

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 4392**

4
5 (By Delegates Morgan, Diserio, Jones,
6 D. Poling and Barker)

7 (Originating in the Committee on the Judiciary)

8 [February 19, 2014]

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §21-16-1, §21-16-2,
12 §21-16-3, §21-16-4, §21-16-5, §21-16-6, §21-16-7, §21-16-8,
13 §21-16-9, §21-16-10 and §21-16-11; to amend and reenact
14 §29-3-12b of said code; and by adding thereto a new article,
15 designated §29-3E-1, §29-3E-2, §29-3E-3, §29-3E-4, §29-3E-5,
16 §29-3E-6, §29-3E-7, §29-3E-8 and §29-3E-9, all relating to
17 regulating persons who perform work on heating, ventilating
18 and cooling systems and dampers; requiring persons who perform
19 work on heating, ventilating and cooling systems to be
20 licensed by the Commissioner of Labor; requiring persons who
21 perform work on dampers to be licensed by the State Fire
22 Marshal; providing for exemptions from licensure; authorizing
23 the commissioner to promulgate legislative rules; authorizing
24 the State Fire Marshal to promulgate legislative rules;
25 authorizing enforcement procedures; authorizing interagency

1 agreements; authorizing the issuance, renewal, denial,
2 suspension and revocation of licenses; providing for criminal
3 penalties; providing that no political subdivision of the
4 state may mandate additional licensing requirements; and
5 providing for the disposition of fees.

6 *Be it enacted by the Legislature of West Virginia:*

7 That the Code of West Virginia, 1931, as amended, be amended
8 by adding thereto a new article, designated §21-16-1, §21-16-2,
9 §21-16-3, §21-16-4, §21-16-5, §21-16-6, §21-16-7, §21-16-8, §21-16-
10 9, §21-16-10 and §21-16-11; that §29-3-12b of said code be amended
11 and reenacted; and by adding thereto a new article, §29-3E-1, §29-
12 3E-2, §29-3E-3, §29-3E-4, §29-3E-5, §29-3E-6, §29-3E-7, §29-3E-8
13 and §29-3E-9, all to read as follows:

14 **CHAPTER 21. LABOR**

15 **ARTICLE 16. REGULATION OF HEATING, VENTILATING AND COOLING WORK.**

16 **§21-16-1. Declaration of purpose.**

17 The provisions of this article are intended to protect the
18 health, safety and welfare of the public as well as public and
19 private property by assuring the competence of those who perform
20 work on a heating, ventilating and cooling system through licensure
21 by the Commissioner of Labor.

22 **§21-16-2. Definitions.**

23 As used in this article:

24 (a) "Perform work on a heating, ventilating and cooling

1 system" means to install, maintain, alter, remodel or repair one or
2 more components of a heating, ventilating and cooling system.

3 (b) "Heating, ventilating and cooling system" means equipment
4 to heat, cool or ventilate residential or commercial structures,
5 comprised of one or more of the following components:

6 (1) "Heating system" means a system in which heat is
7 transmitted by radiation, conduction or convection, or a
8 combination of any of these methods, to the air, surrounding
9 surfaces, or both, and includes a forced air system that uses air
10 being moved by mechanical means to transmit heat, but does not
11 include a fireplace or woodburning stove not incorporated into or
12 used as a primary heating system;

13 (2) "Ventilating system" means the natural or mechanical
14 process of supplying air to, or removing air from, any space
15 whether the air is conditioned or not conditioned, at a rate of
16 airflow of more than 250 cubic feet per minute; and

17 (3) "Cooling system" means a system in which heat is removed
18 from air, surrounding surfaces, or both, and includes an air-
19 conditioning system.

20 (c) "License" means a valid and current license issued by the
21 Commissioner of Labor in accordance with the provisions of this
22 article.

23 (d) "Preventive maintenance" means work performed on a routine
24 schedule that includes cleaning and/or replacing filters, greasing
25 or lubricating motor bearings, adjusting and/or replacing belts,

1 checking system temperature, checking gas temperature, adjusting
2 gas pressure as required, and checking voltage and amperage draw on
3 heating, ventilating and cooling systems.

4 (e) "Single family dwelling" means a building which is
5 occupied as, or designed or intended for occupancy as, a single
6 residence for one or more persons.

7 **§21-16-3. License required; exemptions.**

8 (a) On and after January 1, 2016, a person performing or
9 offering to perform work on a heating, ventilating and cooling
10 system in this state shall have a license issued by the
11 Commissioner of Labor, in accordance with the provisions of this
12 article.

13 (b) A person licensed under this article shall carry a copy of
14 the license on any job in which heating, ventilating and cooling
15 work is being performed.

16 (c) This article does not apply to:

17 (1) A person who personally performs work on a heating,
18 ventilating and cooling system in a single family dwelling owned by
19 that person or by a member of that person's immediate family;

20 (2) A person who performs work on a heating, ventilating and
21 cooling system at a manufacturing plant or other industrial
22 establishment as an employee of the person, firm or corporation
23 operating the plant or establishment;

24 (3) A person who performs only electrical or plumbing work on
25 a heating, ventilating and cooling system, so long as the work is

1 within the scope of practice which the person is otherwise licensed
2 or authorized to perform; or

3 (4) A person who performs preventative maintenance as a direct
4 employee of the person, firm or corporation that owns or operates
5 the facility where the heating, ventilating or cooling system
6 equipment is located.

7 **§21-16-4. Licensure requirements.**

8 (a) To be licensed as a heating, ventilation and cooling
9 technician-in-training, a person shall demonstrate an interest in
10 and aptitude for heating, ventilating and cooling work but who
11 alone is not capable of performing heating, ventilating and cooling
12 work, and who has fewer than two thousand hours of experience
13 working on heating, ventilating and cooling (HVAC) systems and six
14 thousand hours of experience in heating, ventilating, and cooling
15 (HVAC) or related work, to include other sheet metal industry
16 tasks.

17 (b) To be licensed as a heating, ventilation and cooling
18 technician, a person shall demonstrate competency to instruct and
19 supervise the work of a heating, ventilation and cooling
20 technician-in-training, and have at least two thousand hours of
21 experience working on heating, ventilating and cooling (HVAC)
22 systems and six thousand hours of experience in heating,
23 ventilating, and cooling (HVAC) or related work, to include other
24 sheet metal industry tasks.

25 **§21-16-5. Scope of practice.**

1 (a) A heating, ventilation and cooling technician-in-training
2 is authorized to assist in providing heating, ventilating and
3 cooling work only under the direction and control of a heating,
4 ventilation and cooling technician.

5 (b) A heating, ventilation and cooling technician is
6 authorized to provide heating, ventilating and cooling work without
7 supervision.

8 (c) Persons licensed under this article are subject to the
9 applicable provisions of the Contractor Licensing Act in article
10 eleven of this chapter in the performance of work authorized by
11 this article.

12 **§21-16-6. Rule-making authority.**

13 The Commissioner of Labor shall propose rules for legislative
14 approval, in accordance with the provisions of article three,
15 chapter twenty-nine-a of this code, for the implementation and
16 enforcement of the provisions of this article, which shall provide:

17 (1) Standards and procedures for issuing and renewing
18 licenses, applications, examinations and qualifications;

19 (2) Provisions for the granting of licenses without
20 examination, to applicants who present satisfactory evidence of
21 having the expertise required to perform work at the level of the
22 classifications defined in this article and who apply for licensure
23 on or before July 1, 2016: Provided, that if a license issued under
24 the authority of this subsection subsequently lapses, the applicant
25 is subject to all licensure requirements, including the

1 examination;

2 (3) Reciprocity provisions;

3 (4) Procedures for investigating complaints and revoking or
4 suspending licenses, including appeal procedures;

5 (5) Fees for issuance and renewal of licenses and other costs
6 necessary to administer the provisions of this article;

7 (6) Enforcement procedures; and

8 (7) Any other rules necessary to effectuate the purposes of
9 this article.

10 **§21-16-7. Enforcement; interagency agreements authorized.**

11 (a) The Commissioner of Labor and his or her Deputy
12 Commissioner or any compliance officer of the Division of Labor as
13 authorized by the Commissioner of Labor may enforce the provisions
14 of this article and may, at reasonable hours, enter any building or
15 premises where heating, ventilating and cooling work is performed
16 and issue cease and desist orders for noncompliance.

17 (b) The Commissioner of Labor may enter into an interagency
18 agreement with the State Fire Marshal for the mutual purpose of
19 enforcing the provisions of this article and the provisions of
20 article three-e, chapter twenty-nine of this code.

21 **§21-16-8. Denial, suspension and revocation of license.**

22 (a) The Commissioner of Labor may deny a license to any
23 applicant who fails to comply with the provisions of this article
24 or the rules established by the Commissioner of Labor or who lacks
25 the necessary qualifications.

1 (b) The Commissioner of Labor may, upon complaint or upon his
2 or her own inquiry, and after notice to the licensee, suspend or
3 revoke a licensee's license if:

4 (1) The license was granted upon an application or documents
5 supporting the application which materially misstated the terms of
6 the applicant's qualifications or experience;

7 (2) The licensee subscribed or vouched for a material
8 misstatement in his or her application for licensure;

9 (3) The licensee incompetently or unsafely performs heating,
10 ventilating and cooling work; or

11 (4) The licensee violated any statute of this state, any
12 legislative rule or any ordinance of any municipality or county of
13 this state which protects the consumer or public against unfair,
14 unsafe, unlawful or improper business practices.

15 **§21-16-9. Penalties.**

16 (a) On and after January 1, 2016, a person performing or
17 offering to perform, or an employer authorizing a person not exempt
18 by the provisions of section three of this article, to perform,
19 heating, ventilating and cooling work without a license issued by
20 the Commissioner of Labor, is subject to a cease and desist order.

21 (b) A person continuing to perform, or an employer continuing
22 to authorize a person not exempt by the provisions of section three
23 of this article, to perform, heating, ventilating and cooling work
24 after the issuance of a cease and desist order is guilty of a
25 misdemeanor and, upon conviction thereof, is subject to the

1 following penalties:

2 (1) For the first offense, a fine of not less than \$200 nor
3 more than \$1,000;

4 (2) For the second offense, a fine of not less than \$500 nor
5 more than \$2,000;

6 (3) For the third and subsequent offenses, a fine of not less
7 than \$1,000 nor more than \$5,000, and confinement in jail for not
8 more than one year.

9 (c) Each day after official notice is given, a person
10 continues to perform, or an employer continues to authorize a
11 person to perform, and which is not exempt by the provisions of
12 section three of this article, heating, ventilating and cooling
13 work, is a separate offense and punishable accordingly.

14 (d) (1) The Commissioner of Labor may institute proceedings in
15 the circuit court of Kanawha County or of the county where the
16 alleged violation of the provisions of this article occurred or are
17 occurring to enjoin any violation of any provision of this article.

18 (2) A circuit court may by injunction compel compliance with
19 this article, with the lawful orders of the Commissioner of Labor
20 and with any final decision of the Commissioner of Labor.

21 (3) The Commissioner of Labor shall be represented in all such
22 proceedings by the Attorney General or his or her assistants.

23 (e) Any person adversely affected by an action of the
24 Commissioner of Labor may appeal the action pursuant to chapter
25 twenty-nine-a of this code.

1 **§21-16-10. Inapplicability of local ordinances.**

2 On and after January 1, 2016, a political subdivision of this
3 state may not require, as a condition precedent to the performance
4 of work on heating, ventilating and cooling in the political
5 subdivision, a person who holds a valid and current license issued
6 under this article, to have any other license or other evidence of
7 competence beyond those required by the Commissioner of Labor to
8 perform work on heating, ventilating and cooling systems.

9 **§21-16-11. Disposition of fees.**

10 All fees paid pursuant to this article, shall be paid to the
11 Commissioner of Labor and deposited in "West Virginia Contractor
12 Licensing Board Fund" for the use of the Commissioner of Labor in
13 a manner consistent with section seventeen, article eleven, chapter
14 twenty-one of this Code.

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

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

17 **§29-3-12b. Fees.**

18 (a) The state fire marshal may establish fees in accordance
19 with the following:

20 (1) For blasting. -- Any person storing, selling or using
21 explosives shall first obtain a permit from the state fire marshal.
22 The permit shall be valid for one year. The state fire marshal may
23 charge a fee for the permit.

24 (2) For inspections of schools or day-care facilities. -- The

1 state fire marshal may charge a fee of up to twenty-five dollars
2 per annual inspection for inspection of schools or day-care
3 facilities: Provided, That only one such fee may be charged per
4 year for any building in which a school and a day-care facility are
5 colocated: Provided, however, That any school or day-care facility
6 may not be charged for an inspection more than one time per
7 twelve-month period.

8 (3) For inspections of hospitals or nursing homes. -- The
9 state fire marshal may charge an inspection fee of up to one
10 hundred dollars per annual inspection of hospitals or nursing
11 homes: Provided, That any hospital or nursing home may not be
12 charged for an inspection more than one time per twelve-month
13 period.

14 (4) For inspections of personal care homes or board and care
15 facilities. -- The state fire marshal may charge an inspection fee
16 of up to fifty dollars per annual inspection for inspections of
17 personal care homes or board and care facilities: Provided, That
18 any personal care home or board and care facility may not be
19 charged for an inspection more than one time per twelve-month
20 period.

21 (5) For inspections of residential occupancies. -- The state
22 fire marshal may charge an inspection fee of up to one hundred
23 dollars for each inspection of a residential occupancy. For
24 purposes of this subdivision, "residential occupancies" are those
25 buildings in which sleeping accommodations are provided for normal

1 residential purposes.

2 (6) For inspections of mercantile occupancies. -- The state
3 fire marshal may charge an inspection fee of up to one hundred
4 dollars for inspections of mercantile occupancies: Provided, That
5 if the inspection is in response to a complaint made by a member of
6 the public, the state fire marshal shall obtain from the
7 complainant an advance inspection fee of twenty-five dollars. This
8 fee shall be returned to the complainant if, after the state fire
9 marshal has made the inspection, he or she finds that the complaint
10 was accurate and justified, and he or she shall thereafter collect
11 an inspection fee of up to one hundred dollars from the mercantile
12 occupancy. If, after the inspection has been performed, it appears
13 to the state fire marshal that the complaint was not accurate or
14 justified, the state fire marshal shall keep the twenty-five dollar
15 advance inspection fee obtained from the complainant and may not
16 collect any fees from the mercantile occupant. For purposes of this
17 section, "mercantile occupancy" includes stores, markets and other
18 rooms, buildings or structures for the display and sale of
19 merchandise.

20 (7) For business occupancies. -- The state fire marshal may
21 charge an inspection fee of up to one hundred dollars for
22 inspections of business occupancies: Provided, That the provisions
23 in subdivision (6) of this section shall apply regarding complaints
24 by members of the public. For purposes of this section, "business
25 occupancies" are those buildings used for the transaction of

1 business, other than mercantile occupancies, for the keeping of
2 accounts and records and similar purposes.

3 (8) For inspections of assembly occupancies. -- The state fire
4 marshal may charge an inspection fee not more than one time per
5 twelve-month period for the inspection of assembly occupancies. The
6 inspection fee shall be assessed as follows: For Class C assembly
7 facilities, an inspection fee not to exceed fifty dollars; for
8 Class B assembly facilities, an inspection fee not to exceed
9 seventy-five dollars; and for Class A facilities, an inspection fee
10 not to exceed one hundred dollars.

11 For purposes of this subdivision, an "assembly occupancy"
12 includes, but is not limited to, all buildings or portions of
13 buildings used for gathering together fifty or more persons for
14 such purposes as deliberation, worship, entertainment, eating,
15 drinking, amusement or awaiting transportation. For purposes of
16 this section, a "Class C assembly facility" is one that
17 accommodates fifty to three hundred persons; a "Class B facility"
18 is one which accommodates more than three hundred persons but less
19 than one thousand persons; and a "Class A facility" is one which
20 accommodates more than one thousand persons.

21 (b) The state fire marshal may collect fees for the fire
22 safety review of plans and specifications for new and existing
23 construction. Fees shall be paid by the party or parties receiving
24 the review.

25 (1) Structural barriers and fire safety plans review. -- The

1 fee is one dollar for each one thousand dollars of construction
2 cost up to the first one million dollars. Thereafter, the fee is
3 forty cents for each one thousand dollars of construction cost.

4 (2) Sprinkler system review. -- The fee charged for the review
5 of an individual sprinkler system is as follows: Number of heads:
6 One to two hundred -- eighty-five dollars; two hundred one to three
7 hundred -- one hundred dollars; three hundred one to seven hundred
8 fifty -- one hundred twenty dollars; over seven hundred fifty --
9 one hundred twenty dollars plus ten cents per head over seven
10 hundred fifty.

11 (3) Fire alarm systems review. -- The fee charged for the
12 review of a fire alarm system is fifty dollars for each ten
13 thousand square feet of space with a fifty dollar minimum charge.

14

15 (4) Range hood extinguishment system review. -- The fee is
16 twenty-five dollars per individual system reviewed.

17 (5) Carpet specifications. -- The fee for carpet review and
18 approval is twenty dollars per installation.

19 (c) All fees authorized and collected pursuant to this
20 article, ~~and~~ article three-b and article three-e of this chapter
21 shall be paid to the state fire commission and thereafter deposited
22 into the special account in the state treasury known as the "fire
23 marshal fees fund". Expenditures from the fund shall be for the
24 purposes set forth in this article and articles three-b, ~~and~~
25 three-c and three-e of this chapter and are not authorized from

1 collections but are to be made only in accordance with
2 appropriation by the Legislature and in accordance with the
3 provisions of article three, chapter twelve of this code and upon
4 fulfillment of the provisions of article two, chapter five-a of
5 this code. Any balance remaining in the special account at the end
6 of any fiscal year shall be reappropriated to the next fiscal year.

7 (d) If the owner or occupant of any occupancy arranges a time
8 and place for an inspection with the state fire marshal and is not
9 ready for the occupancy to be inspected at the appointed time and
10 place, the owner or occupant thereof shall be charged the
11 inspection fee provided in this section unless at least forty-eight
12 hours prior to the scheduled inspection the owner or occupant
13 requests the state fire marshal to reschedule the inspection. In
14 the event a second inspection is required by the state fire marshal
15 as a result of the owner or occupant failing to be ready for the
16 inspection when the state fire marshal arrives, the state fire
17 marshal shall charge the owner or occupant of the occupancy the
18 inspection fees set forth above for each inspection trip required.

19 (e) The fees provided for in this section shall remain in
20 effect until such time as the Legislature has approved rules
21 promulgated by the state fire marshal, in accordance with the
22 provisions of article three, chapter twenty-nine-a of this code,
23 establishing a schedule of fees for services.

24 **ARTICLE 3E. REGULATION OF DAMPER WORK.**

25 **§29-3E-1. Declaration of purpose.**

1 The provisions of this article are intended to protect the
2 health, safety and welfare of the public as well as public and
3 private property by assuring the competence of those who perform
4 damper work through licensure by the State Fire Marshal.

5 **§29-3E-2. Definitions.**

6 As used in this article:

7 (a) "Combination Fire/Smoke Damper" means a device that meets
8 both fire damper and smoke damper requirements.

9 (b) "Damper" means a fire damper, smoke damper or combination
10 fire/smoke damper.

11 (c) "Damper work" means to install, test, maintain or repair
12 a damper.

13 (d) "Fire damper" means a device installed in an air
14 distribution system, designed to close automatically upon detection
15 of heat, to interrupt migratory airflow and to restrict the passage
16 of flame. Fire dampers are classified for use in either static
17 systems or for dynamic systems, where the dampers are rated for
18 closure under airflow.

19 (e) "License" means a valid and current license issued by the
20 State Fire Marshal in accordance with this article.

21 (f) "Single family dwelling" means a building which is
22 occupied as, or designed or intended for occupancy as, a single
23 residence for one or more persons.

24 (g) "Smoke Damper" means a device within an operating
25 (dynamic) air distribution system to control the movement of smoke.

1 **§29-3E-3. License required; exemptions.**

2 (a) On and after January 1, 2016, a person performing or
3 offering to perform damper work in this state shall have a license
4 issued by the State Fire Marshal, in accordance with this article:
5 Provided, That a person may not be licensed to perform damper work
6 in this state without first being licensed as a heating,
7 ventilation and cooling technician pursuant to the provisions of
8 article sixteen, chapter twenty-one of this code.

9 (b) A person licensed under this article shall carry a copy of
10 the license on any job in which damper work is being performed.

11 (c) This article does not apply to:

12 (1) A person who personally performs damper work on a single
13 family dwelling owned by that person or by a member of that
14 person's immediate family; or

15 (2) A person who performs damper work at any manufacturing
16 plant or other industrial establishment as an employee of the
17 person, firm or corporation operating the plant or establishment.

18 **§29-3E-4. Rule-making authority.**

19 The State Fire Marshal shall propose rules for legislative
20 approval, in accordance with the provisions of article three,
21 chapter twenty-nine-a of this code, for the implementation and
22 enforcement of this article, that shall include:

23 (1) Standards and procedures for issuing and renewing
24 licenses, applications, examinations and qualifications: Provided,
25 That the rules require a person to be licensed as a heating,

1 ventilation and cooling technician pursuant to article sixteen,
2 chapter twenty-one of this code and the rules promulgated pursuant
3 thereto, before being granted a license to perform damper work
4 pursuant to this article;

5 (2) Provisions for the granting of licenses without
6 examination, to applicants who present satisfactory evidence of
7 having the expertise required to perform work at the level of the
8 classifications defined in this article and who apply for licensure
9 on or before July 1, 2016: Provided, that if a license issued under
10 the authority of this subsection subsequently lapses, the applicant
11 is subject to all licensure requirements, including the
12 examination;

13 (3) Reciprocity provisions;

14 (4) Procedures for investigating complaints and revoking or
15 suspending licenses, including appeal procedures;

16 (5) Fees for testing, issuance and renewal of licenses and
17 other costs necessary to administer the provisions of this article;

18 (6) Enforcement procedures; and

19 (7) Any other rules necessary to effectuate the purposes of
20 this article.

21 **§29-3E-5. Enforcement; interagency agreements authorized.**

22 (a) The State Fire Marshal and his or her Deputy Commissioner
23 or any compliance officer as authorized by the State Fire Marshal
24 may enforce the provisions of this article, and may, at reasonable
25 hours, enter any building or premises where damper work is

1 performed and issue cease and desist orders for noncompliance.

2 (2) The State Fire Marshal may enter into an interagency
3 agreement with the Commissioner of Labor for the mutual purpose of
4 enforcing this article and article sixteen, chapter twenty-one of
5 this code.

6 **§29-3E-6. Denial, suspension and revocation of license.**

7 (a) The State Fire Marshal may deny a license to any applicant
8 who fails to comply with rules established by the State Fire
9 Marshal, or who lacks the necessary qualifications.

10 (b) The State Fire Marshal may, upon complaint or upon his or
11 her own inquiry, and after notice to the licensee, suspend or
12 revoke a licensee's license if:

13 (1) The license was granted upon an application or documents
14 supporting the application which materially misstated the terms of
15 the applicant's qualifications or experience;

16 (2) The licensee subscribed or vouched for a material
17 misstatement in his or her application for licensure;

18 (3) The licensee incompetently or unsafely performs damper
19 work; or

20 (4) The licensee violated any statute of this state, any
21 legislative rule or any ordinance of any municipality or county of
22 this state which protects the consumer or public against unfair,
23 unsafe, unlawful or improper business practices.

24 **§29-3E-7. Penalties.**

25 (a) On and after January 1, 2016, a person performing or

1 offering to perform, or an employer authorizing a person not exempt
2 by the provisions of section three of this article, to perform,
3 damper work without a license issued by the State Fire Marshal, is
4 subject to a cease and desist order.

5 (b) A person continuing to perform, or an employer continuing
6 to authorize a person not exempt by the provisions of section three
7 of this article, to perform damper work after the issuance of a
8 cease and desist order is guilty of a misdemeanor and, upon
9 conviction thereof, is subject to the following penalties:

10 (1) For the first offense, a fine of not less than \$200 nor
11 more than \$1,000;

12 (2) For the second offense, a fine of not less than \$500 nor
13 more than \$2,000;

14 (3) For the third and subsequent offenses, a fine of not less
15 than \$1,000 nor more than \$5,000, and confinement in jail for not
16 more than one year.

17 (c) Each day after official notice is given, a person
18 continues to perform, or an employer continues to authorize a
19 person to perform, and which is not exempt by the provisions of
20 section three of this article, damper work, is a separate offense
21 and punishable accordingly.

22 (d) (1) The State Fire Marshal may institute proceedings in the
23 circuit court of Kanawha County or of the county where the alleged
24 violation of the provisions of this article occurred or are
25 occurring to enjoin any violation of any provision of this article.

1 (2) A circuit court may by injunction compel compliance with
2 this article, with the lawful orders of the State Fire Marshal and
3 with any final decision of the State Fire Marshal.

4 (3) The State Fire Marshal shall be represented in all such
5 proceedings by the Attorney General or his or her assistants.

6 (e) Any person adversely affected by an action of the State
7 Fire Marshal may appeal the action pursuant to chapter twenty-nine-
8 a of this code.

9 **§29-3E-8. Inapplicability of local ordinances.**

10 On and after January 1, 2016, a political subdivision of this
11 state may not require, as a condition precedent to the performance
12 of damper work in the political subdivision, a person who holds a
13 valid and current license issued under this article to have any
14 other license or other evidence of competence beyond those required
15 by the State Fire Marshal and the Commissioner of Labor to perform
16 damper work.

17 **§29-3E-9. Disposition of fees.**

18 All fees paid pursuant to this article, shall be paid to the
19 State Fire Marshal and deposited in the "Fire Marshal Fees Fund"
20 for the use of the State Fire Marshal as provided in subsection
21 (c), section twelve-b, article three of this chapter.