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OFFICE OF WEST VIRGINIA  
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)

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

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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*  
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Chairman Senate Committee

*Ernest P. Moore*  
-----  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Harold E. Atkins*  
-----  
Clerk of the Senate

*Donald G. Kopp*  
-----  
Clerk of the House of Delegates

*Neal 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*  
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Governor

PRESENTED TO THE

GOVERNOR

Date 10/18/91

Time 4:35 PM