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
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 firefighting 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.

The chief of any fire department or company or other fireman in command at a fire and the subordinates of either upon the order or direction of either shall have the right at any time of the day or night (a) to enter any building or upon any premises where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the same or (b) 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 the fire which is in progress in another building or premises.

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

When a fire is in progress all bystanders and other persons shall obey all proper orders duly given by the chief of any fire department or company or other fireman in command at a fire and the subordinates of either upon the order or direction of either.

While any fire department or company is in the process of answering an alarm of fire or extinguishing a fire or returning to station, the chief or other fireman in command of such fire department or company at that time shall have the authority to maintain order at the fire or its vicinity, direct the actions of the firemen at the fire, keep bystanders or other persons at a safe distance from the fire and fire equipment, facilitate the speedy movement and operation of fire-fighting equipment and firemen, and until the arrival of a police officer, direct and control traffic in person or by any subordinate and facilitate the movement of traffic. The fire chief or other fireman in command shall display his fireman's badge, or other proper means of identification. Notwithstanding
any other provision of law, the authority granted in this section shall extend to the activation of traffic control signals designed to facilitate the safe egress and ingress of fire-fighting equipment at a fire station.

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

The chief of any fire department or company or other fireman in command of fire fighters at the scene of any fire is authorized and empowered to take and preserve any property which indicates that the fire was intentionally set. Any person whose property is so held may petition the circuit court of the county within which the property was taken or the judge thereof in vacation for return of the property, and the court may order restitution upon such conditions as are appropriate for the preservation of evidence, including requiring the posting of bond.

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

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

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

During the period that the scene of a fire is posted against trespassing, no person shall enter such scene, except that an owner, lessee or any other person having personal property at such scene may enter at any time after such scene has been declared safe by authorized fire department or company officials to recover or salvage personal property if said owner, lessee or person is accompanied by or is granted permission to enter such scene by an authorized fire department or company official.
§29-3A-5. Person attacking or hindering or obstructing firemen or emergency equipment; penalties.

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

1. Attack any fireman or fire-fighting equipment or emergency vehicles with any firearms, knives, fire bombs or any object endangering life or property;

2. Take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means; or

3. Refuse to take any action for the purpose of hindering or obstructing any fireman, equipment or emergency vehicle by any means.

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

Any person willfully violating any of the provisions of sections two or four of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Phyllis R. Rutledge
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Clerk of the Senate

Clark E. Blankenship
Clerk of the House of Delegates

President of the Senate

Leroy S. Moore
Speaker House of Delegates

The within approved this the 2nd

day of March, 1972.

Andra J. Davis
Governor