

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5446

By Delegate Akers

[By Request of the Department of Homeland Security

- State Fire Marshal]

[Introduced February 11, 2026; referred to the Committee

on Government Organization]

1 A BILL to amend and reenact §15A-10-3 and §15A-10-5 of the Code of West Virginia, 1931, as
 2 amended, relating to extending State Fire Marshal inspections, generally, to include
 3 municipalities with certified fire code officials, certified fire code inspectors and certified fire
 4 code plans examiners to perform duties in occupancies under the jurisdiction of the State Fire
 5 Marshal; clarifying the difference between certified and uncertified fire officials, fire inspectors,
 6 and fire plans examiners; explaining how training and examination for Fire Code Disciplines
 7 and Categories are completed; and delineating the approved categories of examinations.

Be it enacted by the Legislature of West Virginia:

CHAPTER 15A. DEPARTMENT OF HOMELAND SECURITY

ARTICLE 10. FIRE MARSHAL.

§15A-10-3. Additional powers, duties and authority of State Fire Marshal relating to law enforcement; statewide contracts; penalties; authority to carry firearms.

1 (a) *Enforcement of laws.* — The State Fire Marshal, and any of his or her assistant fire
 2 marshals or deputy fire marshals, are fully authorized to enforce the fire code, the building code,
 3 this article, §15A-11-1 *et seq.* of this code, and any laws over of the state having to do with:

- 4 (1) Prevention of fire;
- 5 (2) The storage, sale, and use of any explosive, combustible, or other dangerous article or
 6 articles in solid, flammable liquid, or gas form;
- 7 (3) The installation and maintenance of equipment of all sorts intended to extinguish,
 8 detect, and control fires;
- 9 (4) The means and adequacy of exit, in case of fire, from buildings and all other places in
 10 which persons work, live, or congregate, from time to time, for any purpose, except buildings used
 11 wholly as dwelling houses for no more than two families;
- 12 (5) The suppression of arson; and
- 13 (6) Any other thing necessary to carry into effect the provisions of this article and §15A-11-

14 1 *et seq.* of this code including, but not limited to, confiscating any materials, chemicals, items, or
15 personal property owned, possessed, or used in direct violation of the State Fire Code.

16 (b) *Assistance upon request.* — Upon request, the State Fire Marshal shall assist any chief
17 of any recognized fire company or department. Upon the request of any federal law-enforcement
18 officer, State Police officer, Natural Resources police officer, or any county or municipal law-
19 enforcement officer, the State Fire Marshal, any deputy state fire marshal, or assistant state fire
20 marshal employed pursuant to the provisions of this article and any person deputized pursuant to
21 subsection (j) of this section may assist in the lawful execution of the requesting officer's official
22 duties: *Provided*, That the State Fire Marshal, or other person authorized to act under this
23 subsection, shall at all times work under the direct supervision of the requesting officer.

24 (c) *Enforcement of rules.* — The State Fire Marshal shall enforce the rules promulgated by
25 the State Fire Commission as authorized by this article and §15A-11-1 *et seq.* of this code.

26 (d) *Inspections generally.* — The State Fire Marshal shall inspect all structures and
27 facilities, other than one- and two-family dwelling houses, subject to the State Fire Code and this
28 article, including, but not limited to, state, county, and municipally owned institutions, all public and
29 private schools, health care facilities, theaters, churches, and other places of public assembly to
30 determine whether the structures or facilities are in compliance with the State Fire Code.

31 (1) Municipalities with certified fire code officials, inspectors, and plans examiners may
32 perform their duties in occupancies that are under the jurisdiction of the State Fire Marshal, limited
33 to the following:

34 (A) Business occupancies;

35 (B) Mercantile occupancies; and

36 (C) Public assembly occupancies.

37 (2) Uncertified fire officials, fire inspectors, and fire plans examiners who are employed by
38 municipal fire departments shall be granted probationary status for a period not to exceed 2 years.

39 during which the certification requirements shall be satisfied. Upon proof of qualification for
40 certification, the individual shall be certified in the respective categories listed in §15A-10-5, as
41 amended.

42 (3) Any municipality or local governmental entity enforcing the State Fire Code may have
43 designated code enforcers on a full-time, part-time, or on a contractual basis who are certified for
44 the specific duties of a fire code official, fire code inspector, or fire code plans examiner for a single
45 or multiple municipalities or local governmental entities.

46 (4) Any municipality or local governmental entity may indemnify their full-time, part-time, or
47 contractual fire code officials, inspectors, and plans examiners.

48 (5) The municipality or local governmental entity shall be considered the authority having
49 jurisdiction with the fire code official, fire code inspectors, and fire code plans examiner acting
50 under their authority and jurisdiction.

51 (e) *Right of entry.* — The State Fire Marshal may, at any hour necessary, enter any building
52 or premises, other than dwelling houses, for the purpose of making an inspection which he or she
53 may consider necessary under the provisions of this article. The State Fire Marshal and any
54 deputy state fire marshal or assistant state fire marshal approved by the State Fire Marshal may
55 enter upon any property, or enter any building, structure, or premises, including dwelling houses
56 during construction and prior to occupancy, for the purpose of ascertaining compliance with the
57 conditions set forth in any permit or license issued by the office of the State Fire Marshal pursuant
58 to §15A-10-7 or §29-3B-1 *et seq.* of this code.

59 (f) *Investigations.* — The State Fire Marshal may, at any time, investigate as to the origin or
60 circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the state.
61 The State Fire Marshal has the authority at all times of the day or night, in performance of the
62 duties imposed by the provisions of this article, to investigate where any fires or explosions or
63 attempt to cause fires or explosions may have occurred, or which at the time may be burning.

64 Notwithstanding the above provisions of this subsection, prior to entering any building or premises
65 for the purposes of the investigation, the State Fire Marshal shall obtain a proper search
66 warrant: *Provided*, That a search warrant is not necessary where there is permissive waiver or the
67 State Fire Marshal is an invitee of the individual having legal custody and control of the property,
68 building or premises to be searched.

69 (g) *Testimony*. — The State Fire Marshal, in making an inspection or investigation when in
70 his or her judgment the proceedings are necessary, may take the statements or testimony under
71 oath of all persons who may be cognizant of any facts or have any knowledge about the matter to
72 be examined and inquired into and may have the statements or testimony reduced to writing; and
73 shall transmit a copy of the statements or testimony so taken to the prosecuting attorney for the
74 county wherein the fire or explosion or attempt to cause a fire or explosion occurred.
75 Notwithstanding the above, no person may be compelled to testify or give any statement under
76 this subsection.

77 (h) *Arrests; warrants*. — The State Fire Marshal, any full-time deputy fire marshal, or any
78 full-time assistant fire marshal employed by the State Fire Marshal pursuant to this article is
79 hereby authorized and empowered and any person deputized pursuant to this article may be
80 authorized and empowered by the State Fire Marshal:

81 (1) To arrest any person anywhere within the confines of the State of West Virginia, or have
82 him or her arrested, for any violation of the arson-related offenses of §61-3-1 *et seq.* of this code or
83 of the explosives-related offenses of §61-3E-1 *et seq.* of said code: *Provided*, That any and all
84 persons so arrested shall be forthwith brought before the magistrate or circuit court: *Provided*,
85 *however*, That the State Fire Marshal, any full-time deputy fire marshal or any full-time assistant
86 fire marshal is authorized to arrest persons for violations of §61-5-17 of this code.

87 (2) To make complaint in writing before any court or officer having jurisdiction and obtain,
88 serve, and execute an arrest warrant when knowing or having reason to believe that anyone has

89 committed an offense under any provision of this article, of the arson-related offenses of §61-3-
90 1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of this code. Proper
91 return shall be made on all arrest warrants before the tribunal having jurisdiction over the violation.

92 (3) To make a complaint in writing before any court or officer having jurisdiction and obtain,
93 serve, and execute a warrant for the search of any premises that may possess evidence or
94 unlawful contraband relating to violations of this article, of the arson-related offenses of §61-3-1 *et*
95 *seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of said code. Proper
96 return shall be made on all search warrants before the tribunal having jurisdiction over the
97 violation.

98 (4) Any member of the West Virginia State Police, Natural Resources police officer, or any
99 county or municipal law-enforcement officer may assist, upon request, the State Fire Marshal or
100 any of his or her employees authorized to enforce the provisions of this section in any duties for
101 which the State Fire Marshal has jurisdiction.

102 (i) *Witnesses and oaths.* — The State Fire Marshal may issue subpoenas and subpoenas
103 duces tecum to compel the attendance of persons before him or her to testify in relation to any
104 matter which is, by the provision of this article, a subject of inquiry and investigation by the State
105 Fire Marshal and cause to be produced before him or her such papers as he or she may require in
106 making the examination. The State Fire Marshal may administer oaths and affirmations to persons
107 appearing as witnesses before him or her. False swearing in any matter or proceeding is
108 considered perjury and is punishable as perjury.

109 (j) *Deputizing members of fire departments in this state.* — The State Fire Marshal may
110 deputize a member of any fire department, duly organized and operating in this state, who is
111 approved by the chief of his or her department and who is properly qualified to act as his or her
112 assistant for the purpose of making inspections with the consent of the property owner or the
113 person in control of the property and the investigations as may be directed by the State Fire

114 Marshal, and the carrying out of orders as may be prescribed by him or her, to enforce and make
115 effective the provisions of this article and any and all rules promulgated by the State Fire
116 Commission under authority of this article: *Provided*, That in the case of a volunteer fire
117 department, only the chief thereof or his or her single designated assistant may be so deputized.

118 (k) *Written report of examinations.* — The State Fire Marshal shall, at the request of the
119 county commission of any county or the municipal authorities of any incorporated municipality in
120 this state, make to them a written report of the examination made by him or her regarding any fire
121 happening within their respective jurisdictions.

122 (l) *Report of losses by insurance companies.* — Each fire insurance company or
123 association doing business in this state, within 10 days after the adjustment of any loss sustained
124 by it that exceeds \$1,500, shall report to the State Fire Marshal information regarding the amount
125 of insurance, the value of the property insured, and the amount of claim as adjusted. This report is
126 in addition to any information required by the State Insurance Commissioner. Upon the request of
127 the owner or insurer of any property destroyed or injured by fire or explosion, or in which an
128 attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall report in
129 writing to the owner or insurer the result of the examination regarding the property.

130 (m) *Issuance of permits and licenses.* — The State Fire Marshal may issue permits,
131 documents, and licenses in accordance with the provisions of this article or §29-3B-1 *et seq.* of
132 this code: *Provided*, That unless otherwise provided, the State Fire Marshall shall take final action
133 upon any completed permit applications within 30 days of receipt if the application is uncontested,
134 or within 90 days if the application is contested. The State Fire Marshal may require any person
135 who applies for a permit to use explosives, other than an applicant for a license to be a pyrotechnic
136 operator under §29-3E-6 of this code, to be fingerprinted and to authorize the State Fire Marshal to
137 conduct a criminal records check through the Criminal Identification Bureau of the West Virginia
138 State Police and a national criminal history check through the Federal Bureau of Investigation. The

139 results of any criminal records or criminal history check shall be sent to the State Fire Marshal.

140 (n) *Issuance of citations for fire and life safety violations.* — The State Fire Marshal, any
141 deputy fire marshal, and any assistant fire marshal employed pursuant to this article, and any
142 person deputized pursuant to subsection (j) of this section may be authorized by the State Fire
143 Marshal to issue citations, in his or her jurisdiction, for fire and life safety violations of the State Fire
144 Code and as provided for by the rules promulgated by the State Fire Commission in accordance
145 with §15A-11-1 *et seq.* of this code: *Provided*, That a summary report of all citations issued
146 pursuant to this section by persons deputized under subsection (j) of this section shall be
147 forwarded monthly to the State Fire Marshal in the form and containing information as he or she
148 may by rule require, including the violation for which the citation was issued, the date of issuance,
149 the name of the person issuing the citation, and the person to whom the citation was issued. The
150 State Fire Marshal may at any time revoke the authorization of a person deputized pursuant to
151 subsection (j) of this section to issue citations, if in the opinion of the State Fire Marshal, the
152 exercise of authority by the person is inappropriate.

153 Violations for which citations may be issued include, but are not limited to:

- 154 (1) Overcrowding places of public assembly;
- 155 (2) Locked or blocked exits in public areas;
- 156 (3) Failure to abate a fire hazard;
- 157 (4) Blocking of fire lanes or fire department connections; and
- 158 (5) Tampering with, or rendering inoperable, except during necessary maintenance or
159 repairs, on-premise firefighting equipment, fire detection equipment, and fire alarm systems.

160 (o) *Required training; liability coverage.* — No person deputized pursuant to subsection (j)
161 of this section may be authorized to issue a citation unless that person has satisfactorily completed
162 the mandatory training as described in §15A-10-1 of this code, or a law-enforcement officer
163 training course designed specifically for fire marshals. The course shall be approved by the Law-

164 enforcement Training Subcommittee of the Governor's Committee on Criminal Justice and
165 Highway Safety and the State Fire Commission. In addition, no person deputized pursuant to
166 subsection (j) of this section may be authorized to issue a citation until evidence of liability
167 coverage of the person has been provided, in the case of a paid municipal fire department, by the
168 municipality wherein the fire department is located, or in the case of a volunteer fire department, by
169 the county commission of the county wherein the fire department is located, or by the municipality
170 served by the volunteer fire department and that evidence of liability coverage has been filed with
171 the State Fire Marshal.

172 (p) *Statewide contracts.* — The State Fire Marshal may cooperate with the Department of
173 Administration, Purchasing Division, to establish one or more statewide contracts for equipment
174 and supplies utilized by fire companies and departments in accordance with §5A-3-1 *et seq.* of
175 this code.

176 (1) Any statewide contract established hereunder shall be made available to any fire
177 company and department in this state, as well as any other state agency or political subdivision
178 that has a need for the equipment or supplies included in those contracts.

179 (2) The State Fire Marshal may develop uniform standards for equipment and supplies
180 used by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

181 (3) The State Fire Commission shall propose legislative rules for promulgation in
182 accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this subsection.

183 (q) *Penalties for violations.* — Any person who violates any fire and life safety rule of the
184 State Fire Code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less
185 than \$100 nor more than \$1,000, or confined in jail not more than 90 days, or both fined and
186 confined. Every day during which any violation of the provisions of this article continues after
187 knowledge or official notice that it is illegal is a separate offense.

188 (r) The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire

189 marshal employed by the State Fire Marshal, pursuant to this article may carry a firearm while
190 acting in the course of his or her official duties, if he or she has successfully completed a firearms
191 training and certification program equivalent to that provided to officers attending the entry level
192 law-enforcement certification course provided at the West Virginia State Police Academy. The
193 person shall thereafter successfully complete an annual firearms qualification course equivalent to
194 that required of certified law-enforcement officers as established by legislative rule. The State Fire
195 Marshal may reimburse the person for the cost of the training and requalification.

§15A-10-5. General rule-making authority; appointment of advisory boards.

1 (a) The State Fire Marshal may propose rules for legislative approval in accordance with
2 the provisions of §29A-3-1 *et seq.* of this code, establishing state standards and fee schedules for
3 the licensing, registration, certification, regulation and continuing education of persons which will
4 conduct inspections relating to the State Building Code and the State Fire Code, which include, but
5 are not limited to, building code and fire code officials, inspectors, plans examiners, and home
6 inspectors.

7 (1) Fire Code Disciplines and Categories – To be a certified fire code official, certified fire
8 code inspector, or certified fire code plans examiner, the applicant must successfully complete the
9 training and examination necessary by the National Fire Protection Association (NFPA) or an
10 equivalent certification by an examination authority that bases their testing upon the applicable
11 NFPA codes that is acceptable by the State Fire Commission.

12 (2) The State Fire Marshal will issue certification for a fire code official, fire code inspector,
13 or fire code plans examiner in a specific category to an applicant who receives a passing grade in
14 all examinations or certifications required for that category.

15 (3) The approved categories of examinations or certifications are as follows:

16 (A) Fire Code Official – NFPA Certified Fire Protection Specialist, or the combination of
17 NFPA Certified Fire Inspector and Certified Fire Plans Examiner.

18 (B) Fire Code Inspector – NFPA Certified Fire Protection Specialist, or NFPA Certified Fire
19 Inspector.

20 (C) Fire Code Plans Examiner – NFPA Certified Fire Protection Specialist or NFPA
21 Certified Plans Examiner.

22 (b) The State Fire Marshal shall propose rules for legislative approval requiring applicants
23 for home inspector licensing, registration, or certification to submit to a state and national criminal
24 history record check as set forth in this section and may deny licensing, registration, or certification
25 based upon the results of the criminal history record check.

26 (c) The State Fire Marshal may establish advisory boards as it considers appropriate to
27 encourage representative participation in subsequent rulemaking from groups or individuals with
28 an interest in any aspect of the rules promulgated by the State Fire Marshal.

NOTE: The purpose of this bill is to amend and reenact §15A-10-3 and §15A-10-5, as amended, to extend State Fire Marshal inspections, generally, to include municipalities with certified fire code officials, certified fire code inspectors and certified fire code plans examiners to perform duties in occupancies under the jurisdiction of the State Fire Marshal; to clarify the difference between certified and uncertified fire officials, fire inspectors, and fire plans examiners; to explain how training and examination for Fire Code Disciplines and Categories are completed; and to delineate the approved categories of examinations.

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