

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 27-95 and 27-97 of the Code of Virginia, relating to Statewide Fire*
 3 *Prevention Code Act; counterfeit and unsafe lighters prohibited.*

4 [H 2642]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 27-95 and 27-97 of the Code of Virginia are amended and reenacted as follows:**8 **§ 27-95. Definitions.**9 As used in this chapter, unless the context or subject matter requires otherwise, the following words or
 10 terms shall have the meaning herein ascribed to them:

11 "Board" means the Board of Housing and Community Development.

12 "Code provisions" means the provisions of the Fire Prevention Code as adopted and promulgated by the
 13 Board, and the amendments thereof as adopted and promulgated from time to time by such Board.14 "*Counterfeit lighter*" means any lighter designed in a way that infringes on the intellectual property rights
 15 of any citizen of the United States or any entity that is protected by any federal or state intellectual property
 16 law.17 "Enforcement agency" means the agency or agencies of any local governing body or the State Fire
 18 Marshal charged with the administration or enforcement of the Fire Prevention Code.

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

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

27 "Fire Services Board" means the Virginia Fire Services Board as provided for in § 9.1-202.

28 "Fireworks" means any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or
 29 construction, that contains any explosive or inflammable compound or substance, and is intended, or
 30 commonly known as fireworks, and which explodes, rises into the air or travels laterally, or fires projectiles
 31 into the air.32 "Fireworks operator" or "pyrotechnician" means any person engaged in the design, setup, and firing of
 33 any fireworks other than permissible fireworks either inside a building or structure or outdoors.34 "Inspection warrant" means an order in writing, made in the name of the Commonwealth, signed by any
 35 judge or magistrate whose territorial jurisdiction encompasses the building, structure or premises to be
 36 inspected or entered, and directed to a state or local official, commanding him to enter and to conduct any
 37 inspection, examination, testing or collection of samples for testing required or authorized by the Virginia
 38 Statewide Fire Prevention Code.39 "*Lighter*" means any electrical or mechanical device that operates using any type of fuel, including
 40 butane or another liquid fuel, and is typically used to light a cigarette, cigar, or pipe.

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

42 "Permissible fireworks" means any fountains that do not emit sparks or other burning effects to a distance
 43 greater than five meters (16.4 feet); wheels that do not emit a flame radius greater than one meter (39 inches);
 44 crackling devices and flashers or strobes that do not emit sparks or other burning effects to a distance greater
 45 than two meters (78.74 inches); and sparkling devices or other fireworks devices that (i) do not explode or
 46 produce a report, (ii) do not travel horizontally or vertically under their own power, (iii) do not emit or
 47 function as a projectile, (iv) do not produce a continuous flame longer than 20 inches, (v) are not capable of
 48 being reloaded, and (vi) if designed to be ignited by a fuse, have a fuse that is protected to resist side ignition
 49 and a burning time of not less than four seconds and not more than eight seconds.

50 "State Fire Marshal" means the State Fire Marshal as provided for by § 9.1-206.

51 "*Unsafe lighter*" means (i) a disposable or refillable lighter used for cigarettes, cigars, or pipes that does
 52 not comply with ASTM International standard F400-20, as amended from time to time, or (ii) a lighter used
 53 for utilities, grills, or fireplaces or a lighting rod or gas match that does not comply with ASTM International
 54 standard F2201-20, as amended from time to time.55 **§ 27-97. Adoption of Fire Prevention Code.**

56 The Board of Housing and Community Development is hereby empowered to adopt and promulgate a

57 Statewide Fire Prevention Code which shall be cooperatively developed with the Fire Services Board
58 pursuant to procedures agreed to by the two Boards. The Fire Prevention Code shall prescribe regulations to
59 be complied with for the protection of life and property from the hazards of fire or explosion and for the
60 handling, storage, sale, and use of fireworks, explosives, or blasting agents, and shall provide for the
61 administration and enforcement of such regulations. The Fire Prevention Code shall require manufacturers of
62 fireworks or explosives, as defined in the Code, to register and report information concerning their
63 manufacturing facilities and methods of operation within the Commonwealth in accordance with regulations
64 adopted by the Board. In addition to conducting criminal background checks pursuant to § 27-97.2, the Board
65 shall also establish regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of
66 fireworks or explosives. In the enforcement of such regulations, the enforcing agency may issue annual
67 permits for such activities to any state regulated public utility. Such permits shall not apply to the storage,
68 handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.2.

69 The Fire Prevention Code shall prohibit any person, firm, or corporation from transporting,
70 manufacturing, storing, selling, offering for sale, exposing for sale, or buying, using, igniting, or exploding
71 any fireworks except for those persons, firms, or corporations that manufacture, store, market and distribute
72 fireworks for the sole purpose of fireworks displays permitted by an enforcement agency or by any locality.

73 The Fire Prevention Code shall supersede fire prevention regulations heretofore adopted by local
74 governments or other political subdivisions. Local governments are hereby empowered to adopt fire
75 prevention regulations that are more restrictive or more extensive in scope than the Fire Prevention Code
76 provided such regulations do not affect the manner of construction, or materials to be used in the erection,
77 alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and
78 regulation and inspections thereof in commercial buildings where such smoke alarms are not required under
79 the provisions of the Code. The Fire Prevention Code shall prohibit any person not certified by the State Fire
80 Marshal's Office as a fireworks operator or pyrotechnician to design, set up, or conduct or supervise the
81 design, setup, or conducting of any fireworks display, either inside a building or structure or outdoors and
82 shall require that at least one person holding a valid certification is present at the site where the fireworks
83 display is being conducted. Certification shall not be required for the design, storage, sale, use, conduct,
84 transportation, and set up of permissible fireworks or the supervision thereof or in connection with any
85 fireworks display conducted by a volunteer fire department provided one member of the volunteer fire
86 department holds a valid certification.

87 In formulating the Fire Prevention Code, the Board shall have due regard for generally accepted standards
88 as recommended by nationally recognized organizations including, but not limited to, standards of the
89 International Code Council, the National Fire Protection Association, and recognized organizations issuing
90 standards for the protection of the public from the hazards of explosives and blasting agents. Such standards
91 shall be based on the companion document to the model building code referenced by the Uniform Statewide
92 Building Code.

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

104 *The Fire Prevention Code shall prohibit the offering or sale to the public of unsafe lighters or counterfeit*
105 *lighters regardless of whether such offering or sale is conducted on a retail basis or wholesale basis;*
106 *however, the Fire Prevention Code shall not prohibit (i) the interstate transportation of counterfeit lighters*
107 *or unsafe lighters through the Commonwealth or (ii) the storage of counterfeit lighters or unsafe lighters in*
108 *any distribution center or warehouse located in the Commonwealth, if such distribution center or warehouse*
109 *is closed to the public and does not distribute or sell such lighters to the public.*