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
ENROLLED
COMMITTEE SUBSTITUTE
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, health, public interest and general welfare of the people of the state of West Virginia that convenience food stores
operating in the state be regulated to prevent the ever-present danger to the safety, health, life and general welfare of its citizens and the employees of these stores.


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

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

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

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

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

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

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

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


All convenience food stores shall comply with the following provisions:

(1) If open for business after twelve o'clock a.m., the convenience food store must employ two persons who are continuously on duty on the premises from twelve o'clock a.m. until closing or five o'clock a.m., whichever occurs first, or employ one person during these hours and install
the security camera system provided for in subdivision (3) of this section, or install a security booth for one person to occupy during these hours or lock their doors and allow customers to be served through a pass-through device;

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

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

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

(5) Provide height markers at the door or doors exiting the premise which display measurements from the floor: Provided, That any owner who is in compliance with this section and certifies such compliance to the superintendent of state police or the superintendents designee, or the county sheriff's department or the municipal police department, on or before the first day of January, one thousand nine hundred ninety-nine, shall be exempt from the provisions of section four, article thirteen, chapter twenty-one.
§21-13-4. Penalties and enforcement.

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

§21-3-5. Tax credit.

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

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

(c) The tax credit available under this section is an amount equal to the cost to the owner of meeting the requirements of subdivision (3), section three of this 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.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 8th day of . 1998.

Governor
PRESENTED TO THE GOVERNOR

Date: 3/31/98
Time: 2:26 pm