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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1991

— ● —

ENROLLED

HOUSE BILL No. 226

(By Delegates Browning + Burk)

— ● —

Passed October 15, 1991

In Effect From Passage

ENROLLED
H. B. 226

(By DELEGATES BROWNING AND BURK)

[Passed October 15, 1991; in effect from passage.]

AN ACT to amend and reenact section twelve-b, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to fees charged by fire marshal; fees charged by fire marshal for specified duties; and the deposit and utilization of fees collected.

Be it enacted by the Legislature of West Virginia:

That section twelve-b, article three, 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:

§29-3-12b. Fees.

1 (a) The state fire marshal may establish fees in
2 accordance with the following:

3 (1) *For blasting.* — Any person storing, selling or using
4 explosives shall first obtain a permit from the state fire
5 marshal. Such permit shall be valid from the first day
6 of July through the thirtieth day of June of the succeed-
7 ing year beginning on the first day of July, one thousand
8 nine hundred eighty-nine. The state fire marshal may
9 charge a fee not to exceed fifty dollars for such permit.

10 (2) *For inspections of schools or day care facilities.* —
11 The state fire marshal may charge a fee of up to twenty-
12 five dollars per annual inspection for inspection of

13 schools or day care facilities: *Provided*, That only one
14 such fee may be charged per year for any building in
15 which a school and a day care facility are co-located:
16 *Provided, however*, That any school or day care facility
17 may not be charged for an inspection more than one time
18 per twelve-month period.

19 (3) *For inspections of hospitals or nursing homes.* —
20 The state fire marshal may charge an inspection fee of
21 up to one hundred dollars per annual inspection of
22 hospitals or nursing homes: *Provided*, That any hospital
23 or nursing home may not be charged for an inspection
24 more than one time per twelve-month period.

25 (4) *For inspections of personal care homes or board and*
26 *care facilities.* — The state fire marshal may charge an
27 inspection fee of up to fifty dollars per annual inspection
28 for inspections of personal care homes or board and care
29 facilities: *Provided*, That any personal care home or
30 board and care facility may not be charged for an
31 inspection more than one time per twelve-month period.

32 (5) *For inspections of residential occupancies.* — The
33 state fire marshal may charge an inspection fee of up to
34 one hundred dollars for each inspection of a residential
35 occupancy. For purposes of this subdivision, “residential
36 occupancies” are those buildings in which sleeping
37 accommodations are provided for normal residential
38 purposes.

39 (6) *For inspections of mercantile occupancies.* — The
40 state fire marshal may charge an inspection fee of up to
41 one hundred dollars for inspections of mercantile
42 occupancies: *Provided*, That if such inspection is in
43 response to a complaint made by a member of the public,
44 the state fire marshal shall obtain from the complainant
45 an advance inspection fee of twenty-five dollars. This fee
46 shall be returned to the complainant if, after the state
47 fire marshal has made the inspection, he finds that the
48 complaint was accurate and justified, and he shall
49 thereafter collect an inspection fee of up to one hundred
50 dollars from the mercantile occupancy. If, after the
51 inspection has been performed, it appears to the state

52 fire marshal that such complaint was not accurate or
53 justified, the state fire marshal shall keep the twenty-five
54 dollar advance inspection fee obtained from the com-
55 plainant and may not collect any fees from the mercan-
56 tile occupant. For purposes of this section, "mercantile
57 occupancy" includes stores, markets and other rooms,
58 buildings or structures for the display and sale of
59 merchandise.

60 (7) *For business occupancies.* — The state fire marshal
61 may charge an inspection fee of up to one hundred
62 dollars for inspections of business occupancies: *Provided,*
63 That the provisions in subdivision (6) of this section shall
64 apply regarding complaints by members of the public.
65 For purposes of this section, "business occupancies" are
66 those buildings used for the transaction of business, other
67 than mercantile occupancies, for the keeping of accounts
68 and records, and similar purposes.

69 (8) *For inspections of assembly occupancies.* — The
70 state fire marshal may charge an inspection fee not more
71 than one time per twelve-month period for the inspection
72 of assembly occupancies. The inspection fee shall be
73 assessed as follows: For class C assembly facilities, an
74 inspection fee not to exceed fifty dollars; for class B
75 assembly facilities, an inspection fee not to exceed
76 seventy-five dollars; and for class A facilities, an
77 inspection fee not to exceed one hundred dollars.

78 For purposes of this subdivision, an "assembly occu-
79 pancy" includes, but is not limited to, all buildings or
80 portions of buildings used for gathering together fifty or
81 more persons for such purposes as deliberation, worship,
82 entertainment, eating, drinking, amusement, or awaiting
83 transportation. For purposes of this section, a "class C
84 assembly facility" is one that accommodates fifty to three
85 hundred persons; a "class B facility" is one which
86 accommodates more than three hundred persons but less
87 than one thousand persons; and a "class A facility" is one
88 which accommodates more than one thousand persons.

89 (b) The state fire marshal shall have the authority to
90 establish a fee schedule for the fire safety review of plans

91 and specifications for new and existing construction as
92 set forth in this article. Such fee shall be paid by such
93 party or parties receiving the review.

94 The fee schedule shall be based upon existing and
95 projected workloads as advanced by the state fire
96 marshal and the schedule shall be clearly set forth by
97 rules and regulations promulgated by the state fire
98 commission. In no event may this fee exceed ten dollars.

99 (c) All fees authorized and collected pursuant to this
100 article and article three-b of this chapter shall be paid
101 to the state fire marshal and thereafter deposited into a
102 special account for the operation of the state fire
103 commission in administering this article and article
104 three-b of this chapter. The Legislature shall appropriate
105 the moneys in said account by a specific numbered
106 account in the budget bill. Beginning on the first day of
107 July, one thousand nine hundred ninety-two, and every
108 fiscal year thereafter, at the end of each fiscal year there
109 shall be transferred from the special account, to the
110 general revenue fund of the state, ten percent of all
111 money collected by the fire marshal during the year:
112 *Provided*, That any balance remaining in the special
113 account at the end of any fiscal year, after the transfer
114 of the ten percent, shall be reappropriated to the next
115 fiscal year: *Provided, however*, That in addition to said
116 ten percent, amounts collected which are found from
117 time to time to exceed the funds needed for purposes for
118 which the fees are collected may be transferred to other
119 accounts or redesignated for other purposes by appropri-
120 ation of the Legislature.

121 (d) If the owner or occupant of any occupancy arranges
122 a time and place for an inspection with the state fire
123 marshal and is not ready for the occupancy to be
124 inspected at the appointed time and place, the owner or
125 occupant thereof shall be charged the inspection fee
126 provided in this section unless at least forty-eight hours
127 prior to the scheduled inspection the owner or occupant
128 requests the state fire marshal to reschedule such
129 inspection. In the event a second inspection is required

130 by the state fire marshal as a result of the owner or
131 occupant failing to be ready for the inspection when the
132 state fire marshal arrives, the state fire marshal shall
133 charge the owner or occupant of such occupancy the
134 inspection fees set forth above for each inspection trip
135 required.

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

Lomer Leck

Chairman Senate Committee

Ernest P. Moore

Chairman House Committee

Originating in the House.

Takes effect from passage.

Harold E. Adams

Clerk of the Senate

Donald G. Kopp

Clerk of the House of Delegates

Neil S. Funtt

President of the Senate

Boyd R. Stall

Speaker of the House of Delegates

The within *is approved* this the *23rd*
day of *October*, 1991.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 10/18/91

Time 4:35 PM