

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 597**

5 (SENATORS PALUMBO, WILLS, D. FACEMIRE, EDGELL, SNYDER, UNGER, BROWNING,
6 BEACH, KLEMPA, FOSTER AND STOLLINGS, *original sponsors*)

7 _____
8 [Passed March 10, 2012; in effect ninety days from passage.]
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12 AN ACT to amend and reenact §29-3-16a of the Code of West Virginia,
13 1931, as amended, relating to carbon monoxide detectors, smoke
14 detectors and sprinkler systems; requiring smoke detectors and
15 sprinkler systems meet and be installed according to current
16 edition of national standard requirements; requiring carbon
17 monoxide detectors be installed in certain public facilities
18 on and after certain effective date; requiring carbon monoxide
19 detectors be hardwired into alternating current on and after
20 certain date; allowing the installation of either single
21 station carbon monoxide detector or combination smoke detector
22 and carbon monoxide detector; providing certain exception for
23 installing carbon monoxide detectors in certain long-term care
24 facilities; providing for minimum specification requirements

1 and testing, maintaining, repairing and replacing carbon
2 monoxide detectors; and providing for certain penalties.

3 *Be it enacted by the Legislature of West Virginia:*

4 That §29-3-16a of the Code of West Virginia, 1931, as amended,
5 be amended and reenacted to read as follows:

6 **ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

7 **§29-3-16a. Smoke detectors in one- and two-family dwellings;**
8 **carbon monoxide detectors in residential units;**
9 **penalty.**

10 (a) An operational smoke detector shall be installed in the
11 immediate vicinity of each sleeping area within all one and two
12 family dwellings, including any "manufactured home" as that term is
13 defined in subsection (j), section two, article nine, chapter
14 twenty-one of this code. The smoke detector shall be capable of
15 sensing visible or invisible particles of combustion and shall meet
16 the specifications and be installed as provided in the current
17 edition of the National Fire Protection Association Standard 72,
18 "Standard for the Installation, Maintenance and Use of Household
19 Fire Warning Equipment" and in the manufacturer's specifications.
20 When activated, the smoke detector shall provide an alarm suitable
21 to warn the occupants of the danger of fire.

22 (b) The owner of each dwelling described in subsection (a) of
23 this section shall provide, install and replace the operational
24 smoke detectors required by this section. So as to assure that the

1 smoke detector continues to be operational, in each dwelling
2 described in subsection (a) of this section which is not occupied
3 by the owner thereof, the tenant in any dwelling shall perform
4 routine maintenance on the smoke detectors within the dwelling.

5 (c) Where a dwelling is not occupied by the owner and is
6 occupied by an individual who is deaf or hearing impaired, the
7 owner shall, upon written request by or on behalf of the
8 individual, provide and install a smoke detector with a light
9 signal sufficient to warn the deaf or hearing-impaired individual
10 of the danger of fire.

11 (d) An automatic fire sprinkler system installed in accordance
12 with the current edition of the National Fire Protection
13 Association Standard 13D, "Standard for the Installation of
14 Sprinkler Systems in Residential Occupancies" may be provided in
15 lieu of smoke detectors.

16 (e) After investigating a fire in any dwelling described in
17 subsection (a) of this section, the local investigating authority
18 shall issue to the owner a smoke detector installation order in the
19 absence of the required smoke detectors.

20 (f) An operational single station carbon monoxide detector
21 with a suitable alarm or a combination smoke detector and carbon
22 monoxide detector, which shall be alternating current (AC) powered,
23 either plugged directly in to an electrical outlet that is not
24 controlled by a switch or hardwired into an alternating current

1 (AC) electrical source, with battery back up, and be installed,
2 maintained, tested, repaired or replaced, if necessary, in
3 accordance with the manufacturer's direction:

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

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

12 (3) Effective September 1, 2012, in either a common area where
13 the general public has access or all rooms in which a person will
14 be sleeping that are adjoining to and being directly below and
15 above all areas or rooms that contain permanently installed fuel-
16 burning appliances and equipment that emit carbon monoxide as a
17 byproduct of combustion located within all apartment buildings,
18 boarding houses, dormitories, long-term care facilities, adult or
19 child care facilities, assisted living facilities, one- and two-
20 family dwellings intended to be rented or leased, hotels and
21 motels.

22 (g) Effective January 1, 2013, all single station carbon
23 monoxide detectors with a suitable alarm or a combination smoke
24 detector and carbon monoxide detectors shall be hardwired into an

1 alternating current (AC) electrical source, with battery backup,
2 when installed in all newly constructed apartment buildings,
3 boarding houses, dormitories, hospitals, long-term care facilities,
4 adult or child care facilities, assisted living facilities, one-
5 and two-family dwellings intended to be rented or leased, hotels
6 and motels.

7 (h) In any long-term care facility that is staffed on a
8 twenty-four hour, seven day a week basis, the single station carbon
9 monoxide detector with a suitable alarm or a combination smoke
10 detector and carbon monoxide detector shall only be required to be
11 installed in an area of the facility that permits the detector to
12 be audible to the staff on duty.

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

18 (j) When repair or maintenance work is undertaken on a
19 fuel-burning heating or cooking source or a venting system in an
20 existing residential unit, the person making the repair or
21 performing the maintenance shall inform the owner, lessor or the
22 occupant or occupants of the unit being served by the fuel-burning
23 heating or cooking source or venting system of the dangers of
24 carbon monoxide poisoning and recommend the installation of a

1 carbon monoxide detector.

2 (k) Any person who violates any provision of this section is
3 guilty of a misdemeanor and, upon conviction thereof, for a first
4 offense, shall be fined \$250. For a second offense, the person is
5 guilty of a misdemeanor and, upon conviction thereof, shall be
6 fined \$750. For a third and subsequent offenses, the person is
7 guilty of a misdemeanor and, upon conviction thereof, shall be
8 fined \$2000.

9 (l) A violation of this section may not be considered by
10 virtue of the violation to constitute evidence of negligence or
11 contributory negligence or comparative negligence in any civil
12 action or proceeding for damages.

13 (m) A violation of this section may not constitute a defense
14 in any civil action or proceeding involving any insurance policy.

15 (n) Nothing in this section shall be construed to limit the
16 rights of any political subdivision in this state to enact laws
17 imposing upon owners of any dwelling or other building described in
18 subsection (a) or (f) of this section a greater duty with regard to
19 the installation, repair and replacement of the smoke detectors or
20 carbon monoxide detectors than is required by this section.