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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

— ● —

# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2333

(By ~~Mr.~~ Del. Otte + Luens )

— ● —

Passed April 6, 1989

In Effect Ninety Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2333**  
(By DELEGATES OTTE AND GIVENS)

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[Passed April 6, 1989; in effect ninety days from passage.]

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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 new one and two-family dwellings completed after the first day of July, one thousand nine hundred ninety; deleting certain provisions with respect to mobile homes and exempting "manufactured homes" from the provisions thereof; and continuing and increasing the penalties for violations of this section.

*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
- 2 not occupied by the owner thereof, and within all one
- 3 and two-family dwellings completed after the first day

4 of July, one thousand nine hundred ninety, an opera-  
5 tional smoke detector shall be installed outside of each  
6 separate sleeping area in the immediate vicinity of the  
7 sleeping area: *Provided*, That the provisions of this  
8 section shall not apply to any "manufactured home" as  
9 that term is defined in subsection (j), section two, article  
10 nine, chapter twenty-one of this code. Such smoke  
11 detector shall be capable of sensing visible or invisible  
12 particles of combustion and shall meet the specifications  
13 and be installed as provided for in the National Fire  
14 Protection Association Standard 74, "Standard for the  
15 Installation, Maintenance and Use of Household Fire  
16 Warning Equipment," 1984 edition, and in the manufac-  
17 turer's specifications. When activated, the smoke  
18 detector shall provide an alarm suitable to warn the  
19 occupants of the danger of fire.

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

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

34 (d) An automatic fire sprinkler system installed in  
35 accordance with the National Fire Protection Associa-  
36 tion Standard 13D, "Standard for the Installation of  
37 Sprinkler Systems in Residential Occupancies," 1983  
38 edition, may be provided in lieu of smoke detectors.

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

44 (f) Any person who violates any provision of this  
45 section is guilty of a misdemeanor, and, upon conviction  
46 thereof, shall be fined not less than fifty dollars nor  
47 more than one hundred dollars.

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

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

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

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

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

*Frederick L. Parker*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Todd C. Mills*  
Clerk of the Senate

*Donald L. Hoop*  
Clerk of the House of Delegates

*Lawrence*  
President of the Senate

*Robert*  
Speaker of the House of Delegates

The within *is approved* this the *24th*  
day of *April*, 1989.

*Yaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date

4/14/89

Time

5:12