

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-30-82

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982



ENROLLED

SENATE BILL NO. 270

(By Mr. Colombo)



PASSED March 6, 1982

In Effect ninety days from Passage



ENROLLED

Senate Bill No. 270

(By MR. COLOMBO)

[Passed March 6, 1932; in effect ninety days from passage.]

AN ACT to amend and reenact article three-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the authority of fire departments; delineating authority of fire officers in charge of fire fighting and fire control; providing that person in command at fire scene may take and preserve certain property and for the return thereof; providing for court proceeding for restitution; relating to conducting an investigation to determine cause of fire; prohibiting person from attacking, hindering or obstructing fire fighters or emergency equipment; providing criminal penalties; and providing that nothing in this article shall be construed to prevent law-enforcement officials from controlling traffic or otherwise maintaining order at the scene of a fire.

Be it enacted by the Legislature of West Virginia:

That article three-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3A. AUTHORITY OF FIRE DEPARTMENTS.

§29-3A-1. Authority of fire officers in charge of fire, service call or other emergency.

1 While any fire department recognized or approved
2 by the West Virginia state fire commission is responding
3 to, operating at or returning from a fire, fire hazard,
4 service call or other emergency, the fire chief, any

5 other elected or appointed fire line officer, or any
6 member serving in the capacity of appointed fire line of-
7 ficer in charge, except on industrial property where
8 trained industrial firefighting personnel are present, shall
9 have the authority:

10 (1) Of controlling and directing fire fighting and fire
11 control activities at such scene;

12 (2) To order any person or persons to leave any build-
13 ing or place in the vicinity of such scene for the purpose
14 of protecting such persons from injury;

15 (3) To blockade any public highway, street or private
16 right-of-way temporarily while at such scene;

17 (4) To enter the building, structure, enclosure or
18 other property of any person or persons at any time of
19 the day or night, without liability, while operating at
20 such scene;

21 (5) To enter any building, including private dwell-
22 ings, or upon any premises where a fire is in progress,
23 or where there is reasonable cause to believe a fire is
24 in progress, for the purpose of extinguishing the fire;

25 (6) To enter any building, including private dwellings,
26 or premises near the scene of the fire for the purpose
27 of protecting the building or premises or for the purpose
28 of extinguishing the fire which is in progress in another
29 building or premises;

30 (7) To inspect for preplanning, all buildings, struc-
31 tures or other places in their fire district, excepting,
32 however, the interior of a private dwelling, with the
33 consent of the owner or occupant, where any combustible
34 materials, including wastepaper, rags, shaving, waste,
35 leather, rubber, crates, boxes, barrels, rubbish or other
36 combustible material that is or may become dangerous
37 as a fire menace to such building or buildings, structure
38 or other places has been allowed to accumulate or where
39 such chief or his designated representative has reason to
40 believe that such material of a combustible nature has
41 accumulated or is liable to be accumulated;

42 (8) To direct the removal or destroying of any fence,
43 house, motor vehicle or other thing which may reason-

44 ably be determined to be necessary to be pulled down or
45 destroyed, to prevent the further spread of the fire;

46 (9) To request and be supplied with additional
47 materials such as sand, treatments, chemicals, etc., and
48 special equipment when dealing with an accident on a
49 public highway or railroad right-of-way when it is
50 deemed a necessity to prevent the further spread of the
51 fire or hazardous condition, the cost of which to be borne
52 by the owner of the instrumentality which caused the fire
53 or hazardous condition; and

54 (10) To order disengagement or discouplement of any
55 convoy, caravan or train of vehicles, craft or railway
56 cars if deemed a necessity in the interest of safety of
57 persons or property.

§29-3A-2. Person in command at fire scene may take and preserve certain property; restitution.

1 The chief of any fire department or company or any
2 other elected or appointed fire line officer, the fire chief
3 or any member serving in the capacity of appointed fire
4 line officer in charge of fire fighters at the scene of any
5 fire is authorized and empowered to take and preserve
6 any property which indicates that the fire was intention-
7 ally set. Any person whose property is so held may
8 petition the circuit court of the county within which the
9 property was taken for return of the property, and the
10 court may order restitution upon such conditions as are
11 appropriate for the preservation of evidence, including
12 requiring the posting of bond.

§29-3A-3. 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 fire
3 fighter may enter the scene of such fire within a forty-
4 eight-hour period after such fire has been extinguished.

5 If there is evidence that a fire was of incendiary
6 origin, the fire chief or other authorized fire fighter
7 may control who may enter the scene of such fire by
8 posting no trespassing signs at such scene for a period of
9 forty-eight 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
16 salvage personal property if said owner, lessee or person
17 is accompanied by or is granted permission to enter such
18 scene by an authorized fire department or company of-
19 ficial.

**§29-3A-4. Person attacking or hindering or obstructing fire
fighter or emergency equipment; penalties.**

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

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

8 (2) Intentionally hinder any fire fighter in the per-
9 formance of his duties or intentionally obstruct any
10 fire-fighting equipment or emergency vehicle.

11 Any person violating the provisions of this section is
12 guilty of a felony, and, upon conviction thereof, shall
13 be imprisoned in the penitentiary not less than one nor
14 more than ten years, or, in the discretion of the court,
15 be confined in the county jail not more than one year
16 or fined not more than five hundred dollars, or both fined
17 and imprisoned.

18 Any person willfully violating any of the provisions of
19 section one or three of this article is guilty of a mis-
20 demeanor, and, upon conviction thereof, shall be fined
21 not less than one hundred dollars nor more than five
22 hundred dollars: *Provided*, That nothing in this article
23 shall be construed to prevent law-enforcement officials
24 from controlling traffic and otherwise maintaining order
25 at the scene of a fire.

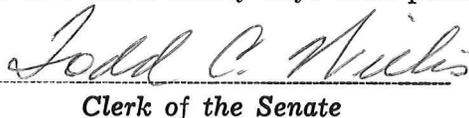
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


 Chairman Senate Committee

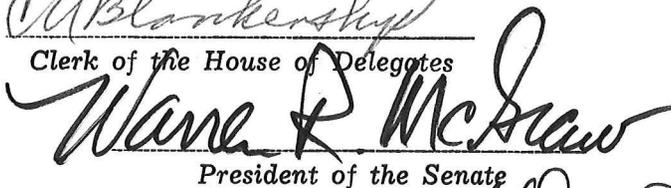

 Chairman House Committee

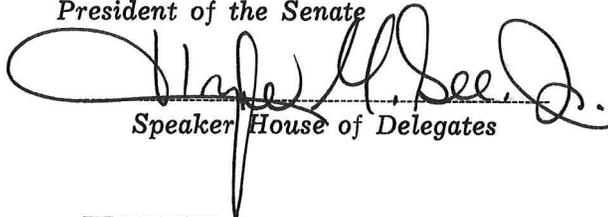
Originated in the Senate.

To take effect ninety days from passage.


 Clerk of the Senate


 Clerk of the House of Delegates


 President of the Senate


 Speaker House of Delegates

The within approved this the 30
 day of March, 1982.


 Governor

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