WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED
SENATE BILL NO. 270

(By Mr. Columbo)

PASSED
March 6, 1982

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 by the West Virginia state fire commission is responding to, operating at or returning from a fire, fire hazard, service call or other emergency, the fire chief, any
other elected or appointed fire line officer, or any member serving in the capacity of appointed fire line officer in charge, except on industrial property where trained industrial firefighting personnel are present, shall have the authority:

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

(2) To order any person or persons to leave any building or place in the vicinity of such scene for the purpose of protecting such persons from injury;

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

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

(5) To enter any building, including private dwellings, 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 fire;

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

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

(8) To direct the removal or destroying of any fence, house, motor vehicle or other thing which may reason-
ably be determined to be necessary to be pulled down or
destroyed, to prevent the further spread of the fire;
(9) To request and be supplied with additional
materials such as sand, treatments, chemicals, etc., and
special equipment when dealing with an accident on a
public highway or railroad right-of-way when it is
deemed a necessity to prevent the further spread of the
fire or hazardous condition, the cost of which to be borne
by the owner of the instrumentality which caused the fire
or hazardous condition; and
(10) To order disengagement or discouplement of any
convoy, caravan or train of vehicles, craft or railway
cars if deemed a necessity in the interest of safety of
persons or property.

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

1 The chief of any fire department or company or any
other elected or appointed fire line officer, the fire chief
or any member serving in the capacity of appointed fire
line officer in charge 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 intention-
ally set. Any person whose property is so held may
petition the circuit court of the county within which the
property was taken 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-3. Conducting investigation to determine cause of fire.

1 To determine the cause of any fire, the chief of any
fire department or company or other authorized fire
fighter 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 fire fighter
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-4. Person attacking or hindering or obstructing fire fighter or emergency equipment; penalties.

It shall be unlawful, while any fire department or company or fire fighter 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 fire fighter or fire-fighting equipment or emergency vehicles with any firearms, knives, fire bombs or any object endangering life or property; or

(2) Intentionally hinder any fire fighter in the performance of his duties or intentionally obstruct any fire-fighting equipment or emergency vehicle.

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

Any person willfully violating any of the provisions of section one or three of this article is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars: Provided, That nothing in this article shall be construed to prevent law-enforcement officials from controlling traffic and otherwise maintaining order 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 ______

day of ______, 1982.

Governor