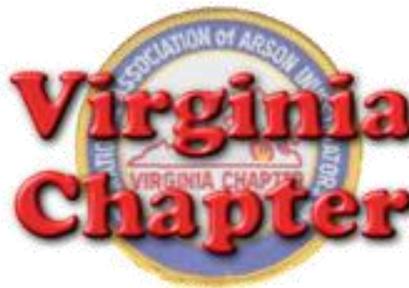


2020 Virginia Legislative Priorities and Issues

Provided to the
Virginia General Assembly



Members of the Virginia General Assembly:

The process of gaining consensus on legislative priorities can be a daunting task that requires significant collaboration and, often times, compromise by all entities/stakeholders involved. Each year, the major fire and EMS stakeholder organizations from across the Commonwealth of Virginia meet to discuss not only their specific legislative needs, but the key issues concerning the organizations as a whole. It is the consensus of the nine, major Virginia fire and EMS stakeholder organizations that legislative items contained in this booklet are our collective priorities for 2020. Our organizations are as follows:

Virginia Fire Chiefs Association, Virginia Professional Firefighters, Virginia State Firefighters Association, Virginia Association of Governmental EMS Administrators, Virginia Association of Volunteer Rescue Squads, Virginia Fire Prevention Association, VA Chapter—International Association of Arson Investigators, Virginia Association of Hazardous Materials Response Specialists, and the Virginia Fire Service Council

As the presidents/chairmen of the above statewide fire and EMS stakeholder organizations, we request that you consider and ultimately approve these major legislative initiatives, which would entail a major impact on fire and EMS in the Commonwealth of Virginia. Further, it is our desire to inform you of other critical issues that are affecting the fire and EMS community and that may require future legislation.

We thank you for your review and consideration of these important matters.

Sincerely,
(Fire and EMS Stakeholders)

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President, Virginia Fire Chiefs Association

Robby Bragg
President, Virginia Professional Firefighters

Ken Brown
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Improving Cancer Coverage for Firefighters

The biggest threat for Virginia's firefighters is the prolonged exposure to unseen carcinogenic substances. Even with the best personal protective gear and decontamination procedures, toxic exposure occurs through inhalation and skin absorption every shift. As a result, Virginia's fire and EMS stakeholders **unanimously support improving occupational cancer coverage for firefighters and emergency medical services personnel**. Further, our organizations would **adamantly oppose any legislation to either reduce funding for cancer prevention efforts in the fire service, or reduce the benefits for those who have developed cancer** in service to the Commonwealth of Virginia.

Under Virginia's current workers' compensation system, it is incredibly difficult, expensive, and burdensome for a firefighter who is battling cancer to be granted the coverage benefit they have earned in service to our community. We support legislation to **add brain, colon and testicular cancers** to the presumptive statute and remove the requirement to link a cancer diagnosis to a specific toxic substance. The process should not require an unattainable standard of proof for the brave men and women who selflessly serve our communities. According to the Joint Legislative Audit and Review Commission's recent study¹, the statutory requirement to prove contact with a toxic substance that caused a fire fighter's cancer "is unreasonably burdensome and possibly counter to legislative intent."

Background:

The Virginia Workers' Compensation Act was amended in 1994 to provide presumptive coverage for firefighters whose death or disability results from five types of occupational cancers, including leukemia, pancreatic, prostate, rectal and throat. Later, the 2000 General Assembly Session added ovarian and breast to the statute as more women joined the fire service. However, no further modifications have been made despite increased research on the linkage between firefighting and other types of cancers.

While entry into burning buildings has long placed firefighters in danger, exposure to unseen carcinogenic substances has elevated cancer to a major occupational hazard for firefighters. Exposure occurs through inhalation and skin absorption, even with the best personal protective gear. Despite comprehensive cancer prevention education and policy changes, Virginia's firefighters continue to receive that dreaded cancer diagnosis at an alarming rate.

Numerous studies document firefighters' higher incidence of cancer than the general population. The CDC's National Institute for Occupational Safety and Health conducted a study that found firefighters have a 14 percent increased risk of dying from cancer.² The time is now to adopt a true cancer presumption and remove the burden upon the employee. According to epidemiologists at Johns Hopkins University's Bloomberg School of Public Health, research supports a plausible

¹ Joint Legislative Audit and Review Commission. Virginia's Workers' Compensation System and Disease Presumptions(December 2019_Retrieved <http://jlarc.virginia.gov/pdfs/reports/Rpt530.pdf>.

² National Institute for Occupational Safety and Health. Study of Cancer among U.S. Fire Fighters. <https://www.cdc.gov/niosh/firefighters/health.html>

connection between firefighters and the cancers currently included in the Code of Virginia, as well as plausible connections to colon, testicular, and brain cancers.³

Our current process is broken. Our firefighters and their families have earned these protections and we need to honor their service by ensuring they get them appropriately.

³ Joint Legislative Audit and Review Commission. Virginia's Workers' Compensation System and Disease Presumptions(December 2019_Retreived <http://jlarc.virginia.gov/pdfs/reports/Rpt530.pdf>.

Fire Programs Fund Increase

The Virginia Fire Programs Fund was established in 1985 as a means to support the critical needs of Virginia's fire services, such as fire training, firefighting equipment and firefighter protective clothing. The proceeds of the Fund are generated from an assessment on specific types of fire insurance in the Commonwealth. The Fund is administered by the Department of Fire Programs under policies established by the Virginia Fire Services Board. The proceeds are distributed annually to the counties, cities and towns based on population. While the fund has experienced some growth due to the economy, the formula percentage (1%) has not increased since 1995.

During the past 24 years, the cost of delivering fire and EMS services has increased considerably. For example: cost of training has increased on average 40% or more, cost of fire and EMS equipment has also seen a significant increase. A fire truck (pumper) in 1995 cost approximately \$300,000, today that same vehicle is in excess of \$700,000. Air packs, an essential component for firefighter safety, in addition to allowing us to effectively and efficiently perform our core duties, have increased cost from \$1,000.00 in 1995 to over \$6,500.00 in 2018 for each unit. Personal protective clothing costs have also increased about \$1,500.00 to over \$3,000.00 per set during this same period.

The various fire and EMS organizations from across the Commonwealth (representing thousands of constituents) are requesting that the current formula percentage (1%) be increased to 1.4% as a means to address the aforementioned increases supporting the delivery of quality fire and EMS services across the Commonwealth. Based on the 2019 budget, this would increase the fund by approximately \$7 million. Currently, the funds received are split with 75% returned to localities and 25% retained for the Department of Fire Programs (DFP). We are also proposing that the percentage be changed to 80% return to localities and 20% retained by DFP. This would increase the distribution to localities across the Commonwealth by over \$3 million. Funding for the administration of DFP would be limited to 20% of the funds received with any unspent funds being directed towards training grants or additional training classes for first responders. The proposed governor's budget reflects an increase in funds for DFP, however, this is only a bookkeeping correction and does not provide any net increase to localities or the agency.

The average cost of a homeowner's policy for common coverage levels based on a rate analysis by insurance.com is \$1,228.00. Currently, the homeowner is contributing approximately \$12.28 to the Fire Programs Fund through the insurance company. The proposed increase in the fund would only result in an average (moderate) insurance increase of about \$4.92 per year. This is the first increase in over 24 years (since 1995). The additional funds will support fire departments across the Commonwealth allowing them to be more effective and efficient, thus saving the citizens and businesses from loss of income and loss of property, and improving the chances of minimizing injuries and deaths in Virginia.

While there is not yet a bill number (as of 12-20-19), the desire is to increase the rate of the assessment for the Fire Programs Fund from 1 to 1.4 percent of the total direct gross premium income for fire and related lines of insurance, as well as increase the share of certain funding in the Fire Programs Fund to be allocated to localities for the improvement of volunteer and career fire services from 75 percent to 80 percent.

Reactive or Exploding Target Enforcement

Throughout the Commonwealth, there have been numerous complaints and a few serious injuries throughout the country, as a result of the improper use of reactive targets, mostly due to users combining large numbers of targets to create a single, big blast. Commercially available under several brand names, reactive or exploding targets are binary explosives that have long been used by mining companies and the blasting industry because the elements, when stored separately, are safe. They are correctly used by long-range target shooters who wish to see a puff of smoke to confirm they have struck their target. The targets only explode when they are hit by a projectile, such as a high-velocity bullet.

Currently, the Virginia Statewide Fire Prevention Code (SFPC) regulates the correct use of reactive targets. The penalty for a violation of the SFPC is a Class 1 misdemeanor, of which the offence must be committed in the officer's presence for the officer to take action under §19.2-74 of the Code of Virginia (COV), to include issuing a summons. To enforce the SFPC requires very specific advanced education and certification which the average law enforcement personnel do not receive and/or maintain. And it would be unwieldy to attempt to ascertain these qualifications. As such, 13VAC5-51-41, Section 104 Enforcement expanded the COV to allow for the enforcement of aerial fireworks or non-permissible 1.4G firework provisions by law-enforcement officers. In accordance with § [27-100.1](#) of the Code of Virginia, law-enforcement officers who are otherwise authorized to enforce certain provisions of this code shall not be subject to the certification requirements of Section 105.2 or 105.3.2. This allows for a wider enforcement of illegal fireworks. This same enforcement network should be utilized to enforce reactive targets.

This will require an addition to two codes:

- 13VAC5-51-41, Section 104, specifically 104.1.2 Enforcement of reactive target provisions by law-enforcement officers. In accordance with § 27-100.2 of the Code of Virginia, law-enforcement officers who are otherwise authorized to enforce certain provisions of this code shall not be subject to the certification requirements of Section 105.2 or 105.3.2.
- § 27-100.2. Seizure and destruction of certain binary explosives known as reactive targets. Any law-enforcement officer arresting any person for a violation of this chapter related to reactive targets shall seize any article of the reactive target in the possession or under the control of the person so arrested and shall hold the same until final disposition of any criminal proceedings against such person. If a judgment of conviction be entered against such person, the court shall order destruction of such articles upon expiration of the time allowed for appeal of such judgment of conviction.

This is necessary to allow local law enforcement and Virginia State Police to enforce the use of reactive targets or exploding targets in excess of 1 pound on private property, used closer than 500 feet to a structure or a roadway, or used outside of the manufacturers intended purpose (e.g., destruction of property, vehicle, structure or animal life). It also ensures consistency with the SFPC throughout the Commonwealth.

Providing Behavioral Health Benefits

Virginia's fire and EMS stakeholders unanimously support providing better mental health coverage for first responders.

Background:

Like many first responders, firefighters spend their days confronting death and destruction. Every shift, these brave men and women work to save others while putting themselves in harm's way. The nature of these jobs yields erratic sleep patterns, significant time away from family and long work hours. Consequently, they are exposed to significant stress and feelings of isolation.

Occupational stress experienced by the fire service can lead to behavioral health issues, such as post-traumatic stress disorder (PTSD), substance abuse, depression and even suicide. PTSD is a mental health condition brought on after experiencing or witnessing a traumatic event. Because of the stressful nature of their jobs, firefighters are often at greater risk of experiencing PTSD than the average person. According to the Firefighter Behavioral Health Alliance, 122 fire fighters and 18 EMTs have committed suicide in 2019 nationwide.⁴

A 2019 survey of nearly 4,900 first responders across 26 agencies in Virginia found that 24.6 percent of first responders on the job for 6 to 10 years experienced depression.⁵ Nearly one in four stated that they felt depression as a result of work, and nearly 8 percent admitted to recent thoughts of suicide (compared to three percent in the general U.S. population).

However, there are few avenues for firefighters to seek workers' compensation benefits for behavioral health issues in the Commonwealth. We support legislation to make psychological injuries compensable. Further, we support additional funding to establish or enhance peer-support health and wellness programs.

⁴ Firefighter Behavioral Health Alliance (December 17, 2019). Retrieved from <http://www.ffbha.org/>.

⁵ 2019 VIRGINIA PUBLIC SAFETY MENTAL HEALTH PILOT SURVEY.

<http://fcop5000.org/wp-content/uploads/2019/08/2019-Fairfax-County-Police-Pilot-Survey-Summary.pdf>

Other Informative Issues

Public Safety and Agritourism

Background

- Virginia has an extensive agritourism industry that includes pick your own vegetables and fruits, craft beverages, and family friendly farm activities. The Fire and Rescue Stakeholders recognize the importance of these businesses to our community and the preservation of rural part of the Commonwealth.
- Under Virginia Code §36-99B, farm buildings and structure are exempt from provisions of the Building Code, except for a building or portion thereof that is operated and licensed as a restaurant. This exemption includes part of a farm building or structure that allows for assembly uses, including, for example, weddings and celebrations.
- There are no minimum safety standards for assembly uses within farm buildings or structures to ensure that people can safely get out of the building/structure should a fire occur.
- There is general understanding by the agritourism industry that minimum safety standards are needed to protect the public and to ensure the long-term viability of the industry. However, the cost of implementation is a concern.
- Educating agritourism industry on the importance of fire safety practices, safe building attributes, and general building code resources is critical to ensuring public safety.

Position

Virginia's fire and EMS stakeholders recognize and value the important role that rural businesses play in our economy. To that end, we support legislation that both promotes agritourism, as well as associated public safety. In particular, we support legislation that requires minimum life safety standards in agritourism buildings or structures used for assembly of 50 or more persons. We also support educating owners of such structures on operational components, such as those found in the Statewide Fire Prevention Code. Minimum safety features that would assist in getting patrons out of buildings or structures quickly include:

- Local non-monitored fire alarm systems;
- Two remote exits, each equipped with exit lights and panic hardware on hinged exit doors that swing out;
- Emergency lighting; and
- Portable fire extinguishers.

School Safety and Barricade Devices

Building and fire codes save lives. We don't want to exchange one potential hazard for another. The Board of Housing and Community Development (BHCD) is poised to amend the Uniform Statewide Building Code in violation of the Americans with Disabilities Act. Changes may come soon as the proposed changes to the USBC and the Statewide Fire Prevention Code. The concerns of the Fire and Rescue Stakeholders is the relaxation of code for the approval of emergency supplemental barricade devices that does not protect the safety of persons with disabilities.

The charge of the Code of Virginia under §27-97 is to use due regard for generally accepted standards, as recommended by nationally recognized organizations including, but not limited to, standards of the International Code Council, the National Fire Protection Association, and recognized organizations. This is also found in the COV §36-99 which informs the Uniform Statewide Building Code (USBC) and includes a barrier-free provision for the physically handicapped and aged. Currently, national organizations are considering options for inclusion into their building and fire codes. It is premature for Virginia to contemplate proposals to counter our fire and life safety codes before these organizations have reached consensus. Codes should not be amended for the minority of structures that may not have the ability to easily exchange locking hardware and remain code compliant. It is for these select, lesser number of structures that a code modification provided by the Fire Official and the Building Official would apply to address a problem.

Doors that are lockable from the inside have and will save lives. Mass shooters have not been penetrating locked doors. We saw this in the recent event on May 31 in Virginia Beach. A supervisor was behind a locked door. Despite shooting the door, the assailant did not enter the room.

Blood Draws of Decedents and/or Non-patients

The Fire and EMS Stakeholders recognize the importance of the collection and testing of specimens of decedents when a law-enforcement officer, firefighter or emergency medical services provider is directly exposed. The medical benefits of obtaining the blood work results, in a timely manner, from the source patient to the referring healthcare professionals are paramount. The ultimate goal is to ensure the exposed worker has the most treatment options available, should post-exposure prophylaxis be needed.

Therefore, we support the recommendations of House Bill 1943 (HB1943, 2019 Session) Workgroup "Workgroup Study on Testing Postmortem Specimens on Occupational Exposures for First Responders." These recommendations include:

1. Amend the Code of Virginia to extend deemed consent for testing when a first responder has an occupational exposure to any patient whether living or dead.
2. Establish a statewide contract with a single designated laboratory capable of testing postmortem specimens for Human Immunodeficiency Virus, Hepatitis B, and Hepatitis C.

3. Assess and evaluate the need for a state exposure validation and coordination center. The roles of this center would be to validate exposures, provide guidance for specimen collection and testing, referrals for medical management, if necessary, document exposures and outcomes including source status, antiviral use, patient outcome and cost, and provide specific training to Designated Infection Control Officers (DICOs).

Lights and Sirens on Non-Emergency Vehicles

The Fire and EMS Stakeholders oppose any legislation that expands the authority to add red and white lights and/or sirens to non-emergency vehicles. There is a perception among the public that red and white flashing lights signal life-saving help has arrived in the form of fire and EMS personnel. Amber (or yellow) lights signal caution for construction and other traffic management purposes, while blue lights signal law enforcement. Adding vehicles with red and white lights and/or sirens may have the unintended consequences of not only confusing drivers, but also causing secondary accidents as drivers strain to see what the vehicles are responding to. Additionally, first responders are given special privileges by nature of their responsibilities, so proper training to encourage discipline and restraint is necessary. Operators of vehicles with red and white lights and/or siren equipment should be required to complete and pass, at a minimum, the Emergency Vehicle Operators Course (EVOC) for driver training and basic CPR/First Aid training.

Fireworks

The Fire and EMS Stakeholders oppose any action by the General Assembly that would expand the sale, possession and use of consumer fireworks, without the provisions to assure compliance with related National Fire Protection Association Standards which contain minimal fire and life safety provisions for all consumer fireworks. Injuries and deaths from fireworks occur annually. According to the U.S. Consumer Product Safety Commission, there were 9,100 fireworks-related injuries treated at U.S. hospitals in 2018—36% occurred in children under 15 years old.⁶ Approximately 5,600 of these occurred from June 22 to July 22, 2018, and nearly half were to individuals younger than 20 years of age. That same report indicated that there were five reported deaths from non-occupational fireworks use. After Iowa allowed the sale of fireworks in 2017, firework injury patients under 18 years of age increased 26%. Injuries after Iowa's legalization were more severe, with 57% requiring surgery compared to the 20% prior to legalization.⁷

⁶ U.S. Consumer Product Safety Commission, 2018 Fireworks Annual Report.
https://www.cpsc.gov/s3fs-public/Fireworks_Report_2018.pdf

⁷ University of Iowa, Legal Consumer Fireworks in Iowa, October 2017 Report3 National Fire Protection Association, Fireworks Safety, June 2016 Fact Sheet.