WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999

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ENROLLED

SENATE BILL NO. 240

(By Senator WOOTON, ET AL.)

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PASSED February 19, 1999

In Effect 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 smoke detector requirements; carbon monoxide detector requirements; notice to occupants; offenses; and penalties.

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.

1 (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; and

(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) Any person installing a carbon monoxide detector in
a residential unit shall inform the owner, lessor, occupant
or occupants of the residential unit of the dangers of
carbon monoxide poisoning and instructions on the
operation of the carbon monoxide detector installed.

(h) 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, lessor, occupant or occupants of the unit being
served by the fuel-burning heating or cooking source or
venting system of the dangers of carbon monoxide poison-
ing and recommend the installation of a carbon monoxide
detector.

(i) 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.

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

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

(l) 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

Originating in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 26th Day of February, 1999

Governor