

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2281

FISCAL
NOTE

By Delegate Statler

[Introduced January 11, 2023; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §17-22-13 and §17-22-15 of Code of West Virginia, 1931, as
2 amended, all relating to exempting nonprofit organizations from the fee requirements for
3 obtaining a license or permit for outdoor advertising.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22. OUTDOOR ADVERTISING.

§17-22-13. Licenses required; application; expiration; exceptions; revocations; judicial review.

1 (a) No person shall engage or continue in the business of outdoor advertising in this state
2 without first obtaining a license for outdoor advertising from the commissioner; and no person shall
3 construct, erect, operate, use, maintain, lease or sell any outdoor advertising sign, display or
4 device in this state without first obtaining a license from the commissioner.

5 (b) The commissioner shall charge an annual license fee in the amount of \$125, payable in
6 advance, for licensees obtaining up to twenty permits. Licensees, including subsidiaries and
7 affiliates, obtaining twenty-one or more permits shall pay an annual fee of \$1,000, payable in
8 advance.

9 (c) The commissioner shall not require a nonprofit organization to pay an annual license
10 fee. Though no fee is required, a nonprofit organization seeking a license shall submit an
11 application and provide all information required under subsection (d) of this section.

12 (d) Applications for licenses, or renewal of licenses, shall be made on forms furnished by
13 the commissioner and shall contain any pertinent information required by the commissioner and
14 shall be accompanied by the annual fee, if one is required. Licenses granted under this section
15 expire on June 30 of each year and shall not be prorated. Applications for the renewal of licenses
16 shall be made not less than 30 days prior to the date of expiration. Nothing in this section shall be
17 construed to require any person to obtain a license who constructs, erects, operates, uses or
18 maintains an on-premise sign, display or device solely on his or her own property at the location of
19 the advertised business and within limitations established in rules authorized by §17-22-11 of this

20 code and promulgated in accordance with state law.

21 (e) The Commissioner of Highways, in his or her discretion, may propose for promulgation
22 an emergency rule as provided in §29A-3-1 *et seq.* of this code that clarifies, explains or
23 implements limitations or restrictions on the construction, erection, operation, use and
24 maintenance of outdoor advertising signs, displays and devices. With the prior written approval of
25 the Commissioner of Highways, a county commission may enact and enforce outdoor advertising
26 ordinances which place limitations or restrictions on outdoor advertising signs, displays or devices
27 which are in addition to or more restrictive than the limitations or restrictions provided by the
28 Commissioner of Highways in the emergency rule on this subject.

29 (f) The commissioner may, after 30 days' notice in writing to the licensee, make and enter
30 an order revoking any license granted by him or her upon repayment of a proportionate part of the
31 license fee, in any case where he or she finds that any material information required to be given in
32 the application for the license is knowingly false or misleading or that the licensee has violated any
33 of the provisions of this article, unless the licensee, before the expiration of said 30 days, corrects
34 the false or misleading information and complies with the provisions of this article. The order shall
35 be accompanied by findings of fact and conclusions of law upon which the order was made and
36 entered. Any person adversely affected by an order made and entered by the commissioner is
37 entitled to judicial review of the order. The judicial review shall be in the circuit court for the county
38 in which the owner of the sign has his or her principal place of business in this state, or in the circuit
39 court of Kanawha County if all parties agree. The judgment of the circuit court is final unless
40 reversed, vacated or modified on appeal. ~~to the Supreme Court of Appeals of West Virginia.~~ Legal
41 counsel and services for the commissioner in appeal proceedings in any circuit court and the
42 Supreme Court of Appeals shall be provided by the Attorney General or his or her assistants, and
43 in appeal proceedings in any circuit court by the prosecuting attorney of the county as well, all
44 without additional compensation. The commissioner may employ special counsel to represent the
45 commissioner in a particular proceeding.

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

1 (a) Except as in this article otherwise provided, no person shall construct, erect, operate,
2 use, maintain or cause or permit to be constructed, erected, operated, used or maintained any
3 advertising sign, display or device without first obtaining a permit for the advertising sign, display
4 or device from the commissioner and paying the annual fee for the advertising sign, display or
5 device as provided in this section. The commissioner shall not issue a permit to any person who
6 has not obtained the license provided for in §17-22-15 of this code.

7 (b) A separate application for a permit shall be made for each separate advertising sign,
8 display or device, on a form furnished by the commissioner. ~~the~~ The application shall be signed by
9 the applicant or his or her representative duly authorized in writing to act for him or her and shall
10 describe and set forth the size, shape and the nature of the proposed advertising sign, display or
11 device and its actual or proposed location with sufficient accuracy to enable the commissioner to
12 locate and identify it. Every application for a changeable message sign shall be accompanied by a
13 fee of \$500, which shall be retained by the commissioner if the permit is issued. Every application
14 for all other signs shall be accompanied by a fee of \$20 for each advertising sign, display or device,
15 which shall be retained by the commissioner if the permit is issued. In addition, a nonrefundable
16 inspection fee of \$75 shall be charged for each proposed location along interstate and federal-aid
17 primary highways. A nonrefundable inspection fee of \$25 shall be charged for each proposed
18 location along all other public roads. An annual permit renewal fee, not to exceed \$60 per permit,
19 shall be charged for renewal of each changeable message sign. Permit renewal fees for all other
20 signs shall be established by legislative rule not to exceed \$25 per permit annually. Each portion of
21 an advertising sign upon which a display is posted or exhibited constitutes a separate advertising
22 sign for purposes of this section. If the permit is refused, the commissioner shall make and enter
23 an order to that effect and shall cause a copy of the order to be served on the applicant by certified
24 mail, return receipt requested, and shall refund one-half the fee to the applicant. The order shall be

25 accompanied by findings of fact and conclusions of law upon which the order was made and
26 entered. Each application shall be accompanied by an affidavit of the applicant or his or her agent
27 that the owner or other person in control or possession of the real property upon which the
28 advertising sign, display or device is to be constructed, erected, operated, used or maintained has
29 consented to having the advertising sign, display or device on his or her property. Application shall
30 be made in like manner for a permit to operate, use or maintain any existing advertising sign,
31 display or device. Permits issued under this section expire on June 30 of each year and shall not
32 be prorated and may be renewed upon the payment of a renewal fee as provided in this section.
33 No application is required for a renewal of a permit.

34 (c) Notwithstanding the language in subsection (b), the commissioner shall not require a
35 nonprofit organization pay a permit fee, inspection fee, or renewal fee. A nonprofit organization is
36 still required to furnish all applications and information required by the commissioner for the
37 permitting process.

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

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

45 ~~(e)~~ (f) The commissioner may, after 30 days' notice in writing to the permittee, make and
46 enter an order revoking any permit issued by him or her under this section upon repayment of a
47 proportionate part of the fee in any case where it shall appear to the commissioner that the
48 application for the permit contains knowingly false or misleading information or that the permittee
49 has violated any of the provisions of this article, unless the permittee shall, before the expiration of
50 the 30 days, correct the false or misleading information and comply with the provisions of this

51 article. The order shall be accompanied by findings of fact and conclusions of law upon which the
52 order was made and entered. If the construction, erection, operation, use or maintenance of any
53 advertising sign, display or device for which a permit is issued by the commissioner and the permit
54 fee has been paid as provided for in this section is prevented by any zoning board, commission or
55 other public agency which also has jurisdiction over the proposed advertising sign, display or
56 device, or its site, the fee for the advertising sign, display or device shall be returned by the
57 commissioner and the permit revoked. But one-half the fee shall be considered to have accrued
58 upon the erection of an advertising sign or structure or the display of advertising material followed
59 by any inspection by the commissioner or his or her representatives.

60 ~~(f)~~ (g) Any person adversely affected by an order made and entered by the commissioner
61 refusing to grant or revoking a permit is entitled to judicial review of the order. The judicial review
62 shall be: (1) In the county in which the person applying for the permit has his or her principal place
63 of business in this state; or (2) in the circuit court for the county in which the sign for which the
64 permit is sought is to be located; or (3) in the circuit court of Kanawha County if all parties agree.
65 The judgment of the circuit court is final unless reversed, vacated or modified on appeal to the
66 Supreme Court of Appeals of West Virginia. Legal counsel and services for the commissioner in
67 appeal proceedings in any circuit court and the Supreme Court of Appeals shall be provided by the
68 Attorney General or his or her assistants, and in appeal proceedings in any circuit court by the
69 prosecuting attorney of the county as well, all without additional compensation. The commissioner
70 may employ special counsel to represent the commissioner in a particular proceeding.

NOTE: The purpose of this bill is to exempt nonprofit organizations from paying fees for outdoor advertising.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.