WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998

ENROLLED

Committee Substitute For

SENATE BILL NO. 389

(By Senators Baker, White, Hunter and Lowe)

PASSED March 14, 1998

In Effect July 1, 1998
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.

(a) On or before the first day of July, one thousand nine hundred ninety-one, an operational smoke detector shall be installed in the immediate vicinity of each sleeping area within all one- and two-family dwellings, including 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", 1989 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) of this section 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", 1989 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) After the first day of July, one thousand nine hundred ninety-eight, an operational carbon monoxide detector with a suitable alarm shall be installed in accordance with the manufacturer's direction:

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

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

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

(h) 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.

(i) 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.

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

(k) 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 or other building described in subsection (a) or (f) of this section a greater duty with regard to the installation, repair and replacement of the smoke detectors or carbon monoxide detectors than is required by this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1998.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ..................... this the .....................

day of ....................., 1998.

Governor
PRESENTED TO THE
GOVERNOR/
Date 3/11/98
Time 10:45 AM