WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2333

(By Mr. Otte & Diens)

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Passed.................................... April 6, 1989

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 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 not occupied by the owner thereof, and within all one and two-family dwellings completed after the first day
of July, one thousand nine hundred ninety, an operational smoke detector shall be installed outside of each separate sleeping area in the immediate vicinity of the sleeping area: Provided, That the provisions of this section shall not apply to any "manufactured home" as that term is defined in subsection (j), section two, article nine, chapter twenty-one of this code. Such smoke detector shall be capable of sensing visible or invisible particles of combustion and shall meet the specifications and be installed as provided for in the National Fire Protection Association Standard 74, "Standard for the Installation, Maintenance and Use of Household Fire Warning Equipment," 1984 edition, and in the manufacturer's specifications. When activated, the smoke detector shall provide an alarm suitable to warn the occupants of the danger of fire.

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

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

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

(e) After investigating a fire in any dwelling described in subsection (a) of this section, the local investigating authority shall issue to the owner a smoke detector installation order in the absence of the required smoke detectors.
(f) Any person who violates any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars nor more than one hundred 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) 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).
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.

Robert C. Smith
Clerk of the Senate

Daniel L. Kopp
Clerk of the House of Delegates

Larry P. Brown
President of the Senate

Millard T. Clower
Speaker of the House of Delegates

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

Jim Justice
Governor