

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

SENATE BILL NO. 116

(By Mr. McCourt, Mr. President)

PASSED FEBRUARY 24, 1972

In Effect 90 DAYS FROM Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-3-72

116

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 116

(MR. McCOURT, MR. PRESIDENT, *original sponsor*)

[Passed February 24, 1972; in effect ninety days from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article three-a, relating to the authority of a fire chief or other fireman in command and the subordinates of either to enter any building or upon any premises where a fire is in progress or where a fire is suspected for the purpose of extinguishing the same or to enter any building or premises adjacent thereto for the purpose of protecting such adjacent building or adjacent premises or for the purpose of extinguishing a fire in progress in another building or premises; relating to the authority of any such chief or other fireman in command and the subordinates of either in extinguishing a fire or answering a fire call or in returning to station and the duties of others in connection therewith; authorizing any such chief or other fireman in command to take and preserve property which indicates that fire was intentionally set and providing judicial procedures in connection therewith; relating to investigative powers to determine causes of fires; authorizing prohibitions against entry into the scene of a fire after extinguishment of such fire and providing exceptions in connection therewith; prohibiting any attack upon a fireman or fire-fighting equipment or emergency vehicles; prohibiting the hindering or obstructing of any fireman, equipment or emergency vehicles; creating criminal offenses; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia, one

thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article three-a, to read as follows:

ARTICLE 3A. AUTHORITY OF LOCAL FIRE DEPARTMENTS.

§29-3A-1. Entry of buildings on fire or where reasonable cause to believe a fire is in progress; adjoining premises.

1 The chief of any fire department or company or other
2 fireman in command at a fire and the subordinates of
3 either upon the order or direction of either shall have
4 the right at any time of the day or night (a) to enter
5 any building or upon any premises where a fire is in
6 progress, or where there is reasonable cause to believe
7 a fire is in progress, for the purpose of extinguishing the
8 same or (b) to enter any building or premises adjacent
9 thereto for the purpose of protecting such adjacent build-
10 ing or adjacent premises or for the purpose of extinguish-
11 ing the fire which is in progress in another building or
12 premises.

§29-3A-2. Authority of chief or other fireman in command when answering alarm or extinguishing fire.

1 When a fire is in progress all bystanders and other per-
2 sons shall obey all proper orders duly given by the chief
3 of any fire department or company or other fireman in
4 command at a fire and the subordinates of either upon
5 the order or direction of either.

6 While any fire department or company is in the process
7 of answering an alarm of fire or extinguishing a fire or
8 returning to station, the chief or other fireman in com-
9 mand of such fire department or company at that time
10 shall have the authority to maintain order at the fire or
11 its vicinity, direct the actions of the firemen at the fire,
12 keep bystanders or other persons at a safe distance from
13 the fire and fire equipment, facilitate the speedy move-
14 ment and operation of fire-fighting equipment and fire-
15 men, and until the arrival of a police officer, direct and
16 control traffic in person or by any subordinate and facili-
17 tate the movement of traffic. The fire chief or other fire-
18 man in command shall display his fireman's badge, or
19 other proper means of identification. Notwithstanding

20 any other provision of law, the authority granted in this
21 section shall extend to the activation of traffic control
22 signals designed to facilitate the safe egress and ingress
23 of fire-fighting equipment at a fire station.

§29-3A-3. Person in command at fire scene may take and preserve certain property; restitution.

1 The chief of any fire department or company or other
2 fireman in command of fire fighters at the scene of any
3 fire is authorized and empowered to take and preserve
4 any property which indicates that the fire was intention-
5 ally set. Any person whose property is so held may peti-
6 tion the circuit court of the county within which the
7 property was taken or the judge thereof in vacation for
8 return of the property, and the court may order restitu-
9 tion upon such conditions as are appropriate for the
10 preservation of evidence, including requiring the post-
11 ing of bond.

§29-3A-4. Conducting investigation to determine cause of fire.

1 To determine the cause of any fire, the chief of any
2 fire department or company or other authorized fireman
3 may enter the scene of such fire within a forty-eight hour
4 period after such fire has been extinguished.

5 If there is evidence that a fire was of incendiary origin,
6 the fire chief or other authorized fireman may control
7 who may enter the scene of such fire by posting no tres-
8 passing signs at such scene for a period of forty-eight
9 hours after such fire has been extinguished.

10 During the period that the scene of a fire is posted
11 against trespassing, no person shall enter such scene,
12 except that an owner, lessee or any other person having
13 personal property at such scene may enter at any time
14 after such scene has been declared safe by authorized
15 fire department or company officials to recover or salvage
16 personal property if said owner, lessee or person is ac-
17 companied by or is granted permission to enter such
18 scene by an authorized fire department or company
19 official.

§29-3A-5. Person attacking or hindering or obstructing firemen or emergency equipment; penalties.

1 It shall be unlawful, while any fire department or
2 company or fireman is in the process of answering an
3 alarm of fire or extinguishing a fire or returning to station,
4 for any person to:

5 (1) Attack any fireman or fire-fighting equipment or
6 emergency vehicles with any firearms, knives, fire bombs
7 or any object endangering life or property;

8 (2) Take any action for the purpose of hindering or
9 obstructing any fireman, equipment or emergency vehicle
10 by any means; or

11 (3) Refuse to take any action for the purpose of hinder-
12 ing or obstructing any fireman, equipment or emergency
13 vehicle by any means.

14 Any person violating the provisions of this section shall
15 be guilty of a felony, and, upon conviction thereof, shall
16 be imprisoned in the penitentiary not less than one nor
17 more than ten years, or, at the discretion of the court, be
18 confined in jail not exceeding twelve months or fined not
19 exceeding five hundred dollars, or both.

20 Any person willfully violating any of the provisions
21 of sections two or four of this article shall be guilty of
22 a misdemeanor, and, upon conviction thereof, shall be
23 fined not less than ten dollars nor more than one hun-
24 dred dollars.

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

James H. Bease
Chairman Senate Committee

Phyllis Rutledge
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard W. Carson
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

E. Sproull
President of the Senate

Louis J. McManus
Speaker House of Delegates

The within *approved* this the *2nd*
day of *March*, 1972.

Quinn Tamm Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 2/28/72

Time 3:02 p.m.

MAR 3 4 14 PM '72

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA