

SB 389

RECEIVED  
98 APR -7 PM 3:37  
OFFICE OF THE CLERK  
SENATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



## ENROLLED

Committee Substitute For  
SENATE BILL NO. 389

(By Senators BALL, WHITE, HUNTER AND LOVE)



PASSED March 14, 1998

In Effect July 1, 1998 Passage

RECEIVED

98 APR -7 PM 3:37

OFFICE OF THE CLERK  
SENATE OF WEST VIRGINIA

## ENROLLED

COMMITTEE SUBSTITUTE  
FOR

### Senate Bill No. 389

(SENATORS BALL, WHITE, HUNTER  
AND LOVE, *original sponsors*)

---

[Passed March 14, 1998; to take effect July 1, 1998.]

---

AN ACT to amend and reenact section sixteen-a, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring carbon monoxide detectors in certain residential units with a fuel-burning heating or cooking source after the first day of July, one thousand nine hundred ninety-eight; penalty; and requiring maintenance and repair workers to inform owners and lessors of the benefits of carbon monoxide detectors.

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

That section sixteen-a, article three, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

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

**§29-3-16a. Smoke detectors in one- and two-family dwellings; carbon monoxide detectors in residential units; penalty.**

1 (a) On or before the first day of July, one thousand nine  
2 hundred ninety-one, an operational smoke detector shall  
3 be installed in the immediate vicinity of each sleeping area  
4 within all one- and two-family dwellings, including any  
5 "manufactured home" as that term is defined in subsection  
6 (j), section two, article nine, chapter twenty-one of this  
7 code. Such smoke detector shall be capable of sensing  
8 visible or invisible particles of combustion and shall meet  
9 the specifications and be installed as provided for in the  
10 National Fire Protection Association Standard 74,  
11 "Standard for the Installation, Maintenance and Use of  
12 Household Fire Warning Equipment", 1989 edition, and in  
13 the manufacturer's specifications. When activated, the  
14 smoke detector shall provide an alarm suitable to warn  
15 the occupants of the danger of fire.

16 (b) The owner of each dwelling described in subsection  
17 (a) of this section shall provide, install and replace the  
18 operational smoke detectors required by this section. So  
19 as to assure that the smoke detector continues to be  
20 operational, in each dwelling described in subsection (a)  
21 of this section which is not occupied by the owner thereof,  
22 the tenant in any such dwelling shall perform routine  
23 maintenance on the smoke detectors within such dwelling.

24 (c) Where a dwelling is not occupied by the owner and is  
25 occupied by an individual who is deaf or hearing im-  
26 paired, the owner shall, upon written request by or on  
27 behalf of such individual, provide and install a smoke

28 detector with a light signal sufficient to warn the deaf or  
29 hearing-impaired individual of the danger of fire.

30 (d) An automatic fire sprinkler system installed in  
31 accordance with the National Fire Protection Association  
32 Standard 13D, "Standard for the Installation of Sprinkler  
33 Systems in Residential Occupancies", 1989 edition, may be  
34 provided in lieu of smoke detectors.

35 (e) After investigating a fire in any dwelling described in  
36 subsection (a) of this section, the local investigating  
37 authority shall issue to the owner a smoke detector  
38 installation order in the absence of the required smoke  
39 detectors.

40 (f) After the first day of July, one thousand nine hundred  
41 ninety-eight, an operational carbon monoxide detector  
42 with a suitable alarm shall be installed in accordance with  
43 the manufacturer's direction:

44 (1) In any newly constructed residential unit which has  
45 a fuel-burning heating or cooking source, including, but  
46 not limited to, an oil or gas furnace or stove;

47 (2) In any residential unit which is connected to a newly  
48 constructed building, including, but not limited to, a  
49 garage, storage shed or bar, which has a fuel-burning  
50 heating or cooking source, including, but not limited to, an  
51 oil or gas furnace or stove.

52 (g) When repair or maintenance work is undertaken on  
53 a fuel-burning heating or cooking source or a venting  
54 system in an existing residential unit, the person making  
55 the repair or performing the maintenance shall inform the  
56 owner or lessor of the unit of the dangers of carbon  
57 monoxide poisoning and recommend the installation of a  
58 carbon monoxide detector.

59 (h) Any person who violates any provision of this section  
60 is guilty of a misdemeanor and, upon conviction thereof,  
61 shall be fined not less than fifty dollars nor more than one

62 hundred dollars.

63 (i) A violation of this section shall not be deemed by  
64 virtue of such violation to constitute evidence of negli-  
65 gence or contributory negligence or comparative negli-  
66 gence in any civil action or proceeding for damages.

67 (j) A violation of this section shall not constitute a  
68 defense in any civil action or proceeding involving any  
69 insurance policy.

70 (k) Nothing in this section shall be construed to limit the  
71 rights of any political subdivision in this state to enact  
72 laws imposing upon owners of any dwelling or other  
73 building described in subsection (a) or (f) of this section a  
74 greater duty with regard to the installation, repair and  
75 replacement of the smoke detectors or carbon monoxide  
76 detectors than is required by this section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Randy Schomover*  
.....  
Chairman Senate Committee

*Nick Santarsia*  
.....  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1998.

*Carroll Beckwith*  
.....  
Clerk of the Senate

*Gregory M. Gray*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Tommy*  
.....  
Speaker House of Delegates

The within *approved* this the *20th*  
day of *April*, 1998.

*Earl R. Anderson*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

3/31/98

Time

10:45 am