WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

ENROLLED
COMMITTEE SUBSTITUTE FOR
House Bill No. 4392

(By Delegates Morgan, Diserio, Jones, D. Poling and Barker)

Passed March 6, 2014

In effect ninety days from passage.
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21-16-1, §21-16-2, §21-16-3, §21-16-4, §21-16-5, §21-16-6, §21-16-7, §21-16-8, §21-16-9 and §21-16-10; to amend and reenact §29-3-12b of said code; and to amend and reenact sections §29-3D-1, §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-5, §29-3D-6, §29-3D-7 and §29-3D-8 of said code, all relating to regulating persons who perform work on heating, ventilating and cooling systems and dampers; defining terms; requiring persons who perform work on heating, ventilating and cooling systems to be licensed by the Commissioner of Labor; requiring persons who perform work on dampers to be licensed by the State Fire Marshal; providing for exemptions from licensure;
providing a scope of practice for heating, ventilating and cooling technicians and technicians-in-training; authorizing the commissioner to promulgate legislative rules; authorizing the State Fire Marshal to promulgate legislative rules; authorizing enforcement procedures; authorizing interagency agreements; authorizing the issuance, renewal, denial, suspension and revocation of licenses; authorizing fines for violation of articles; providing for criminal penalties; providing that no political subdivision of the state may mandate additional licensing requirements; and authorizing and providing for the disposition of fees.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §21-16-1, §21-16-2, §21-16-3, §21-16-4, §21-16-5, §21-16-6, §21-16-7, §21-16-8, §21-16-9 and §21-16-10; that §29-3-12b of said code be amended and reenacted; and that §29-3D-1, §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-5, §29-3D-6, §29-3D-7 and §29-3D-8 of said code be amended and reenacted, all to read as follows:

CHAPTER 21. LABOR

ARTICLE 16. REGULATION OF HEATING, VENTILATING AND COOLING WORK.

§21-16-1. Declaration of purpose.

The provisions of this article are intended to protect the health, safety and welfare of the public as well as public and private property by assuring the competence of those who perform work on a heating, ventilating and cooling system through licensure by the Commissioner of Labor.

§21-16-2. Definitions.

As used in this article and the legislative rules promulgated pursuant to this article:
(a) "Perform work on a heating, ventilating and cooling system" means to install, maintain, alter, remodel or repair one or more components of a heating, ventilating and cooling system.

(b) "Heating, ventilating and cooling system" means equipment to heat, cool or ventilate residential or commercial structures, comprised of one or more of the following components:

(1) "Heating system" means a system in which heat is transmitted by radiation, conduction or convection, or a combination of any of these methods, to the air, surrounding surfaces, or both, and includes a forced air system that uses air being moved by mechanical means to transmit heat, but does not include a fireplace or woodburning stove not incorporated into or used as a primary heating system;

(2) "Ventilating system" means the natural or mechanical process of supplying air to, or removing air from, any space whether the air is conditioned or not conditioned, at a rate of airflow of more than two hundred fifty cubic feet per minute; and

(3) "Cooling system" means a system in which heat is removed from air, surrounding surfaces, or both, and includes an air-conditioning system.

(c) "HVAC Technician" means a person licensed to install, test, maintain and repair heating, ventilating and cooling systems.

(d) "HVAC Technician in Training" means a person with interest in and an aptitude for performing installation, maintenance and repair work to a heating, ventilating and cooling system as defined in this article, but who alone is not capable or authorized to perform heating, ventilating and cooling system work unless directly supervised by a HVAC technician.
(e) "License" means a valid and current license issued by the Commissioner of Labor in accordance with the provisions of this article.

(f) "Routine maintenance" means work performed on a routine schedule that includes cleaning and/or replacing filters, greasing or lubricating motor bearings, adjusting and/or replacing belts, checking system temperature, checking gas temperature, adjusting gas pressure as required, and checking voltage and amperage draw on heating, ventilating and cooling systems.

(g) "Single family dwelling" means a building which is occupied as, or designed or intended for occupancy as, a single residence for one or more persons.

§21-16-3. License required; exemptions.

(a) On and after January 1, 2016, a person performing or offering to perform work on a heating, ventilating and cooling system in this state shall have a license issued by the Commissioner of Labor, in accordance with the provisions of this article and the legislative rules promulgated pursuant hereto.

(b) A person licensed under this article shall carry a copy of the license on any job in which heating, ventilating and cooling work is being performed.

(c) This article does not apply to:

(1) A person who personally performs work on a heating, ventilating and cooling system in a single family dwelling owned by that person or by a member of that person's immediate family;

(2) A person who performs work on a heating, ventilating and cooling system at a manufacturing plant or other industrial establishment as an employee of the person, firm or corporation operating the plant or establishment;
(3) A person who performs only electrical or plumbing work on a heating, ventilating and cooling system, so long as the work is within the scope of practice which the person is otherwise licensed or authorized to perform; or

(4) A person who performs routine maintenance as a direct employee of the person, firm or corporation that owns or operates the facility where the heating, ventilating or cooling system equipment is located.

§21-16-4. Scope of practice.

(a) A HVAC technician in training is authorized to assist in providing heating, ventilating and cooling work only under the direction and control of a HVAC technician.

(b) A HVAC technician is authorized to provide heating, ventilating and cooling work without supervision.

(c) Persons licensed under this article are subject to the applicable provisions of the Contractor Licensing Act in article eleven of this chapter in the performance of work authorized by this article.

§21-16-5. Rule-making authority.

The Commissioner of Labor shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, for the implementation and enforcement of the provisions of this article, which shall provide:

(1) Standards and procedures for issuing and renewing licenses, applications, examinations and qualifications;

(2) Provisions for the granting of licenses, without examination, to applicants who present satisfactory evidence no later than July 1, 2016, of having at least two thousand hours of
experience and/or training working on heating, ventilating and cooling systems and at least six thousand hours of experience and/or training in heating, ventilating and cooling or relating work, to include other sheet metal industry tasks: Provided, That if a license issued under the authority of this subsection subsequently lapses, the applicant is subject to all licensure requirements, including the examination;

(3) Reciprocity provisions;

(4) Procedures for investigating complaints and revoking or suspending licenses, including appeal procedures;

(5) Fees for issuance and renewal of licenses and other costs necessary to administer the provisions of this article;

(6) Enforcement procedures; and

(7) Any other rules necessary to effectuate the purposes of this article.

§21-16-6. Enforcement; interagency agreements authorized.

(a) The Commissioner of Labor and his or her Deputy Commissioner or any compliance officer of the Division of Labor as authorized by the Commissioner of Labor may enforce the provisions of this article and may, at reasonable hours, enter any building or premises where heating, ventilating and cooling work is performed and issue cease and desist orders for noncompliance.

(b) The Commissioner of Labor may enter into an interagency agreement with the State Fire Marshal for the mutual purpose of enforcing the provisions of this article and the provisions of article three-e, chapter twenty-nine of this code.

§21-16-7. Denial, suspension and revocation of license.

(a) The Commissioner of Labor may deny a license to any applicant who fails to comply with the provisions of this article
or the rules established by the Commissioner of Labor or who lacks the necessary qualifications.

(b) The Commissioner of Labor may, upon complaint or upon his or her own inquiry, and after notice to the licensee, suspend or revoke a licensee's license if:

(1) The license was granted upon an application or documents supporting the application which materially misstated the terms of the applicant’s qualifications or experience;

(2) The licensee subscribed or vouched for a material misstatement in his or her application for licensure;

(3) The licensee incompetently or unsafely performs heating, ventilating and cooling work; or

(4) The licensee violated any statute of this state, any legislative rule or any ordinance of any municipality or county of this state which protects the consumer or public against unfair, unsafe, unlawful or improper business practices.

§21-16-8. Penalties.

(a) On and after January 1, 2016, a person performing or offering to perform, or an employer authorizing a person not exempt by the provisions of section three of this article, to perform, heating, ventilating and cooling work without a license issued by the Commissioner of Labor, is subject to a cease and desist order.

(b) A person continuing to perform, or an employer continuing to authorize a person not exempt by the provisions of section three of this article, to perform, heating, ventilating and cooling work after the issuance of a cease and desist order is guilty of a misdemeanor and, upon conviction thereof, is subject to the following penalties:
(1) For the first offense, a fine of not less than $200 nor more than $1,000;

(2) For the second offense, a fine of not less than $500 nor more than $2,000;

(3) For the third and subsequent offenses, a fine of not less than $1,000 nor more than $5,000, and confinement in jail for not more than one year.

(c) Each day after official notice is given, a person continues to perform, or an employer continues to authorize a person to perform, and which is not exempt by the provisions of section three of this article, heating, ventilating and cooling work, is a separate offense and punishable accordingly.

(d)(1) The Commissioner of Labor may institute proceedings in the circuit court of Kanawha County or of the county where the alleged violation of the provisions of this article occurred or are occurring to enjoin any violation of any provision of this article.

(2) A circuit court may by injunction compel compliance with this article, with the lawful orders of the Commissioner of Labor and with any final decision of the Commissioner of Labor.

(3) The Commissioner of Labor shall be represented in all such proceedings by the Attorney General or his or her assistants.

(e) Any person adversely affected by an action of the Commissioner of Labor may appeal the action pursuant to chapter twenty-nine-a of this code.

§21-16-9. Inapplicability of local ordinances.

On and after January 1, 2016, a political subdivision of this state may not require, as a condition precedent to the
performance of work on heating, ventilating and cooling in the
political subdivision, a person who holds a valid and current
license issued under this article, to have any other license or
other evidence of competence beyond those required by the
Commissioner of Labor to perform work on heating, ventilating
and cooling systems.

§21-16-10. Disposition of fees.

All fees paid pursuant to this article, shall be paid to the
Commissioner of Labor and deposited in "West Virginia
Contractor Licensing Board Fund" for the use of the
Commissioner of Labor in a manner consistent with section
seventeen, article eleven, chapter twenty-one of this Code.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12b. Fees.

(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.
The permit shall be valid for one year. The State Fire Marshal
may charge a fee for the permit.

(2) For inspections of schools or day-care facilities. — The
State Fire Marshal may charge a fee of up to $25.00 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
colocated: 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 $100.00
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 $50.00 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 $100.00 for each inspection of a residential occupancy. For purposes of this subdivision, "residential occupancies" 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 $100.00 for inspections of mercantile occupancies: Provided, That if the 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 $25.00. This fee shall be returned to the complainant if, after the State Fire Marshal has made the inspection, he or she finds that the complaint was accurate and justified, and he or she shall thereafter collect an inspection fee of up to $100.00 from the mercantile occupancy. If, after the inspection has been performed, it appears to the State Fire Marshal that the complaint was not accurate or justified, the State Fire Marshal shall keep the $25.00 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 $100.00 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 $50.00; for Class B assembly facilities, an inspection fee not to exceed $75.00; and for Class A facilities, an inspection fee not to exceed $100.00.

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 may collect fees for the fire safety review of plans and specifications for new and existing construction. Fees shall be paid by the party or parties receiving the review.

(1) Structural barriers and fire safety plans review. — The fee is $1.00 for each $1,000.00 of construction cost up to the first
$1 million. Thereafter, the fee is eighty cents for each $1,000.00 of construction cost.

(2) Sprinkler system review. — The fee charged for the review of an individual sprinkler system is as follows: Number of heads: One to two hundred — $85.00; two hundred one to three hundred — $100.00; three hundred one to seven hundred fifty — $120.00; over seven hundred fifty — $120.00 plus ten cents per head over seven hundred fifty.

(3) Fire alarm systems review. — The fee charged for the review of a fire alarm system is $50.00 for each ten thousand square feet of space with a $50.00 minimum charge.

(4) Range hood extinguishment system review. — The fee is $25.00 per individual system reviewed.

(5) Carpet specifications. — The fee for carpet review and approval is $20.00 per installation.

(c) All fees authorized and collected pursuant to this article, article three-b, article three-c and article three-d of this chapter shall be paid to the state fire commission and thereafter deposited into the special account in the state treasury known as the "fire marshal fees fund". Expenditures from the fund shall be for the purposes set forth in this article and articles three-b, three-c and three-d of this chapter and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter five-a of this code. Any balance remaining in the special account at the end of any fiscal year shall be reappropriated to the next fiscal year.

(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 the 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 the occupancy the inspection fees set forth above for each inspection trip required.

(e) The fees provided for in this section shall remain in effect until such time as the Legislature has approved rules promulgated by the State Fire Marshal, in accordance with the provisions of article three, chapter twenty-nine-a of this code, establishing a schedule of fees for services.

ARTICLE 3D. SUPERVISION OF FIRE PROTECTION WORK.

§29-3D-1. Declaration of purpose.

The provisions of this article are intended to protect the health, safety and welfare of the public as well as public and private property by assuring the competence of those who perform fire protection work and damper work through licensure by the State Fire Marshal.

§29-3D-2. Definitions.

As used in this article and the legislative rules promulgated pursuant to this article:

(a) "Combination Fire/Smoke Damper" means a device that meets both fire damper and smoke damper requirements.

(b) "Damper" means a fire damper, smoke damper or combination fire/smoke damper.

(c) "Damper work" means to install, test, maintain or repair a damper.
(d) "Engineered Suppression Systems Installer" means a person certified by a manufacturer to install, alter, extend, maintain, layout or repair an agent suppression system.

(e) "Engineered Suppression Systems Technician" means a person certified by a manufacturer to maintain or repair an agent suppression system.

(f) "Fire damper" means a device installed in an air distribution system, designed to close automatically upon detection of heat, to interrupt migratory airflow and to restrict the passage of flame. Fire dampers are classified for use in either static systems or for dynamic systems, where the dampers are rated for closure under airflow.

(g) "Fire protection damper technician" means a person certified to install, test, maintain or repair a damper.

(h) "Fire protection damper technician in training" means a person with interest in and an aptitude for performing installation, maintenance or repair work to a damper as defined in this article, but who alone is not capable or authorized to perform damper work unless directly supervised by a Fire Protection Damper Technician.

(i) "Fire protection layout technician" is an individual who has achieved National Institute for Certification in Engineering Technologies (NICET) Level III or higher certification, and who has the knowledge, experience and skills necessary to layout fire protection systems based on engineering design documents.

(j) "Fire protection system" means any fire protection suppression device or system designed, installed and maintained in accordance with the applicable National Fire Protection Association (NFPA) codes and standards, but does not include public or private mobile fire vehicles.

(k) "Fire protection work" means the installation, alteration, extension, maintenance, or testing of all piping, materials and
equipment inside a building, including the use of shop drawings prepared by a fire protection layout technician, in connection with the discharge of water, other special fluids, chemicals or gases and backflow preventers for fire protection for the express purpose of extinguishing or controlling fire.

(1) "Journeyman sprinkler fitter" means a person qualified by at least ten thousand hours of work experience installing, adjusting, repairing and dismantling fire protection systems and who is competent to instruct and supervise the fire protection work of a sprinkler fitter in training.

(m) "License" means a valid and current license issued by the State Fire Marshal in accordance with the provisions of this article.

(n) "Portable Fire Extinguisher Technician" means a person certified in accordance with NFPA 10 to install, maintain, repair and certify portable fire extinguishers as defined by NFPA 10.

(o) "Preengineered Suppression Systems Installer" means a person certified by a manufacturer to install, alter, extend, maintain, layout or repair an agent suppression system.

(p) "Preengineered Suppression Systems Technician" means a person certified to maintain or repair an agent suppression system.

(q) "Single family dwelling" means a building which is occupied as, or designed or intended for occupancy as, a single residence for one or more persons.

(r) "Smoke Damper" means a device within an operating (dynamic) air distribution system to control the movement of smoke.

(s) "Sprinkler fitter in training" means a person with interest in and an aptitude for performing fire protection work but who
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71 alone is not capable of performing such work, and who has fewer
72 than ten thousand hours of experience installing, adjusting,
73 repairing and dismantling fire protection systems.

29-3D-3. License required; exemptions.

1 (a) On and after January 1, 2009, a person performing or
2 offering to perform fire protection work in this state shall have
3 a license issued by the State Fire Marshal, in accordance with the
4 provisions of this article.

5 (b) On and after January 1, 2016, a person performing or
6 offering to perform damper work in this state shall have a license
7 issued by the State Fire Marshal, in accordance with the
8 provisions of this article and the legislative rules promulgated
9 pursuant hereto: Provided, That a person may not be licensed to
10 perform damper work in this state without first being licensed as
11 a HVAC technician pursuant to the provisions of article sixteen,
12 chapter twenty-one of this code.

13 (c) A person licensed under this article must carry a copy of
14 the license on any job in which fire protection work is being
15 performed.

16 (d) This article does not apply to:

17 (1) A person who personally performs fire protection work
18 or damper work on a single family dwelling owned or leased,
19 and occupied by that person;

20 (2) A person who performs fire protection work or damper
21 work at any manufacturing plant or other industrial
22 establishment as an employee of the person, firm or corporation
23 operating the plant or establishment;

24 (3) A person who, while employed by a public utility or its
25 affiliate, performs fire protection work in connection with the
26 furnishing of public utility service.
(4) A person who performs fire protection work while engaging in the business of installing, altering or repairing water distribution or drainage lines outside the foundation walls of a building, public or private sewage treatment or water treatment systems including all associated structures or buildings, sewers or underground utility services;

(5) A person who performs fire protection work while engaged in the installation, extension, dismantling, adjustment, repair or alteration of a heating ventilation and air conditioning (HVAC) system, air-veyor system, air exhaust system or air handling system; or

(6) A person who performs fire protection work at a coal mine that is being actively mined or where coal is being processed.

§29-3D-4. Rule-making authority.

The State Fire Marshal shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, for the implementation and enforcement of the provisions of this article, which shall provide:

(1) Standards and procedures for issuing and renewing licenses, including classifications of licenses as defined in this article, applications, examinations and qualifications: Provided, That the rules shall require a person to be licensed as a HVAC technician or HVAC technician in training pursuant to article sixteen, chapter twenty-one of this code and the rules promulgated pursuant thereto, before being granted a license to perform damper work pursuant to this article;

(2) Provisions for the granting of licenses without examination, to applicants who present satisfactory evidence of having the expertise required to perform fire protection work at the level of the classifications defined in this article and who
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apply for licensure on or before July 1, 2009: Provided, That if a license issued under the authority of this subsection subsequently lapses, the applicant is subject to all licensure requirements, including the examination;

(3) Provisions for the granting of licenses without examination, to applicants who present satisfactory evidence of having the expertise required to perform damper work at the level of the classifications defined in this article and who apply for licensure on or before July 1, 2016: Provided, That if a license issued under the authority of this subsection subsequently lapses, the applicant is subject to all licensure requirements, including the examination;

(4) Reciprocity provisions;

(5) Procedures for investigating complaints and revoking or suspending licenses, including appeal procedures;

(6) Fees for testing, issuance and renewal of licenses, and other costs necessary to administer the provisions of this article;

(7) Enforcement procedures; and

(8) Any other rules necessary to effectuate the purposes of this article.

§29-3D-5. Enforcement.

(a) The State Fire Marshal and his or her deputy fire marshal, assistant fire marshal or assistant fire marshal-in-training, is authorized to enforce the provisions of this article, and may, at reasonable hours, enter any building or premises where fire protection work or damper work is performed and issue citations for noncompliance.

(b) The State Fire Marshal may enter into an interagency agreement with the Commissioner of Labor for the mutual
§29-3D-6. Denial, suspension and revocation of license.

(a) The State Fire Marshal may deny a license to any applicant who fails to comply with the rules established by the State Fire Marshal, or who lacks the necessary qualifications.

(b) The State Fire Marshal may, upon complaint or upon his or her own inquiry, and after notice to the licensee, suspend or revoke a licensee’s license if:

(1) The license was granted upon an application or documents supporting the application which materially misstated the terms of the applicant’s qualifications or experience;

(2) The licensee subscribed or vouched for a material misstatement in his or her application for licensure;

(3) The licensee incompetently or unsafely performs plumbing, fire protection work or damper work; or

(4) The licensee violated any statute of this state, any legislative rule or any ordinance of any municipality or county of this state which protects the consumer or public against unfair, unsafe, unlawful or improper business practices.

§29-3D-7. Penalties.

(a) On and after January 1, 2009, a person performing or offering to perform fire protection work without a license issued by the State Fire Marshal, is subject to a citation.

(b) On and after January 1, 2016, a person performing or offering to perform, or an employer authorizing a person not exempt by the provisions of section three of this article, to perform, damper work without a license issued by the State Fire Marshal, is subject to a citation.
(c) Any person continuing to engage in fire protection work or damper work after the issuance of a citation is guilty of a misdemeanor and, upon conviction thereof, is subject to the following penalties:

(1) For the first offense, a fine of not less than $200 nor more than $1,000;

(2) For the second offense, a fine of not less than $500 nor more than $2,000, or confinement in jail for not more than six months, or both;

(3) For the third and subsequent offenses, a fine of not less than $1,000 nor more than $5,000, and confinement in jail for not less than thirty days nor more than one year.

(d) Each day after a citation is given that a person continues to perform, or an employer continues to authorize a person to perform, fire protection work or damper work, which is not exempt by the provisions of section three of this article, is a separate offense and punishable accordingly.

(e)(1) The State Fire Marshal may institute proceedings in the circuit court of Kanawha County or the county where the alleged violation of the provisions of this article occurred or are now occurring to enjoin any violation of any provision of this article.

(2) A circuit court by injunction may compel compliance with the provisions of this article, with the lawful orders of the State Fire Marshal and with any final decision of the State Fire Marshal.

(3) The State Fire Marshal shall be represented in all such proceedings by the Attorney General or his or her assistants.

(f) Any person adversely affected by an action of the State Fire Marshal may appeal the action pursuant to the provisions of chapter twenty-nine-a of this code.
§29-3D-8. Inapplicability of local ordinances.

(a) On and after January 1, 2009, a political subdivision of this state may not require, as a condition precedent to the performance of fire protection work in the political subdivision, a person who holds a valid and current license to perform fire protection work issued under the provisions of this article, to have any other license or other evidence of competence as a fire protection worker.

(b) On and after January 1, 2016, a political subdivision of this state may not require, as a condition precedent to the performance of damper work in the political subdivision, a person who holds a valid and current license to perform damper work issued under this article to have any other license or other evidence of competence beyond those required by the State Fire Marshal and the Commissioner of Labor to perform damper work.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member, Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 28th day of March, 2014.

Governor
PRESENTED TO THE GOVERNOR

[Signature]

Time 10:45 AM