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# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

— ● —

# ENROLLED

*Com. Sub. for*  
HOUSE BILL No. *2085*

(By ~~Mr.~~ *Del. Love and Schadler*)

— ● —

Passed *March 8,* 1991

In Effect *July 1, 1991* ~~Passage~~

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**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 2085**

(By DELEGATES LOVE AND SCHADLER)

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[Passed March 8, 1991; in effect July 1, 1991.]

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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 requiring the installation of smoke detectors in all one and two-family dwellings, including manufactured homes; and providing criminal penalties therefor.

*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) On or before the first day of July, one thousand  
2 nine hundred ninety-one, an operational smoke detector  
3 shall be installed in the immediate vicinity of each  
4 sleeping area within all one and two-family dwellings,  
5 including any "manufactured home" as that term is  
6 defined in subsection (j), section two, article nine,  
7 chapter twenty-one of this code. Such smoke detector  
8 shall be capable of sensing visible or invisible particles

9 of combustion and shall meet the specifications and be  
10 installed as provided for in the National Fire Protection  
11 Association Standard 74, "Standard for the Installation,  
12 Maintenance and Use of Household Fire Warning  
13 Equipment," 1989 edition, and in the manufacturer's  
14 specifications. When activated, the smoke detector shall  
15 provide an alarm suitable to warn the occupants of the  
16 danger of fire.

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

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

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

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

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

45 (g) A violation of this section shall not be deemed by  
46 virtue of such violation to constitute evidence of  
47 negligence or contributory negligence or comparative

48 negligence in any civil action or proceeding for  
49 damages.

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

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

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

*Homer Heck*  
.....  
Chairman Senate Committee

*Bernest Moore*  
.....  
Chairman House Committee

Originating in the House.

Takes effect July 1, 1991.

*Parrell E. Helms*  
.....  
Clerk of the Senate

*Donald D. Kopp*  
.....  
Clerk of the House of Delegates

*Kitt Brubaker*  
.....  
President of the Senate

*Bob Steele*  
.....  
Speaker of the House of Delegates

The within *is approved* ..... this the *29th*  
day of *March* ....., 1991.

*Yaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/91

Time 4:00 pm