WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 1991

ENROLLED

HOUSE BILL No. 226

(By Delegates Browning and Burkh)

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 accordance with the following:

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

(2) For inspections of schools or day care facilities. — The state fire marshal may charge a fee of up to twenty-five dollars per annual inspection for inspection of
schools or day care facilities: *Provided*, That only one such fee may be charged per year for any building in which a school and a day care facility are co-located: *Provided, however*, That any school or day care facility may not be charged for an inspection more than one time per twelve-month period.

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

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

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

(6) *For inspections of mercantile occupancies.* — The state fire marshal may charge an inspection fee of up to one hundred dollars for inspections of mercantile occupancies: *Provided, That if such inspection is in response to a complaint made by a member of the public, the state fire marshal shall obtain from the complainant an advance inspection fee of twenty-five dollars. This fee shall be returned to the complainant if, after the state fire marshal has made the inspection, he finds that the complaint was accurate and justified, and he shall thereafter collect an inspection fee of up to one hundred dollars from the mercantile occupancy. If, after the inspection has been performed, it appears to the state
fire marshal that such complaint was not accurate or justified, the state fire marshal shall keep the twenty-five dollar advance inspection fee obtained from the complainant and may not collect any fees from the mercantile occupant. For purposes of this section, “mercantile occupancy” includes stores, markets and other rooms, buildings or structures for the display and sale of merchandise.

(7) For business occupancies. — The state fire marshal may charge an inspection fee of up to one hundred dollars for inspections of business occupancies: Provided, that the provisions in subdivision (6) of this section shall apply regarding complaints by members of the public. For purposes of this section, “business occupancies” are those buildings used for the transaction of business, other than mercantile occupancies, for the keeping of accounts and records, and similar purposes.

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

For purposes of this subdivision, an “assembly occupancy” includes, but is not limited to, all buildings or portions of buildings used for gathering together fifty or more persons for such purposes as deliberation, worship, entertainment, eating, drinking, amusement, or awaiting transportation. For purposes of this section, a “class C assembly facility” is one that accommodates fifty to three hundred persons; a “class B facility” is one which accommodates more than three hundred persons but less than one thousand persons; and a “class A facility” is one which accommodates more than one thousand persons.

(b) The state fire marshal shall have the authority to establish a fee schedule for the fire safety review of plans
and specifications for new and existing construction as
set forth in this article. Such fee shall be paid by such
party or parties receiving the review.

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

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

(d) If the owner or occupant of any occupancy arranges
a time and place for an inspection with the state fire
marshal and is not ready for the occupancy to be
inspected at the appointed time and place, the owner or
occupant thereof shall be charged the inspection fee
provided in this section unless at least forty-eight hours
prior to the scheduled inspection the owner or occupant
requests the state fire marshal to reschedule such
inspection. In the event a second inspection is required
by the state fire marshal as a result of the owner or
occupant failing to be ready for the inspection when the
state fire marshal arrives, the state fire marshal shall
charge the owner or occupant of such occupancy the
inspection fees set forth above for each inspection trip
required.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the 33rd day of October 1991.

Governor
PRESERVED TO THE
GOVERNOR
Date 10/12/91
Time 4:35 PM