WEST VIRGINIA LEGISLATURE
Regular Session, 2004

ENROLLED
Committee Substitute for
SENATE BILL NO. 675

(By Senators Ross and Love)

PASSED March 13, 2004
In Effect 90 days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 675
(SENATORS ROSS AND LOVE, original sponsors)

(Passed March 13, 2004; in effect ninety days from passage.)

AN ACT to amend and reenact §17-22-13, §17-22-15 and
§17-22-16 of the code of West Virginia, 1931, as amended, all
relating to the issuance of licenses and permits for outdoor
advertising signs; increasing fees for licenses and permits;
and establishing fees for inspections of signs and sign
locations.

Be it enacted by the Legislature of West Virginia:

That §17-22-13, §17-22-15 and §17-22-16 of the code of West
Virginia, 1931, as amended, be amended and reenacted, all to
read as follows:

ARTICLE 22. OUTDOOR ADVERTISING.

§17-22-13. Licenses required; application; expiration; excep-
tions; revocations; judicial review.
No person shall engage or continue in the business of outdoor advertising in this state without first obtaining a license for outdoor advertising from the commissioner; and no person shall construct, erect, operate, use, maintain, lease or sell any outdoor advertising sign, display or device in this state without first obtaining a license from the commissioner. The commissioner shall charge an annual license fee in the amount of one hundred twenty-five dollars, payable in advance, for licensees obtaining up to twenty permits. Licensees, including subsidiaries and affiliates, obtaining twenty-one or more permits shall pay an annual fee of one thousand dollars, payable in advance. Applications for licenses, or renewal of licenses, shall be made on forms furnished by the commissioner and shall contain any pertinent information required by the commissioner and shall be accompanied by the annual fee. Licenses granted under this section expire on the thirtieth day of June of each year and shall not be prorated. Applications for the renewal of licenses shall be made not less than thirty days prior to the date of expiration. Nothing in this section shall be construed to require any person to obtain a license who constructs, erects, operates, uses or maintains an outdoor advertising sign, display or device solely on his or her own property.

The commissioner may, after thirty days' notice in writing to the licensee, make and enter an order revoking any license granted by him or her upon repayment of a proportionate part of the license fee, in any case where he or she finds that any material information required to be given in the application for the license is knowingly false or misleading or that the licensee has violated any of the provisions of this article, unless the licensee, before the expiration of said thirty days, corrects the false or misleading information and complies with the provisions of this article. The order shall be accompanied by findings of fact and conclusions of law upon which the order was made and entered. Any person adversely affected by an order made and entered by the commissioner is entitled to
judicial review of the order. The judicial review shall be in the circuit court for the county in which the owner of the sign has his or her principal place of business in this state, or in the circuit court of Kanawha county if all parties agree. The judgment of the circuit court is final unless reversed, vacated or modified on appeal to the supreme court of appeals of West Virginia. Legal counsel and services for the commissioner in appeal proceedings in any circuit court and the supreme court of appeals shall be provided by the attorney general or his or her assistants, and in appeal proceedings in any circuit court by the prosecuting attorney of the county as well, all without additional compensation. The commissioner may employ special counsel to represent the commissioner in a particular proceeding.

§17-22-15. Permit required for each sign, etc.; applications; refusal of permits; expiration and renewal; change of advertising copy; revocation; fee; judicial review.

(a) Except as in this article otherwise provided, no person shall construct, erect, operate, use, maintain or cause or permit to be constructed, erected, operated, used or maintained any advertising sign, display or device without first obtaining a permit for the advertising sign, display or device from the commissioner and paying the annual fee for the advertising sign, display or device as provided in this section. The commissioner shall not issue a permit to any person who has not obtained the license provided for in section thirteen of this article.

(b) A separate application for a permit shall be made for each separate advertising sign, display or device, on a form furnished by the commissioner, the application shall be signed by the applicant or his or her representative duly authorized in writing to act for him or her and shall describe and set forth the size, shape and the nature of the proposed advertising sign, display or device and its actual or proposed location with sufficient accuracy to enable the
commissioner to locate and identify it. Every application for a changeable message sign shall be accompanied by a fee of five hundred dollars, which shall be retained by the commissioner if the permit is issued. Every application for all other signs shall be accompanied by a fee of twenty dollars for each advertising sign, display or device, which shall be retained by the commissioner if the permit is issued. In addition, a nonrefundable inspection fee of seventy-five dollars shall be charged for each proposed location along interstate and federal-aid primary highways. A nonrefundable inspection fee of twenty-five dollars shall be charged for each proposed location along all other public roads. An annual permit renewal fee, not to exceed sixty dollars per permit, shall be charged for renewal of each changeable message sign. Permit renewal fees for all other signs shall be established by legislative rule not to exceed twenty-five dollars per permit annually.

Each portion of an advertising sign upon which a display is posted or exhibited constitutes a separate advertising sign for purposes of this section. If the permit is refused, the commissioner shall make and enter an order to that effect and shall cause a copy of the order to be served on the applicant by certified mail, return receipt requested, and shall refund one-half the fee to the applicant. The order shall be accompanied by findings of fact and conclusions of law upon which the order was made and entered.

Each application shall be accompanied by an affidavit of the applicant or his or her agent that the owner or other person in control or possession of the real property upon which the advertising sign, display or device is to be constructed, erected, operated, used or maintained has consented to having the advertising sign, display or device on his or her property. Application shall be made in like manner for a permit to operate, use or maintain any existing advertising sign, display or device. Permits issued under this section expire on the thirtieth day of June of each year and shall not be prorated and may be renewed upon the payment of a renewal fee as provided in this
section. No application is required for a renewal of a permit.

(c) For all signs other than changeable message signs, if more than one side of an advertising sign is used for advertising, a permit application or renewal fee for each side is required. One permit application or renewal fee shall be charged for each changeable message sign. Advertisements sculptured in the round shall be treated as using three sides.

(d) The holder of a permit, during the term of the permit, has the right to change the advertising copy of the structure or sign for which it was issued without payment of any additional fee.

(e) The commissioner may, after thirty days' notice in writing to the permittee, make and enter an order revoking any permit issued by him or her under this section upon repayment of a proportionate part of the fee in any case where it shall appear to the commissioner that the application for the permit contains knowingly false or misleading information or that the permittee has violated any of the provisions of this article, unless the permittee shall, before the expiration of the thirty days, correct the false or misleading information and comply with the provisions of this article. The order shall be accompanied by findings of fact and conclusions of law upon which the order was made and entered. If the construction, erection, operation, use or maintenance of any advertising sign, display or device for which a permit is issued by the commissioner and the permit fee has been paid as provided for in this section is prevented by any zoning board, commission or other public agency which also has jurisdiction over the proposed advertising sign, display or device, or its site, the fee for the advertising sign, display or device shall be returned by the commissioner and the permit revoked. But one-half the fee shall be considered to have accrued upon the erection of an advertising sign or structure or the
93 display of advertising material followed by any inspection
94 by the commissioner or his or her representatives.
95 (f) Any person adversely affected by an order made and
96 entered by the commissioner refusing to grant or revoking
97 a permit is entitled to judicial review of the order. The
98 judicial review shall be: (1) In the county in which the
99 person applying for the permit has his or her principal
100 place of business in this state; or (2) in the circuit court for
101 the county in which the sign for which the permit is sought
102 is to be located; or (3) in the circuit court of Kanawha
103 County if all parties agree. The judgment of the circuit
104 court is final unless reversed, vacated or modified on
105 appeal to the supreme court of appeals of West Virginia.
106 Legal counsel and services for the commissioner in appeal
107 proceedings in any circuit court and the supreme court of
108 appeals shall be provided by the attorney general or his or
109 her assistants, and in appeal proceedings in any circuit
110 court by the prosecuting attorney of the county as well, all
111 without additional compensation. The commissioner may
112 employ special counsel to represent the commissioner in a
113 particular proceeding.

§17-22-16. Permit identification number for signs; fastening to
1 signs.
2 Every permit issued by the commissioner shall be
3 assigned a separate identification number and each
4 permittee shall fasten to each advertising sign or device
5 and each advertising display not posted on an advertising
6 sign a label or marker not larger than two inches by six
7 inches, which shall be furnished by the commissioner, and
8 on which shall be plainly visible the permit number, the
9 expiration date of the permit and the name of the
10 permittee. Permittees shall be charged five dollars for
11 each label or marker issued. The construction, erection,
12 operation, use or maintenance of an outdoor advertising
13 sign, display or device without having affixed to it a label
14 or marker shall be prima facie evidence that it has been
constructed or erected and is being operated, used or
maintained in violation of the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 5th Day of April, 2004.

Governor
PRESENTED TO THE
GOVERNOR

DATE 3/23/09
TIME 4:10 PM