

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*)

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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.