

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2359

(By Mr. Speaker, Mr. Kiss)

Passed February 28, 2003

In Effect July 1, 2003

FILED
2003 MAR - 7 10 49 AM
CLERK OF HOUSE OF DELEGATES

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2359

(BY MR. SPEAKER, MR. KISS)

[Passed February 28, 2003; in effect July 1, 2003.]

AN ACT to amend and reenact sections twelve-b and twenty-two, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the fire marshal fees fund; eliminating the transfer of ten percent of the fees collected by the state fire marshal to general revenue; and transferring a portion of the insurance company tax to the fund.

Be it enacted by the Legislature of West Virginia:

That sections twelve-b and twenty-two, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12b. Fees.

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

3 (1) *For blasting.* — Any person storing, selling or using
4 explosives shall first obtain a permit from the state fire marshal.
5 The permit shall be valid for one year. The state fire marshal
6 may charge a fee for the permit.

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

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

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

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

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

53 (7) *For business occupancies.* — The state fire marshal
54 may charge an inspection fee of up to one hundred dollars for
55 inspections of business occupancies: *Provided,* That the
56 provisions in subdivision (6) of this section shall apply regard-
57 ing complaints by members of the public. For purposes of this
58 section, “business occupancies” are those buildings used for the
59 transaction of business, other than mercantile occupancies, for
60 the keeping of accounts and records and similar purposes.

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

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

80 (b) The state fire marshal may collect fees for the fire safety
81 review of plans and specifications for new and existing con-
82 struction. Fees shall be paid by the party or parties receiving the
83 review.

84 (1) *Structural barriers and fire safety plans review.* — The
85 fee is one dollar for each one thousand dollars of construction
86 cost up to the first one million dollars. Thereafter, the fee is
87 forty cents for each one thousand dollars of construction cost.

88 (2) *Sprinkler system review.* — The fee charged for the
89 review of an individual sprinkler system is as follows: Number
90 of heads: One to two hundred — eighty-five dollars; two
91 hundred one to three hundred — one hundred dollars; three
92 hundred one to seven hundred fifty — one hundred twenty

93 dollars; over seven hundred fifty — one hundred twenty dollars
94 plus ten cents per head over seven hundred fifty.

95 (3) *Fire alarm systems review.* — The fee charged for the
96 review of a fire alarm system is fifty dollars for each ten
97 thousand square feet of space with a fifty dollar minimum
98 charge.

99 (4) *Range hood extinguishment system review.* — The fee
100 is twenty-five dollars per individual system reviewed.

101 (5) *Carpet specifications.* — The fee for carpet review and
102 approval is twenty dollars per installation.

103 (c) All fees authorized and collected pursuant to this article
104 and article three-b of this chapter shall be paid to the state fire
105 commission and thereafter deposited into the special account in
106 the state treasury known as the “fire marshal fees fund”.
107 Expenditures from the fund shall be for the purposes set forth
108 in this article and articles three-b and three-c of this chapter and
109 are not authorized from collections but are to be made only in
110 accordance with appropriation by the Legislature and in
111 accordance with the provisions of article three, chapter twelve
112 of this code and upon fulfillment of the provisions of article
113 two, chapter five-a of this code. Any balance remaining in the
114 special account at the end of any fiscal year shall be
115 reapportioned to the next fiscal year.

116 (d) If the owner or occupant of any occupancy arranges a
117 time and place for an inspection with the state fire marshal and
118 is not ready for the occupancy to be inspected at the appointed
119 time and place, the owner or occupant thereof shall be charged
120 the inspection fee provided in this section unless at least forty-
121 eight hours prior to the scheduled inspection the owner or
122 occupant requests the state fire marshal to reschedule the
123 inspection. In the event a second inspection is required by the
124 state fire marshal as a result of the owner or occupant failing to

125 be ready for the inspection when the state fire marshal arrives,
126 the state fire marshal shall charge the owner or occupant of the
127 occupancy the inspection fees set forth above for each inspec-
128 tion trip required.

129 (e) The fees provided for in this section shall remain in
130 effect until such time as the Legislature has approved rules
131 promulgated by the state fire marshal, in accordance with the
132 provisions of article three, chapter twenty-nine-a of this code,
133 establishing a schedule of fees for services.

§29-3-22. Tax on insurance companies.

1 Every insurance company doing business in this state,
2 except farmers' mutual fire insurance companies, shall pay to
3 the state insurance commissioner annually on or before the first
4 day of March, in addition to the taxes now required by law to be
5 paid by the companies, one half of one percent of the taxable
6 premiums of the companies on insurance against the hazard of
7 fire and on that portion of all other taxable premiums reason-
8 ably applicable to insurance against the hazard of fire which are
9 included in other coverages, and received by it for insurance on
10 property or risks in this state during the calendar year next
11 preceding as shown by their annual statement under oath to the
12 insurance department. The money so received by the state
13 insurance commissioner is paid by him or her into the treasury
14 and credited to the special revenue fund created in section
15 twelve (b) of this article.

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

Carmy / [Signature]
Chairman Senate Committee

Sharon Spencer
Chairman House Committee

Originating in the House.

In effect July 1, 2003.

Daniel Holmes
Clerk of the Senate

Betsy M. [Signature]
Clerk of the House of Delegates

Carl Ray [Signature]
President of the Senate

Randy Kiss
Speaker of the House of Delegates

The within *is approved* this the *17th*
day of *March*, 2003.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

Date 3/5/03

Time 2:30 pm