WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1988

ENROLLED

Com. Sub. for
HOUSE BILL No. 2027

(By Mr. Del. Otte & Diversa)

Passed March 10, 1988
In Effect Ninety Days From Passage
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 the fire prevention and control act; smoke detectors in one and two-family dwellings; requiring operational smoke detectors in all one and two-family dwellings constructed after the thirty-first day of December, one thousand nine hundred eighty-eight; deleting certain provisions with respect to mobile homes; and continuing the penalties for violations thereof.

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; penalty.

1 (a) Within all one and two-family dwellings which are not occupied by the owner thereof, and any one and two-family dwellings completed after the thirty-first day of December, one thousand nine hundred eighty-eight, an
5 operational smoke detector shall be installed outside of 6 each separate sleeping area in the immediate vicinity of 7 the sleeping area, which smoke detector shall be capable 8 of sensing visible or invisible particles of combustion. 9 Such smoke detector shall meet the specifications and 10 be installed as provided for in the National Fire 11 Protection Association Standard 74, "Standard for the 12 Installation, Maintenance and Use of Household Fire 13 Warning Equipment," 1980 edition, and the manufac- 14 turer's specifications. When activated, the smoke 15 detector shall provide an alarm suitable to warn the 16 occupants of the danger of fire.

(b) The owner of each dwelling described in 17 subsection (a) of this section shall provide, install and 18 replace the operational smoke detectors required by this 19 section. So as to assure that the smoke detector continues 20 to be operational, in each dwelling described in subsec- 21 tion (a) which is not occupied by the owner thereof, the 22 tenant in any such dwelling shall perform routine 23 maintenance on the smoke detectors within such 24 dwelling.

(c) Where a dwelling is not occupied by the owner and 25 is occupied by an individual who is deaf or hearing 26 impaired, the owner shall, upon written request by or 27 on behalf of such individual, provide and install an 28 operational smoke detector with a light signal sufficient 29 to warn the deaf or hearing-impaired individual of the 30 danger of fire.


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

(f) Any person who violates any provision of this 40 section is guilty of a misdemeanor, and, upon conviction
thereof, shall be fined not less than ten dollars nor more than twenty dollars.

(g) A violation of this section shall not be deemed by virtue of such violation to constitute evidence of negligence or contributory negligence or comparative negligence in any civil action or proceeding for damages.

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

(i) Nothing in this section shall be construed to limit the rights of any political subdivision in this state to enact laws imposing upon owners of any dwelling described in subsection (a) of this section a greater duty with regard to the installation, repair and replacement of the smoke detectors than is required by this section.

(j) Owners of dwellings described in subsection (a) of this section shall comply with the provisions of this section no later than the first day of July, one thousand nine hundred eighty-five, except as may be otherwise specified in said subsection (a).

(k) A violation or suspected violation of this section shall not alone serve as grounds for the granting of a search warrant.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within day of March, 1988.

Governor