

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



ENROLLED

Com. Sub. for House Bill No. 4119

(By Delegates Caputo, Staton, Prunty, Claypole,
Scacrist, Fleischauer and Fragale)



Passed March 14, 1998

In Effect Ninety Days from Passage



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FOR
H. B. 4119

(BY DELEGATES CAPUTO, STATON, PRUNTY,
CLAYPOLE, SEACRIST, FLEISCHAUER AND FRAGALE)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article thirteen, relating to the safety of convenience food store employees; providing definitions; safety procedures to be followed by certain convenience food stores; civil penalties; and tax credit for owners of certain convenience food stores.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article thirteen, to read as follows:

ARTICLE 13. CONVENIENCE FOOD STORES SAFETY ACT.

§21-13-1. Purpose.

- 1 The Legislature finds that it is necessary to the safety,
- 2 health, public interest and general welfare of the people of
- 3 the state of West Virginia that convenience food stores

4 operating in the state be regulated to prevent the ever-
5 present danger to the safety, health, life and general
6 welfare of its citizens and the employees of these stores.

7 **§21-13-2. Definitions.**

8 As used in this article, except where a different
9 meaning is provided in section five of this article:

10 (1) "Convenience food store" means a business
11 establishment that:

12 (A) Derives fifty percent or more of its gross income
13 from the sale of goods, merchandise or other articles of
14 value in their original containers or gasoline and other
15 petroleum products with gross annual sales of one million
16 dollars or more; and

17 (B) Offers a limited quantity and variety of food,
18 household and sundry items; and

19 (C) Operates at any time between the hours of twelve
20 o'clock a.m. and five o'clock a.m.; and

21 (D) Does not sell or offer for sale prescription drug
22 items.

23 (2) "Owner" means the person, corporation,
24 partnership, joint venture or other group enterprise having
25 an ownership or proprietary interest in a convenience food
26 store.

27 (3) "Employee" means any person permitted to work
28 by a person, corporation, partnership, joint venture or
29 group enterprise legally responsible for the operation of
30 the convenience food store.

§21-13-3. Convenience food store regulations.

1 All convenience food stores shall comply with the
2 following provisions:

3 (1) If open for business after twelve o'clock a.m., the
4 convenience food store must employ two persons who are
5 continuously on duty on the premises from twelve o'clock
6 a.m. until closing or five o'clock a.m., whichever occurs
7 first, or employ one person during these hours and install

8 the security camera system provided for in subdivision (3)
9 of this section, or install a security booth for one person to
10 occupy during these hours or lock their doors and allow
11 customers to be served through a pass-through device;

12 (2) The entire area of the parking area used by
13 customers of convenience food stores must be lighted
14 during all hours of darkness when employees or
15 customers, or both employees and customers are on the
16 premises. Minimum average maintained illuminance must
17 be two footcandles or greater with a uniformity ratio
18 (average to minimum) of no more than five to one unless
19 such lighting violates applicable municipal lighting code
20 requirements or creates a public or private nuisance.

21 (3) If only one person is employed on duty on the
22 premises from twelve o'clock a.m. until closing or five
23 o'clock a.m., the store shall install, by the first day of
24 January, one thousand nine hundred ninety-nine, a
25 security camera capable of producing a retrievable image
26 on film or tape that can be enlarged through projection or
27 other means. The cameras shall be maintained in proper
28 working order at all times.

29 (4) Any owner or employee who works between the
30 hours of twelve o'clock a.m. and five o'clock a.m. at a
31 convenience food store shall be trained in robbery
32 prevention by the owner. Owners shall develop a written
33 robbery prevention program which shall be available for
34 inspection during regular business hours at each
35 convenience food store, and shall base the training on the
36 program.

37 (5) Provide height markers at the door or doors
38 exiting the premise which display measurements from the
39 floor: *Provided*, That any owner who is in compliance with
40 this section and certifies such compliance to the
41 superintendent of state police or the superintendents
42 designee, or the county sheriff's department or the
43 municipal police department, on or before the first day of
44 January, one thousand nine hundred ninety-nine, shall be
45 exempt from the provisions of section four, article
46 thirteen, chapter twenty-one.

§21-13-4. Penalties and enforcement.

1 Any owner who fails to comply with this article, upon
2 the first violation, shall be assessed a civil fine of not less
3 than one hundred dollars nor more than five hundred
4 dollars; and, upon a second violation shall be fined not
5 less than five hundred dollars nor more than one thousand
6 dollars. For third and subsequent violations, an owner
7 shall be fined not less than one thousand dollars nor more
8 than five thousand dollars. If noncompliance is corrected
9 within ten days after a violation, no fine may be assessed.

§21-3-5. Tax credit.

1 (a) For purposes of this section, an owner of a
2 convenience food store means an owner, as defined in
3 subdivision (2), section two of this article, of a
4 convenience food store that meets all the requirements
5 contained within the definition of a convenience food
6 store set forth in subdivision (1), section two of this article
7 except that the annual gross sales of the convenience food
8 store is less than one million dollars.

9 (b) An owner of a convenience food store within the
10 meaning prescribed in subsection (a) of this section is
11 entitled to receive a tax credit against the owner's tax
12 liability on taxable income earned from conducting the
13 business of the convenience food store for each
14 convenience food store that meets the requirements of
15 subdivision (3), section three of this article.

16 (c) The tax credit available under this section is an
17 amount equal to the cost to the owner of meeting the
18 requirements of subdivision (3), section three of this
19 article, or both, or five hundred dollars, whichever is less.

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

Ray Johnson
Chairman Senate Committee

Mike Fantassi
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell K. Brody
Clerk of the Senate

Gregory M. Bing
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

[Signature]
Speaker of the House of Delegates

The within *approved* this the *8th*
day of *April*, 1998.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

Date 3/31/98

Time 2:26 pm