

H. B. 3027

(By Delegates Stowers, Butcher, R. Phillips,
Hall, Rodighiero, Manchin, Frazier,
L. Phillips, Perry and Barker)

[Introduced February 7, 2011; referred to the
Committee on Government Organization then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §11-15-7b; and to
amend and reenact §29-3-24 of said code, all relating to
authorizing the sale of prohibited fireworks; requiring the
sales tax on fireworks to be ten percent; and establishing a
special fund that distributes the firework sales tax proceeds
equally to each West Virginia volunteer fire department.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new section, designated §11-15-7b; and that
§29-3-24 of said code be amended and reenacted, all to read as
follows:

CHAPTER 11. TAXATION.**ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.****§11-15-7b. Sales tax on fireworks; volunteer fire department****fireworks fund created; allocation of proceeds.**

(a) There is levied and imposed on the sale of fireworks, as

1 authorized by section twenty-four, article three, chapter twenty-
2 nine of this code, a sales tax at the rate of ten percent of the
3 purchase price on all fireworks. The Tax Commissioner shall
4 collect and disburse all moneys from the firework sales tax to the
5 "Volunteer Fire Department Fireworks Fund" as provided in
6 subsection (b) of this section.

7 (b) There is hereby created in the State Treasury a special
8 nonrevolving revenue fund to be known as "the Volunteer Fire
9 Department Fireworks Fund," into which shall be paid a portion of
10 all funds derived from the sales tax provided in this section. The
11 proceeds of this tax and the interest thereon, shall be distributed
12 annually on or before January 1, to each volunteer fire company or
13 department on an equal share basis by the State Treasurer.

14 **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

15 **ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

16 **§29-3-24. Unlawful sale, possession or use of fireworks; permit**
17 **for public display.**

18 Except as hereinafter provided, no person, firm, copartnership
19 or corporation shall offer for sale, possess, expose for sale, sell
20 at retail, keep with intent to sell at retail, or use or explode
21 any fireworks: *Provided, That* fireworks may be sold in West
22 Virginia if a ten percent sales tax accompanies the sale of these
23 fireworks and the sales tax proceeds are disbursed equally to each

1 volunteer fire department in West Virginia: *Provided, however,*
2 That the State Fire Marshal may adopt reasonable rules ~~and~~
3 ~~regulations~~ for the granting of permits for the supervised displays
4 of fireworks by municipalities, fair associations, amusement parks,
5 and other organizations or groups of individuals. The State Fire
6 Marshal ~~shall have~~ has the authority to charge a fee of \$10 to each
7 applicant requesting a license to be a pyrotechnic operator as set
8 forth in this article. The State Fire Marshal shall charge a
9 scaled fee for all applications requesting permits to establish a
10 pyrotechnics display as provided in this section. All fees
11 required to be paid by the provisions of this section shall be paid
12 to the State Fire Marshal and thereafter deposited by him or her
13 into a special account for the operation of the State Fire
14 Commission. ~~Such~~ These permits may be granted upon application to
15 ~~said the~~ State Fire Marshal and after approval of the local police
16 and fire authorities of the community wherein the display is
17 proposed to be held as provided herein and the filing of a bond by
18 the applicant as provided hereinafter. Every ~~such~~ display shall be
19 handled by a competent operator licensed or certified as to
20 competency by the State Fire Marshal and shall be of ~~such~~ the
21 composition, character, and so located, discharged or fired as in
22 the opinion of the chief of the fire department, after proper
23 inspection, and of the chief of police as to not be hazardous to
24 property or endanger any person or persons. After ~~such~~ this

1 privilege ~~shall have been~~ is granted, the sale, possession, use and
2 distribution of fireworks for ~~such~~ this display ~~shall be~~ is lawful
3 for that purpose only. No permit granted ~~hereunder shall be~~ is
4 transferable.

5 The governing body or chief executive authority of the
6 municipality shall require a bond from the licensee in a sum not
7 less than forty-one thousand conditioned on compliance with the
8 provisions of this article and the ~~regulations~~ rules of the State
9 Fire Commission: *Provided*, That no municipality shall be required
10 to file such bond.

11 Before any permit for a pyrotechnic display shall be issued,
12 the person, firm or corporation making application therefor shall
13 furnish proof of financial responsibility to satisfy claims for
14 damages to property or personal injuries arising out of any act or
15 omission on the part of such person, firm or corporation or any
16 agent or employee thereof, in such amount, character and form as
17 the State Fire Marshal determines to be necessary for the
18 protection of the public.

NOTE: The purpose of this bill is to authorize the sale of prohibited fireworks; to require the sales tax on fireworks to be ten percent; and to establish a special fund that distributes the firework sales tax proceeds equally to each West Virginia volunteer fire department.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§11-15-7b. is new; therefore, it has been completely underscored.