WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2013

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 2626
(By Delegate(s) Poore, Marcum, Fleischauer, Frish and Eldridge)

Passed April 12, 2013
In effect from passage.
ENROLLED

COMMITTEE SUBSTITUTE

for

H. B. 2626

(DELEGATE(S) POORE, MARCUM, FLEISCHAUER, FRICH, AND ELDRIDGE)

[Passed April 12, 2013: in effect from passage.]

AN ACT to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety and the procedures relating thereto; legislative mandate or authorization for the promulgation of certain legislative rules by various executive or administrative agencies of the Department of Military Affairs and Public Safety; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules as amended by the Legislature; authorizing certain of the agencies to promulgate certain legislative rules with various modifications
presented to and recommended by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Protective Services to promulgate a legislative rule relating to contracted police or security services; authorizing the State Fire Commission to promulgate a legislative rule relating to the state building code; authorizing the State Fire Commission to promulgate a legislative rule relating to volunteer firefighters' training, equipment and operating standards; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law enforcement training and certification standards; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to the protocol for law enforcement response to stalking; and authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to the protocol for law enforcement response to child abuse and neglect.

Be it enacted by the Legislature of West Virginia:

That article 6, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY TO PROMULGATE LEGISLATIVE RULES.

§64-6-1. Division of Protective Services.

1 The legislative rule filed in the State Register on the thirty-first day of August, two thousand twelve, authorized under the authority of section three, article two-d, chapter fifteen of this code, modified by the Division of Protective Services to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the seventeenth day of January, two thousand thirteen, relating to the Division of Protective Services (contracted police or security services, 99 CSR 5), is authorized.
§64-6-2. State Fire Commission.

(a) The legislative rule filed in the State Register on the eighteenth day of July, two thousand twelve, authorized under the authority of section five-b, article three, chapter twenty-nine, of this code, modified by the State Fire Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the twenty-first day of December, two thousand twelve, relating to the State Fire Commission (state building code, 87 CSR 4), is authorized with the following amendment:

New One and Two Family Dwellings over one level in height, New One and Two Family Dwellings containing a basement, and New One and Two Family Dwellings containing a crawl space containing a fuel burning appliance below the first floor, shall provide one of the following methods for fire protection of floors: (1) A 1/2 inch (12.7 mm) gypsum wallboard membrane, 5/8 inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member; (2) Wood floor assemblies using dimension lumber or structural composite lumber equal or greater than 2 inch by 10 inch (50.8 mm by 254 mm) nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance; or (3) An Automatic Fire Sprinkler System as set forth in section R313.2 of the 2009 edition of the International Residential Code for One and Two Family Dwellings: Provided, That floor assemblies located directly over a space protected by an automatic sprinkler system as set forth in section R313.2 of the 2009 edition of the International Residential Code for One and Two Family Dwellings are exempt from this requirement.;

(b) The legislative rule filed in the State Register on the thirty-first day of August, two thousand twelve, authorized under the authority of section five-d, article three, chapter twenty-nine, of this code, modified by the State Fire Commission to meet the objections of the Legislative Rule-Making Review Committee
and refiled in the State Register on the twenty-first day of December, two thousand twelve, relating to the State Fire Commission (volunteer firefighters' training, equipment and operating standards, 87 CSR 8), is authorized, with the following amendments:

On page three, section three, by striking out subsection 3.7, and inserting in lieu thereof, the following:

"3.7. The Fire Commission, at all times, shall have an equivalency program to allow certification of fire officers in Fire Officer 1 and Fire Officer 2. Any person may apply to this program for certification in either Fire Officer 1, Fire Officer 2, or both. This program shall evaluate a person's practical knowledge and life experience within the fire service, and any previous training that person may have completed. If the person has demonstrated competency in the skills taught in these curricula, then the application shall be granted.

3.8. All operators of fire department engines, tankers, aerials, and rescue trucks must have a Firefighter I certification, have a valid driver's license, and must have completed an approved Emergency Vehicle Operations Course (EVOC), or equivalent, and pass any and all testing required for certification: Provided that, during maintenance or service of the vehicle, any person operating a vehicle to perform his or her job, may operate that vehicle as long as that person meets all other requirements to operate that vehicle as set forth by statute.

Nothing in this rule shall prohibit specialized support members or emergency medical response personnel from operating fire department squads, ambulances and/or emergency medical response vehicles, or prevent ancillary support members of fire departments from operating utility vehicles." and renumbering the remainder of the section;

On page eight, after subsection 6.9, by inserting a new subsection, designated 6.10., to read as follows:
“6.10. All fire pumps and hoses, and aerial apparatus shall be tested at least annually for compliance with NFPA 1901, 1911, 1961 and 1962. Records of these tests shall be maintained by the department for a minimum of five (5) years and shall be produced by the department upon request of the Fire Commission, Fire Marshal, or governmental entity overseeing the Department.”

On page eight, section six, subsection 6.11, by striking out subsection 6.11. and the remainder of the section in its entirety and by inserting in lieu thereof, the following:

“6.11. All apparatus and associated equipment shall have met the standard for that particular apparatus or piece of equipment as set forth in NFPA 1901 in the year that the apparatus and piece of associated equipment was manufactured, and shall be fully operable.

6.12. At all times, at a minimum, the following items shall be transported to the fire scene with the listed apparatus, provided that these items shall only be required if the apparatus is dispatched to an emergency scene:

6.12.1 Engine - as defined in NFPA 1901.


6.12.1.e. 14 foot straight ladder.

6.12.1.f. 800 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.
6.12.1.g. 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.

6.12.1.h. sufficient number of nozzles.

6.12.1.i. two (2) pike poles or equivalent.

6.12.1.j. 1 pickhead axe.

6.12.1.k. 1 flathead axe.

6.12.1.l. 2 hand lights.

6.12.1.m. 1 dry chemical extinguisher.

6.12.1.n. 1 first aid kit.

6.12.1.o. 2 wheel chocks.

6.12.1.p. 1 SCBA pack (meeting NFPA 1781 standard) for each seat with one spare bottle for each pack.

6.12.1.q. 1 traffic vest for each seat.

6.12.2. Tanker - as defined in NFPA 1901.


6.12.2.c. If the unit contains a Fire Pump it shall be tested in accordance with subsection 6.10.

6.12.2.d. If the unit contains a Fire Pump 200 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.

6.12.2.e. If the unit contains a Fire Pump 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.
6.12.2.f. If the unit contains a Fire Pump sufficient number of nozzles.

6.12.2.g. 2 hand lights.

6.12.2.h. 1 dry chemical extinguisher.

6.12.2.i. 1 first aid kit.

6.12.2.j. 2 wheel chocks.

6.12.2.k. 1 SCBA pack (meeting NFPA 1781 standard) for each seat with one spare bottle for each pack.

6.12.2.l. 1 traffic vest for each seat.

6.12.3. Aerial - as defined in NFPA 1901.


6.12.3.c. If the unit contains a Fire Pump it shall be Fire Pump tested in accordance with subsection 6.10.

6.12.3.d. Aerial unit tested in accordance with subsection 6.10.

6.12.3.e. If the unit contains a Fire Pump 800 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.

6.12.3.f. If the unit contains a Fire Pump 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.

6.12.3.g. If the unit contains a Fire Pump sufficient number of nozzles.
143 6.12.3.h. 4 Ladder Belts.
144 6.12.3.i. 2 hand lights.
145 6.12.3.j. 1 dry chemical extinguisher.
146 6.12.3.k. 1 first aid kit.
147 6.12.3.l. 2 wheel chocks.
148 6.12.3.m. 1 SCBA pack (meeting NFPA 1781 standard) for each seat with one spare bottle for each pack.
149 6.12.3.n. 1 traffic vest for each seat.
150 6.12.4. Quint - as defined in NFPA 1901.
154 6.12.4.d. Aerial unit tested in accordance with subsection 6.10.
155 6.12.4.e. 300 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.
156 6.12.4.f. 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with subsection 6.10.
157 6.12.4.g. sufficient number of nozzles.
158 6.12.4.h. 4 Ladder Belts.
159 6.12.4.i. 2 hand lights.
160 6.12.4.j. 1 dry chemical extinguisher.
6.12.4.k. 1 first aid kit.

6.12.4.l. 2 wheel chocks.

6.12.4.m. 1 SCBA pack (meeting NFPA 1781 standard) for each seat with one spare bottle for each pack.

6.12.4.n. 1 traffic vest for each seat.

6.12.5. Mini-Pumper - as defined in NFPA 1901.


6.12.5.c. Fire Pump tested in accordance with subsection 6.10.

6.12.5.d. 300 feet minimum of 2 ½ inch or larger supply hose tested in accordance with subsection 6.10.

6.12.5.e. 400 feet minimum of 1 ½ to 2 inch attack hose tested in accordance with section 6.10.

6.12.5.f. sufficient number of nozzles.

6.12.5.g. 2 hand lights.

6.12.5.h. 1 dry chemical extinguisher.

6.12.5.i. 1 first aid kit.

6.12.5.j. 2 wheel chocks.

6.12.5.k. 1 SCBA pack (meeting NFPA 1781 standard) for each seat with one spare bottle for each pack.

6.12.5.l. 1 traffic vest for each seat.

6.12.5 Service Truck - as defined in NFPA 1901.


6.12.5.c. 2 hand lights.

6.12.5.d. 1 dry chemical extinguisher.

6.12.5.e. 1 first aid kit.

6.12.5.f. 2 wheel chocks.

6.12.5.g. 1 SCBA pack (meeting NFPA 1781 standard) for each seat with one spare bottle for each pack.

6.12.5.h. 1 traffic vest for each seat.

6.13. If an apparatus is not capable of transporting the required equipment, as set forth in subsection 6.12, to an emergency scene, a written plan must be kept on file, and be capable of being produced upon demand to the Fire Commission, Fire Marshal, or overseeing governmental agency, setting forth a detailed procedure for transporting all necessary equipment as detailed in subsection 6.12 to the emergency scene, which shall be strictly adhered to. The plan not being able to be produced, or the plan not being adhered to is a violation of this standard and may result in revocation of the department's certification.

6.14. At all times, departments shall maintain workers compensation coverage for all personnel.

And,

On page nine, section 8, line three, after the words “Rules §87-6-1 et seq” by inserting a colon and the following: “Provided, That, except in situations of imminent danger to life or property, upon application, the Commission shall grant a department a 180 day period of correction, that may be extended upon good cause shown, during which the Commission shall
assist a department in correcting deficiencies noted, facilitating training through West Virginia University or the West Virginia Department of Education, and in working with other involved parties, e.g. county commissions, municipal governments or county fire boards.”.

§64-6-3. Governor’s Committee on Crime, Delinquency, and Correction.

(a) The legislative rule filed in the State Register on the thirty-first day of August, two thousand twelve, authorized under the authority of section three, article twenty-nine, chapter thirty, of this code, relating to the Governor’s Committee on Crime, Delinquency and Correction (law enforcement training and certification standards, 149 CSR 2), is authorized with the following amendment:

On page twenty-five, subsection 10.2., after the words “minimum period of” by striking out “four (4)” and inserting in lieu thereof “three (3)”.

(b) The legislative rule filed in the State Register on the sixteenth day of August, two thousand twelve, authorized under the authority of section nine-a. article two, chapter sixty-one, of this code, modified by the Governor’s Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on the fifth day of December, two thousand twelve, relating to the Governor’s Committee on Crime, Delinquency and Correction (protocol for law enforcement response to stalking, 149 CSR 7), is authorized.

(c) The legislative rule filed in the State Register on the sixteenth day of August, two thousand twelve, authorized under the authority of section five, article nine, chapter fifteen, of this code, modified by the Governor’s Committee on Crime, Delinquency and Correction to meet the objections of the
Legislative Rule-Making Review Committee and refiled in the State Register on the fifth day of December, two thousand twelve, relating to the Governor's Committee on Crime, Delinquency and Correction (protocol for law enforcement response to child abuse and neglect, 149 CSR 8), is authorized.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member

Originating in the House.

In effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 30th day of April, 2013.

Governor
PRESENTED TO THE GOVERNOR

APR 25 2013

Time 11:40 AM