

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 205

An Act to amend and reenact §§ 10.1-224, 15.1-136.2, 18.2-51.1, and 18.2-57.1 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 1 of Title 10.1 an article numbered 4, consisting of sections numbered 10.1-115 through 10.1-118, and to repeal § 19.2-16 of the Code of Virginia, relating to conservation officers.

[H 634]

Approved April 2, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-224, 15.1-136.2, 18.2-51.1, and 18.2-57.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 10.1 an article numbered 4, consisting of sections numbered 10.1-115 through 10.1-118, as follows:

Article 4. Conservation Officers.

§ 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 designated by the Director to act as conservation officers 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. To be qualified to receive a conservation officer commission, a person shall (i) be at least twenty-one years of age and (ii) have graduated from high school or obtained an equivalent diploma.

C. 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.

D. 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.

§ 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. A conservation officer shall have the same powers as a conservator of the peace.

B. Commissioned conservation officers shall be law-enforcement officers and conservators of the peace, and shall have all of the powers of a conservator of the peace as provided in Article 2 (§ 19.2-18 et seq.) of Chapter 2 of Title 19.2 to enforce the laws of the Commonwealth and the regulations of the Department and the collegial bodies under administrative support of the Department. Special conservation officers designated pursuant to subsection D of § 10.1-115 shall have the same authority and power as police officers pursuant to § 15.1-138 to enforce the laws of the Commonwealth and the regulations of the Department and the collegial bodies under administrative support of the Department.

§ 10.1-118. Decommissioning of conservation officers.

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

§ 10.1-224. Director to provide staff.

The Director of the Department of Conservation and Recreation shall provide technical experts and other agents and employees, both permanent and temporary, necessary for the execution of the functions of the Foundation. The powers of the Department of Conservation and Recreation as described in § 10.1-104 of this subtitle, and the regulations established by the Director of the Department of Conservation and Recreation for the management and protection of Departmental land shall apply to real

estate held by the Foundation. The powers of the Department's ~~conservators of the peace~~ *conservation officers* commissioned under ~~§ 19.2-16~~ *§ 10.1-115* may be extended to the Foundation's real estate. The Department shall administer the Foundation's lands as if such lands were Departmental lands.

§ 15.1-136.2. Definitions.

For the purposes of this article the following words shall have the meanings herein ascribed to them:

"Deceased" shall mean any person whose death occurs on or after April 8, 1972, as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1 and 65.2-402, as a law-enforcement officer of this Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a member of any fire company or department or rescue squad which has been recognized by an ordinance or a resolution of the governing body of any county, city or town of this Commonwealth as an integral part of the official safety program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any agent, investigator, or inspector vested with the power to arrest pursuant to § 56-334; any regular or special game warden who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; ~~or any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.~~

"Beneficiary" shall mean the spouse of the deceased and such person or persons as are entitled to take under the will of the deceased if testate, or as his heir at law if intestate.

§ 18.2-51.1. Malicious bodily injury to law-enforcement officers; penalty; lesser included offense.

If any person maliciously causes bodily injury to another by any means including the means set out in § 18.2-52, with intent to maim, disfigure, disable or kill, and knowing or having reason to know that such other person is a law-enforcement officer, as defined hereinafter, engaged in the performance of his public duties as a law-enforcement officer, such person shall be guilty of a Class 3 felony, and, upon conviction, the sentence of such person shall include a mandatory, minimum term of imprisonment of two years.

If any person unlawfully, but not maliciously, with the intent aforesaid, causes bodily injury to another by any means, knowing or having reason to know such other person is a law-enforcement officer as defined hereinafter, engaged in the performance of his public duties as a law-enforcement officer, he shall be guilty of a Class 6 felony, and upon conviction, the sentence of such person shall include a mandatory, minimum term of imprisonment of one year.

Nothing in this section shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

As used in this section the term "mandatory, minimum" means that the sentence it describes shall be served with no suspension of sentence in whole or in part.

As used in this section a law-enforcement officer means any full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth, *or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.*

The provisions of § 18.2-51 shall be deemed to provide a lesser included offense hereof.

§ 18.2-57.1. Assault and battery against law-enforcement officers; penalty; lesser included offenses.

If any person commits an assault or an assault and battery against another by the shooting of any pistol, shotgun, rifle or other firearm, knowing or having reason to know that such other person is a law-enforcement officer, as defined hereinafter, engaged in the performance of his public duties as a law-enforcement officer, such person shall be guilty of a Class 1 misdemeanor and, upon conviction, the sentence of such person shall include a mandatory, minimum term of confinement in jail for six months.

Nothing in this section shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

As used in this section the term "mandatory, minimum" means that the sentence it describes shall be served with no suspension of sentence in whole or in part, and no probation being given by the court.

As used in this section a law-enforcement officer means any full-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth, *or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.*

Assault and assault and battery shall be deemed to be lesser included offenses hereof.

- 2. That all commissions or appointments of conservators of the peace pursuant to § 19.2-16 shall be null and void except for appointments of persons currently employed by the Department of Conservation and Recreation. Any commission or appointment issued pursuant to § 19.2-16 to persons currently employed by the Department of Conservation and Recreation shall continue in full force and effect until it is replaced by a conservation officer commission issued pursuant to § 10.1-115 or until the individual ceases to be employed by the Department.**
- 3. That § 19.2-16 of the Code of Virginia is repealed.**