

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011

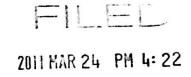
ENROLLED

FOR House Bill No. 2248

(By Delegates Miley, laquinta and Fragale)

Passed March 11, 2011

In Effect Ninety Days From Passage



OFFICE MEST MINGHIA SECTIONARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2248

(BY DELEGATES MILEY, IAQUINTA AND FRAGALE)

[Passed March 11, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §15-10-5 of the Code of West Virginia, 1931, as amended, relating to the extension of state law-enforcement authority to federal law-enforcement officers under certain circumstances; extending state law-enforcement authority to police and investigators with the Department of Veterans Affairs under appropriate circumstances; extending state law-enforcement authority to special investigators with the Office of Inspector General under appropriate circumstances; and extending state law-enforcement authority to federal air marshals under appropriate circumstances.

Be it enacted by the Legislature of West Virginia:

That §15-10-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-5. Federal officers' peace-keeping authority.

- 1 (a) Notwithstanding any provision of this code to the contrary, any person who is employed by the United States
- 3 government as a federal law-enforcement officer and is listed
- 4 in subsection (b) of this section, has the same authority to
- 5 enforce the laws of this state, except state or local traffic laws
- 6 or parking ordinances, as that authority granted to state or
- 7 local law-enforcement officers, if one or more of the
- 8 following circumstances exist:
- 9 (1) The federal law-enforcement officer is requested to 10 provide temporary assistance by the head of a state or local
- law-enforcement agency or the designee of the head of the
- 12 agency and that request is within the state or local law-
- 13 enforcement agency's scope of authority and jurisdiction and
- 14 is in writing: Provided, That the request does not need to be
- 15 in writing if an emergency situation exists involving the
- 16 imminent risk of loss of life or serious bodily injury;
- 17 (2) The federal law-enforcement officer is requested by
- 18 a state or local law-enforcement officer to provide the officer
- 19 temporary assistance when the state or local law-enforcement
- 20 officer is acting within the scope of the officer's authority
- 21 and jurisdiction and where exigent circumstances exist; or
- 22 (3) A felony is committed in the federal law-enforcement
- 23 officer's presence or under circumstances indicating a felony
- 24 has just occurred.

- 25 (b) This section applies to the following persons who are
- 26 employed as full-time federal law-enforcement officers by
- 27 the United States government and who are authorized to
- 28 carry firearms while performing their duties:
- 29 (1) Federal Bureau of Investigation special agents;
- 30 (2) Drug Enforcement Administration special agents;
- 31 (3) United States Marshal's Service marshals and deputy
- 32 marshals;
- 33 (4) United States postal service inspectors;
- 34 (5) Internal revenue service special agents;
- 35 (6) United States secret service special agents;
- 36 (7) Bureau of alcohol, tobacco, and firearms special
- 37 agents;
- 38 (8) Police officers employed pursuant to 40 U.S.C. §§318
- 39 and 490 at the federal bureau of investigation's criminal
- 40 justice information services division facility located within
- 41 this state;
- 42 (9) Law-enforcement commissioned rangers of the
- 43 national park service;
- 44 (10) Department of Veterans Affairs Police and
- 45 Department of Veterans Affairs special investigators;
- 46 (11) Office of Inspector General special agents; and
- 47 (12) Federal Air Marshals with the Federal Air Marshal
- 48 Service.

- 49 (c) Any person acting under the authority granted 50 pursuant to this section:
- 51 (1) Has the same authority and is subject to the same 52 exemptions and exceptions to this code as a state or local
- 53 law-enforcement officer;
- 54 (2) Is not an officer, employee, or agent of any state or local law-enforcement agency;
- 56 (3) May not initiate or conduct an independent 57 investigation into an alleged violation of any provision of this 58 code except to the extent necessary to preserve evidence or 59 testimony at risk of loss immediately following an occurrence 60 described in subdivision (3), subsection (a) of this section;
- 61 (4) Is subject to 28 U.S.C. §1346, the Federal Tort Claims 62 Act; and
- (5) Has the same immunities from liability as a state orlocal law-enforcement officer.

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

Chairman, House Committee Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

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