

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



ENROLLED

House Bill No. 2986

(By Delegates R. M. Thompson, Ennis, Varner,
Caputo, Swartzmiller, Pethel and Stemple)



Passed March 9, 2002

In Effect Ninety Days from Passage

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H. B. 2986

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

[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:

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS;
CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

§8-15-8c. Donation of equipment.

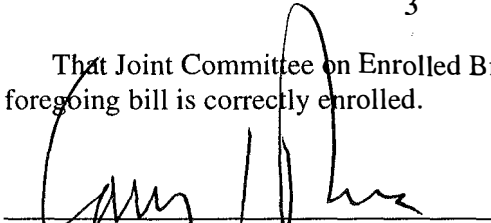
1 (a) Effective the first day of July, two thousand two, no
2 person, company or other organization who donates fire control
3 or rescue equipment, including federal excess or surplus
4 property, to a volunteer fire department is subject to civil
5 liability for any personal injury, property damages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


10 (b) For purposes of this section, "fire control or rescue
11 equipment" means a vehicle, fire fighting tool, protective gear,
12 breathing apparatus or other supply or tool used in fire fighting
13 or fire rescue. No breathing apparatus may be donated unless,
14 prior to the donation, it has been recertified to the manufac-
15 turer's specifications by a technician approved by the manufac-
16 turer.

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

25 The limitation on civil liability set forth in the provisions of
26 this section applies only to policies of insurance issued or
27 renewed on or after July 1, 2001.

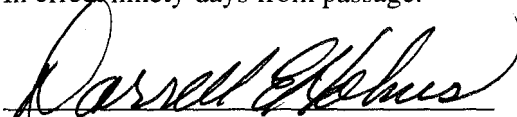
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

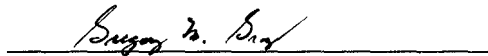

Chairman Senate Committee

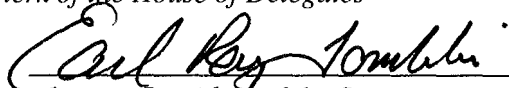

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

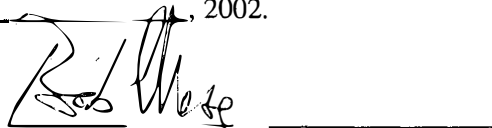

Clerk of the Senate


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

PRESENTED TO THE

GOVERNOR

Date 3/27/02

Time 10:00 a