

H. B. 2752

(By Delegates Householder, Blair, Espinosa, Folk, Faircloth,
Border, Ihle, Hill, Cadle and Miller)

[Introduced February 16, 2015; referred to the
Committee on Industry and Labor then the Judiciary.]

A BILL to repeal §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 of the Code of West Virginia, 1931, as amended; to repeal
§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; and to amend and reenact §29-3-12b, of said code, all relating to deregulating
persons who perform work on heating, ventilating and cooling systems and fire dampers.

Be it enacted by the Legislature of West Virginia:

That §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§21-16-9 and §21-16-10; of the Code of West Virginia, 1931, as amended, be repealed; that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code be repealed; and that §29-3-12b, of said code be amended and reenacted, all to read as follows:

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

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

3 (2) For inspections of schools or day-care facilities. -- The State Fire Marshal may charge a
4 fee of up to \$25 per annual inspection for inspection of schools or day-care facilities: *Provided*,
5 That only one such fee may be charged per year for any building in which a school and a day-care
6 facility are colocated: *Provided, however*, That any school or day-care facility may not be charged
7 for an inspection more than one time per twelve-month period.

8 (3) For inspections of hospitals or nursing homes. -- The State Fire Marshal may charge an
9 inspection fee of up to \$100 per annual inspection of hospitals or nursing homes: *Provided*, That
10 any hospital or nursing home may not be charged for an inspection more than one time per
11 twelve-month period.

12 (4) For inspections of personal care homes or board and care facilities. -- The State Fire
13 Marshal may charge an inspection fee of up to \$50 per annual inspection for inspections of personal
14 care homes or board and care facilities: *Provided*, That any personal care home or board and care
15 facility may not be charged for an inspection more than one time per twelve-month period.

16 (5) For inspections of residential occupancies. -- The State Fire Marshal may charge an
17 inspection fee of up to \$100 for each inspection of a residential occupancy. For purposes of this
18 subdivision, "residential occupancies" are those buildings in which sleeping accommodations are
19 provided for normal residential purposes.

20 (6) For inspections of mercantile occupancies. -- The State Fire Marshal may charge an
21 inspection fee of up to \$100 for inspections of mercantile occupancies: *Provided*, That if the
22 inspection is in response to a complaint made by a member of the public, the State Fire Marshal shall

1 obtain from the complainant an advance inspection fee of \$25. This fee shall be returned to the
2 complainant if, after the State Fire Marshal has made the inspection, he or she finds that the
3 complaint was accurate and justified, and he or she shall thereafter collect an inspection fee of up
4 to \$100 from the mercantile occupancy. If, after the inspection has been performed, it appears to the
5 State Fire Marshal that the complaint was not accurate or justified, the State Fire Marshal shall keep
6 the \$25 advance inspection fee obtained from the complainant and may not collect any fees from
7 the mercantile occupant. For purposes of this section, "mercantile occupancy" includes stores,
8 markets and other rooms, buildings or structures for the display and sale of merchandise.

9 (7) For business occupancies. -- The State Fire Marshal may charge an inspection fee of up
10 to \$100 for inspections of business occupancies: *Provided*, That the provisions in subdivision (6)
11 of this section shall apply regarding complaints by members of the public. For purposes of this
12 section, "business occupancies" are those buildings used for the transaction of business, other than
13 mercantile occupancies, for the keeping of accounts and records and similar purposes.

14 (8) For inspections of assembly occupancies. -- The State Fire Marshal may charge an
15 inspection fee not more than one time per twelve-month period for the inspection of assembly
16 occupancies. The inspection fee shall be assessed as follows: For Class C assembly facilities, an
17 inspection fee not to exceed \$50; for Class B assembly facilities, an inspection fee not to exceed \$75;
18 and for Class A facilities, an inspection fee not to exceed \$100.

19 For purposes of this subdivision, an "assembly occupancy" includes, but is not limited to, all
20 buildings or portions of buildings used for gathering together fifty or more persons for such purposes
21 as deliberation, worship, entertainment, eating, drinking, amusement or awaiting transportation. For
22 purposes of this section, a "Class C assembly facility" is one that accommodates fifty to three

1 hundred persons; a "Class B facility" is one which accommodates more than three hundred persons
2 but less than one thousand persons; and a "Class A facility" is one which accommodates more than
3 one thousand persons.

4 (b) The State Fire Marshal may collect fees for the fire safety review of plans and
5 specifications for new and existing construction. Fees shall be paid by the party or parties receiving
6 the review.

7 (1) Structural barriers and fire safety plans review. -- The fee is \$1 for each \$1,000 of
8 construction cost up to the first \$1 million. Thereafter, the fee is eighty cents for each \$1,000 of
9 construction cost.

10 (2) Sprinkler system review. -- The fee charged for the review of an individual sprinkler
11 system is as follows: Number of heads: One to two hundred -- \$85; two hundred one to three
12 hundred -- \$100; three hundred one to seven hundred fifty -- \$120; over seven hundred fifty -- \$120
13 plus ten cents per head over seven hundred fifty.

14 (3) Fire alarm systems review. -- The fee charged for the review of a fire alarm system is \$50
15 for each ten thousand square feet of space with a \$50 minimum charge.

16 (4) Range hood extinguishment system review. -- The fee is \$25 per individual system
17 reviewed.

18 (5) Carpet specifications. -- The fee for carpet review and approval is \$20 per installation.

19 (c) All fees authorized and collected pursuant to this article, article three-b and article three-c
20 ~~and article three-d~~ of this chapter shall be paid to the State Fire Commission and thereafter deposited
21 into the special account in the State Treasury known as the "Fire Marshal Fees Fund". Expenditures
22 from the fund shall be for the purposes set forth in this article and articles three-b and three-c ~~and~~

1 ~~three-d~~ of this chapter and are not authorized from collections but are to be made only in accordance
2 with appropriation by the Legislature and in accordance with the provisions of article three, chapter
3 twelve of this code and upon fulfillment of the provisions of article two, chapter five-a of this code.
4 Any balance remaining in the special account at the end of any fiscal year shall be reappropriated to
5 the next fiscal year.

6 (d) If the owner or occupant of any occupancy arranges a time and place for an inspection
7 with the State Fire Marshal and is not ready for the occupancy to be inspected at the appointed time
8 and place, the owner or occupant thereof shall be charged the inspection fee provided in this section
9 unless at least forty-eight hours prior to the scheduled inspection the owner or occupant requests the
10 State Fire Marshal to reschedule the inspection. In the event a second inspection is required by the
11 State Fire Marshal as a result of the owner or occupant failing to be ready for the inspection when
12 the State Fire Marshal arrives, the State Fire Marshal shall charge the owner or occupant of the
13 occupancy the inspection fees set forth above for each inspection trip required.

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

NOTE: The purpose of this bill is to deregulate persons who perform work on heating, ventilating and cooling systems and fire dampers.

Strike-throughs indicate language that would be stricken from the present law, and

underscoring indicates new language that would be added.