

SB 675

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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; exceptions; revocations; judicial review.

1 No person shall engage or continue in the business of
2 outdoor advertising in this state without first obtaining a
3 license for outdoor advertising from the commissioner; and
4 no person shall construct, erect, operate, use, maintain,
5 lease or sell any outdoor advertising sign, display or device
6 in this state without first obtaining a license from the
7 commissioner. The commissioner shall charge an annual
8 license fee in the amount of one hundred twenty-five
9 dollars, payable in advance, for licensees obtaining up to
10 twenty permits. Licensees, including subsidiaries and
11 affiliates, obtaining twenty-one or more permits shall pay
12 an annual fee of one thousand dollars, payable in advance.
13 Applications for licenses, or renewal of licenses, shall be
14 made on forms furnished by the commissioner and shall
15 contain any pertinent information required by the com-
16 missioner and shall be accompanied by the annual fee.
17 Licenses granted under this section expire on the thirtieth
18 day of June of each year and shall not be prorated.
19 Applications for the renewal of licenses shall be made not
20 less than thirty days prior to the date of expiration.
21 Nothing in this section shall be construed to require any
22 person to obtain a license who constructs, erects, operates,
23 uses or maintains an outdoor advertising sign, display or
24 device solely on his or her own property.

25 The commissioner may, after thirty days' notice in
26 writing to the licensee, make and enter an order revoking
27 any license granted by him or her upon repayment of a
28 proportionate part of the license fee, in any case where he
29 or she finds that any material information required to be
30 given in the application for the license is knowingly false
31 or misleading or that the licensee has violated any of the
32 provisions of this article, unless the licensee, before the
33 expiration of said thirty days, corrects the false or mis-
34 leading information and complies with the provisions of
35 this article. The order shall be accompanied by findings of
36 fact and conclusions of law upon which the order was
37 made and entered. Any person adversely affected by an
38 order made and entered by the commissioner is entitled to

39 judicial review of the order. The judicial review shall be
40 in the circuit court for the county in which the owner of
41 the sign has his or her principal place of business in this
42 state, or in the circuit court of Kanawha county if all
43 parties agree. The judgment of the circuit court is final
44 unless reversed, vacated or modified on appeal to the
45 supreme court of appeals of West Virginia. Legal counsel
46 and services for the commissioner in appeal proceedings in
47 any circuit court and the supreme court of appeals shall be
48 provided by the attorney general or his or her assistants,
49 and in appeal proceedings in any circuit court by the
50 prosecuting attorney of the county as well, all without
51 additional compensation. The commissioner may employ
52 special counsel to represent the commissioner in a particu-
53 lar 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.**

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

11 (b) A separate application for a permit shall be made for
12 each separate advertising sign, display or device, on a form
13 furnished by the commissioner, the application shall be
14 signed by the applicant or his or her representative duly
15 authorized in writing to act for him or her and shall
16 describe and set forth the size, shape and the nature of the
17 proposed advertising sign, display or device and its actual
18 or proposed location with sufficient accuracy to enable the

19 commissioner to locate and identify it. Every application
20 for a changeable message sign shall be accompanied by a
21 fee of five hundred dollars, which shall be retained by the
22 commissioner if the permit is issued. Every application for
23 all other signs shall be accompanied by a fee of twenty
24 dollars for each advertising sign, display or device, which
25 shall be retained by the commissioner if the permit is
26 issued. In addition, a nonrefundable inspection fee of
27 seventy-five dollars shall be charged for each proposed
28 location along interstate and federal-aid primary high-
29 ways. A nonrefundable inspection fee of twenty-five
30 dollars shall be charged for each proposed location along
31 all other public roads. An annual permit renewal fee, not
32 to exceed sixty dollars per permit, shall be charged for
33 renewal of each changeable message sign. Permit renewal
34 fees for all other signs shall be established by legislative
35 rule not to exceed twenty-five dollars per permit annually.
36 Each portion of an advertising sign upon which a display
37 is posted or exhibited constitutes a separate advertising
38 sign for purposes of this section. If the permit is refused,
39 the commissioner shall make and enter an order to that
40 effect and shall cause a copy of the order to be served on
41 the applicant by certified mail, return receipt requested,
42 and shall refund one-half the fee to the applicant. The
43 order shall be accompanied by findings of fact and conclu-
44 sions of law upon which the order was made and entered.
45 Each application shall be accompanied by an affidavit of
46 the applicant or his or her agent that the owner or other
47 person in control or possession of the real property upon
48 which the advertising sign, display or device is to be
49 constructed, erected, operated, used or maintained has
50 consented to having the advertising sign, display or device
51 on his or her property. Application shall be made in like
52 manner for a permit to operate, use or maintain any
53 existing advertising sign, display or device. Permits issued
54 under this section expire on the thirtieth day of June of
55 each year and shall not be prorated and may be renewed
56 upon the payment of a renewal fee as provided in this

57 section. No application is required for a renewal of a
58 permit.

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

66 (d) The holder of a permit, during the term of the permit,
67 has the right to change the advertising copy of the struc-
68 ture or sign for which it was issued without payment of
69 any additional fee.

70 (e) The commissioner may, after thirty days' notice in
71 writing to the permittee, make and enter an order revoking
72 any permit issued by him or her under this section upon
73 repayment of a proportionate part of the fee in any case
74 where it shall appear to the commissioner that the applica-
75 tion for the permit contains knowingly false or misleading
76 information or that the permittee has violated any of the
77 provisions of this article, unless the permittee shall, before
78 the expiration of the thirty days, correct the false or
79 misleading information and comply with the provisions of
80 this article. The order shall be accompanied by findings of
81 fact and conclusions of law upon which the order was
82 made and entered. If the construction, erection, operation,
83 use or maintenance of any advertising sign, display or
84 device for which a permit is issued by the commissioner
85 and the permit fee has been paid as provided for in this
86 section is prevented by any zoning board, commission or
87 other public agency which also has jurisdiction over the
88 proposed advertising sign, display or device, or its site, the
89 fee for the advertising sign, display or device shall be
90 returned by the commissioner and the permit revoked. But
91 one-half the fee shall be considered to have accrued upon
92 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
signs.**

1 Every permit issued by the commissioner shall be
2 assigned a separate identification number and each
3 permittee shall fasten to each advertising sign or device
4 and each advertising display not posted on an advertising
5 sign a label or marker not larger than two inches by six
6 inches, which shall be furnished by the commissioner, and
7 on which shall be plainly visible the permit number, the
8 expiration date of the permit and the name of the
9 permittee. Permittees shall be charged five dollars for
10 each label or marker issued. The construction, erection,
11 operation, use or maintenance of an outdoor advertising
12 sign, display or device without having affixed to it a label
13 or marker shall be prima facie evidence that it has been

14 constructed or erected and is being operated, used or
15 maintained in violation of the provisions of this article. ·

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

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

[Handwritten Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

DATE 3/22/04
TIME 4:10 pm