1 **H. B. 4434**

2

3   (By Delegates Lawrence, Manchin, Hunt, Ellem,
4   Doyle, Boggs, Morgan, Marshall,
5   Guthrie, L. Phillips and Brown)

6   [Introduced February 6, 2012; referred to the

7   Committee on the Judiciary then Education.]

FISCAL NOTE

8

9

10 A BILL to amend and reenact §29-3-16a of the Code of West Virginia,

11   1931, as amended, relating to carbon monoxide detectors, smoke

12   detectors and sprinkler systems; requiring smoke detectors and

13   sprinkler systems meet state fire code requirements; requiring

14   carbon monoxide detectors be installed in certain public

15   facilities; and establishing penalties.

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

17   That §29-3-16a of the Code of West Virginia, 1931, as amended,

18 be amended and reenacted to read as follows:

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

20 **§29-3-16a.   Smoke detectors in one- and two-family dwellings;**

21 **carbon monoxide detectors in residential units;**

22 **penalty.**

23   (a) ~~On or before July 1, 1991, an~~ An operational smoke

24 detector shall be installed in the immediate vicinity of each

1 sleeping area within all one and two family dwellings, including

2 any "manufactured home" as that term is defined in subsection (j),

3 section two, article nine, chapter twenty-one of this code. The

4 smoke detector shall be capable of sensing visible or invisible

5 particles of combustion and shall meet the specifications and be

6 installed as provided in the ~~national fire protection association~~

7 ~~standard 72, "Standard for the Installation, Maintenance and Use of~~

8 ~~Household Fire Warning Equipment", 1996 edition,~~ <u>state fire code</u>

9 and in the manufacturer's specifications. When activated, the

10 smoke detector shall provide an alarm suitable to warn the

11 occupants of the danger of fire.

12   (b) The owner of each dwelling described in subsection (a) of

13 this section shall provide, install and replace the operational

14 smoke detectors required by this section. So as to assure that the

15 smoke detector continues to be operational, in each dwelling

16 described in subsection (a) of this section which is not occupied

17 by the owner thereof, the tenant in any dwelling shall perform

18 routine maintenance on the smoke detectors within the dwelling.

19   (c) Where a dwelling is not occupied by the owner and is

20 occupied by an individual who is deaf or hearing impaired, the

21 owner shall, upon written request by or on behalf of the

22 individual, provide and install a smoke detector with a light

23 signal sufficient to warn the deaf or hearing-impaired individual

24 of the danger of fire.

1   (d) An automatic fire sprinkler system installed in accordance

2 with the ~~national fire protection association standard 13D,~~

3 ~~"Standard for the Installation of Sprinkler Systems in Residential~~

4 ~~Occupancies", 1989 edition,~~ <u>state fire code</u> may be provided in lieu

5 of smoke detectors.

6   (e) After investigating a fire in any dwelling described in

7 subsection (a) of this section, the local investigating authority

8 shall issue to the owner a smoke detector installation order in the

9 absence of the required smoke detectors.

10   (f) ~~After July 1, 1998, an~~ <u>An</u> operational carbon monoxide

11 detector with a suitable alarm shall be installed in accordance

12 with the manufacturer's direction:

13   (1) In any newly constructed residential unit which has a

14 fuel-burning heating or cooking source including, but not limited

15 to, an oil or gas furnace or stove; ~~and~~

16   (2) In any residential unit which is connected to a newly

17 constructed building, including, but not limited to, a garage,

18 storage shed or bar, which has a fuel-burning heating or cooking

19 source, including, but not limited to, an oil or gas furnace or

20 stove; <u>and</u>

21   <u>(3) In all apartment buildings, condominiums, one and two</u>

22 <u>family dwellings and cabins intended to be rented or leased,</u>

23 <u>dormitories, bed and breakfasts and rooming and lodging facilities.</u>

24   (g) Any person installing a carbon monoxide detector in a

1 residential unit shall inform the owner, lessor or the occupant or

2 occupants of the residential unit of the dangers of carbon monoxide

3 poisoning and instructions on the operation of the carbon monoxide

4 detector installed.

5 (h) When repair or maintenance work is undertaken on a

6 fuel-burning heating or cooking source or a venting system in an

7 existing residential unit, the person making the repair or

8 performing the maintenance shall inform the owner, lessor or the

9 occupant or occupants of the unit being served by the fuel-burning

10 heating or cooking source or venting system of the dangers of

11 carbon monoxide poisoning and recommend the installation of a

12 carbon monoxide detector.

13 (i) Any person who violates any provision of this section is

14 guilty of a misdemeanor and, upon conviction thereof, shall be

15 fined not less than $50 nor more than $100.

16 (j) A violation of this section may not be considered by

17 virtue of the violation to constitute evidence of negligence or

18 contributory negligence or comparative negligence in any civil

19 action or proceeding for damages.

20 (k) A violation of this section may not constitute a defense

21 in any civil action or proceeding involving any insurance policy.

22 (l) Nothing in this section shall be construed to limit the

23 rights of any political subdivision in this state to enact laws

24 imposing upon owners of any dwelling or other building described in

1 subsection (a) or (f) of this section a greater duty with regard to

2 the installation, repair and replacement of the smoke detectors or

3 carbon monoxide detectors than is required by this section.

     NOTE: The purpose of this bill is to requiring carbon monoxide detectors be installed in apartment buildings, condominiums, one and two family dwellings and cabins intended to be rented or leased, dormitories, bed and breakfasts and rooming and lodging facilities. The bill requires smoke detectors and sprinkler systems meet state fire code requirements. The bill also establishes penalties.

     Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.