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HOUSE BILL NO. 1834

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 27-95, 27-96.1, and 27-97 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 27-96.1:1, relating to Statewide Fire Prevention Code; permissible fireworks.

Patron—Scott, E.T.

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 27-95, 27-96.1, and 27-97 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 27-96.1:1 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.

"Fireworks operator" or "pyrotechnician" means any person engaged in the design, setup, and firing of any fireworks other than permissible fireworks either inside a building or structure or outdoors.

"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~~ ground-based, cylindrical, or cone fountains; illuminating torches; wheels, ground spinners, flutter sparklers, toy smoke devices, wire sparklers or dipped sticks; and any novelty party poppers, snappers, and snap and pops, smoke balls, snakes and glow worms, or any other ground or hand-held sparkling devices defined in §§ 3.1.1, 3.2, and 3.5 of the 2001 Edition of the American Pyrotechnic Association's Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics.

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

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

~~Unless prohibited by a local ordinance~~ Except as provided in § 27-96.1:1, the provisions of this chapter pertaining to fireworks shall not apply to the sale, storage, retail sales display, transportation or possession of or to any person using, igniting or exploding permissible fireworks on private property with the consent of the owner of such property.

§ 27-96.1:1. Limitation of local control of permissible fireworks; sale and use of permissible fireworks.

A, No local ordinance, local fire code or any other local regulation shall prohibit the use, design,

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59 possession, ignition, display, storage, sale, or transportation of permissible fireworks, or the setup or
60 supervision of such fireworks.

61 B. Notwithstanding any other provision of law, the storage and sale of permissible fireworks shall be
62 governed solely by the provisions of the Code for the Manufacture, Transportation, Storage, and Retail
63 Sale of Fireworks and Pyrotechnic Articles adopted by the National Fire Protection Association (NFPA
64 1124, 2006 Edition).

65 § 27-97. Adoption of Fire Prevention Code.

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

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

85 The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local
86 governments or other political subdivisions. ~~Local~~ Except as provided in § 27-96.1:1, local governments
87 ~~are hereby empowered to~~ may adopt fire prevention regulations that are more restrictive or more
88 extensive in scope than the Fire Prevention Code provided such regulations do not affect the manner of
89 construction, or materials to be used in the erection, alteration, repair, or use of a building or structure,
90 including the voluntary installation of smoke alarms and regulation and inspections thereof in
91 commercial buildings where such smoke alarms are not required under the provisions of the Code. The
92 Fire Prevention Code shall prohibit any person not certified by the State Fire Marshal's Office as a
93 fireworks operator or pyrotechnician to design, set up, or conduct or supervise the design, setup, or
94 conducting of any fireworks display, either inside a building or structure or outdoors and shall require
95 that at least one person holding a valid certification is present at the site where the fireworks display is
96 being conducted. Certification shall not be required for the design, storage, sale, use, conduct,
97 transportation, and set up of permissible fireworks or the supervision thereof or in connection with any
98 fireworks display conducted by a volunteer fire department provided one member of the volunteer fire
99 department holds a valid certification.

100 In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted
101 standards as recommended by nationally recognized organizations including, but not limited to, standards
102 of the International Code Council, the National Fire Protection Association, and recognized organizations
103 issuing standards for the protection of the public from the hazards of explosives and blasting agents.
104 Such standards shall be based on the companion document to the model building code referenced by the
105 Uniform Statewide Building Code.

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