majority of the voters casting votes on the question of approval or disapproval of Sunday hunting at the election.

If a majority votes against allowing Sunday hunting, no election on the issue may be held for a period of one hundred four weeks. If a majority votes “yes”, no election reconsidering the action may be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which Sunday hunting is authorized. The petition may be in any number of counterparts. The election shall take place at the next primary or general election scheduled more than ninety days following receipt by the county commission of the petition required by this subsection: Provided, That the issue may not be placed on the ballot until all statutory notice requirements have been met. No local law or regulation providing any penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict with this subdivision.
(29) Hunt or conduct hunts for a fee where the hunter is not physically present in the same location as the wildlife being hunted within West Virginia.

§20-2-7. Hunting, trapping or fishing on lands of another; damages and compensation.

(a) It is unlawful for any person to shoot, hunt, fish or trap upon the fenced, enclosed or posted lands of another person; or to peel trees or timber, build fires or do any other act in connection with shooting, hunting, fishing or trapping on the lands without written permission in his or her possession from the owner, tenant or agent of the owner.

(b) Any person who hunts, traps or fishes on land without the permission of the owner, tenant or agent of the owner is guilty of a misdemeanor and liable to the owner or person suffering damage for all costs and damages for: (1) Killing or injuring any domestic animal or fowl; (2) cutting, destroying or damaging any bars, gates or fence or any part of the property; or (3) leaving open any bars or gates resulting in damage to the property.

(c) The owner, tenant or agent of the owner may arrest a person violating this section and immediately take him or her before a magistrate. The owner, tenant or agent of the owner is vested with the powers and rights of a natural resources police officer for these purposes. The officers charged with the enforcement of the provisions of this chapter shall enforce the provisions of this section if requested to do so by the owner, tenant or agent of the owner, but not otherwise.

(d) The provisions of subsections (b) and (c) of this section related to criminal penalties and being subject to arrest are inapplicable to a person whose dog, without the person's direction or encouragement, travels onto the fenced,
Enclosed or posted land of another in pursuit of an animal or wild bird: Provided, That the pursuit does not result in the taking of game from the fenced, enclosed or posted land and does not result in the killing of domestic animals or fowl or other damage to or on the fenced, enclosed or posted land.

§20-2-15. Permit to kill deer or other wildlife causing damage to cultivated crops, trees, commercial nurseries, homeowners' shrubbery and vegetable gardens; weapon restrictions.

(a) Whenever it shall be found that deer or other wildlife are causing damage to cultivated crops, fruit trees, commercial nurseries, homeowners' trees, shrubbery or vegetable gardens, the owner or lessee of the lands on which damage is done may report the finding to the natural resources police officer or biologist of the county in which the lands are located or to the director. The director shall then investigate the reported damage and if found substantial, shall issue a permit to the owner or lessee to kill one or more deer or other wildlife in the manner prescribed by the director.

(b) In addition to the foregoing, the director shall establish procedures for the issuance of permits or other authorization necessary to control deer or other wildlife causing property damage.

(c) All persons attempting to kill deer or other wildlife pursuant to this section are subject to the same minimum caliber restrictions and other firearm restrictions and the same minimum bow poundage and other bow and arrow restrictions that apply when hunting the same animal species during the regular hunting seasons.

No person shall permit his dog to hunt or chase deer. A natural resources police officer shall take into possession any dog known to have hunted or chased deer and the director shall advertise that the dog is in his or her possession, giving a description of the dog and stating the circumstances under which it was taken. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication shall be the county. He shall hold the dog for a period of ten days after the date of the publication. If, within ten days, the owner does not claim the dog, the director shall destroy it. In this event the cost of keeping and advertising shall be paid by the director. If, within ten days, the owner claims the dog, he may repossess it on the payment of costs of advertising and the cost of keep, not exceeding fifty cents per day. A natural resources police officer, or any officer or employee of the director authorized to enforce the provisions of this section, after a bona fide but unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill the dogs.

§20-2-22. Tagging, removing, transporting and reporting bear, bobcat, deer, wild boar and wild turkey.

(a) Each person killing a bear, bobcat, deer, wild boar or wild turkey found in a wild state shall either attach a completed game tag to the animal or remain with the animal and have upon his or her person a completed game tag before removing the carcass in any manner from where it was killed.

(b) While transporting the carcass of a bear, bobcat, deer, wild boar or wild turkey from where it was killed, each person shall either attach a completed game tag to the animal or have upon his or her person a completed game tag.

(c) Upon arriving at a residence, camp, hunting lodge, vehicle or vessel each person shall attach a game tag to the
Enr. H.B. 3110] 40

12 killed bear, bobcat, deer, wild boar or wild turkey. The game
tag shall remain on the carcass until it is retagged by a natural
resources police officer or an official checking station.

15 (d) If a person who does not possess a game tag kills a
bear, bobcat, deer, wild boar or wild turkey, he or she shall
make a tag. The tag shall bear the name, address and, if
applicable, the license number of the hunter and the time,
date and county of killing.

20 (e) The carcass of a wild turkey shall be delivered to a
natural resources police officer or an official checking station
for checking and retagging before it is either skinned or
transported beyond the boundaries of the county adjacent to
that in which the kill was made.

25 (f) The fresh skin and head or carcass of the deer shall be
delivered to a natural resources police officer or an official
checking station for checking and retagging before it is
transported beyond the boundaries of the county adjacent to
that in which the kill was made.

30 (g) A person who kills a bear shall treat the carcass and
remains in accordance with the provisions of section twenty-
two-a of this article.

33 (h) For each violation of this section a person is subject
to the penalties provided in this article.

§20-2-22a. Hunting, tagging and reporting bear; procedures
applicable to property destruction by bear; penalties.

1 (a) A person in any county of this state may not hunt,
capture, or kill any bear, or have in his or her possession any
bear or bear parts, except during the hunting season for bear
and in the manner designated by rules promulgated by the
Division of Natural Resources and as provided in this section.
For the purposes of this section, bear parts include, but are
not limited to, the pelt, gallbladder, skull and claws of bear.

(b) A person who kills a bear shall, within twenty-four
hours after the killing, deliver the bear or fresh skin to a
natural resources police officer or checking station for
tagging. A Division of Natural Resources tag shall be affixed
to it before any part of the bear may be transported more than
seventy-five miles from the point of kill. The Division of
Natural Resources tag shall remain on the skin until it is
tanned or mounted. Any bear or bear parts not properly
tagged shall be forfeited to the state for disposal to a
charitable institution, school or as otherwise designated by
the Division of Natural Resources.

(c) It is unlawful:

(1) To hunt bear without a bear damage stamp as
prescribed in section forty-four-b of this article, in addition
to a hunting license as prescribed in this article;

(2) To hunt a bear with:

(A) A shotgun using ammunition loaded with more than
one solid ball;

(B) a rifle of less than twenty-five caliber using rimfire
ammunition; or,

(C) a crossbow;

(3) To kill or attempt to kill any bear through the use of
poison, explosives, snares, steel traps or deadfalls other than
as authorized in this section;
(4) To shoot at or kill:

(A) A bear weighing less than seventy-five pounds live weight or fifty pounds field dressed weight, after removal of all internal organs;

(B) Any bear accompanied by a cub; or,

(C) Any bear cub so accompanied, regardless of its weight;

(5) To possess any part of a bear not tagged in accordance with the provisions of this section;

(6) To enter a state game refuge with firearms for the purpose of pursuing or killing a bear except under the direct supervision of division personnel;

(7) To hunt bear with dogs or to cause dogs to chase bear during seasons other than those designated by the Division of Natural Resources for the hunting of bear;

(8) To pursue a bear with a pack of dogs other than the pack used at the beginning of the hunt once the bear is spotted and the chase has begun;

(9) To possess, harvest, sell or purchase bear parts obtained from bear killed in violation of this section;

(10) To organize for commercial purposes or to professionally outfit a bear hunt or to give or receive any consideration whatsoever or any donation in money, goods or services in connection with a bear hunt notwithstanding the provisions of sections twenty-three and twenty-four of this article; or
(11) For any person who is not a resident of this state to
hunt bear with dogs or to use dogs in any fashion for the
purpose of hunting bear in this state except in legally
authorized hunts.

(d) The following provisions apply to bear destroying
property:

(1) (A) Any property owner or lessee who has suffered
damage to real or personal property, including loss
occasioned by the death or injury of livestock or the unborn
issue of livestock, caused by an act of a bear may complain
to any natural resources police officer of the Division of
Natural Resources for protection against the bear.

(B) Upon receipt of the complaint, the officer shall
immediately investigate the circumstances of the complaint.
If the officer is unable to personally investigate the
complaint, he or she shall designate a wildlife biologist to
investigate on his or her behalf.

(C) If the complaint is found to be justified, the officer or
designated person may, together with the owner and other
residents, proceed to hunt, destroy or capture the bear that
caused the property damage: Provided, That only the natural
resources police officer or the wildlife biologist shall
determine whether to destroy or capture the bear and whether
to use dogs to capture or destroy the bear: Provided,
however, That, if out-of-state dogs are used in the hunt, the
owners of the dogs are the only nonresidents permitted to
participate in hunting the bear.

(2) (A) When a property owner has suffered damage to
real or personal property as the result of an act by a bear, the
owner shall file a report with the Director of the Division of
Natural Resources. The report shall state whether or not the
bear was hunted and destroyed and, if so, the sex, weight and estimated age of the bear. The report shall also include an appraisal of the property damage occasioned by the bear duly signed by three competent appraisers fixing the value of the property lost.

(B) The report shall be ruled upon and the alleged damages examined by a commission comprised of the complaining property owner, an officer of the division and a person to be jointly selected by the officer and the complaining property owner.

(C) The division shall establish the procedures to be followed in presenting and deciding claims under this section in accordance with article three, chapter twenty-nine-a of this code.

(D) All claims shall be paid in the first instance from the Bear Damage Fund provided in section forty-four-b of this article. In the event the fund is insufficient to pay all claims determined by the commission to be just and proper, the remainder due to owners of lost or destroyed property shall be paid from the special revenue account of the Division of Natural Resources.

(3) In all cases where the act of the bear complained of by the property owner is the killing of livestock, the value to be established is the fair market value of the livestock at the date of death. In cases where the livestock killed is pregnant, the total value shall be the sum of the values of the mother and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair market value of the issue had it been born.

(e) Criminal penalties. -- (1) Any person who commits a violation of the provisions of this section is guilty of a
misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000, which fine is not subject to suspension by the court, confined in jail not less than thirty nor more than one hundred days, or both fined and confined. Further, the person's hunting and fishing licenses shall be suspended for two years.

(2) Any person who commits a second violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $2,000 nor more than $7,500, which fine is not subject to suspension by the court, confined in jail not less than thirty days nor more than one year, or both fined and confined. The person's hunting and fishing licenses shall be suspended for life.

(3) Any person who commits a third or subsequent violation of the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than $5,000 nor more than $10,000, which fine is not subject to suspension by the court, imprisoned in a correctional facility not less than one year nor more than five years, or both fined and imprisoned.

§20-2-56a. Bird dog training permit.

The director may issue a permit to train bird dogs on wild birds or game birds, provided:

(1) The fee for the permit is ten dollars.

(2) The training shall be on private land containing a minimum of five acres in a single tract. The permittee must own the land, lease the land or have written permission of landowner for the training.

(3) The birds permitted to be used for the training of dogs are quail and pigeons. The quail must be purchased from a
licensed commercial game farm. Pigeons may be purchased from a licensed commercial game farm or trapped within the state at any time as long as the person conducting the trapping is legally licensed to do so and also holds the appropriate permit. Each trap must be identified by a waterproof tag attached to the trap that bears the name, address and telephone number of the trapper.

(4) The permittee must retain the receipt for two years of all birds purchased from a commercial game farm licensee.

(5) The location where the birds are held and all records pertaining to the purchase and dates of training may be inspected by a natural resources police officer.

(6) No more than thirty birds may be held by the permittee at any given time. All birds must have a uniquely numbered leg band attached. The leg band must remain with the birds until consumption or until the birds are legally disposed.

(7) Birds held under this permit shall be housed and cared for in accordance with the requirements of applicable rules.

(8) The use of the birds held under this permit shall include the release, recapture and/or the shooting of the birds in conjunction with the training of bird dogs.

(9) The person holding birds in captivity under the authority of this permit and the person training his or her bird dog must possess a bird dog training permit.

(10) All other laws and rules governing hunting, trapping, shooting and training apply.

(11) The director may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, to further restrict bird dog training.
(12) Any person violating any provision of this law is subject to the penalties prescribed in section nine, article seven, chapter twenty of this code.

§20-2-57a. Negligent shooting, wounding or killing of another person while hunting; duty to render aid; criminal violations; suspension of hunting and fishing license; criminal penalties; administrative penalties.

(a) It is unlawful for any person, while engaged in the act of hunting, pursuing, taking or killing wild animals or wild birds, to carelessly or negligently shoot, wound or kill another person.

(b) Anyone who negligently shoots, wounds or injures another person while hunting, not resulting in serious bodily injury or death, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1000 or confined in jail not more than six months, or both fined and confined.

(c) Anyone who negligently shoots and injures another person while hunting, resulting in serious bodily injury or death, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $2500 or confined in jail for not more than one year, or both fined and confined.

(d) For purposes of this section, serious bodily injury means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

(e) (1) Any person who, while hunting, discharges a firearm or arrow and knows or has reason to know that the discharge has caused bodily harm to another person shall:
(A) Immediately investigate the extent of the person’s injuries; and

(B) Render immediate reasonable assistance to the injured person.

(2) As used in this subsection, “reasonable assistance” means aid appropriate to the circumstances, including by not limited to obtaining or attempting to obtain assistance from a natural resources police officer, law enforcement officer, 911 dispatchers, emergency medical providers and medical personnel.

(f) Any person who fails to render aid and assistance to an injured person as required by subsection (e), to an injured party who has not sustained a serious bodily injury is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $2,500 and confined in jail for not more than one year, or both fined and confined.

(g) Any person who fails to render aid as required by subsection (e) to an injured party who has sustained a serious bodily injury or dies as a result of their injuries is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned in a correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(h) Any person found guilty of committing a misdemeanor under this section shall have their hunting and fishing licenses suspended for a period of five years from the date of conviction or the date of release from confinement, whichever is later.

(i) Any person found guilty of committing a felony offense under this section shall have their hunting and fishing
licenses suspended for a period of ten years from the date of
conviction or the date of release from incarceration,
whichever is later.

ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING,
LITTER.

PART I. LAW ENFORCEMENT, PROCEDURES AND PENALTIES.

§20-7-1. Chief natural resources police officer; natural
resources police officers; special and emergency
natural resources police officers; subsistence
allowance; expenses.

(a) The division’s law-enforcement policies, practices
and programs shall be under the immediate supervision and
direction of the division law-enforcement officer selected by
the director and designated as chief natural resources police
officer as provided in section thirteen, article one of this
chapter.

(b) Under the supervision of the director, the chief natural
resources police officer shall organize, develop and maintain
law-enforcement practices, means and methods geared, timed
and adjustable to seasonal, emergency and other needs and
requirements of the division’s comprehensive natural
resources program. All division personnel detailed and
assigned to law-enforcement duties and services under this
section shall be known and designated as natural resources
police officers and shall be under the immediate supervision
and direction of the chief natural resources police officer. All
natural resources police officers shall be trained, equipped
and conditioned for duty and services wherever and
whenever required by division law-enforcement needs.

(c) The chief natural resources police officer, acting
under supervision of the director, is authorized to select and
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appoint emergency natural resources police officers for a
limited period of time for effective enforcement of the
provisions of this chapter when considered necessary because
of emergency or other unusual circumstances. The
emergency natural resources police officers shall be selected
from qualified civil service personnel of the division, except
in emergency situations and circumstances when the director
may designate officers, without regard to civil service
requirements and qualifications, to meet law-enforcement
needs. Emergency natural resources police officers shall
exercise all powers and duties prescribed in section four of
this article for full-time salaried natural resources police
officers except the provisions of subdivision (8) of said
section.

(d) The chief natural resources police officer, acting
under supervision of the director, is also authorized to select
and appoint as special natural resources police officers any
full-time civil service employee who is assigned to, and has
direct responsibility for management of, an area owned,
leased or under the control of the division and who has
satisfactorily completed a course of training established and
administered by the chief natural resources police officer,
when the action is considered necessary because of law-
enforcement needs. The powers and duties of a special
natural resources police officer, appointed under this
provision, is the same within his or her assigned area as
prescribed for full-time salaried natural resources police
officers. The jurisdiction of the person appointed as a special
natural resources police officer, under this provision, shall be
limited to the division area or areas to which he or she is
assigned and directly manages.

(e) The chief natural resources police officer, acting
under supervision of the director, is also authorized to
appoint as special natural resources police officers any full-
time civil service forest fire control personnel who have satisfactorily completed a course of training established and administered by the chief natural resources police officer. The jurisdiction of forest fire control personnel appointed as special natural resources police officers is limited to the enforcement of the provisions of article three of this chapter.

(f) The chief natural resources police officer, with the approval of the director, has the power and authority to revoke any appointment of an emergency natural resources police officer or of a special natural resources police officer at any time.

(g) Natural resources police officers are subject to seasonal or other assignment and detail to duty whenever and wherever required by the functions, services and needs of the division.

(h) The chief natural resources police officer shall designate the area of primary residence of each natural resources police officer, including himself or herself. Since the area of business activity of the division is actually anywhere within the territorial confines of the State of West Virginia, actual expenses incurred shall be paid whenever the duties are performed outside the area of primary assignment and still within the state.

(i) Natural resources police officers shall receive, in addition to their base pay salary, a minimum monthly subsistence allowance for their required telephone service, dry cleaning or required uniforms, and meal expenses while performing their regular duties in their area of primary assignment in the amount of $130 each month. This subsistence allowance does not apply to special or emergency natural resources police officers appointed under this section.
(j) After June 30, 2010, all those full time law-enforcement officers employed by the Division of Natural Resources as conservation officers shall be titled and known as natural resources police officers. Wherever in this code the term “conservation officer,” or its plural, it means “natural resources police officer,” or its plural, respectively.

§20-7-la. Natural resources police officer salary increase based on length of service.

(a) Effective the first day of July, two thousand two, each natural resources police officer shall receive and be entitled to an increase in salary based on length of service, including that heretofore and hereafter served as a natural resources police officer as follows: For five years of service with the division, a natural resources police officer shall receive a salary increase of six hundred dollars per year payable during his or her next three years of service and a like increase at three-year intervals thereafter, with these increases to be cumulative. A salary increase shall be based upon years of service as of the first day of July of each year and may not be recalculated until the first day of July of the following year.

Conservation officers in service at the time the amendment to this section becomes effective shall be given credit for prior service and shall be paid salaries as the same length of service will entitle them to receive under the provisions hereof.

(b) This section does not apply to special or emergency natural resources police officers appointed under the authority of section one of this article.

§20-7-lb. Designation of certain federal law-enforcement officers as special natural resources police officers.
The Legislature finds that it is in the mutual interest of
the department and certain land management agencies of the
United States to cooperate in the enforcement of state statutes
and regulations within and adjacent to units of the National
Park System, National Forests and U.S. Army Corps of
Engineers projects located within the state of West Virginia.

Accordingly, the director of the department of natural
resources may enter into a written agreement with a federal
agency providing for the appointment of employees of the
federal agency as special natural resources police officers and
setting forth the terms and conditions within which the
federal employees may exercise the powers and duties of
special natural resources police officers. The terms and
conditions in the agreement shall grant a special natural
resources police officer appointed pursuant to the agreement
the same powers and duties as prescribed for a full-time
salaried natural resources police officer of the department,
but shall limit a special natural resources police officer in the
exercise of his or her powers and duties to areas within the
boundaries of the federal units to which the officer is
assigned in his or her federal employment and to situations
outside the boundaries of the federal units where the exercise
is for the mutual aid of natural resources police officers as set
forth in the agreement.

Any federal employee whose duties involve the
enforcement of the criminal laws of the United States and
who possesses a valid law-enforcement certification issued
by a federal land management agency which certifies the
meeting of requirements at least equivalent to the law-
enforcement officer training requirements promulgated
pursuant to article twenty-nine, chapter thirty of this code,
may be certified under the provisions of said article twenty-
nine and appointed as a special natural resources police
officer under the provisions of this section. Any special
natural resources police officer so appointed may not receive
compensation or benefits from the state or any political subdivisions thereof for the performance of his or her duties as a special natural resources police officer.

§20-7-1c. Natural resources police officer, ranks, salary schedule, base pay, exceptions.

(a) Notwithstanding any provision of this code to the contrary, the ranks within the law-enforcement section of the division of natural resources are colonel, lieutenant colonel, major, captain, lieutenant, sergeant, corporal, natural resources police officer first class, senior natural resources police officer, natural resources police officer and natural resources police officer-in-training. Each officer while in uniform shall wear the insignia of rank as provided by the chief natural resources police officer.

(b) Beginning on the first day of July, two thousand two, and continuing thereafter, natural resources police officers shall be paid the minimum annual salaries based on the following schedule:

<table>
<thead>
<tr>
<th>ANNUAL SALARY SCHEDULE (BASE PAY)</th>
<th>SUPERVISORY AND NONSUPERVISORY RANKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Resources Police Officer</td>
<td>In Training (first year until end of probation)</td>
</tr>
<tr>
<td>Natural Resources Police Officer</td>
<td>(second year)</td>
</tr>
<tr>
<td>Natural Resources Police Officer</td>
<td>(third year)</td>
</tr>
<tr>
<td>Senior Natural Resources Police Officer</td>
<td>(fourth and fifth year)</td>
</tr>
</tbody>
</table>
55

25 Senior Natural Resources
26 Police Officer First Class (after fifth year). . . . . $32,528

27 Senior Natural Resources
28 Police Officer (after tenth year). .................. $33,104

29 Senior Natural Resources
30 Police Officer (after fifteenth year). .............. $33,528

31 Corporal (after sixteenth year). ................. $36,704

32 Sergeant. .................................. $40,880

33 First Sergeant. ................................ $42,968

34 Lieutenant. .................................. $47,144

35 Captain. .................................... $49,232

36 Major. ....................................... $51,320

37 Lieutenant Colonel. ............................ $53,408

38 Colonel. ....................................

39 Natural resources police officers in service at the time the amendment to this section becomes effective shall be given credit for prior service and shall be paid salaries as the same length of service will entitle them to receive under the provisions of this section.

40 (c) This section does not apply to special or emergency natural resources police officers appointed under the authority of section one of this article.

41 (d) Nothing in this section prohibits other pay increases as provided for under section two, article five, chapter five of
Provided, That any across-the-board pay increase granted by the Legislature or the governor will be added to, and reflected in, the minimum salaries set forth in this section; and that any merit increases granted to an officer over and above the annual salary schedule listed in subsection (b) of this section are retained by an officer when he or she advances from one rank to another.

§20-7-1d. Awarding service revolver upon retirement; disposal of service weapon when replaced due to routine wear; and furnishing uniform for burial.

(a) Upon the retirement of any full-time salaried natural resources police officer, the chief natural resources police officer shall award to the retiring natural resources police officer his or her service revolver, without charge, upon determining:

(1) That the natural resources police officer is retiring honorably with at least twenty-five years of recognized law-enforcement service as determined by the chief natural resources police officer; or

(2) That the natural resources police officer is retiring with less than twenty-five years of service based upon a determination that he or she is totally physically disabled as a result of service with the division.

(b) Notwithstanding the provisions of subsection (a) of this section, the chief natural resources police officer shall not award a service revolver to any natural resources police officer who has been declared mentally incompetent by a licensed physician or any court of law, or who, in the opinion of the chief natural resources police officer, constitutes a danger to any person or the community.
(c) The disposal of law-enforcement service weapons, when replaced due to routine wear, shall not fall under the jurisdiction of the agency for surplus property, within the Purchasing Division of the Department of Administration. The chief natural resources police officer may offer these surplus weapons for sale to any active or retired Division of Natural Resources law-enforcement officer, at fair market value, with the proceeds from any sales used to offset the cost of the new weapons.

(d) Upon the death of any current or honorably retired natural resources police officer, the chief natural resources police officer shall, upon request of the deceased officer’s family, furnish a full uniform for burial of the deceased officer.

§20-7-le. Natural resources police officer performing duties for private persons; penalty; providing extraordinary law enforcement or security services by contract.

(a) Any natural resources police officer who hires himself or herself to any person, firm or corporation to guard private property, or who demands or receives from any person, firm or corporation any money or other thing of value as a consideration for the performance of, or the failure to perform, his or her duties under the regulations of the chief natural resources police officer and the provisions of this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than two hundred dollars, or confined in the county or regional jail for not more than four months, or both fined and confined.

(b) Notwithstanding any other provision of this section to the contrary, the chief natural resources police officer may contract with the public, military or private entities to provide
extraordinary law enforcement or security services by the Division of Natural Resources when it is determined by the chief natural resources police officer to be in the public interest. The chief natural resources police officer may assign personnel, equipment or facilities, and the division shall be reimbursed for the wages, overtime wages, benefits and costs of providing the contract services as negotiated between the parties. The compensation paid to natural resources police officers by virtue of contracts provided in this section shall be paid from a special account and are excluded from any formulation used to calculate an employee’s benefits. All requests for obtaining extraordinary law enforcement or security services shall be made to the chief natural resources police officer in writing and shall explain the funding source and the authority for making the request. No officer of the division is required to accept any assignment made pursuant to this subsection. Every officer assigned to duty hereunder shall be paid according to the hours and overtime hours actually worked notwithstanding that officer’s status as exempt personnel under the “Federal Labor Standards Act” or applicable state statutes. Every contract entered into under this subsection shall contain the provision that in the event of public disaster or emergency where the reassignment to official duty of the officer is required, neither the division nor any of its officers or other personnel are liable for any damages incurred as the result of the reassignment. Further, any entity contracting with the Division of Natural Resources under this section shall also agree as part of that contract to hold harmless and indemnify the state, Division of Natural Resources and its personnel from any liability arising out of employment under that contract.

The director is authorized to propose legislative rules, subject to approval by the Legislature, in accordance with chapter twenty-nine-a of this code relating to the
implementation of contracts entered into pursuant to this
subsection:  Provided, That the rules expressly prohibit
private employment of officers in circumstances involving
labor disputes.

§20-7-1f.  Awarding service revolver to special natural
resources police officers upon retirement; furnishing uniform for burial.

(a) Upon the retirement of any special natural resources
police officer selected and appointed pursuant to section one
of this article, the chief of the officer’s section shall award to
the retiring special natural resources police officer his or her
service revolver, without charge, upon determining:

(1) That the special natural resources police officer is
retiring honorably with at least twenty-five years of
recognized special law-enforcement service as determined by
the chief natural resources police officer; or

(2) That special natural resources police officer is retiring
with less than twenty-five years of service based upon a
determination that he or she is totally physically disabled as
a result of service with the division.

(b) Notwithstanding the provisions of subsection (a) of
this section, the section chief shall not award a service
revolver to any special natural resources police officer who
has been declared mentally incompetent by a licensed
physician or any court of law, or who, in the opinion of the
chief natural resources police officer constitutes a danger to
any person or the community.

(c) Upon the death of any current or honorably retired
special natural resources police officer, the respective chief
shall, upon request of the deceased officer’s family, furnish
a full uniform for burial of the deceased officer.
§20-7-2. Qualifications of natural resources police officers; right of retired officer to receive complete standard uniform; right of retired officer to acquire uniform; and right of retired officer to acquire badge.

In addition to civil service qualifications and requirements, persons selected as natural resources police officers shall have reached their eighteenth birthday at the time of appointment, be in good physical condition and of good moral character, temperate in habits and shall not have been convicted of a felony. Whenever possible and practicable, preference in selection of natural resources police officers shall be given honorably discharged United States military personnel. Each natural resources police officer, before entering upon the discharge of his duties, shall take and subscribe to the oath of office prescribed in article IV, section 5 of the Constitution of West Virginia, which executed oath shall be filed with the director.

The director shall prescribe the kind, style and material of uniforms to be worn by natural resources police officers. Uniforms and other equipment furnished to the natural resources police officers shall be and remain the property of the state, except as hereinafter provided in this section.

A natural resources police officer, upon honorable retirement, shall be authorized to maintain at his or her own cost a complete standard uniform from the law-enforcement agency of which he or she was a member, and shall be issued an identification card indicating his or her honorable retirement from the law-enforcement agency. The uniform may be worn by the officer in retirement only on the following occasions: Police Officer’s Memorial Day, Law Enforcement Appreciation Day, at the funeral of a law-enforcement officer or during any other police ceremony.
The honorably retired officer is authorized to acquire a badge of the law-enforcement agency from which he or she is retired with the word “retired” placed on it.

§20-7-3. Powers and duties of other law officers.

The sheriffs and constables of the several counties of the state, police officers of any city and members of the department of public safety shall be vested, within their respective jurisdictions, with all of the powers and authority of natural resources police officers without requirement of any additional oath or bond. Immediately upon making any arrest or executing any process under provisions of this chapter, each officer shall report thereon to the director.

§20-7-4. Powers and duties of natural resources police officers.

(a) Natural resources police officers and other persons authorized to enforce the provisions of this chapter are under the supervision and direction of the director in the performance of their duties.

(b) Natural resources police officers have statewide jurisdiction and have authority to:

(1) Arrest on sight, without warrant or other court process, any person or persons committing a criminal offense in violation of the laws of this state, in the presence of the officer, but no arrest may be made where any form of administrative procedure is prescribed by this chapter for the enforcement of the provisions of this chapter;

(2) Carry arms and weapons as may be prescribed by the director in the course and performance of their duties, but no license or other authorization shall be required for this privilege;
(3) Search and examine, in the manner provided by law, any boat, vehicle, automobile, conveyance, express or railroad car, fish box, fish bucket or creel, game bag or game coat or other place in which hunting and fishing paraphernalia, wild animals, wild birds, fish, amphibians or other forms of aquatic life could be concealed, packed or conveyed whenever they have reason to believe that they would thereby secure or discover evidence of the violation of the provisions of this chapter;

(4) Execute and serve a search warrant, notice or other process of law issued under the authority of this chapter or other law relating to wildlife, forests, and all other natural resources, by a magistrate or court having jurisdiction in the same manner, with the same authority and with the same legal effect as a sheriff;

(5) Require the operator of any motor vehicle or other conveyance on or about the public highways or roadways, or in or near the fields and streams of this state, to stop for the purpose of allowing the natural resources police officers to conduct game-kill surveys;

(6) Summon aid in making arrests or seizures or in executing warrants, notices or processes, in the same manner as sheriffs;

(7) Enter private lands or waters within the state while engaged in the performance of their official duties;

(8) Arrest on sight, without warrant or other court process, subject to the limitations set forth in subdivision (1) of this section, any person or persons committing a criminal offense in violation of any law of this state in the presence of the officer on any state-owned lands and waters and lands and waters under lease by the Division of Natural Resources.
and all national forest lands, waters and parks and U.S. Corps
of Army Engineers' properties within the boundaries of the
State of West Virginia and, in addition to the authority
conferred in other subdivisions of this section, execute all
arrest warrants on these state and national lands, waters and
parks and U.S. Corps of Army Engineers' properties,
consistent with the provisions of article one, chapter sixty-
two of this code;

(9) Arrest any person who enters upon the land or
premises of another without written permission from the
owner of the land or premises in order to cut, damage or
carry away, or cause to be cut, damaged or carried away, any
timber, trees, logs, posts, fruit, nuts, growing plants or
products of any growing plant. Any person convicted of
cutting, damaging or carrying away or causing to be cut,
damaged or carried away any timber, trees, logs, posts, fruits,
nuts, growing plants or products of growing plants is liable
to the owner in the amount of three times the value of the
timber, trees, logs, posts, fruit, nuts, growing plants or
products of any growing plant, in addition to and
notwithstanding any other penalties by law provided by
section thirteen, article three, chapter sixty-one of this code;

(10) Make a complaint in writing before any court or
officer having jurisdiction, and procure and execute the
warrant, when the officer knows or has reason to believe that
a person has violated a law of this state. The actions of the
natural resources police officer have the same force and
effect as if made by a sheriff;

(11) Serve and execute warrants for the arrest of any
person and warrants for the search of any premises,
buildings, properties or conveyances issued by a properly
constituted authority in the same manner, with the same
authority, and with the same legal effect, as a sheriff; and
(12) Do all things necessary to carry into effect the provisions of this chapter.

§20-7-12b. Boating safety education certificate.

(a) Except as otherwise provided in subsection (c) of this section, beginning on the first day of January, two thousand one, no person born on or after the thirty-first day of December, one thousand nine hundred eighty-six, may operate a motorboat or personal watercraft on any waters of this state without first having obtained a certificate of boating safety education from this or any other state, which certificate was obtained by satisfactorily completing a course of instruction in boating safety education administered by the United States coast guard auxiliary; the United States power squadron; the West Virginia Division of Natural Resources; any person certified to teach the course administered by West Virginia natural resources boating safety education section personnel; or any person authorized to teach the course prescribed by the national association of state boating law administrators in this or any other state.

(b) Any person who is subject to subdivision (a) of this section shall possess the certificate of boating safety education when operating a motorboat or personal watercraft on the waters of this state and shall show the certificate on demand to any West Virginia natural resources police officers or other law-enforcement officer authorized to enforce the provisions of this chapter.

(c) The following persons are exempt from the requirements of subsection (a) of this section:

(1) A person who is a nonresident of this state and who is visiting the state for sixty days or less in a motorboat or personal watercraft from another state if that person:
65

29 (A) Is fifteen years of age or older; and

30 (B) Has been issued a boating safety education certificate
31 by his or her state of residence in accordance with the criteria
32 recommended by the national association of state boating law
33 administration.

34 (2) A person who is visiting the state for ninety days or
35 less in a motorboat or personal watercraft from a country
36 other than the United States;

37 (3) A person who is operating a motorboat or personal
38 watercraft in connection with commercial purposes; and

39 (4) A person who is operating a motorboat or personal
40 watercraft which was purchased by the person within the
41 previous forty-five-day period and who has not been
42 previously charged with a violation of any provision of this
43 chapter involving the use or registration of a motorboat or
44 personal watercraft.

45 (d) The division shall issue a certificate of boating safety
46 education to a person who:

47 (1) Passes any course prescribed in subsection (a) of this
48 section; or

49 (2) Passes a boating safety equivalency examination
50 administered by persons authorized to administer a boating
51 safety education course as outlined in subsection (a) of this
52 section. Upon request, the division shall provide, without
53 charge, boating safety education materials to persons who
54 plan to take the boating safety equivalency examination.

55 (e) No person who owns a motorboat or personal
56 watercraft or who has charge over a motorboat or personal
watercraft may authorize or knowingly permit it to be operated in violation of subsection (a) of this section.

(f) The provisions of subsection (a) of this section may only be enforced as a secondary action when the officer detains an operator of a motorboat or personal watercraft upon probable cause of a violation or another provision of this code or rules adopted in accordance with the code. A person may not be taken immediately to a court or detention facility solely for a violation of subsection (a) of this section.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.


(a) Imposition. -- A recycling assessment fee is hereby levied and imposed upon the disposal of solid waste at all solid waste disposal facilities in this state, to be collected at the rate of two dollars per ton or part of a ton of solid waste. The fee imposed by this section is in addition to all other fees levied by law.

(b) Collection, return, payment and records. -- The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not that person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner:
The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility;

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the fifteenth day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator shall file returns on forms and in the manner as prescribed by the Tax Commissioner;

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner;

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for the amount that he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by article ten, chapter eleven of this code;

(5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring the operator to collect the fees which become collectible after service of the notice, to deposit the fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the Tax Commissioner. The notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner;

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee
imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section;

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers of the association or corporation are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by article ten, chapter eleven of this code may be enforced against them and against the association or corporation which they represent; and

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) Regulated motor carriers. -- The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter twenty-four-a of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within fourteen days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the motor carrier, the Commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.
(d) Definition. -- For purposes of this section, "Solid waste Disposal Facility" means any approved solid waste facility or open dump in this state and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section.

Nothing in this section authorizes in any way the creation or operation of or contribution to an open dump.

(e) Exemptions. -- The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste facility by the person who owns, operates or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities or by persons utilizing the facility on a cost-sharing or nonprofit basis;

(2) Reuse or recycling of any solid waste; and

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on the days and times designated by the Secretary by rule as exempt from the fee imposed pursuant to section eleven, article fifteen, chapter twenty-two of this code.

(f) Procedure and administration. -- Notwithstanding section three, article ten, chapter eleven of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in article ten, chapter eleven of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.
(g) **Criminal penalties.** -- Notwithstanding section two, article nine, chapter eleven of this code, sections three through seventeen, article nine, chapter eleven of this code apply to the fee imposed by this section with like effect as if the sections were the only fee imposed by this section and were set forth in extenso in this section.

(h) **Dedication of proceeds.** -- The proceeds of the fee collected pursuant to this section shall be deposited by the Tax Commissioner, at least monthly, in a special revenue account designated as the Recycling Assistance Fund which is hereby continued and transferred to the Department of Environmental Protection. The Secretary shall allocate the proceeds of the fund as follows:

1. Fifty percent of the total proceeds shall be provided in grants to assist municipalities, counties and other interested parties in the planning and implementation of recycling programs, public education programs and recycling market procurement efforts, established pursuant to this article. The Secretary shall promulgate rules, in accordance with chapter twenty-nine-a of this code, containing application procedures, guidelines for eligibility, reporting requirements and other matters considered appropriate:

   Provided, That persons responsible for collecting, hauling or disposing of solid waste who do not participate in the collection and payment of the solid waste assessment fee imposed by this section in addition to all other fees and taxes levied by law for solid waste generated in this state which is destined for disposal, shall not be eligible to receive grants under the provisions of this article;

2. Twelve and one-half percent of the total proceeds shall be expended for personal services and benefit expenses of full-time salaried natural resources police officers;
(3) Twelve and one-half percent of the total proceeds shall be directly allocated to the solid waste planning fund;

(4) Twelve and one-half percent of the total proceeds shall be transferred to the solid waste reclamation and environmental response fund, established pursuant to section eleven, article fifteen, chapter twenty-two of this code, to be expended by the Department of Environmental Protection to assist in the funding of the pollution prevention and open dumps program (PPOD) which encourages recycling, reuse, waste reduction and clean-up activities; and

(5) Twelve and one-half percent of the total proceeds shall be deposited in the hazardous waste emergency response fund established in article nineteen of this chapter.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 2A. STATE AERONAUTICS COMMISSION.

§29-2A-11a. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

Any person who operates an aircraft in this state shall be deemed to have given his or her consent by the operation thereof to a preliminary breath analysis and a secondary chemical test of either his or her blood, breath or urine for the purposes of determining the alcoholic content of his or her blood. A preliminary breath analysis may be administered in accordance with the provisions of section eleven-b of this article whenever a law-enforcement officer has reasonable cause to believe a person to have committed an offense prohibited by section eleven of this article. A secondary test of blood, breath or urine shall be incidental to a lawful arrest
and shall be administered at the direction of the arresting law-
enforcement officer having reasonable grounds to believe the
person to have committed an offense prohibited by said
section. The law-enforcement agency by which the law-
enforcement officer is employed shall designate which one of
the aforesaid secondary tests shall be administered: Provided,
That if the test so designated is a blood test and the person so
arrested refuses to submit to the blood test, then the law-
enforcement officer making the arrest shall designate in lieu
thereof either a breath or urine test to be administered.

For the purpose of this article, the term “law-enforcement
officer” means and is limited to: (1) Any member of the
Division of Public Safety of this state; (2) any sheriff and any
deputy sheriff of any county; (3) any member of a police
department in any municipality as defined in section two,
article one, chapter eight of this code; and (4) any natural
resources police officer of the Division of Natural Resources.
If any municipality or the Division of Natural Resources does
not have available to its law-enforcement officers the testing
equipment or facilities necessary to conduct any secondary
test which a law-enforcement officer may administer under
this article, any member of the West Virginia state police, the
sheriff of the county wherein the arrest is made or any deputy
of the sheriff or any municipal law-enforcement officer of
another municipality within the county wherein the arrest is
made may, upon the request of the arresting law-enforcement
officer and in his or her presence, conduct a secondary test
and the results of the test may be used in evidence to the
same extent and in the same manner as if the test had been
conducted by the arresting law-enforcement officer. Only the
person actually administering or conducting the test shall be
competent to testify as to the results and the veracity of the
test.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.
§29-3-12. Powers and duties of state fire marshal.

(a) Enforcement of laws. -- The state fire marshal and any other person authorized to enforce the provisions of this article under the supervision and direction of the state fire marshal has the authority to enforce all laws of the state having to do with:

(1) Prevention of fire;

(2) The storage, sale and use of any explosive, combustible or other dangerous article or articles in solid, flammable liquid or gas form;

(3) The installation and maintenance of equipment of all sorts intended to extinguish, detect and control fires;

(4) The means and adequacy of exit, in case of fire, from buildings and all other places in which persons work, live or congregate, from time to time, for any purpose, except buildings used wholly as dwelling houses for no more than two families;

(5) The suppression of arson; and

(6) Any other thing necessary to carry into effect the provisions of this article including, but not limited to, confiscating any materials, chemicals, items, or personal property owned, possessed or used in direct violation of the state fire code.

(b) Assistance upon request. -- Upon request, the state fire marshal shall assist any chief of any recognized fire company or department. Upon the request of any federal law-enforcement officer, state police officer, natural resources police officer or any county or municipal law-
enforcement officer, the state fire marshal, any deputy state
fire marshal or assistant state fire marshal employed pursuant
to section eleven of this article and any person deputized
pursuant to subsection (j) of this section may assist in the
lawful execution of the requesting officer's official duties:
Provided, That the state fire marshal or other person
authorized to act under this subsection shall at all times work
under the direct supervision of the requesting officer.

(c) Enforcement of rules. -- The state fire marshal shall
enforce the rules promulgated by the state fire commission as
authorized by this article.

(d) Inspections generally. -- The state fire marshal shall
inspect all structures and facilities, other than one- and
two-family dwelling houses, subject to the state fire code and
this article, including, but not limited to, state, county and
municipally owned institutions, all public and private
schools, health care facilities, theaters, churches and other
places of public assembly to determine whether the structures
or facilities are in compliance with the state fire code.

(e) Right of entry. -- The state fire marshal may, at all
reasonable hours, enter any building or premises, other than
dwelling houses, for the purpose of making an inspection
which he or she may consider necessary under the provisions
of this article. The state fire marshal and any deputy state
fire marshal or assistant state fire marshal approved by the
state fire marshal may enter upon any property, or enter any
building, structure or premises, including dwelling houses
during construction and prior to occupancy, for the purpose
of ascertaining compliance with the conditions set forth in
any permit or license issued by the office of the state fire
marshal pursuant to subdivision (1), subsection (a), section
twelve-b of this article or of article three-b of this chapter.
(f) **Investigations.** -- The state fire marshal may, at any time, investigate as to the origin or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the state. The state fire marshal has the authority at all times of the day or night, in performance of the duties imposed by the provisions of this article, to investigate where any fires or explosions or attempt to cause fires or explosions may have occurred, or which at the time may be burning. Notwithstanding the above provisions of this subsection, prior to entering any building or premises for the purposes of the investigation, the state fire marshal shall obtain a proper search warrant: *Provided,* That a search warrant is not necessary where there is permissive waiver or the state fire marshal is an invitee of the individual having legal custody and control of the property, building or premises to be searched.

(g) **Testimony.** -- The state fire marshal, in making an inspection or investigation when in his or her judgment the proceedings are necessary, may take the statements or testimony under oath of all persons who may be cognizant of any facts or have any knowledge about the matter to be examined and inquired into and may have the statements or testimony reduced to writing; and shall transmit a copy of the statements or testimony so taken to the prosecuting attorney for the county wherein the fire or explosion or attempt to cause a fire or explosion occurred. Notwithstanding the above, no person may be compelled to testify or give any statement under this subsection.

(h) **Arrests; warrants.** -- The state fire marshal, any full-time deputy fire marshal or any full-time assistant fire marshal employed by the state fire marshal pursuant to section eleven of this article is hereby authorized and empowered and any person deputized pursuant to subsection (j) of this section may be authorized and empowered by the state fire marshal:
(1) To arrest any person anywhere within the confines of the state of West Virginia, or have him or her arrested, for any violation of the arson-related offenses of article three, chapter sixty-one of this code or of the explosives-related offenses of article three-e of said chapter: Provided, That any and all persons so arrested shall be forthwith brought before the magistrate or circuit court.

(2) To make complaint in writing before any court or officer having jurisdiction and obtain, serve and execute an arrest warrant when knowing or having reason to believe that anyone has committed an offense under any provision of this article, of the arson-related offenses of article three, chapter sixty-one of this code or of the explosives-related offenses of article three-e of said chapter. Proper return shall be made on all arrest warrants before the tribunal having jurisdiction over the violation.

(3) To make complaint in writing before any court or officer having jurisdiction and obtain, serve and execute a warrant for the search of any premises that may possess evidence or unlawful contraband relating to violations of this article, of the arson-related offenses of article three, chapter sixty-one of this code or of the explosives-related offenses of article three-e of said chapter. Proper return shall be made on all search warrants before the tribunal having jurisdiction over the violation.

(i) Witnesses and oaths. -- The state fire marshal is empowered and authorized to issue subpoenas and subpoenas duces tecum to compel the attendance of persons before him to testify in relation to any matter which is, by the provision of this article, a subject of inquiry and investigation by the state fire marshal and cause to be produced before him or her papers as he or she may require in making the examination. The state fire marshal is hereby authorized to administer
oaths and affirmations to persons appearing as witnesses
before him or her. False swearing in any matter or
proceeding aforesaid shall be considered perjury and shall be
punishable as perjury.

(j) Deputizing members of fire departments in this state. --
The state fire marshal may deputize a member of any fire
department, duly organized and operating in this state, who
is approved by the chief of his or her department and who is
properly qualified to act as his or her assistant for the purpose
of making inspections with the consent of the property owner
or the person in control of the property and the investigations
as may be directed by the state fire marshal, and the carrying
out of orders as may be prescribed by him or her, to enforce
and make effective the provisions of this article and any and
all rules promulgated by the state fire commission under
authority of this article: Provided, That in the case of a
volunteer fire department, only the chief thereof or his or her
single designated assistant may be so deputized.

(k) Written report of examinations. -- The state fire
marshal shall, at the request of the county commission of any
county or the municipal authorities of any incorporated
municipality in this state, make to them a written report of the
examination made by him or her regarding any fire
happening within their respective jurisdictions.

(l) Report of losses by insurance companies. -- It is the
duty of each fire insurance company or association doing
business in this state, within ten days after the adjustment of
any loss sustained by it that exceeds fifteen hundred dollars,
to report to the state fire marshal information regarding the
amount of insurance, the value of the property insured and
the amount of claim as adjusted. This report is in addition to
any information required by the state insurance commissioner.
Upon the request of the owner or insurer of any property
destroyed or injured by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the state fire marshal shall report in writing to the owner or insurer the result of the examination regarding the property.

(m) Issuance of permits and licenses. -- The state fire marshal is authorized to issue permits, documents and licenses in accordance with the provisions of this article or of article three-b of this chapter. The state fire marshal may require any person who applies for a permit to use explosives, other than an applicant for a license to be a pyrotechnic operator under section twenty-four of this article, to be fingerprinted and to authorize the state fire marshal to conduct a criminal records check through the criminal identification bureau of the West Virginia state police and a national criminal history check through the federal bureau of investigation. The results of any criminal records or criminal history check shall be sent to the state fire marshal.

(n) Issuance of citations for fire and life safety violations. -- The state fire marshal, any deputy fire marshal and any assistant fire marshal employed pursuant to section eleven of this article are hereby authorized, and any person deputized pursuant to subsection (j) of this section may be authorized by the state fire marshal to issue citations, in his or her jurisdiction, for fire and life safety violations of the state fire code and as provided for by the rules promulgated by the state fire commission in accordance with article three, chapter twenty-nine-a of this code: Provided, That a summary report of all citations issued pursuant to this section by persons deputized under subsection (j) of this section shall be forwarded monthly to the state fire marshal in the form and containing information as he or she may by rule require, including the violation for which the citation was issued, the date of issuance, the name of the person issuing the citation and the person to whom the citation was issued. The state
fire marshal may at any time revoke the authorization of a
person deputized pursuant to subsection (j) of this section to
issue citations, if in the opinion of the state fire marshal, the
exercise of authority by the person is inappropriate.

Violations for which citations may be issued include, but
are not limited to:

(1) Overcrowding places of public assembly;

(2) Locked or blocked exits in public areas;

(3) Failure to abate a fire hazard;

(4) Blocking of fire lanes or fire department connections;

and

(5) Tampering with, or rendering inoperable except
during necessary maintenance or repairs, on-premise fire-
fighting equipment, fire detection equipment and fire alarm
systems.

(o) Required training; liability coverage. -- No person
deputized pursuant to subsection (j) of this section may be
authorized to issue a citation unless that person has
satisfactorily completed a law-enforcement officer training
course designed specifically for fire marshals. The course
shall be approved by the law-enforcement training
subcommittee of the governor's committee on criminal
justice and highway safety and the state fire commission. In
addition, no person deputized pursuant to subsection (j) of
this section may be authorized to issue a citation until
evidence of liability coverage of the person has been
provided, in the case of a paid municipal fire department by
the municipality wherein the fire department is located, or in
the case of a volunteer fire department, by the county
Enr. H.B. 3110]

commission of the county wherein the fire department is
located or by the municipality served by the volunteer fire
department and that evidence of liability coverage has been
filed with the state fire marshal.

(p) Penalties for violations. -- Any person who violates
any fire and life safety rule of the state fire code is guilty of
a misdemeanor and, upon conviction thereof, shall be fined
not less than one hundred dollars nor more than one thousand
dollars or imprisoned in the county or regional jail not more
than ninety days, or both fined and imprisoned.

Each and every day during which any violation of the
provisions of this article continues after knowledge or official
notice that same is illegal is a separate offense.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

For the purposes of this article, unless a different
meaning clearly appears in the context:

“Approved law-enforcement training academy” means
any training facility which is approved and authorized to
conduct law-enforcement training as provided in this article;

“Chief executive” means the Superintendent of the State
Police; the chief natural resources police officer of the
Division of Natural Resources; the sheriff of any West
Virginia county; any administrative deputy appointed by the
chief natural resources police officer of the Division of
Natural Resources; or the chief of any West Virginia
municipal law-enforcement agency;
“County” means the fifty-five major political subdivisions of the state;

“Exempt rank” means any noncommissioned or commissioned rank of sergeant or above;

“Governor’s committee on crime, delinquency and correction” or “Governor’s committee” means the Governor’s committee on crime, delinquency and correction established as a state planning agency pursuant to section one, article nine, chapter fifteen of this code;

“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, and persons employed by the Public Service Commission as motor carrier inspectors and weight enforcement officers charged with enforcing commercial motor vehicle safety and weight restriction laws although those institutions and agencies 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: Provided. That the subject rangers shall pay the tuition and costs of training. As used in this article, the term “law-enforcement officer” does not apply to the chief executive of any West Virginia law-enforcement agency or any watchman or special natural resources police officer;
“Law-enforcement official” means the duly appointed chief administrator of a designated law-enforcement agency or a duly authorized designee;

“Municipality” means any incorporated town or city whose boundaries lie within the geographic boundaries of the state;

“Subcommittee” or “law-enforcement training subcommittee” means the subcommittee of the Governor’s committee on crime, delinquency and correction created by section two of this article; and

“West Virginia law-enforcement agency” means any duly authorized state, county or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof:

Provided, That neither the Hatfield-McCoy regional recreation authority, the Public Service Commission nor any state institution of higher education may be deemed a law-enforcement agency.

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 8A. UNCLAIMED STOLEN PROPERTY HELD BY LAW-ENFORCEMENT AGENCIES.

§36-8A-1. Definitions.

For purposes of this article, unless a different meaning clearly appears in the context:

(a) “Chief executive” means the superintendent of the state police; the chief natural resources police officer of the Division of Natural Resources; the sheriff of any West
Virginia county; or the chief of any West Virginia municipal law-enforcement agency.

(b) “Item” means any item of unclaimed stolen property or any group of similar items considered together for purposes of reporting, donation, sale or destruction under this article.

c) “Law-enforcement agency” means any duly authorized state, county or municipal organization of the state of West Virginia employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality thereof: Provided, That neither the Hatfield-McCoy regional recreation authority nor any state institution of higher education may be deemed a law-enforcement agency.

d) “Nonprofit organization” means: (i) Any nonprofit charitable organization; or (ii) any agency of the state of West Virginia the purpose of which is to provide health, recreational or educational services to citizens of the state of West Virginia.

e) “Stolen property” means any tangible personal property, including cash and coins, which is confiscated by or otherwise comes into the custody of a law-enforcement agency during the course of a criminal investigation or the performance of any other authorized law-enforcement activity, whether or not the property was or can be proven to have been stolen.

(f) “Treasurer” means the state treasurer or his or her authorized designee for purposes of the administration of this article.

g) “Unclaimed stolen property” is stolen property:
(1) Which has been held by a law-enforcement agency for at least six months, during which time the rightful owner has not claimed it;

(2) For which the chief executive determines that there is no reasonable likelihood of its being returned to its rightful owner; and

(3) Which the chief executive determines to have no evidentiary value.
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 ___ day of ___ , 2010.

Governor
PRESENTED TO THE GOVERNOR

MAR 3 0 2010

Time 10:30 AM