

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 371**

BY SENATOR WALTERS

[Introduced January 21, 2016;

Referred to the Committee on Government

Organization; and then to the Committee the

Judiciary.]

1 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-  
 2 8, §21-16-9 and §21-16-10 of the Code of West Virginia, 1931, as amended; to repeal  
 3 §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  
 4 of said code; and to amend and reenact §29-3-12b of said code, relating to deregulating  
 5 persons who perform work on heating, ventilating and cooling systems and fire dampers.

*Be it enacted by the Legislature of West Virginia:*

1 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,  
 2 §21-16-9 and §21-16-10; of the Code of West Virginia, 1931, as amended, be repealed; that §29-  
 3 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  
 4 be repealed; and that §29-3-12b, of said code be amended and reenacted, all to read as follows: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.**

1 (a) The State Fire Marshal may establish fees in accordance with the following:

2 (1) *For blasting.* -- Any person storing, selling or using explosives shall first obtain a permit  
 3 from the State Fire Marshal. The permit shall be valid for one year. The State Fire Marshal may  
 4 charge a fee for the permit.

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

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

14 (4) *For inspections of personal care homes or board and care facilities.* -- The State Fire

15 Marshal may charge an inspection fee of up to \$50 per annual inspection for inspections of  
16 personal care homes or board and care facilities: *Provided*, That any personal care home or board  
17 and care facility may not be charged for an inspection more than one time per twelve-month  
18 period.

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

23 (6) *For inspections of mercantile occupancies.* -- The State Fire Marshal may charge an  
24 inspection fee of up to \$100 for inspections of mercantile occupancies: *Provided*, That if the  
25 inspection is in response to a complaint made by a member of the public, the State Fire Marshal  
26 shall obtain from the complainant an advance inspection fee of \$25. This fee shall be returned to  
27 the complainant if, after the State Fire Marshal has made the inspection, he or she finds that the  
28 complaint was accurate and justified, and he or she shall thereafter collect an inspection fee of  
29 up to \$100 from the mercantile occupancy. If, after the inspection has been performed, it appears  
30 to the State Fire Marshal that the complaint was not accurate or justified, the State Fire Marshal  
31 shall keep the \$25 advance inspection fee obtained from the complainant and may not collect  
32 any fees from the mercantile occupant. For purposes of this section, "mercantile occupancy"  
33 includes stores, markets and other rooms, buildings or structures for the display and sale of  
34 merchandise.

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

40 (8) *For inspections of assembly occupancies.* -- The State Fire Marshal may charge an

41 inspection fee not more than one time per twelve-month period for the inspection of assembly  
42 occupancies. The inspection fee shall be assessed as follows: For Class C assembly facilities, an  
43 inspection fee not to exceed \$50; for Class B assembly facilities, an inspection fee not to exceed  
44 \$75; and for Class A facilities, an inspection fee not to exceed \$100.

45 For purposes of this subdivision, an "assembly occupancy" includes, but is not limited to,  
46 all buildings or portions of buildings used for gathering together fifty or more persons for such  
47 purposes as deliberation, worship, entertainment, eating, drinking, amusement or awaiting  
48 transportation. For purposes of this section, a "Class C assembly facility" is one that  
49 accommodates fifty to three hundred persons; a "Class B facility" is one which accommodates  
50 more than three hundred persons but less than one thousand persons; and a "Class A facility" is  
51 one which accommodates more than one thousand persons.

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

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

58 (2) *Sprinkler system review.* -- The fee charged for the review of an individual sprinkler  
59 system is as follows: Number of heads: One to two hundred -- \$85; two hundred one to three  
60 hundred -- \$100; three hundred one to seven hundred fifty -- \$120; over seven hundred fifty --  
61 \$120 plus ten cents per head over seven hundred fifty.

62 (3) *Fire alarm systems review.* -- The fee charged for the review of a fire alarm system is  
63 \$50 for each ten thousand square feet of space with a \$50 minimum charge.

64 (4) *Range hood extinguishment system review.* -- The fee is \$25 per individual system  
65 reviewed.

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

67 (c) All fees authorized and collected pursuant to this article, article three-b and article  
68 three-c ~~and article three-d~~ of this chapter shall be paid to the State Fire Commission and thereafter  
69 deposited into the special account in the State Treasury known as the "Fire Marshal Fees Fund".  
70 Expenditures from the fund shall be for the purposes set forth in this article and articles three-b  
71 and three-c ~~and three-d~~ of this chapter and are not authorized from collections but are to be made  
72 only in accordance with appropriation by the Legislature and in accordance with the provisions of  
73 article three, chapter twelve of this code and upon fulfillment of the provisions of article two,  
74 chapter five-a of this code. Any balance remaining in the special account at the end of any fiscal  
75 year shall be reappropriated to the next fiscal year.

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

84 (e) The fees provided for in this section shall remain in effect until such time as the  
85 Legislature has approved rules promulgated by the State Fire Marshal, in accordance with the  
86 provisions of article three, chapter twenty-nine-a of this code, establishing a schedule of fees for  
87 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 a heading or the present law and underscoring indicates new language that would be added.