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SENATE BILL NO. 683

Offered January 18, 2002

A BILL to amend and reenact §§ 27-95, 27-96 and 27-97 of the Code of Virginia; to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-974, and a section numbered 27-96.1; and to repeal Chapter 11 of Title 59.1 of the Code of Virginia, relating to fireworks.

Patron—Martin

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 27-95, 27-96 and 27-97 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-974, and a section numbered 27-96.1, as follows:

§ 15.2-974. Permits for display of fireworks; use and exhibitions.

Any locality may provide for the issuance of permits for the display of fireworks by fair associations, amusement parks, or by any organization or group of individuals, under the minimum terms and conditions set forth in the Virginia Statewide Fire Prevention Code (§ 27-94 et seq.) and any additional terms and conditions as may be prescribed by the locality. Any association, organization, or group that has been issued a permit may purchase fireworks for use under the terms and conditions of such permit.

§ 27-95. Definitions.

As used in this chapter, unless the context or subject matter requires otherwise, the following words or terms shall have the meaning herein ascribed to them:

"Board" means the Board of Housing and Community Development.

"Code provisions" means the provisions of the Fire Prevention Code as adopted and promulgated by the Board, and the amendments thereof as adopted and promulgated from time to time by such Board.

"Enforcement agency" means the agency or agencies of any local governing body or the State Fire Marshal charged with the administration or enforcement of the Fire Prevention Code.

"Fire Prevention Code" or "Code" means the Statewide Fire Prevention Code.

"Fire prevention regulation" means any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, wherever located, heretofore or hereafter enacted or adopted by the Commonwealth or any county or municipality, including departments, boards, bureaus, commissions or other agencies.

"Fire Services Board" means the Virginia Fire Services Board as provided for in § 9.1-202.

"Fireworks" means any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air.

"Inspection warrant" means an order in writing, made in the name of the Commonwealth, signed by any judge or magistrate whose territorial jurisdiction encompasses the building, structure or premises to be inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any inspection, examination, testing or collection of samples for testing required or authorized by the Virginia Statewide Fire Prevention Code.

"Local government" means the governing body of any city, county or town in this Commonwealth.

"Permissible fireworks" means any sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels commonly known as whirligigs or spinning jennies.

"State Fire Marshal" means the State Fire Marshal as provided for by § 36-139.2.

§ 27-96. Statewide standards.

The purposes of this chapter are to provide for statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of substances, materials and devices, including fireworks, explosives and blasting agents, wherever located.

§ 27-96.1. Chapter inapplicable to certain uses of fireworks.

Unless prohibited by a local ordinance, the provisions of this chapter pertaining to fireworks shall

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59 *not be applicable to any person using, igniting or exploding permissible fireworks on private property*
60 *with the consent of the owner of such property.*

61 § 27-97. Adoption of Fire Prevention Code.

62 The Board of Housing and Community Development is hereby empowered to adopt and promulgate
63 a Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board
64 pursuant to procedures agreed to by the two Boards. The Fire Prevention Code shall prescribe
65 regulations to be complied with for the protection of life and property from the hazards of fire or
66 explosion and for the handling, storage, *sale* and use of *fireworks*, explosives or blasting agents, and
67 shall provide for the administration and enforcement of such regulations. The Fire Prevention Code shall
68 require manufacturers of *fireworks* or explosives, as defined in the Code, to register and report
69 information concerning their manufacturing facilities and methods of operation within the
70 Commonwealth in accordance with regulations adopted by the Board. In addition to conducting criminal
71 background checks pursuant to § 27-97.2, the Board shall also establish regulations for obtaining permits
72 for the manufacturing, storage, handling, use, or sales of *fireworks* or explosives. In the enforcement of
73 such regulations, the enforcing agency may issue annual permits for such activities to any state regulated
74 public utility. Such permits shall not apply to the storage, handling, or use of explosives or blasting
75 agents pursuant to the provisions of Title 45.1.

76 *The Fire Prevention Code shall prohibit any person, firm, or corporation from transporting,*
77 *manufacturing, storing, selling, offering for sale, exposing for sale, or buying, using, igniting, or*
78 *exploding any fireworks except for those persons, firms, or corporations that manufacture, store, market*
79 *and distribute fireworks for the sole purpose of fireworks displays permitted by an enforcement agency*
80 *or by any locality.*

81 The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local
82 governments or other political subdivisions. Local governments are hereby empowered to adopt fire
83 prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code
84 provided such regulations do not affect the manner of construction, or materials to be used in the
85 erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke
86 alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not
87 required under the provisions of the Code.

88 In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted
89 standards as recommended by nationally recognized organizations including, but not limited to, standards
90 of the Southern Building Code Congress, the Building Officials and Code Administrators International,
91 Inc., the National Fire Protection Association, and recognized organizations issuing standards for the
92 protection of the public from the hazards of explosives and blasting agents. Such standards shall be
93 based on the companion document to the model building code referenced by the Uniform Statewide
94 Building Code.

95 The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in
96 accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any
97 building which is (i) more than seventy-five feet or more than six stories high and (ii) used, in whole or
98 in part, as a dormitory to house students by any public or private institution of higher education shall be
99 required to comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual
100 fire drills in all buildings having floors used for human occupancy located more than seventy-five feet
101 above the lowest level of fire department vehicle access. The drills shall be conducted by building staff
102 personnel or the owner of the building in accordance with a plan approved by the appropriate fire
103 official and shall not affect other current occupants. The Board may modify, amend or repeal any Code
104 provisions as the public interest requires. Any such Code changes shall be developed in cooperation with
105 the Fire Services Board pursuant to procedures agreed to by the two Boards.

106 **2. That Chapter 11 (§§ 59.1-142 through 59.1-148) of Title 59.1 of the Code of Virginia is repealed.**