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SENATE BILL NO. 1365

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact §§ 9.1-203, 27-97, 27-98, 36-118, 36-119.1 of the Code of Virginia, relating to the Statewide Fire Prevention Code; authority of the Virginia Fire Services Board; fees for school inspections.

Patrons—Edwards and Spruill

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-203, 27-97, 27-98, 36-118, and 36-119.1 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-203. Powers and duties of Virginia Fire Services Board; limitation.

A. The 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 to:

- 1. Ensure the development and implementation of the Virginia Fire Prevention and Control Plan;
- 2. Review and approve a five-year statewide plan for fire education and training;
- 3. Approve the criteria for and 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. Provide technical assistance and advice to local fire departments, other fire services organizations, and local governments through Fire and Emergency Medical Services studies done in conjunction with the Department of Fire Programs;
- 5. Advise the Department of Fire Programs on and adopt personnel standards for fire services personnel;
- 6. Advise the Department of Fire Programs on the Commonwealth's statewide plan for the collection, analysis, and reporting of data relating to fires in the Commonwealth;
- 7. Make recommendations to the Secretary of Public Safety and Homeland Security concerning legislation affecting fire prevention and protection and fire services organizations in Virginia;
- 8. Evaluate all fire prevention and protection programs and make any recommendations deemed necessary to improve the level of fire prevention and protection in the Commonwealth;
- 9. Adopt the Statewide Fire Prevention Code in accordance with the provisions of § 27-97;
- 10. Advise the Department of Fire Programs on the Statewide Fire Prevention Code; and
- 11. Investigate alternative means of financial support for volunteer fire departments and advise jurisdictions regarding the implementation of such alternatives.

B. Except for those policies established in § 38.2-401, compliance with the provisions of § 9.1-201 and this section and any policies or guidelines enacted pursuant thereto shall be optional with, and at the full discretion of, any local governing body and any volunteer fire department or volunteer fire departments operating under the same corporate charters.

§ 27-97. Adoption of Fire Prevention Code.

The Board of Housing and Community Development Virginia Fire Services Board is hereby empowered to adopt and promulgate a Statewide Fire Prevention Code, which shall be cooperatively developed with the Fire Services Board Board of Housing and Community Development 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 Virginia Fire Services Board. In addition to conducting criminal background checks pursuant to § 27-97.2, the Board Virginia Fire Services 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 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  
67 Code, provided such regulations do not 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. The Fire Prevention Code shall prohibit any person not  
71 certified by the State Fire Marshal's Office as a fireworks operator or pyrotechnician to design, set up,  
72 or conduct or supervise the design, setup, or conducting of any fireworks display, either inside a  
73 building or structure or outdoors and shall require that at least one person holding a valid certification is  
74 present at the site where the fireworks display is being conducted. Certification shall not be required for  
75 the design, storage, sale, use, conduct, transportation, and set up of permissible fireworks or the  
76 supervision thereof or in connection with any fireworks display conducted by a volunteer fire  
77 department, provided *that* one member of the volunteer fire department holds a valid certification.

78 In formulating the Fire Prevention Code, the ~~Board~~ *Virginia Fire Services Board* shall have due  
79 regard for generally accepted standards as recommended by nationally recognized organizations,  
80 including, but not limited to, standards of the International Code Council, the National Fire Protection  
81 Association, and recognized organizations issuing standards for the protection of the public from the  
82 hazards of explosives and blasting agents. Such standards shall be based on the companion document to  
83 the model building code referenced by the Uniform Statewide Building Code.

84 The Fire Prevention Code shall require that buildings constructed prior to 1973 be maintained in  
85 accordance with state fire and public building regulations in effect prior to March 31, 1986, and that any  
86 building ~~which~~ *that* is (i) more than 75 feet or more than six stories high and (ii) used, in whole or in  
87 part, as a dormitory to house students by any public or private institution of higher education shall be  
88 required to comply with the provisions of § 36-99.3. The Fire Prevention Code shall also require annual  
89 fire drills in all buildings having floors used for human occupancy located more than 75 feet above the  
90 lowest level of fire department vehicle access. The drills shall be conducted by building staff personnel  
91 or the owner of the building in accordance with a plan approved by the appropriate fire official and  
92 shall not affect other current occupants. The ~~Board~~ *Virginia Fire Services Board* may modify, amend, or  
93 repeal any Code provisions as the public interest requires. Any such Code changes shall be developed in  
94 cooperation with the ~~Fire Services Board~~ *Board of Housing and Community Development* pursuant to  
95 procedures agreed to by the two Boards.

96 **§ 27-98. Enforcement of Fire Prevention Code; appeals from decisions of local enforcing**  
97 **agencies; inspection of buildings.**

98 Any local government may enforce the Fire Prevention Code in its entirety or with respect only to  
99 those provisions of the Fire Prevention Code relating to open burning, fire lanes, fireworks, and  
100 hazardous materials. If a local governing body elects to enforce only those provisions of the Fire  
101 Prevention Code relating to open burning, it may do so in all or in any designated geographic areas of  
102 its jurisdiction. The State Fire Marshal shall also have the authority, in cooperation with any local  
103 governing body, to enforce the Code. The State Fire Marshal shall also have authority to enforce the  
104 Code in those jurisdictions in which the local governments do not enforce the Code and may establish  
105 such procedures or requirements as may be necessary for the administration and enforcement of the  
106 Code in such jurisdictions. In addition, subject to the approval of the ~~Board of Housing and Community~~  
107 ~~Development~~ *Virginia Fire Services Board*, the State Fire Marshal may charge a fee to recover the  
108 actual cost of administering and enforcing the Code in jurisdictions for which he serves as the  
109 enforcement authority. ~~No fee may be charged for the inspection of any school.~~ The local governing  
110 body of any jurisdiction that enforces the Code may establish such procedures or requirements as may  
111 be necessary for the administration and enforcement of the Code. Appeals concerning the application of  
112 the Code by the local enforcing agency shall first lie to a local board of appeals and then to the State  
113 Building Code Technical Review Board. Appeals from the application of the Code by the State Fire  
114 Marshal shall be made directly to the State Building Code Technical Review Board as provided in  
115 Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36. Fees may be levied by the local governing body in  
116 order to defray the cost of such enforcement and appeals; however, for the City of Chesapeake no fee  
117 charged for the inspection of any place of religious worship designated as Assembly Group A-3 under  
118 the Fire Prevention Code shall exceed \$50. For purposes of this section, "defray the cost" may include  
119 the fair and reasonable costs incurred for such enforcement during normal business hours, but shall not  
120 include overtime costs, unless conducted outside of the normal working hours established by the locality.

121 A schedule of such costs shall be adopted by the local governing body in a local ordinance. A locality  
122 shall not charge an overtime rate for inspections conducted during the normal business hours established  
123 by the locality. Nothing herein shall be construed to prohibit a private entity from conducting such  
124 inspections, provided the private entity has been approved to perform such inspections in accordance  
125 with the written policy of the fire official for the locality. Any local fire code may provide for an appeal  
126 to a local board of appeals. If no local board of appeals exists, the State Building Code Technical  
127 Review Board shall hear appeals of any local fire code violation.

128 **§ 36-118. Interpretation of Code; recommendation of modifications.**

129 The Review Board shall interpret the provisions of the Building Code, ~~and the Fire Prevention Code,~~  
130 and shall make such recommendations, which it deems appropriate, to the Board for modification,  
131 amendment, or repeal of any of such provisions. *The Review Board shall also interpret the provisions of*  
132 *the Statewide Fire Prevention Code and shall make such recommendations, which it deems appropriate,*  
133 *to the Virginia Fire Services Board for modification, amendment, or repeal of any such provision. A*  
134 *record of all such recommendations, and of the Board's and Virginia Fire Services Board's actions*  
135 *thereon, shall be kept in the office of the Review Board. Such record shall be open to public inspection*  
136 *at all times during business hours.*

137 **§ 36-119.1. Existing buildings.**

138 This chapter shall not supersede provisions of the Fire Prevention Code promulgated by the ~~Board~~  
139 *Virginia Fire Services Board* under § 27-97, that prescribe standards to be complied with in existing  
140 buildings or structures, provided that such regulations shall not impose requirements that are more  
141 restrictive than those of the Uniform Statewide Building Code under which the buildings or structures  
142 were constructed. Subsequent alteration, enlargement, rehabilitation, repair, or conversion of the  
143 occupancy classification of such buildings and structures shall be subject to the construction and  
144 rehabilitation provisions of the Building Code.