

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 491

BY SENATORS TRUMP AND MARONEY

[Introduced March 1, 2017; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §7-1-3ff of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §30-29-1 of said code, all relating to county litter control officers who
3 are trained and certified as law-enforcement officers to have the same authority as other
4 law-enforcement officers to enforce litter laws.

Be it enacted by the Legislature of West Virginia:

1 That §7-1-3ff of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted; and that §30-29-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3ff. Authority of county commission to regulate unsafe or unsanitary structures and refuse on private land; authority to establish an enforcement agency; county litter control officers; procedure for complaints; lien and sale of land to recover costs; entry on land to perform repairs and alterations or to satisfy lien; receipt of grants and subsidies.

1 (a) Plenary power and authority are hereby conferred upon every county commission to
2 adopt ordinances regulating the repair, alteration or improvement, or the vacating and closing or
3 removal or demolition, or any combination thereof, of any dwellings or other buildings, except for
4 buildings utilized for farm purposes on land actually being used for farming, unfit for human
5 habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities,
6 lack of ventilation, light or sanitary facilities or any other conditions prevailing in any dwellings or
7 buildings, whether used for human habitation or not, which would cause the dwellings or other
8 buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare,
9 whether the result of natural or man-made force or effect.

10 (b) Plenary power and authority are hereby conferred upon every county commission to
11 adopt ordinances regulating the removal and cleanup of any accumulation of refuse or debris,

12 overgrown vegetation or toxic spillage or toxic seepage located on private lands which is
13 determined to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare,
14 whether the result of natural or man-made force or effect.

15 (c) The county commission, in formally adopting ordinances, shall designate an
16 enforcement agency which shall consist of the county engineer, or other technically qualified
17 county employee or consulting engineer, county health officer or his or her designee, a fire chief
18 from a county fire company, the county litter control officer, if the commission chooses to hire one,
19 and two members at large selected by the county commission to serve two-year terms. The county
20 sheriff shall serve as an ex officio member of the enforcement agency and the county officer
21 charged with enforcing the orders of the county commission under this section.

22 (d) In addition to the powers and duties imposed by this section, county litter control
23 officers shall have authority to issue citations for open dumps, as prohibited by subsection (a),
24 section ten, article fifteen, chapter twenty-two of this code, unlawful disposal of litter, as prohibited
25 by section four, article fifteen-a, chapter twenty-two of this code, and failure to provide proof of
26 proper disposal of solid waste, as prohibited by subsection (a), section ten, article four, chapter
27 twenty-two-c of this code, after completing a training course offered by the West Virginia
28 Department of Environmental Protection: Provided, That any litter control officer who is trained
29 and certified as a law-enforcement officer and whose certification is active shall have the same
30 authority as any other law-enforcement officer to enforce all litter laws in this code. Nothing in
31 this subsection supercedes the authority or duty of the Department of Environmental Protection
32 or other law-enforcement officers to preserve law and order and enforce the litter control program.

CHAPTER 30. BOARDS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-1. Definitions.

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

2 (1) "Approved law-enforcement training academy" means any training facility which is
3 approved and authorized to conduct law-enforcement training as provided in this article;

4 (2) "Chief executive" means the Superintendent of the State Police; the chief natural
5 resources police officer of the Division of Natural Resources; the sheriff of any West Virginia
6 county; any administrative deputy appointed by the chief natural resources police officer of the
7 Division of Natural Resources; or the chief of any West Virginia municipal law-enforcement
8 agency;

9 (3) "County" means the fifty-five major political subdivisions of the state;

10 (4) "Exempt rank" means any noncommissioned or commissioned rank of sergeant or
11 above;

12 (5) "Governor's Committee on Crime, Delinquency and Correction" or "Governor's
13 committee" means the Governor's Committee on Crime, Delinquency and Correction established
14 as a state planning agency pursuant to section one, article nine, chapter fifteen of this code;

15 (6) "Law-enforcement officer" means any duly authorized member of a law-enforcement
16 agency who is authorized to maintain public peace and order, prevent and detect crime, make
17 arrests and enforce the laws of the state or any county or municipality thereof, other than parking
18 ordinances, and includes those persons employed as campus police officers at state institutions
19 of higher education in accordance with the provisions of section five, article four, chapter eighteen-
20 b of this code, and persons employed by the Public Service Commission as motor carrier
21 inspectors and weight-enforcement officers charged with enforcing commercial motor vehicle
22 safety and weight restriction laws although those institutions and agencies may not be considered
23 law-enforcement agencies. The term also includes those persons employed as county litter
24 control officers charged with enforcing litter laws: *Provided, That those persons have been trained
25 and certified as law-enforcement officers and that certification is currently active.* The term also
26 includes those persons employed as rangers by resort area districts in accordance with the
27 provisions of section twenty-three, article twenty-five, chapter seven of this code, although no

28 resort area district may be considered a law-enforcement agency: *Provided, however,* That the
29 subject rangers shall pay the tuition and costs of training. As used in this article, the term “law-
30 enforcement officer” does not apply to the chief executive of any West Virginia law-enforcement
31 agency or any watchman or special natural resources police officer;

32 (7) “Law-enforcement official” means the duly appointed chief administrator of a
33 designated law-enforcement agency or a duly authorized designee;

34 (8) “Municipality” means any incorporated town or city whose boundaries lie within the
35 geographic boundaries of the state;

36 (9) “Subcommittee” or “law-enforcement professional standards subcommittee” means
37 the subcommittee of the Governor’s Committee on Crime, Delinquency and Correction created
38 by section two of this article; and

39 (10) “West Virginia law-enforcement agency” means any duly authorized state, county or
40 municipal organization employing one or more persons whose responsibility is the enforcement
41 of laws of the state or any county or municipality thereof: *Provided,* That neither the Public Service
42 Commission nor any state institution of higher education nor any resort area district is a law-
43 enforcement agency.

NOTE: The purpose of this bill is to allow litter control officers who are trained and certified as law-enforcement officers and whose certification is active to have the same authority as any other law-enforcement officers to enforce all litter laws.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.