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SENATE BILL NO. 858

Offered January 14, 2015

Prefiled January 7, 2015

A BILL to amend and reenact §§ 10.1-115 through 10.1-119 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 1 of Title 10.1 a section numbered 10.1-120, relating to conservation officers; Breaks Interstate Park.

Patron—Chafin

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-115 through 10.1-119 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 1 of Title 10.1 a section numbered 10.1-120 as follows:

§ 10.1-115. Appointment of conservation officers; qualifications; oath.

A. The Director of the Department, when he deems it necessary, may request the Governor to commission individuals an individual designated by the Director to act as a conservation officers officer of the Commonwealth. Upon concurring with the Director's request, the Governor shall direct the Secretary of the Commonwealth to issue a conservation officer commission to the designated individual. The Secretary of the Commonwealth shall deliver a copy of the commission to the Director. Any individual so commissioned shall hold his commission during his term of employment with the Department, subject to the provisions of § 10.1-118.

B. The Director, upon the request of the Breaks Interstate Park Commission, may request the Governor to commission an individual who meets the requirements of § 10.1-120 and is designated by the Director to act as a conservation officer of the Commonwealth. Upon concurring with the Director's request, the Governor shall direct the Secretary of the Commonwealth to issue a conservation officer commission to the designated individual. The Secretary of the Commonwealth shall deliver a copy of the commission to the Director.

C. To be qualified to receive a conservation officer commission, a person shall (i) be at least twenty-one 21 years of age and (ii) have graduated from high school or obtained an equivalent diploma.

D. Each conservation officer shall qualify before the clerk of the circuit court of the city or county in which he resides, or in which he first is assigned duty, by taking the oaths prescribed by law. An employee of the Breaks Interstate Park Commission shall qualify before the clerk of the circuit court of Dickenson County.

E. The Director may designate certain conservation officers to be special conservation officers. Special conservation officers shall have the same authority and power as sheriffs throughout the Commonwealth to enforce the laws of the Commonwealth.

§ 10.1-116. Jurisdiction of conservation officers.

Conservation officers shall have jurisdiction throughout the Commonwealth on all Department lands and waters and upon lands and waters under the management or control of the Department; on property of the United States government or a department or agency thereof on which the Commonwealth has concurrent jurisdiction and is contiguous with land of the Department or on which the Department has a management interest; on property operated by the Breaks Interstate Park Commission within the Commonwealth of Virginia with the written agreement of the Commission, on a property of another state agency or department whose property is contiguous with land of the Department; and in those local jurisdictions in which mutual aid agreements have been established pursuant to § 15.2-1736.

Special conservation officers appointed pursuant to § 10.1-115 shall have jurisdiction throughout the Commonwealth.

§ 10.1-117. Powers and duties of conservation officers.

A. It shall be the duty of all conservation officers to uphold and enforce the laws of the Commonwealth and, the regulations of the Department, and the rules and regulations of the Breaks Interstate Park Commission.

B. Commissioned conservation officers shall be law-enforcement officers and shall have the power to enforce the laws of the Commonwealth and, the regulations of the Department and the collegial bodies under administrative support of the Department, and the rules and regulations of the Breaks Interstate Park Commission. If requested by the chief law-enforcement officer of the locality, conservation officers shall coordinate the investigation of felonies with the local law-enforcement agency.

§ 10.1-118. Decommissioning of conservation officers.

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59 Upon separation from the Department *or the Breaks Interstate Park Commission*, incapacity, death,
60 or other good cause, the Director may recommend in writing the decommissioning of any conservation
61 officer to the Governor. Upon concurring with the Director's request, the Governor shall direct the
62 Secretary of the Commonwealth to issue a certificate of decommissioning to the conservation officer.
63 The Secretary of the Commonwealth shall deliver a copy of the certificate to the Director. Upon receipt
64 of the decommissioning certificate, the Director shall ensure that the certificate is recorded at the office
65 of the clerk of the circuit court of any city or county in which the individual took his oath of office.

66 **§ 10.1-119. Defense of conservation officer of the Department prosecuted on criminal charges.**

67 If any conservation officer ~~appointed by the Director~~ shall be brought before any regulatory body,
68 summoned before any grand jury, investigated by any other law-enforcement agency, or arrested or
69 indicted or otherwise prosecuted on any charge arising out of any act committed in the discharge of his
70 official duties, the Director may employ special counsel approved by the Attorney General to defend
71 such officer. Upon a finding that (i) the officer did not violate a law or regulation resulting from the act
72 that was the subject of the investigation and (ii) the officer will not be terminated from employment as
73 the result of such act, the Director shall ~~pay~~ *arrange for payment* for the special counsel employed. The
74 compensation for special counsel employed pursuant to this section shall, subject to the approval of the
75 Attorney General, be paid out of the funds appropriated for the administration of the Department of
76 Conservation and Recreation *or the Breaks Interstate Park Commission as may be applicable*.

77 **§ 10.1-120. Commissioning of Breaks Interstate Park Commission employees as conservation**
78 **officers.**

79 *A. The Director shall ensure that an employee of the Breaks Interstate Park Commission whom the*
80 *Commission recommends for commissioning as a conservation officer in accordance with subsection B*
81 *of § 10.1-115 meets the minimum qualifications for law-enforcement officers set out in § 15.2-1705, is*
82 *subject to the minimum training standards set out in § 9.1-114, abides by the Department's*
83 *law-enforcement in-service training requirements, and abides by the law-enforcement directives of the*
84 *Department unless exceptions by the Department are granted in writing. For the purposes of*
85 *law-enforcement directives, the Breaks Interstate Park shall be treated as a Virginia State Park.*

86 *B. The Commission shall bear the expenses associated with training and equipping a Commission*
87 *employee as a conservation officer to Department standards unless the Department agrees otherwise.*