WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

ENROLLED

House Bill No. 2986
(By Delegates R. M. Thompson, Ennis, Varner, Caputo, Swartzmiller, Pethtel and Stemple)

Passed March 9, 2002

In Effect Ninety Days from Passage
ENROLLED

H. B. 2986

(BY DELEGATES R. M. THOMPSON, ENNIS, VARNER, CAPUTO, SWARTZMILLER, PETHTEL AND STEMPLE)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eight-c, relating to limiting the civil liability of persons, companies or other organizations who donate fire control or rescue equipment to volunteer fire departments; providing for immunity from liability for personal injury, property damages or death resulting from a defect in the equipment; setting forth exceptions; defining terms; requiring recertification of any breathing apparatus prior to donation; and prohibiting insurers from asserting immunity unless agreed to in writing by the insured.

Be it enacted by the Legislature of West Virginia:

That article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eight-c, to read as follows:
§8-15-Sc. Donation of equipment.

(a) Effective the first day of July, two thousand two, no person, company or other organization who donates fire control or rescue equipment, including federal excess or surplus property, to a volunteer fire department is subject to civil liability for any personal injury, property damages or death resulting from any defect in the equipment unless the person, company or organization acted with malice, gross negligence, recklessness or intentional misconduct which proximately caused the personal injury, property damages or death.

(b) For purposes of this section, "fire control or rescue equipment" means a vehicle, fire fighting tool, protective gear, breathing apparatus or other supply or tool used in fire fighting or fire rescue. No breathing apparatus may be donated unless, prior to the donation, it has been recertified to the manufacturer’s specifications by a technician approved by the manufacturer.

(c) Any insurance policy providing coverage for liability sold, issued or delivered in this state to any person, company or other organization who donates fire control or rescue equipment shall provide that the insurer be barred and estopped from relying upon the immunity granted in this section against claims or suits covered by the terms of the policy within the policy limits, unless the provision or endorsement is rejected in writing by the insured.

The limitation on civil liability set forth in the provisions of this section applies only to policies of insurance issued or renewed on or after July 1, 2001.
That Joint Committee on Enrolled Bills hereby certifies that the
foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 2nd
day of April, 2002.

Governor