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HOUSE BILL NO. 1308

Offered January 22, 1996

A BILL to amend and reenact §§ 9-155, 27-61, 27-95 and 27-97 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 9-153.2, 9-153.3, and 9-153.4; and to repeal §§ 36-139.2, 36-139.3, and 36-139.4 of the Code of Virginia, relating to the State Fire Marshal.

Patrons—DeBoer, Clement, Ingram, McEachin, Ruff, Van Yahres and Watts; Senators: Holland, Howell, Lucas, Quayle, Waddell and Walker

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-155, 27-61, 27-95 and 27-97 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 9-153.2, 9-153.3, and 9-153.4, as follows:

§ 9-153.2. Appointment of State Fire Marshal; qualifications; powers and duties; power to arrest, to procure and serve warrants and to issue summonses; limitation on authority.

The Secretary of Public Safety shall appoint a State Fire Marshal and other personnel necessary to carry out the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.). The State Fire Marshal and other personnel appointed pursuant to this section shall be selected upon the basis of education or experience in administering laws and regulations designed to prevent and eliminate hazards to life and property arising from fire.

The State Fire Marshal shall have the powers and duties prescribed by the Statewide Fire Prevention Code, § 27-61, regulations of the Fire Services Board, and Secretary of Public Safety. The State Fire Marshal and those persons duly authorized to enforce the Statewide Fire Prevention Code shall have the authority to arrest, to procure and serve warrants of arrests and to issue summonses in the manner authorized by general law for violations of the Statewide Fire Prevention Code. The authority granted in this section shall not be construed to authorize the State Fire Marshal to wear or carry firearms. All personnel appointed pursuant to this section shall meet the training requirements set forth for local fire marshals in § 27-34.2.

§ 9-153.3. Inspection of residential care facilities operated by state agencies; enforcement of safety standards.

Notwithstanding any other provisions of this chapter, the State Fire Marshal, upon presenting appropriate credentials, shall make annual inspections for hazards incident to fire in all residential care facilities operated by any state agency and in all adult care residences licensed or subject to licensure pursuant to Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 which are not inspected by a local fire marshal. In the event that any such facility or residence is found to be nonconforming to the Statewide Fire Prevention Code (§ 27-94 et seq.), the State Fire Marshal or local fire marshal may petition any court of competent jurisdiction for the issuance of an injunction.

§ 9-153.4. Agreements between Department and other agencies.

The Department is hereby authorized to enter into agreements with federal agencies, other state agencies and political subdivisions for services directly related to enforcement and administration of the laws, rules, or regulations, or ordinances of such agencies affecting fire safety in public buildings.

§ 9-155. Powers and duties of Board.

The Virginia Fire Services Board shall have the responsibility for promoting the coordination of the efforts of fire service organizations at the state and local levels. To these ends, it shall have the following powers and duties:

1. To establish a process, involving state and local agencies, public and private, for setting priorities for implementing the Virginia Fire Prevention and Control Plan and coordinating the activities of state and local agencies, public and private, in implementing the Plan;

2. To develop a five-year statewide plan for fire education and training;

3. To establish criteria for the disbursement of any grant funds received from the federal government and any agencies thereof and any other source and to disburse such funds in accordance therewith;

4. To provide technical assistance and advice to local fire departments, other fire services organizations, and local governments;

5. To develop and recommend personnel standards for fire services personnel;

6. To develop and implement a statewide plan for the collection, analysis and reporting of data relating to fires in the Commonwealth, utilizing appropriate resources of other state agencies when deemed proper by the Board;

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60 7. To make recommendations to the Governor and General Assembly concerning legislation affecting
61 fire prevention and protection and fire services organizations in Virginia;

62 8. To evaluate all state programs or functions which have a bearing on fire prevention and protection
63 and to make to the appropriate government officials any recommendations deemed necessary to improve
64 the level of fire prevention and protection in the Commonwealth;

65 9. To provide training and information to localities relative to the Statewide Fire Prevention Code;

66 10. To study and develop alternative means of providing financial support for volunteer fire
67 departments and to make appropriate recommendations regarding the implementation of such
68 alternatives;

69 11. To conduct training schools for fire service personnel in various areas of the Commonwealth; and

70 12. To render assistance to local fire departments and volunteer fire companies in training fire
71 fighters; and

72 13. *Promulgate regulations relating the powers and duties of the State Fire Marshal.*

73 Compliance with the provisions of § 9-154 and this section and any regulations or guidelines enacted
74 pursuant thereto shall be optional with, and at the full discretion of, any local governing body and any
75 volunteer fire department or volunteer fire departments operating under the same corporate charters.

76 § 27-61. When Department or fire chief may remedy inflammable or unsafe conditions.

77 The Department of ~~Housing and Community Development~~ *Fire Programs*, by its representative, or
78 the chief or other head of the fire department of any county, city or town or district thereof, shall have
79 the right, at all reasonable hours, for the purpose of examination, to enter into and upon any public
80 school building or any other building or premises not at the time occupied and used as a dwelling
81 house, within their respective jurisdictions, for examination as to combustible materials or inflammable
82 or unsafe conditions in any such building or upon any such premises. Upon complaint of any person
83 having an interest in any building or premises or property adjacent thereto, in his jurisdiction, an officer
84 shall make an immediate investigation as to the presence of any combustible materials or the existence
85 of inflammable or unsafe conditions in such buildings or upon such premises. Whenever any officer
86 finds in any building or upon any premises combustible, inflammable or unsafe conditions, dangerous to
87 the safety of the building or premises, or other property, he shall order the same to be removed or
88 remedied, and the order shall, within a reasonable time to be fixed in the order, be complied with by the
89 owner or occupant of the building or premises.

90 Any owner or occupant aggrieved by such order may within five days after notice of such order,
91 appeal to the Department of ~~Housing and Community Development~~ *Fire Programs*, and the cause of his
92 complaint shall be at once investigated by the *Executive* Director of the Department of ~~Housing and~~
93 ~~Community Development~~ *Fire Programs*, and unless by its authority such order is revoked, the order
94 shall remain in force and the owner or occupant shall comply with the order.

95 Any owner or occupant of any building or premises failing to comply with any final order made or
96 given under the authority of this section, shall be deemed guilty of a misdemeanor, and punished by a
97 fine of not less than \$5 nor more than \$100 for each offense.

98 § 27-95. Definitions.

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

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

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

104 "Department" means the *Department of Fire Programs*.

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

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

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

115 "Fire Services Board" or "Board" means the Virginia Fire Services Board as provided for in
116 § 9-153.1.

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

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

"State Fire Marshal" means the State Fire Marshal as provided for by ~~§ 36-139.2~~ § 9-153.2.

§ 27-97. Adoption of Fire Prevention Code.

The ~~Board of Housing and Community Development~~ *Virginia Fire Services Board (the Board)* is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code which shall be cooperatively developed with the ~~Fire Services Board~~ *Department of Fire Programs (the Department)* pursuant to procedures agreed to by the ~~two Boards~~ *Board and the Department*. 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 and use of explosives or blasting agents, and shall provide for the administration and enforcement of such regulations. The Fire Prevention Code shall require manufacturers of explosives, as defined in the Code, to register and report information concerning their manufacturing facilities and methods of operation within this Commonwealth in accordance with regulations adopted by the Board. The Board shall also establish regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of 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.

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

In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations including, but not limited to, standards of the Southern Building Code Congress, the Building Officials and Code Administrators International, Inc., the National Fire Protection Association, and recognized organizations issuing standards for the protection of the public from the hazards of explosives and blasting agents. Such standards shall be based on the companion document to the model building code referenced by the Uniform Statewide Building Code. The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in accordance with state fire and public building regulations in effect prior to March 31, 1986. The Fire Prevention Code shall also require annual fire drills in all buildings having floors used for human occupancy located more than seventy-five feet above the lowest level of fire department vehicle access. The drills shall be conducted by building staff personnel or the owner of the building in accordance with a plan approved by the appropriate fire official and shall not affect other current occupants. The Board may modify, amend or repeal any Code provisions as the public interest requires. Any such Code changes shall be developed in cooperation with the ~~Fire Services Board~~ *Department of Fire Programs* pursuant to procedures agreed to by the ~~two Boards~~ *Board and the Department*.

2. That §§ 36-139.2, 36-139.3, and 36-139.4 of the Code of Virginia are repealed.

3. That the provisions of this act shall become effective on July 1, 1997.