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HOUSE BILL NO. 1353

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 27-95 and 27-97, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to the Fire Prevention Code; fireworks.

Patron—Gear

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 27-95 and 27-97, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 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 ground-based or hand-held sparklers, fountains, ~~Pharaoh's serpents snakes~~, caps for pistols, ~~spinners~~ or ~~pinwheels~~ commonly known as ~~whirligigs~~ or ~~spinning jennies~~ smoke items.

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

§ 27-97. (Effective until July 1, 2008) Adoption of Fire Prevention Code.

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

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

64 The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local
65 governments or other political subdivisions. Local governments are hereby empowered to adopt fire
66 prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code
67 provided such regulations do not (i) affect the manner of construction, or materials to be used in the
68 erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke
69 alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not
70 required under the provisions of the Code, or (ii) regulate or otherwise prohibit the transportation,
71 manufacture, storage, sale, purchase or use of permissible fireworks as defined in § 27-95.

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

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

90 § 27-97. (Effective July 1, 2008) Adoption of Fire Prevention Code.

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95 explosion and for the handling, storage, sale and use of fireworks, explosives or blasting agents, and
96 shall provide for the administration and enforcement of such regulations. The Fire Prevention Code shall
97 require manufacturers of fireworks or explosives, as defined in the Code, to register and report
98 information concerning their manufacturing facilities and methods of operation within the
99 Commonwealth in accordance with regulations adopted by the Board. In addition to conducting criminal
100 background checks pursuant to § 27-97.2, the Board shall also establish regulations for obtaining permits
101 for the manufacturing, storage, handling, use, or sales of fireworks or explosives. In the enforcement of
102 such regulations, the enforcing agency may issue annual permits for such activities to any state regulated
103 public utility. Such permits shall not apply to the storage, handling, or use of explosives or blasting
104 agents pursuant to the provisions of Title 45.1.

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

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111 governments or other political subdivisions. Local governments are hereby empowered to adopt fire
112 prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code
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114 erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke
115 alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not
116 required under the provisions of the Code, or (ii) regulate or otherwise prohibit the transportation,
117 manufacture, storage, sale, purchase or use of permissible fireworks as defined in § 27-95.

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119 standards as recommended by nationally recognized organizations including, but not limited to, standards
120 of the International Code Council, the National Fire Protection Association, and recognized organizations

121 issuing standards for the protection of the public from the hazards of explosives and blasting agents.
122 Such standards shall be based on the companion document to the model building code referenced by the
123 Uniform Statewide Building Code.

124 The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in
125 accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any
126 building which is (i) more than 75 feet or more than six stories high and (ii) used, in whole or in part,
127 as a dormitory to house students by any public or private institution of higher education shall be
128 required to comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual
129 fire drills in all buildings having floors used for human occupancy located more than 75 feet above the
130 lowest level of fire department vehicle access. The drills shall be conducted by building staff personnel
131 or the owner of the building in accordance with a plan approved by the appropriate fire official and
132 shall not affect other current occupants. The Board may modify, amend or repeal any Code provisions
133 as the public interest requires. Any such Code changes shall be developed in cooperation with the Fire
134 Services Board pursuant to procedures agreed to by the two Boards.