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OFFICE OF THE CLERK
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2010

HB 3110 (veto)

ENROLLED

House Bill No. 3110

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

Passed March 11, 2010

In Effect Ninety Days From Passage

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H. B. 3110

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(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 §20-2-5, §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 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
2 of statewide enforcement of criminal and traffic laws with
3 emphasis on providing basic enforcement and citizen
4 protection from criminal depredation throughout the state and
5 maintaining the safety of the state's public streets, roads and
6 highways.

7 (b) The superintendent and each of the officers and
8 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

42 aid in apprehending any person violating any of the
43 provisions of chapter sixty of this code. They shall serve and
44 execute warrants for the arrest of any person and warrants for
45 the search of any premises issued by any properly constituted
46 authority, and shall exercise all of the powers conferred by
47 law upon a sheriff. They may not serve any civil process or
48 exercise any of the powers of an officer in civil matters.

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

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

76 assistance is required, for all purposes a member of the West
77 Virginia State Police and subject to all the provisions of this
78 article.

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

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

95 (h) By the first day of July, one thousand nine hundred
96 ninety-three, the superintendent shall establish a network to
97 implement reports of the disappearance of children by local
98 law-enforcement agencies to local school division
99 superintendents and the State Registrar of Vital Statistics.
100 The network shall be designed to establish cooperative
101 arrangements between local law-enforcement agencies and
102 local school divisions concerning reports of missing children
103 and notices to law-enforcement agencies of requests for
104 copies of the cumulative records and birth certificates of
105 missing children. The network shall also establish a
106 mechanism for reporting the identities of all missing children
107 to the State Registrar of Vital Statistics.

108 (i) The superintendent may at his or her discretion and
109 upon the written request of the West Virginia Alcohol
110 Beverage Control Commissioner assist the commissioner in
111 the coordination and enforcement of article sixteen, chapter
112 eleven of this code and chapter sixty of this code.

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

132 (k) Notwithstanding any other provision of this code, the
133 agency for surplus property is hereby empowered to transfer
134 funds generated from the sale of vehicles, other equipment
135 and commodities belonging to the West Virginia State Police
136 to a special revenue account within the West Virginia State
137 Police entitled the West Virginia State Police surplus transfer
138 account. Moneys deposited in the fund shall only be available
139 for expenditure upon appropriation by the Legislature:
140 *Provided*, That amounts collected which are found from time
141 to time to exceed the funds needed for the purposes set forth

142 in this subsection may be transferred to other accounts or
143 funds and redesignated for other purposes by appropriation
144 of the Legislature. Any funds transferred to this account may
145 be utilized by the superintendent to defray the cost of normal
146 operating needs of the division.

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

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

ARTICLE 10. COOPERATION BETWEEN LAW- ENFORCEMENT AGENCIES.

§15-10-3. Definitions.

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

3 (1) "Criminal justice enforcement personnel" means
4 those persons within the state criminal justice system who are

5 actually employed as members of the Division of Public
6 Safety, members of the Division of Protective Services,
7 natural resources police officers, chiefs of police and police
8 of incorporated municipalities, and county sheriffs and their
9 deputies, and whose primary duties are the investigation of
10 crime and the apprehension of criminals.

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

17 (3) “State or local law-enforcement officer” means any
18 duly authorized member of a law-enforcement agency who
19 is authorized to maintain public peace and order, prevent and
20 detect crime, make arrests and enforce the laws of the state or
21 any county or municipality thereof, other than parking
22 ordinances, and includes those persons employed as campus
23 police officers at state institutions of higher education in
24 accordance with the provisions of section five, article four,
25 chapter eighteen-b of this code, although those institutions
26 may not be considered law-enforcement agencies. The term
27 also includes those persons employed as rangers by the
28 Hatfield-McCoy regional recreation authority in accordance
29 with the provisions of section six, article fourteen, chapter
30 twenty of this code, although the authority may not be
31 considered a law-enforcement agency.

32 (4) “Head of campus police” means the superintendent or
33 administrative head of state or local law-enforcement officers
34 employed as campus police officers at state institutions of
35 higher education in accordance with the provisions of section
36 five, article four, chapter eighteen-b of this code.

37 (5) “Head of the rangers of the Hatfield-McCoy regional
38 recreation authority” means the superintendent or administrative
39 head of state or local law-enforcement officers employed as
40 rangers by the Hatfield-McCoy regional recreation authority
41 in accordance with the provisions of section six, article
42 fourteen, chapter twenty of this code.

ARTICLE 10A. LAW-ENFORCEMENT REEMPLOYMENT ACT.

§15-10A-2. Reemployment of law-enforcement officers.

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

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

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

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

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

17 (4) Wear the same uniform and insignia;

18 (5) Be subject to the same oath;

19 (6) Execute the same bond; and

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

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

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

29 (e) As used in this article:

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

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

CHAPTER 17. ROADS AND HIGHWAYS.

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

§17-24A-1. Definitions.

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

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

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

13 (3) "Abandoned motor vehicle" means any motor vehicle,
14 or major part thereof, which is inoperative and which has
15 been abandoned on public property for any period of time
16 over five days, other than in an enclosed building or in a
17 licensed salvage yard or at the business establishment of a
18 demolisher; or any motor vehicle, or major part thereof,
19 which has remained on private property without consent of
20 the owner or person in control of the property for any period
21 of time over five days; or any motor vehicle, or major part
22 thereof, which is unattended, discarded, deserted and
23 unlicensed and is not in an enclosed building, a licensed
24 salvage yard or the actual possession of a demolisher:
25 *Provided*, That a motor vehicle, or major part thereof, shall
26 not be considered an abandoned motor vehicle if: (a) The
27 owner of the motor vehicle is storing the motor vehicle on the
28 owner's property; (b) the motor vehicle is being stored for the
29 purpose of using its parts on other motor vehicles owned by
30 the owner; (c) the owner owns other motor vehicles similar
31 to the motor vehicle being stored; and (d) the owner is a

32 business licensed to do business in the state of West Virginia
33 and not in the primary business of offering motor vehicles or
34 parts thereof for sale.

35 (4) "Demolisher" means any person licensed by the
36 commissioner of the Division of Highways whose business,
37 to any extent or degree, is to convert a motor vehicle or any
38 part thereof or an inoperative household appliance into
39 processed scrap or scrap metal or into saleable parts or
40 otherwise to wreck or dismantle vehicles or appliances.

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

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

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

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

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

52 (7) "Inoperative household appliance" means a
53 refrigerator, freezer, range, stove, automatic dishwasher,
54 clothes washer, clothes dryer, trash compactor, television set,
55 radio, air conditioning unit, commode, bed springs, mattress
56 or other furniture, fixture or appliance which by reason of
57 mechanical or physical defects can no longer be used for its
58 intended purpose and which is either not serving a functional
59 purpose or use or is not in an enclosed building, a licensed
60 salvage yard or the actual possession of a demolisher.

61 (8) "Junked motor vehicle" means a motor vehicle, or any
62 part thereof which: (a) Is discarded, wrecked, ruined,
63 scrapped or dismantled; (b) cannot pass the state inspection
64 required by article sixteen, chapter seventeen-c of this code;
65 and (c) is either not serving a functional purpose or use or is
66 not in an enclosed building, a licensed salvage yard or the
67 actual possession of a demolisher: *Provided*, That a motor
68 vehicle, or major part thereof, shall not be considered a
69 junked motor vehicle if: (a) The owner of the motor vehicle
70 is storing the motor vehicle on the owner's property; (b) the
71 motor vehicle is being stored for the purpose of using its
72 parts on other motor vehicles owned by the owner; (c) the
73 owner owns other motor vehicles similar to the motor vehicle
74 being stored; and (d) the owner is a business licensed to do
75 business in the state of West Virginia and not in the primary
76 business of offering motor vehicles or parts thereof for sale.

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

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

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

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

1 (a) No person shall, within this state, abandon a motor
2 vehicle or major part thereof upon the right-of-way of any
3 public highway, upon any other public property or upon any
4 private property without the consent of the owner or person
5 in control of the property, or upon property owned or

6 controlled by that person, unless it be at a licensed salvage
7 yard or at the business establishment of a demolisher, or a
8 business licensed to do business in the state of West Virginia
9 and not in the primary business of offering motor vehicles or
10 parts thereof for sale. Any person who violates any provision
11 of this section shall be guilty of a misdemeanor and, upon
12 conviction thereof, shall be sentenced and fined as set forth
13 below.

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

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

36 (d) Any person who is guilty of a misdemeanor as
37 described in this section and the abandoned motor vehicle,
38 junked motor vehicle or inoperative household appliance is

39 greater than one hundred pounds in weight or twenty-seven
40 cubic feet in size, but less than five hundred pounds in weight
41 or two hundred sixteen cubic feet, is subject to a fine of not
42 less than five hundred dollars nor more than two thousand
43 dollars or, in the discretion of the court, may be sentenced to
44 perform community service by cleaning up litter from any
45 public highway, road, street, alley or any other public park or
46 public property or waters of the state, as designated by the
47 court, for not less than sixteen nor more than thirty-two
48 hours, or both.

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

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

65 (g) The sentence of litter cleanup shall be verified by
66 natural resources police officers from the Division of Natural
67 Resources or environmental inspectors from the Department
68 of Environmental Protection. Any defendant receiving the
69 sentence of litter cleanup shall provide within a time to be set
70 by the court written acknowledgment from a natural
71 resources police officer or environmental inspector that the

72 sentence has been completed and the litter has been disposed
73 of lawfully.

74 (h) Any person who has been found by the court to have
75 willfully failed to comply with the terms of a litter cleanup
76 sentence imposed by the court pursuant to this section is
77 subject to, at the discretion of the court, double the amount of
78 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.**

1 (a) Any motor vehicle designed to carry passengers,
2 owned or leased by the State of West Virginia, or any of its
3 departments, bureaus, commissions or institutions, except
4 vehicles used by the Governor, Treasurer, three vehicles per
5 elected office of the board of Public Works, vehicles operated
6 by the State Police, not to exceed five vehicles operated by
7 the office of the Secretary of Military Affairs and Public
8 Safety, not to exceed five vehicles operated by the Division
9 of Homeland Security and Emergency Management, vehicles
10 operated by natural resources police officers of the Division
11 of Natural Resources, not to exceed ten vehicles operated by
12 the arson investigators of the office of State Fire Marshal, not
13 to exceed two vehicles operated by the Division of Protective
14 Services, not to exceed sixteen vehicles operated by
15 inspectors of the office of the Alcohol Beverage Control

16 Commissioner and vehicles operated by probation officers
17 employed under the Supreme Court of Appeals may not be
18 operated or driven by any person unless it has displayed and
19 attached to the front thereof, in the same manner as regular
20 motor vehicle registration plates are attached, a plate of the
21 same size as the regular registration plate, with white
22 lettering on a green background bearing the words "West
23 Virginia" in one line and the words "State Car" in another
24 line and the lettering for the words "State Car" shall be of
25 sufficient size to be plainly readable from a distance of one
26 hundred feet during daylight.

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

31 (b) On registration plates issued to vehicles owned by
32 counties, the color shall be white on red with the word
33 "County" on top of the plate and the words "West Virginia"
34 on the bottom. On any registration plates issued to a city or
35 municipality, the color shall be white on blue with the word
36 "City" on top and the words "West Virginia" on the bottom:
37 *Provided*, That after the thirty-first day of December, two
38 thousand six, registration plates issued to a city or
39 municipality law-enforcement department shall include blue
40 lettering on a white background with the word "West
41 Virginia" on top of the plate and shall be further designed by
42 the commissioner to include a law-enforcement shield
43 together with other insignia or lettering sufficient to identify
44 the motor vehicle as a municipal law-enforcement department
45 motor vehicle. The colors may not be reversed and shall be
46 of reflectorized material. The registration plates issued to
47 counties, municipalities and other governmental agencies
48 authorized to receive colored plates hereunder shall be
49 affixed to both the front and rear of the vehicles. Every

50 municipality shall provide the commissioner with a list of
51 law-enforcement vehicles operated by the law-enforcement
52 department of the municipality, unless otherwise provided in
53 this section, and a fee of ten dollars for each vehicle
54 submitted by the first day of July, two thousand six.

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

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

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

75 (f) The commissioner is authorized to issue an unlimited
76 number of license plates per applicant to authorized drug and
77 violent crime task forces in the State of West Virginia when
78 the chairperson of the control group of a drug and violent
79 crime task force signs a written affidavit stating that the
80 vehicle or vehicles for which the plates are being requested
81 will be used only for official undercover work conducted by
82 a drug and violent crime task force.

83 (g) The commissioner is authorized to issue twenty Class
84 A license plates to the Criminal Investigation Division of the
85 Department of Revenue for use by its investigators.

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

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

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

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

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

113 (m) The commissioner may issue special registration
114 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

8 motor vehicles, a copy of the report shall, in the case of
9 property belonging to the Division of Highways, be provided
10 to the Commissioner of the Division of Highways, and, in the
11 case of property belonging to a municipality, be provided to
12 the mayor of that municipality. The copies of the reports
13 shall be provided to the commissioner or mayor, as
14 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.

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

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

14 (c) A secondary test of blood, breath or urine is incidental
15 to a lawful arrest and is to be administered at the direction of
16 the arresting law-enforcement officer having reasonable
17 grounds to believe the person has committed an offense
18 prohibited by section two of this article or by an ordinance of
19 a municipality of this state which has the same elements as an
20 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.

56 (g) If the arresting officer lacks proper training in the
57 administration of a secondary chemical test, then any other
58 law-enforcement officer who has received training in the
59 administration of the secondary chemical test to be
60 administered may, upon the request of the arresting
61 law-enforcement officer and in his or her presence, conduct
62 the secondary test. The results of a test conducted pursuant
63 to this subsection may be used in evidence to the same extent
64 and in the same manner as if the test had been conducted by
65 the arresting law-enforcement officer.

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

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

82 (j) A law-enforcement officer who has reasonable cause
83 to believe that person has committed an offense prohibited by
84 section eighteen, article seven, chapter twenty of this code,
85 relating to the operation of a motorboat, jet ski or other
86 motorized vessel, shall follow the provisions of this section
87 in administering, or causing to be administered, a preliminary
88 breath analysis and the secondary chemical test of the

89 accused person's blood, breath or urine for the purpose of
90 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.

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

4 (1) Was employed or serving as:

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

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

8 (C) A parole officer;

9 (D) A probation officer;

10 (E) A natural resources police officer; or

11 (F) A registered firefighter; and

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

13 (A) Employed by the state or any political subdivision of
14 the state; or

15 (B) A member of a volunteer fire department serving a
16 political subdivision of this state.

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

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

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

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

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

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

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

40 (4) The recipient has exhausted all other sources of
41 student financial assistance dedicated solely to tuition and
42 fees that exceed other grant assistance that are available to
43 him or her, excluding student loans;

44 (5) Waiver renewal is contingent upon the recipient
45 continuing to meet the academic progress standards
46 established by the institution.

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

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

52 (2) Parking fees.

53 (e) The governing boards may promulgate rules:

54 (1) For determining the availability of classroom space;

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

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

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

CHAPTER 19. AGRICULTURE.

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

§19-20A-7. Enforcement of article.

1 The enforcement of the provisions of this article shall be
2 in the hands of the sheriff of each county, any of his deputies,

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

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

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

1 The director shall select and designate a competent and
2 qualified person to be the chief natural resources police
3 officer, who shall have the title of colonel and be responsible
4 for the prompt, orderly and effective enforcement of all of the
5 provisions of this chapter. Under the supervision of the
6 director and subject to personnel qualifications and
7 requirements otherwise prescribed in this chapter, the chief
8 natural resources police officer shall be responsible for the
9 selection, training, assignment, distribution and discipline of
10 natural resources police officers and the effective discharge
11 of their duties in carrying out the law-enforcement policies,
12 practices and programs of the division in compliance with the

13 provisions of article seven of this chapter and other
14 controlling laws. Except as otherwise provided in this
15 chapter, natural resources police officers are hereby
16 authorized to enter into and upon private lands and waters to
17 investigate complaints and reports of conditions, conduct,
18 practices and activities considered to be adverse to and
19 violative of the provisions of this chapter and to execute writs
20 and warrants and make arrests thereupon.

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

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

ARTICLE 2. WILDLIFE RESOURCES.

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

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

3 (1) Shoot at or to shoot any wild bird or animal unless it
4 is plainly visible to him or her;

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

9 (3) Make use of, or take advantage of, any artificial light
10 in hunting, locating, attracting, taking, trapping or killing any
11 wild bird or wild animal, or to attempt to do so, while having
12 in his or her possession or subject to his or her control, or for
13 any person accompanying him or her to have in his or her
14 possession or subject to his or her control, any firearm,
15 whether cased or uncased, bow, arrow, or both, or other
16 implement or device suitable for taking, killing or trapping a
17 wild bird or animal: *Provided*, That it is lawful to hunt or
18 take raccoon, opossum or skunk by the use of artificial light
19 subject to the restrictions set forth in this subdivision:
20 *Provided, however*, That it is lawful to hunt or take coyotes
21 by the use of amber- or red-colored artificial light subject to
22 the restrictions set forth in this subdivision. No person is
23 guilty of a violation of this subdivision merely because he or
24 she looks for, looks at, attracts or makes motionless a wild
25 bird or wild animal with or by the use of an artificial light,
26 unless at the time he or she has in his or her possession a
27 firearm, whether cased or uncased, bow, arrow, or both, or
28 other implement or device suitable for taking, killing or
29 trapping a wild bird or wild animal, or unless the artificial
30 light (other than the head lamps of an automobile or other

31 land conveyance) is attached to, a part of or used from within
32 or upon an automobile or other land conveyance.

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

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

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

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

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

53 (8) Except as provided in section six of this article, carry
54 an uncased or loaded gun in any of the woods of this state
55 except during the open firearms hunting season for wild
56 animals and nonmigratory wild birds within any county of
57 the state unless he or she has in his or her possession a permit
58 in writing issued to him or her by the director: *Provided,*
59 That this section shall not prohibit hunting or taking of
60 unprotected species of wild animals and wild birds and

61 migratory wild birds, during the open season, in the open
62 fields, open water and open marshes of the state;

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

85 (10) Hunt, catch, take, kill, trap, injure or pursue with
86 firearms or other implement by which wildlife may be taken
87 after the hour of five o'clock antemeridian on Sunday on
88 private land without the written consent of the landowner any
89 wild animals or wild birds except when a big game season
90 opens on a Monday, the Sunday prior to that opening day will
91 be closed for any taking of wild animals or birds after five
92 o'clock antemeridian on that Sunday: *Provided*, That traps
93 previously and legally set may be tended after the hour of
94 five o'clock antemeridian on Sunday and the person so doing

95 may carry only a twenty-two caliber firearm for the purpose
96 of humanely dispatching trapped animals. Any person
97 violating the provisions of this subdivision is guilty of a
98 misdemeanor and, upon conviction thereof, in addition to any
99 fines that may be imposed by this or other sections of this
100 code, shall be subject to a one hundred dollar fine;

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

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

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

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

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

120 (16) Hunt, catch, take, kill, capture, pursue, transport,
121 possess or use any migratory game or nongame birds
122 included in the terms of conventions between the United
123 States and Great Britain and between the United States and
124 United Mexican States for the protection of migratory birds

125 and wild mammals concluded, respectively, the sixteenth day
126 of August, one thousand nine hundred sixteen, and the
127 seventh day of February, one thousand nine hundred
128 thirty-six, except during the time and in the manner and
129 numbers prescribed by the federal Migratory Bird Treaty Act,
130 16 U.S.C. §703, *et seq.*, and regulations made thereunder;

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

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

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

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

155 (21) Take or attempt to take turkey, bear, elk or deer with
156 any arrow unless the arrow is equipped with a point having

157 at least two sharp cutting edges measuring in excess of three
158 fourths of an inch wide;

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

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

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

181 (25) Conduct or participate in a field trial,
182 shoot-to-retrieve field trial, water race or wild hunt hereafter
183 referred to as trial: *Provided*, That any person, group of
184 persons, club or organization may hold the trial at any time
185 of the year upon obtaining a permit as is provided in section
186 fifty-six of this article. The person responsible for obtaining
187 the permit shall prepare and keep an accurate record of the
188 names and addresses of all persons participating in said trial

189 and make same readily available for inspection by any
190 natural resources police officer upon request;

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

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

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

218 On the local option election ballot shall be printed the
219 following:

220 Shall hunting on Sunday be authorized in _____
221 County?

222 ☐ Yes ☐ No

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

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

232 If a majority votes against allowing Sunday hunting, no
233 election on the issue may be held for a period of one hundred
234 four weeks. If a majority votes "yes", no election
235 reconsidering the action may be held for a period of five
236 years. A local option election may thereafter be held if a
237 written petition of qualified voters residing within the county
238 equal to at least five percent of the number of persons who
239 were registered to vote in the next preceding general election
240 is received by the county commission of the county in which
241 Sunday hunting is authorized. The petition may be in any
242 number of counterparts. The election shall take place at the
243 next primary or general election scheduled more than ninety
244 days following receipt by the county commission of the
245 petition required by this subsection: *Provided*, That the issue
246 may not be placed on the ballot until all statutory notice
247 requirements have been met. No local law or regulation
248 providing any penalty, disability, restriction, regulation or
249 prohibition of Sunday hunting may be enacted and the
250 provisions of this article preempt all regulations, rules,
251 ordinances and laws of any county or municipality in conflict
252 with this subdivision.

253 (29) Hunt or conduct hunts for a fee where the hunter is
254 not physically present in the same location as the wildlife
255 being hunted within West Virginia.

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

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

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

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

23 (d) The provisions of subsections (b) and (c) of this
24 section related to criminal penalties and being subject to
25 arrest are inapplicable to a person whose dog, without the
26 person's direction or encouragement, travels onto the fenced,

27 enclosed or posted land of another in pursuit of an animal or
28 wild bird: *Provided*, That the pursuit does not result in the
29 taking of game from the fenced, enclosed or posted land and
30 does not result in the killing of domestic animals or fowl or
31 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.**

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

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

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

§20-2-16. Dogs chasing deer.

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

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

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

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

10 (c) Upon arriving at a residence, camp, hunting lodge,
11 vehicle or vessel each person shall attach a game tag to the

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

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

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

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

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

33 (h) For each violation of this section a person is subject
34 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,
2 capture, or kill any bear, or have in his or her possession any
3 bear or bear parts, except during the hunting season for bear

4 and in the manner designated by rules promulgated by the
5 Division of Natural Resources and as provided in this section.
6 For the purposes of this section, bear parts include, but are
7 not limited to, the pelt, gallbladder, skull and claws of bear.

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

19 (c) It is unlawful:

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

23 (2) To hunt a bear with:

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

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

28 (C) a crossbow;

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

32 (4) To shoot at or kill:

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

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

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

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

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

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

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

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

52 (10) To organize for commercial purposes or to
53 professionally outfit a bear hunt or to give or receive any
54 consideration whatsoever or any donation in money, goods
55 or services in connection with a bear hunt notwithstanding
56 the provisions of sections twenty-three and twenty-four of
57 this article; or

58 (11) For any person who is not a resident of this state to
59 hunt bear with dogs or to use dogs in any fashion for the
60 purpose of hunting bear in this state except in legally
61 authorized hunts.

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

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

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

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

85 (2) (A) When a property owner has suffered damage to
86 real or personal property as the result of an act by a bear, the
87 owner shall file a report with the Director of the Division of
88 Natural Resources. The report shall state whether or not the

89 bear was hunted and destroyed and, if so, the sex, weight and
90 estimated age of the bear. The report shall also include an
91 appraisal of the property damage occasioned by the bear duly
92 signed by three competent appraisers fixing the value of the
93 property lost.

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

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

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

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

118 (e) *Criminal penalties.* -- (1) Any person who commits a
119 violation of the provisions of this section is guilty of a

120 misdemeanor and, upon conviction thereof, shall be fined not
121 less than \$1,000 nor more than \$5,000, which fine is not
122 subject to suspension by the court, confined in jail not less
123 than thirty nor more than one hundred days, or both fined and
124 confined. Further, the person's hunting and fishing licenses
125 shall be suspended for two years.

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

133 (3) Any person who commits a third or subsequent
134 violation of the provisions of this section is guilty of a felony
135 and, upon conviction thereof, shall be fined not less than
136 \$5,000 nor more than \$10,000, which fine is not subject to
137 suspension by the court, imprisoned in a correctional facility
138 not less than one year nor more than five years, or both fined
139 and imprisoned.

§20-2-56a. Bird dog training permit.

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

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

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

8 (3) The birds permitted to be used for the training of dogs
9 are quail and pigeons. The quail must be purchased from a

10 licensed commercial game farm. Pigeons may be purchased
11 from a licensed commercial game farm or trapped within the
12 state at any time as long as the person conducting the
13 trapping is legally licensed to do so and also holds the
14 appropriate permit. Each trap must be identified by a
15 waterproof tag attached to the trap that bears the name,
16 address and telephone number of the trapper.

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

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

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

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

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

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

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

37 (11) The director may propose rules for legislative
38 approval in accordance with article three, chapter twenty-
39 nine-a of this code, to further restrict bird dog training.

40 (12) Any person violating any provision of this law is
41 subject to the penalties prescribed in section nine, article
42 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.

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

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

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

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

21 (e) (1) Any person who, while hunting, discharges a
22 firearm or arrow and knows or has reason to know that the
23 discharge has caused bodily harm to another person shall:

24 (A) Immediately investigate the extent of the person's
25 injuries; and

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

28 (2) As used in this subsection, "reasonable assistance"
29 means aid appropriate to the circumstances, including by not
30 limited to obtaining or attempting to obtain assistance from
31 a natural resources police officer, law enforcement officer,
32 911 dispatchers, emergency medical providers and medical
33 personnel.

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

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

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

52 (i) Any person found guilty of committing a felony
53 offense under this section shall have their hunting and fishing

54 licenses suspended for a period of ten years from the date of
55 conviction or the date of release from incarceration,
56 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.

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

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

20 (c) The chief natural resources police officer, acting
21 under supervision of the director, is authorized to select and

22 appoint emergency natural resources police officers for a
23 limited period of time for effective enforcement of the
24 provisions of this chapter when considered necessary because
25 of emergency or other unusual circumstances. The
26 emergency natural resources police officers shall be selected
27 from qualified civil service personnel of the division, except
28 in emergency situations and circumstances when the director
29 may designate officers, without regard to civil service
30 requirements and qualifications, to meet law-enforcement
31 needs. Emergency natural resources police officers shall
32 exercise all powers and duties prescribed in section four of
33 this article for full-time salaried natural resources police
34 officers except the provisions of subdivision (8) of said
35 section.

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

53 (e) The chief natural resources police officer, acting
54 under supervision of the director, is also authorized to
55 appoint as special natural resources police officers any full-

56 time civil service forest fire control personnel who have
57 satisfactorily completed a course of training established and
58 administered by the chief natural resources police officer.
59 The jurisdiction of forest fire control personnel appointed as
60 special natural resources police officers is limited to the
61 enforcement of the provisions of article three of this chapter.

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

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

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

79 (i) Natural resources police officers shall receive, in
80 addition to their base pay salary, a minimum monthly
81 subsistence allowance for their required telephone service,
82 dry cleaning or required uniforms, and meal expenses while
83 performing their regular duties in their area of primary
84 assignment in the amount of \$130 each month. This
85 subsistence allowance does not apply to special or emergency
86 natural resources police officers appointed under this section.

87 (j) After June 30, 2010, all those full time law-
88 enforcement officers employed by the Division of Natural
89 Resources as conservation officers shall be titled and known
90 as natural resources police officers. Wherever in this code the
91 term "conservation officer," or its plural, it means "natural
92 resources police officer," or its plural, respectively.

**§20-7-1a. Natural resources police officer salary increase based
on length of service.**

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

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

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

**§20-7-1b. Designation of certain federal law-enforcement
officers as special natural resources police
officers.**

1 The Legislature finds that it is in the mutual interest of
2 the department and certain land management agencies of the
3 United States to cooperate in the enforcement of state statutes
4 and regulations within and adjacent to units of the National
5 Park System, National Forests and U.S. Army Corps of
6 Engineers projects located within the state of West Virginia.

7 Accordingly, the director of the department of natural
8 resources may enter into a written agreement with a federal
9 agency providing for the appointment of employees of the
10 federal agency as special natural resources police officers and
11 setting forth the terms and conditions within which the
12 federal employees may exercise the powers and duties of
13 special natural resources police officers. The terms and
14 conditions in the agreement shall grant a special natural
15 resources police officer appointed pursuant to the agreement
16 the same powers and duties as prescribed for a full-time
17 salaried natural resources police officer of the department,
18 but shall limit a special natural resources police officer in the
19 exercise of his or her powers and duties to areas within the
20 boundaries of the federal units to which the officer is
21 assigned in his or her federal employment and to situations
22 outside the boundaries of the federal units where the exercise
23 is for the mutual aid of natural resources police officers as set
24 forth in the agreement.

25 Any federal employee whose duties involve the
26 enforcement of the criminal laws of the United States and
27 who possesses a valid law-enforcement certification issued
28 by a federal land management agency which certifies the
29 meeting of requirements at least equivalent to the law-
30 enforcement officer training requirements promulgated
31 pursuant to article twenty-nine, chapter thirty of this code,
32 may be certified under the provisions of said article twenty-
33 nine and appointed as a special natural resources police
34 officer under the provisions of this section. Any special
35 natural resources police officer so appointed may not receive

36 compensation or benefits from the state or any political
37 subdivisions thereof for the performance of his or her duties
38 as a special natural resources police officer.

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

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

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

14 ANNUAL SALARY SCHEDULE (BASE PAY)
15 SUPERVISORY AND NONSUPERVISORY RANKS

16	Natural Resources Police Officer	
17	In Training (first year until end	
18	of probation).....	\$26,337
19	Natural Resources Police Officer	
20	(second year).	\$29,768
21	Natural Resources Police	
22	Officer (third year).....	\$30,140
23	Senior Natural Resources	
24	Police Officer (fourth and fifth year).....	\$30,440

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
40 amendment to this section becomes effective shall be given
41 credit for prior service and shall be paid salaries as the same
42 length of service will entitle them to receive under the
43 provisions of this section.

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

47 (d) Nothing in this section prohibits other pay increases
48 as provided for under section two, article five, chapter five of

49 this code: *Provided*, That any across-the-board pay increase
50 granted by the Legislature or the governor will be added to,
51 and reflected in, the minimum salaries set forth in this
52 section; and that any merit increases granted to an officer
53 over and above the annual salary schedule listed in
54 subsection (b) of this section are retained by an officer when
55 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.**

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

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

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

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

21 (c) The disposal of law-enforcement service weapons,
22 when replaced due to routine wear, shall not fall under the
23 jurisdiction of the agency for surplus property, within the
24 Purchasing Division of the Department of Administration.
25 The chief natural resources police officer may offer these
26 surplus weapons for sale to any active or retired Division of
27 Natural Resources law-enforcement officer, at fair market
28 value, with the proceeds from any sales used to offset the cost
29 of the new weapons.

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

**§20-7-1e. Natural resources police officer performing duties for
private persons; penalty; providing extraordinary
law enforcement or security services by contract.**

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

13 (b) Notwithstanding any other provision of this section to
14 the contrary, the chief natural resources police officer may
15 contract with the public, military or private entities to provide

16 extraordinary law enforcement or security services by the
17 Division of Natural Resources when it is determined by the
18 chief natural resources police officer to be in the public
19 interest. The chief natural resources police officer may
20 assign personnel, equipment or facilities, and the division
21 shall be reimbursed for the wages, overtime wages, benefits
22 and costs of providing the contract services as negotiated
23 between the parties. The compensation paid to natural
24 resources police officers by virtue of contracts provided in
25 this section shall be paid from a special account and are
26 excluded from any formulation used to calculate an
27 employee's benefits. All requests for obtaining extraordinary
28 law enforcement or security services shall be made to the
29 chief natural resources police officer in writing and shall
30 explain the funding source and the authority for making the
31 request. No officer of the division is required to accept any
32 assignment made pursuant to this subsection. Every officer
33 assigned to duty hereunder shall be paid according to the
34 hours and overtime hours actually worked notwithstanding
35 that officer's status as exempt personnel under the "Federal
36 Labor Standards Act" or applicable state statutes. Every
37 contract entered into under this subsection shall contain the
38 provision that in the event of public disaster or emergency
39 where the reassignment to official duty of the officer is
40 required, neither the division nor any of its officers or other
41 personnel are liable for any damages incurred as the result of
42 the reassignment. Further, any entity contracting with the
43 Division of Natural Resources under this section shall also
44 agree as part of that contract to hold harmless and indemnify
45 the state, Division of Natural Resources and its personnel
46 from any liability arising out of employment under that
47 contract.

48 The director is authorized to propose legislative rules,
49 subject to approval by the Legislature, in accordance with
50 chapter twenty-nine-a of this code relating to the

51 implementation of contracts entered into pursuant to this
52 subsection: *Provided*, That the rules expressly prohibit
53 private employment of officers in circumstances involving
54 labor disputes.

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

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

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

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

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

21 (c) Upon the death of any current or honorably retired
22 special natural resources police officer, the respective chief
23 shall, upon request of the deceased officer's family, furnish
24 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.**

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

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

19 A natural resources police officer, upon honorable
20 retirement, shall be authorized to maintain at his or her own
21 cost a complete standard uniform from the law-enforcement
22 agency of which he or she was a member, and shall be issued
23 an identification card indicating his or her honorable
24 retirement from the law-enforcement agency. The uniform
25 may be worn by the officer in retirement only on the
26 following occasions: Police Officer's Memorial Day, Law
27 Enforcement Appreciation Day, at the funeral of a
28 law-enforcement officer or during any other police ceremony.

29 The honorably retired officer is authorized to acquire a badge
30 of the law-enforcement agency from which he or she is
31 retired with the word “retired” placed on it.

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

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

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

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

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

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

13 (2) Carry arms and weapons as may be prescribed by the
14 director in the course and performance of their duties, but no
15 license or other authorization shall be required for this
16 privilege;

17 (3) Search and examine, in the manner provided by law,
18 any boat, vehicle, automobile, conveyance, express or
19 railroad car, fish box, fish bucket or creel, game bag or game
20 coat or other place in which hunting and fishing
21 paraphernalia, wild animals, wild birds, fish, amphibians or
22 other forms of aquatic life could be concealed, packed or
23 conveyed whenever they have reason to believe that they
24 would thereby secure or discover evidence of the violation of
25 the provisions of this chapter;

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

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

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

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

42 (8) Arrest on sight, without warrant or other court
43 process, subject to the limitations set forth in subdivision (1)
44 of this section, any person or persons committing a criminal
45 offense in violation of any law of this state in the presence of
46 the officer on any state-owned lands and waters and lands
47 and waters under lease by the Division of Natural Resources

48 and all national forest lands, waters and parks and U.S. Corps
49 of Army Engineers' properties within the boundaries of the
50 State of West Virginia and, in addition to the authority
51 conferred in other subdivisions of this section, execute all
52 arrest warrants on these state and national lands, waters and
53 parks and U.S. Corps of Army Engineers' properties,
54 consistent with the provisions of article one, chapter sixty-
55 two of this code;

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

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

76 (11) Serve and execute warrants for the arrest of any
77 person and warrants for the search of any premises,
78 buildings, properties or conveyances issued by a properly
79 constituted authority in the same manner, with the same
80 authority, and with the same legal effect, as a sheriff; and

81 (12) Do all things necessary to carry into effect the
82 provisions of this chapter.

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

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

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

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

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

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

57 watercraft may authorize or knowingly permit it to be
58 operated in violation of subsection (a) of this section.

59 (f) The provisions of subsection (a) of this section may
60 only be enforced as a secondary action when the officer
61 detains an operator of a motorboat or personal watercraft
62 upon probable cause of a violation or another provision of
63 this code or rules adopted in accordance with the code. A
64 person may not be taken immediately to a court or detention
65 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.

§22-15A-19. Recycling assessment fee; regulated motor carriers; dedication of proceeds; criminal penalties.

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

7 (b) *Collection, return, payment and records.* -- The
8 person disposing of solid waste at the solid waste disposal
9 facility shall pay the fee imposed by this section, whether or
10 not that person owns the solid waste, and the fee shall be
11 collected by the operator of the solid waste facility who shall
12 remit it to the Tax Commissioner:

13 (1) The fee imposed by this section accrues at the time
14 the solid waste is delivered to the solid waste disposal
15 facility;

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

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

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

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

41 (6) Whenever the owner of a solid waste disposal facility
42 leases the solid waste facility to an operator, the operator is
43 primarily liable for collection and remittance of the fee

44 imposed by this section and the owner is secondarily liable
45 for remittance of the fee imposed by this section. However,
46 if the operator fails, in whole or in part, to discharge his or
47 her obligations under this section, the owner and the operator
48 of the solid waste facility are jointly and severally
49 responsible and liable for compliance with the provisions of
50 this section;

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

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

64 (c) *Regulated motor carriers.* -- The fee imposed by this
65 section is a necessary and reasonable cost for motor carriers
66 of solid waste subject to the jurisdiction of the Public Service
67 Commission under chapter twenty-four-a of this code.
68 Notwithstanding any provision of law to the contrary, upon
69 the filing of a petition by an affected motor carrier, the Public
70 Service Commission shall, within fourteen days, reflect the
71 cost of the fee in the motor carrier's rates for solid waste
72 removal service. In calculating the amount of the fee to the
73 motor carrier, the Commission shall use the national average
74 of pounds of waste generated per person per day as
75 determined by the United States Environmental Protection
76 Agency.

77 (d) *Definition.* -- For purposes of this section, "Solid
78 waste Disposal Facility" means any approved solid waste
79 facility or open dump in this state and includes a transfer
80 station when the solid waste collected at the transfer station
81 is not finally disposed of at a solid waste facility within this
82 state that collects the fee imposed by this section.

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

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

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

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

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

99 (f) *Procedure and administration.* -- Notwithstanding
100 section three, article ten, chapter eleven of this code, each
101 and every provision of the West Virginia Tax Procedure and
102 Administration Act set forth in article ten, chapter eleven of
103 this code applies to the fee imposed by this section with like
104 effect as if the act were applicable only to the fee imposed by
105 this section and were set forth in extenso in this section.

106 (g) *Criminal penalties.* -- Notwithstanding section two,
107 article nine, chapter eleven of this code, sections three
108 through seventeen, article nine, chapter eleven of this code
109 apply to the fee imposed by this section with like effect as if
110 the sections were the only fee imposed by this section and
111 were set forth in extenso in this section.

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

119 (1) Fifty percent of the total proceeds shall be provided
120 in grants to assist municipalities, counties and other
121 interested parties in the planning and implementation of
122 recycling programs, public education programs and recycling
123 market procurement efforts, established pursuant to this
124 article. The Secretary shall promulgate rules, in accordance
125 with chapter twenty-nine-a of this code, containing
126 application procedures, guidelines for eligibility, reporting
127 requirements and other matters considered appropriate:
128 *Provided,* That persons responsible for collecting, hauling or
129 disposing of solid waste who do not participate in the
130 collection and payment of the solid waste assessment fee
131 imposed by this section in addition to all other fees and taxes
132 levied by law for solid waste generated in this state which is
133 destined for disposal, shall not be eligible to receive grants
134 under the provisions of this article;

135 (2) Twelve and one-half percent of the total proceeds
136 shall be expended for personal services and benefit expenses
137 of full-time salaried natural resources police officers;

138 (3) Twelve and one-half percent of the total proceeds
139 shall be directly allocated to the solid waste planning fund;

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 2A. STATE AERONAUTICS COMMISSION.

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

1 Any person who operates an aircraft in this state shall be
2 deemed to have given his or her consent by the operation
3 thereof to a preliminary breath analysis and a secondary
4 chemical test of either his or her blood, breath or urine for the
5 purposes of determining the alcoholic content of his or her
6 blood. A preliminary breath analysis may be administered in
7 accordance with the provisions of section eleven-b of this
8 article whenever a law-enforcement officer has reasonable
9 cause to believe a person to have committed an offense
10 prohibited by section eleven of this article. A secondary test
11 of blood, breath or urine shall be incidental to a lawful arrest

12 and shall be administered at the direction of the arresting law-
13 enforcement officer having reasonable grounds to believe the
14 person to have committed an offense prohibited by said
15 section. The law-enforcement agency by which the law-
16 enforcement officer is employed shall designate which one of
17 the aforesaid secondary tests shall be administered: *Provided,*
18 That if the test so designated is a blood test and the person so
19 arrested refuses to submit to the blood test, then the law-
20 enforcement officer making the arrest shall designate in lieu
21 thereof either a breath or urine test to be administered.

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

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12. Powers and duties of state fire marshal.

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

6 (1) Prevention of fire;

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

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

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

17 (5) The suppression of arson; and

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

23 (b) *Assistance upon request.* -- Upon request, the state
24 fire marshal shall assist any chief of any recognized fire
25 company or department. Upon the request of any federal
26 law-enforcement officer, state police officer, natural
27 resources police officer or any county or municipal law-

28 enforcement officer, the state fire marshal, any deputy state
29 fire marshal or assistant state fire marshal employed pursuant
30 to section eleven of this article and any person deputized
31 pursuant to subsection (j) of this section may assist in the
32 lawful execution of the requesting officer's official duties:
33 *Provided*, That the state fire marshal or other person
34 authorized to act under this subsection shall at all times work
35 under the direct supervision of the requesting officer.

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

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

47 (e) *Right of entry.* -- The state fire marshal may, at all
48 reasonable hours, enter any building or premises, other than
49 dwelling houses, for the purpose of making an inspection
50 which he or she may consider necessary under the provisions
51 of this article. The state fire marshal and any deputy state
52 fire marshal or assistant state fire marshal approved by the
53 state fire marshal may enter upon any property, or enter any
54 building, structure or premises, including dwelling houses
55 during construction and prior to occupancy, for the purpose
56 of ascertaining compliance with the conditions set forth in
57 any permit or license issued by the office of the state fire
58 marshal pursuant to subdivision (1), subsection (a), section
59 twelve-b of this article or of article three-b of this chapter.

60 (f) *Investigations.* -- The state fire marshal may, at any
61 time, investigate as to the origin or circumstances of any fire
62 or explosion or attempt to cause fire or explosion occurring
63 in the state. The state fire marshal has the authority at all
64 times of the day or night, in performance of the duties
65 imposed by the provisions of this article, to investigate where
66 any fires or explosions or attempt to cause fires or explosions
67 may have occurred, or which at the time may be burning.
68 Notwithstanding the above provisions of this subsection,
69 prior to entering any building or premises for the purposes of
70 the investigation, the state fire marshal shall obtain a proper
71 search warrant: *Provided*, That a search warrant is not
72 necessary where there is permissive waiver or the state fire
73 marshal is an invitee of the individual having legal custody
74 and control of the property, building or premises to be
75 searched.

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

88 (h) *Arrests; warrants.* -- The state fire marshal, any
89 full-time deputy fire marshal or any full-time assistant fire
90 marshal employed by the state fire marshal pursuant to
91 section eleven of this article is hereby authorized and
92 empowered and any person deputized pursuant to subsection
93 (j) of this section may be authorized and empowered by the
94 state fire marshal:

95 (1) To arrest any person anywhere within the confines of
96 the state of West Virginia, or have him or her arrested, for
97 any violation of the arson-related offenses of article three,
98 chapter sixty-one of this code or of the explosives-related
99 offenses of article three-e of said chapter: *Provided*, That
100 any and all persons so arrested shall be forthwith brought
101 before the magistrate or circuit court.

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

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

120 (i) *Witnesses and oaths.* -- The state fire marshal is
121 empowered and authorized to issue subpoenas and subpoenas
122 duces tecum to compel the attendance of persons before him
123 to testify in relation to any matter which is, by the provision
124 of this article, a subject of inquiry and investigation by the
125 state fire marshal and cause to be produced before him or her
126 papers as he or she may require in making the examination.
127 The state fire marshal is hereby authorized to administer

128 oaths and affirmations to persons appearing as witnesses
129 before him or her. False swearing in any matter or
130 proceeding aforesaid shall be considered perjury and shall be
131 punishable as perjury.

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

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

152 (l) *Report of losses by insurance companies.* -- It is the
153 duty of each fire insurance company or association doing
154 business in this state, within ten days after the adjustment of
155 any loss sustained by it that exceeds fifteen hundred dollars,
156 to report to the state fire marshal information regarding the
157 amount of insurance, the value of the property insured and
158 the amount of claim as adjusted. This report is in addition to
159 any information required by the state insurance commissioner.
160 Upon the request of the owner or insurer of any property

161 destroyed or injured by fire or explosion, or in which an
162 attempt to cause a fire or explosion may have occurred, the
163 state fire marshal shall report in writing to the owner or
164 insurer the result of the examination regarding the property.

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

178 (n) *Issuance of citations for fire and life safety violations.*
179 -- The state fire marshal, any deputy fire marshal and any
180 assistant fire marshal employed pursuant to section eleven of
181 this article are hereby authorized, and any person deputized
182 pursuant to subsection (j) of this section may be authorized
183 by the state fire marshal to issue citations, in his or her
184 jurisdiction, for fire and life safety violations of the state fire
185 code and as provided for by the rules promulgated by the
186 state fire commission in accordance with article three, chapter
187 twenty-nine-a of this code: *Provided*, That a summary report
188 of all citations issued pursuant to this section by persons
189 deputized under subsection (j) of this section shall be
190 forwarded monthly to the state fire marshal in the form and
191 containing information as he or she may by rule require,
192 including the violation for which the citation was issued, the
193 date of issuance, the name of the person issuing the citation
194 and the person to whom the citation was issued. The state

195 fire marshal may at any time revoke the authorization of a
196 person deputized pursuant to subsection (j) of this section to
197 issue citations, if in the opinion of the state fire marshal, the
198 exercise of authority by the person is inappropriate.

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

201 (1) Overcrowding places of public assembly;

202 (2) Locked or blocked exits in public areas;

203 (3) Failure to abate a fire hazard;

204 (4) Blocking of fire lanes or fire department connections;
205 and

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

210 (o) *Required training; liability coverage.* -- No person
211 deputized pursuant to subsection (j) of this section may be
212 authorized to issue a citation unless that person has
213 satisfactorily completed a law-enforcement officer training
214 course designed specifically for fire marshals. The course
215 shall be approved by the law-enforcement training
216 subcommittee of the governor's committee on criminal
217 justice and highway safety and the state fire commission. In
218 addition, no person deputized pursuant to subsection (j) of
219 this section may be authorized to issue a citation until
220 evidence of liability coverage of the person has been
221 provided, in the case of a paid municipal fire department by
222 the municipality wherein the fire department is located, or in
223 the case of a volunteer fire department, by the county

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

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

234 Each and every day during which any violation of the
235 provisions of this article continues after knowledge or official
236 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.

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

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

6 “Chief executive” means the Superintendent of the State
7 Police; the chief natural resources police officer of the
8 Division of Natural Resources; the sheriff of any West
9 Virginia county; any administrative deputy appointed by the
10 chief natural resources police officer of the Division of
11 Natural Resources; or the chief of any West Virginia
12 municipal law-enforcement agency;

13 “County” means the fifty-five major political
14 subdivisions of the state;

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

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

22 “Law-enforcement officer” means any duly authorized
23 member of a law-enforcement agency who is authorized to
24 maintain public peace and order, prevent and detect crime,
25 make arrests and enforce the laws of the state or any county
26 or municipality thereof, other than parking ordinances, and
27 includes those persons employed as campus police officers at
28 state institutions of higher education in accordance with the
29 provisions of section five, article four, chapter eighteen-b of
30 this code, and persons employed by the Public Service
31 Commission as motor carrier inspectors and weight
32 enforcement officers charged with enforcing commercial
33 motor vehicle safety and weight restriction laws although
34 those institutions and agencies may not be considered
35 law-enforcement agencies. The term also includes those
36 persons employed as rangers by the Hatfield-McCoy regional
37 recreation authority in accordance with the provisions of
38 section six, article fourteen, chapter twenty of this code,
39 although the authority may not be considered a
40 law-enforcement agency: *Provided*, That the subject rangers
41 shall pay the tuition and costs of training. As used in this
42 article, the term “law-enforcement officer” does not apply to
43 the chief executive of any West Virginia law-enforcement
44 agency or any watchman or special natural resources police
45 officer;

46 “Law-enforcement official” means the duly appointed
47 chief administrator of a designated law-enforcement agency
48 or a duly authorized designee;

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

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

56 “West Virginia law-enforcement agency” means any duly
57 authorized state, county or municipal organization employing
58 one or more persons whose responsibility is the enforcement
59 of laws of the state or any county or municipality thereof:
60 *Provided*, That neither the Hatfield-McCoy regional
61 recreation authority, the Public Service Commission nor any
62 state institution of higher education may be deemed a
63 law-enforcement agency.

CHAPTER 36. ESTATES AND PROPERTY.

ARTICLE 8A. UNCLAIMED STOLEN PROPERTY HELD BY LAW - E N F O R C E M E N T AGENCIES.

§36-8A-1. Definitions.

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

3 (a) “Chief executive” means the superintendent of the
4 state police; the chief natural resources police officer of the
5 Division of Natural Resources; the sheriff of any West

6 Virginia county; or the chief of any West Virginia municipal
7 law-enforcement agency.

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

12 (c) "Law-enforcement agency" means any duly
13 authorized state, county or municipal organization of the state
14 of West Virginia employing one or more persons whose
15 responsibility is the enforcement of laws of the state or any
16 county or municipality thereof: *Provided*, That neither the
17 Hatfield-McCoy regional recreation authority nor any state
18 institution of higher education may be deemed a
19 law-enforcement agency.

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

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

32 (f) "Treasurer" means the state treasurer or his or her
33 authorized designee for purposes of the administration of this
34 article.

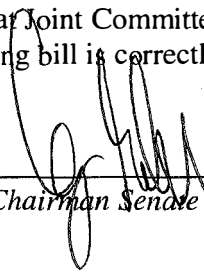
35 (g) "Unclaimed stolen property" is stolen property:

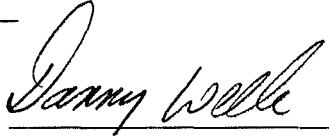
36 (1) Which has been held by a law-enforcement agency
37 for at least six months, during which time the rightful owner
38 has not claimed it;

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

42 (3) Which the chief executive determines to have no
43 evidentiary value.

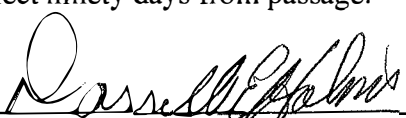
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

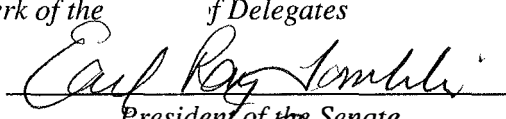

Chairman House Committee

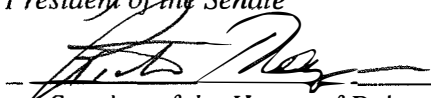
Originating in the House.

In effect ninety days from passage.

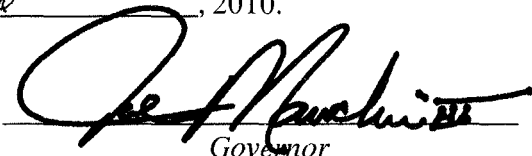

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is disapproved this the 2nd
day of April, 2010.


Governor

PRESENTED TO THE
GOVERNOR

MAR 3 0 2010

Time 10:30 am