

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### House Bill 4313

FISCAL  
NOTE

BY DELEGATE COWLES, HAMRICK AND FOSTER

[Introduced January 26, 2018; Referred  
to the Committee on Government Organization.]

1 A BILL to repeal §21-16-1, §21-16-2, §21-16-3, §21-16-4, §21-16-5, §21-16-6, §21-16-7, §21-16-  
 2 8, §21-16-9 and §21-16-10 of the Code of West Virginia, 1931, as amended; to repeal  
 3 §29-3D-1, §29-3D-2, §29-3D-3, §29-3D-4, §29-3D-5, §29-3D-6, §29-3D-7 and §29-3D-8,  
 4 of said code; and to amend and reenact §29-3-12b of said code, all relating to deregulating  
 5 persons who perform work on heating, ventilating and cooling systems and fire dampers.

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

**CHAPTER 21. LABOR.**

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

**§21-16-1. Declaration of purpose.**

1 [Repealed]

**§21-16-2. Definitions.**

1 [Repealed]

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

1 [Repealed]

**§21-16-4. Scope of practice.**

1 [Repealed]

**§21-16-5. Rule-making authority.**

1 [Repealed]

**§21-16-6. Enforcement; interagency agreements authorized.**

1 [Repealed]

**§21-16-7. Denial, suspension and revocation of license.**

1 [Repealed]

**§21-16-8. Penalties.**

1 [Repealed]

**§21-16-9. Inapplicability of local ordinances.**

1 [Repealed]

**§21-16-10. Disposition of fees.**

1 [Repealed]

**CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.****ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.****§29-3-12b. Fees.**

1 (a) The State Fire Marshal may establish fees in accordance with the following:

2 (1) For blasting. -- Any person storing, selling or using explosives shall first obtain a permit  
3 from the State Fire Marshal. The permit shall be valid for one year. The State Fire Marshal may  
4 charge a fee for the permit.

5 (2) For inspections of schools or day-care facilities. -- The State Fire Marshal may charge  
6 a fee of up to \$25 per annual inspection for inspection of schools or day-care facilities: *Provided,*  
7 That only one such fee may be charged per year for any building in which a school and a day-  
8 care facility are colocated: *Provided, however,* That any school or day-care facility may not be  
9 charged for an inspection more than one time per 12-month period.

10 (3) For inspections of hospitals or nursing homes. -- The State Fire Marshal may charge  
11 an inspection fee of up to \$100 per annual inspection of hospitals or nursing homes: *Provided,*  
12 That any hospital or nursing home may not be charged for an inspection more than one time per  
13 12-month period.

14 (4) For inspections of personal care homes or board and care facilities. -- The State Fire  
15 Marshal may charge an inspection fee of up to \$50 per annual inspection for inspections of  
16 personal care homes or board and care facilities: *Provided,* That any personal care home or board  
17 and care facility may not be charged for an inspection more than one time per 12-month period.

18 (5) For inspections of residential occupancies. -- The State Fire Marshal may charge an  
19 inspection fee of up to \$100 for each inspection of a residential occupancy. For purposes of this  
20 subdivision, "residential occupancies" are those buildings in which sleeping accommodations are  
21 provided for normal residential purposes.

22           (6) For inspections of mercantile occupancies. -- The State Fire Marshal may charge an  
23 inspection fee of up to \$100 for inspections of mercantile occupancies: *Provided*, That if the  
24 inspection is in response to a complaint made by a member of the public, the State Fire Marshal  
25 shall obtain from the complainant an advance inspection fee of \$25. This fee shall be returned to  
26 the complainant if, after the State Fire Marshal has made the inspection, he or she finds that the  
27 complaint was accurate and justified, and he or she shall thereafter collect an inspection fee of  
28 up to \$100 from the mercantile occupancy. If, after the inspection has been performed, it appears  
29 to the State Fire Marshal that the complaint was not accurate or justified, the State Fire Marshal  
30 shall keep the \$25 advance inspection fee obtained from the complainant and may not collect any  
31 fees from the mercantile occupant. For purposes of this section, "mercantile occupancy" includes  
32 stores, markets and other rooms, buildings or structures for the display and sale of merchandise.

33           (7) For business occupancies. -- The State Fire Marshal may charge an inspection fee of  
34 up to \$100 for inspections of business occupancies: *Provided*, That the provisions in subdivision  
35 (6) of this section shall apply regarding complaints by members of the public. For purposes of this  
36 section, "business occupancies" are those buildings used for the transaction of business, other  
37 than mercantile occupancies, for the keeping of accounts and records and similar purposes.

38           (8) For inspections of assembly occupancies. -- The State Fire Marshal may charge an  
39 inspection fee not more than one time per 12-month period for the inspection of assembly  
40 occupancies. The inspection fee shall be assessed as follows: For Class C assembly facilities, an  
41 inspection fee not to exceed \$50; for Class B assembly facilities, an inspection fee not to exceed  
42 \$75; and for Class A facilities, an inspection fee not to exceed \$100.

43           For purposes of this subdivision, an "assembly occupancy" includes, but is not limited to,  
44 all buildings or portions of buildings used for gathering together 50 or more persons for such  
45 purposes as deliberation, worship, entertainment, eating, drinking, amusement or awaiting  
46 transportation. For purposes of this section, a "Class C assembly facility" is one that  
47 accommodates 50 to 300 persons; a "Class B facility" is one which accommodates more than 300

48 persons but less than 1,000; and a "Class A facility" is one which accommodates more than 1,000  
49 persons.

50 (b) The State Fire Marshal may collect fees for the fire safety review of plans and  
51 specifications for new and existing construction. Fees shall be paid by the party or parties  
52 receiving the review.

53 (1) Structural barriers and fire safety plans review. -- The fee is \$1 for each \$1,000 of  
54 construction cost up to the first \$1 million. Thereafter, the fee is 80 cents for each \$1,000 of  
55 construction cost.

56 (2) Sprinkler system review. -- The fee charged for the review of an individual sprinkler  
57 system is as follows: Number of heads: One to 200 -- \$85; 201 to 300 hundred -- \$100; 301 to  
58 750 -- \$120; over 750 -- \$120 plus 10 cents per head over 750.

59 (3) Fire alarm systems review. -- The fee charged for the review of a fire alarm system is  
60 \$50 for each 10,000 square feet of space with a \$50 minimum charge.

61 (4) Range hood extinguishment system review. -- The fee is \$25 per individual system  
62 reviewed.

63 (5) Carpet specifications. -- The fee for carpet review and approval is \$20 per installation.

64 (c) All fees authorized and collected pursuant to this article, §29-3B-1 *et seq.* and §29-3C-  
65 1 *et seq.* and ~~article three-d~~ of this code shall be paid to the State Fire Commission and thereafter  
66 deposited into the special account in the State Treasury known as the "Fire Marshal Fees Fund".  
67 Expenditures from the fund shall be for the purposes set forth in this article and §29-3B-1 *et seq.*  
68 and §29-3C-1 *et seq.* and ~~three-d~~ of this code and are not authorized from collections but are to  
69 be made only in accordance with appropriation by the Legislature and in accordance with the  
70 provisions of §12-3-1 *et seq.* of this code and upon fulfillment of the provisions of §5A-2-1 *et seq.*  
71 of this code. Any balance remaining in the special account at the end of any fiscal year shall be  
72 re-appropriated to the next fiscal year.

73 (d) If the owner or occupant of any occupancy arranges a time and place for an inspection

74 with the State Fire Marshal and is not ready for the occupancy to be inspected at the appointed  
 75 time and place, the owner or occupant thereof shall be charged the inspection fee provided in this  
 76 section unless at least 48 hours prior to the scheduled inspection the owner or occupant requests  
 77 the State Fire Marshal to reschedule the inspection. In the event a second inspection is required  
 78 by the State Fire Marshal as a result of the owner or occupant failing to be ready for the inspection  
 79 when the State Fire Marshal arrives, the State Fire Marshal shall charge the owner or occupant  
 80 of the occupancy the inspection fees set forth above for each inspection trip required.

81 (e) The fees provided for in this section shall remain in effect until such time as the  
 82 Legislature has approved rules promulgated by the State Fire Marshal, in accordance with the  
 83 provisions of §29A-3-1 *et seq.* of this code, establishing a schedule of fees for services.

**ARTICLE 3D. SUPERVISION OF FIRE PROTECTION WORK.**

**§29-3D-1. Declaration of purpose.**

1 [Repealed]

**§29-3D-2. Definitions.**

1 [Repealed]

**§29-3D-3. License required; exemptions.**

1 [Repealed]

**§29-3D-4. Rule-making authority.**

1 [Repealed]

**§29-3D-5. Enforcement.**

1 [Repealed]

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

1 [Repealed]

**§29-3D-7. Penalties.**

1 [Repealed]

**§29-3D-8. Inapplicability of local ordinances.**

1 [Repealed]

NOTE: The purpose of this bill is to deregulate persons who perform work on heating, ventilating and cooling systems and fire dampers.

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