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WEST VIRGINIA SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

FILED

SEP 30 2 48 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia State Police TITLE NUMBER: 81

CITE AUTHORITY: W. Va. Code 15-2-25

AMENDMENT TO AN EXISTING RULE: YES NO

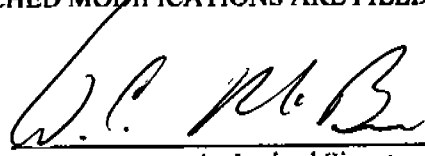
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 12

TITLE OF RULE BEING PROPOSED: Written Directive System

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

\$2.60

TITLE 81
LEGISLATIVE RULE
WEST VIRGINIA STATE POLICE

SERIES 12
WRITTEN DIRECTIVE SYSTEM

§81-12-1. General.

- 1.1. Scope. - This rule governs the written directive system of the West Virginia State Police.
- 1.2. Authority. - W. Va. Code §15-2-25
- 1.3. Filing Date -
- 1.4. Effective Date -

§81-12-2 Definitions

2.1. "Superintendent" means the Superintendent of the West Virginia State Police or a duly authorized representative.

2.2. "Member" means an employee of the West Virginia State Police empowered under the provisions of W. Va. Code §15-2-12 with statewide law enforcement powers and who has taken and subscribed to the oath of office as required by W.Va. Code §15-2-14.

§81-12-3 Written Directives of the West Virginia State Police.

3.1. Policies and procedures governing the internal management and operation of the West Virginia State Police shall be contained within the Operational Policy and Procedure Manual.

3.2. The West Virginia State Police shall issue each member a copy of the Operational Policy and Procedure Manual and each member shall ensure the currency of his or her individual manual.

3.3. The Superintendent may temporarily amend or rescind any operational policy or procedure by issuing a memorandum or teletype until a revised policy is issued. The Superintendent shall distribute to each member a copy of the amended policy upon its issuance.

3.4. The Superintendent may issue Special Orders to effect a change in the employment status of a member or civilian employee, direct the presence of a member or civilian employee at a certain event or location, initiate the internal investigation of a member or civilian employee, to effect temporary and permanent transfers or facilitate other internal administrative matters where the power to act rests with the Superintendent.

3.5. The Troop Commander or his or her duly authorized representative may issue Troop Special Orders for the purposes of temporary, intra-troop transfers; permanent intra-troop transfers and to mandate the attendance of members and civilian employees assigned to that troop at a specific event or location.

3.5.1. In the event that a Troop Special Order conflicts with a Special order issued by the Superintendent, the Superintendent's order shall take precedence over the Troop Special Order.

3.6. The Superintendent may issue memoranda and notices.

3.6.1. The Superintendent shall use memoranda to temporarily amend or rescind operational policies and procedures until a revision may be issued or disseminate other information to members constituting official direction in the performance of their assigned duties.

3.6.2 The Superintendent shall use notices to disseminate information of interest to members and civilian employees that does not directly affect the performance of their assigned duties.



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SEP 23 10 24 AM '98

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel

September 23, 1998

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Colonel Gary L. Edgell
WV State Police
725 Jefferson Road
South Charleston, WV 25309

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Written Directive System, 81CSR12**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency _____
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____



FILED

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WEST VIRGINIA LEGISLATURE
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TO: Ken Hechler, Secretary of State, State Register

TO: 1/Sergeant C.R. Blankenship
WV State Police
725 Jefferson Road
South Charleston, WV 25309

FROM: Legislative Rule-Making Review Committee

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4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia State Police

Subject: Written Directive System, 81CSR12

PERTINENT DATES

Filed for public comment: July 1, 1998
Public comment period ended: July 31, 1998
Filed following public comment period: August 3, 1998
Filed LRMRC: August 3, 1998
Filed as emergency:

Fiscal Impact: None

OFFICE OF THE SECRETARY OF STATE
SEP 4 9 33 AM '98
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ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 defines the terms "Superintendent" and "Member".

Section 3 provides that the policies and procedures governing the internal management and operation of the State Police are to be contained in a Operational Policy and Procedure Manual. It allows the Superintendent to temporarily amend or rescind any operational policy or procedure through the issuance of a memorandum or a teletype.

This section also provides for the issuance of special orders by the Superintendent and the Troop Commander regarding employment matters such as transfers.

AUTHORITY

Statutory authority: W.Va. Code, §15-2-25, which provides, in part, as follows:

Subject to the written approval of the governor and the provisions of this article, the superintendent may make and promulgate proper rules and regulations for the government, discipline and control of the division of public safety, and shall also cause to be established proper rules and regulations for the examinations of all applicants for appointment thereto...

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.