

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 597

(By Senators Palumbo, Wills, D. Facemire, Edgell, Snyder,
Unger, Browning, Beach, Klempa, Foster and Stollings)

[Originating in the Committee on the Judiciary;
reported February 24, 2012.]

A BILL to amend and reenact §29-3-16a of the Code of West Virginia, 1931, as amended, relating to carbon monoxide detectors, smoke detectors and sprinkler systems; requiring smoke detectors and sprinkler systems meet and be installed according to current edition of national standard requirements; requiring carbon monoxide detectors be installed in certain public facilities on and after certain effective date; requiring carbon monoxide detectors be hardwired into alternating current on and after certain date; allowing the installation of either single station carbon monoxide detector

or combination smoke detector and carbon monoxide detector; providing certain exception for installing carbon monoxide detectors in certain long-term care facilities; and providing for minimum specification requirements and testing, maintaining, repairing and replacing carbon monoxide detectors.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

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

1 (a) ~~On or before July 1, 1991, an~~ An operational smoke
2 detector shall be installed in the immediate vicinity of each
3 sleeping area within all one and two family dwellings,
4 including any “manufactured home” as that term is defined
5 in subsection (j), section two, article nine, chapter
6 twenty-one of this code. The smoke detector shall be capable
7 of sensing visible or invisible particles of combustion and
8 shall meet the specifications and be installed as provided in
9 the current edition of the National Fire Protection Associa-
10 tion Standard 72, “Standard for the Installation, Mainte-

11 nance and Use of Household Fire Warning Equipment”, ~~1996~~
12 ~~edition~~, and in the manufacturer’s specifications. When
13 activated, the smoke detector shall provide an alarm suitable
14 to warn the occupants of the danger of fire.

15 (b) The owner of each dwelling described in subsection
16 (a) of this section shall provide, install and replace the
17 operational smoke detectors required by this section. So as
18 to assure that the smoke detector continues to be opera-
19 tional, in each dwelling described in subsection (a) of this
20 section which is not occupied by the owner thereof, the
21 tenant in any dwelling shall perform routine maintenance on
22 the smoke detectors within the dwelling.

23 (c) Where a dwelling is not occupied by the owner and is
24 occupied by an individual who is deaf or hearing impaired,
25 the owner shall, upon written request by or on behalf of the
26 individual, provide and install a smoke detector with a light
27 signal sufficient to warn the deaf or hearing-impaired
28 individual of the danger of fire.

29 (d) An automatic fire sprinkler system installed in
30 accordance with the current edition of the National Fire
31 Protection Association Standard 13D, “Standard for the
32 Installation of Sprinkler Systems in Residential Occupan-

33 cies”, ~~1989 edition~~, may be provided in lieu of smoke detec-
34 tors.

35 (e) After investigating a fire in any dwelling described in
36 subsection (a) of this section, the local investigating author-
37 ity shall issue to the owner a smoke detector installation
38 order in the absence of the required smoke detectors.

39 (f) ~~After July 1, 1998, an~~ An operational single station
40 carbon monoxide detector with a suitable alarm or a combi-
41 nation smoke detector and carbon monoxide detector, which
42 shall be alternating current (AC) powered, either plugged
43 directly in to an electrical outlet that is not controlled by a
44 switch or hardwired into an alternating current (AC)
45 electrical source, with battery back up, and be installed,
46 maintained, tested, repaired or replaced, if necessary, in
47 accordance with the manufacturer’s direction:

48 (1) In any newly constructed residential unit which has
49 a fuel-burning heating or cooking source including, but not
50 limited to, an oil or gas furnace or stove; ~~and~~

51 (2) In any residential unit which is connected to a newly
52 constructed building, including, but not limited to, a garage,
53 storage shed or ~~bar~~ barn, which has a fuel-burning heating

54 or cooking source, including, but not limited to, an oil or gas
55 furnace or stove;

56 (3) Effective September 1, 2012, in either a common area
57 where the general public has access or all rooms in which a
58 person will be sleeping that are adjoining to and being
59 directly below and above all areas or rooms that contain
60 permanently installed fuel-burning appliances and equip-
61 ment that emit carbon monoxide as a byproduct of combus-
62 tion located within all apartment buildings, boarding houses,
63 dormitories, long-term care facilities, adult or child care
64 facilities, assisted living facilities, one- and two- family
65 dwellings intended to be rented or leased, hotels and motels.

66 (g) Effective January 1, 2013, all single station carbon
67 monoxide detector with a suitable alarm or a combination
68 smoke detector and carbon monoxide detectors shall be
69 hardwired into an alternating current (AC) electrical source,
70 with battery backup, when installed in all newly constructed
71 apartment buildings, boarding houses, dormitories, hospitals,
72 long-term care facilities, adult or child care facilities,
73 assisted living facilities, one- and two-family dwellings
74 intended to be rented or leased, hotels and motels.

75 (h) In any long-term care facility that is staffed on a
76 twenty-four hour, seven day a week basis, the single station
77 carbon monoxide detector with a suitable alarm or a combi-
78 nation smoke detector and carbon monoxide detector shall
79 only be required to be installed in an area of the facility that
80 permits the detector to be audible to the staff on duty.

81 ~~(g)~~ (i) Any person installing a carbon monoxide detector
82 in a residential unit shall inform the owner, lessor or the
83 occupant or occupants of the residential unit of the dangers
84 of carbon monoxide poisoning and instructions on the
85 operation of the carbon monoxide detector installed.

86 ~~(h)~~ (j) When repair or maintenance work is undertaken
87 on a fuel-burning heating or cooking source or a venting
88 system in an existing residential unit, the person making the
89 repair or performing the maintenance shall inform the
90 owner, lessor or the occupant or occupants of the unit being
91 served by the fuel-burning heating or cooking source or
92 venting system of the dangers of carbon monoxide poisoning
93 and recommend the installation of a carbon monoxide
94 detector.

95 ~~(i)~~ (k) Any person who violates any provision of this
96 section is guilty of a misdemeanor and, upon conviction
97 thereof, shall be fined not less than \$50 nor more than \$100.

98 ~~(j)~~ (l) A violation of this section may not be considered by
99 virtue of the violation to constitute evidence of negligence or
100 contributory negligence or comparative negligence in any
101 civil action or proceeding for damages.

102 ~~(k)~~ (m) A violation of this section may not constitute a
103 defense in any civil action or proceeding involving any
104 insurance policy.

105 ~~(h)~~ (n) Nothing in this section shall be construed to limit
106 the rights of any political subdivision in this state to enact
107 laws imposing upon owners of any dwelling or other building
108 described in subsection (a) or (f) of this section a greater duty
109 with regard to the installation, repair and replacement of the
110 smoke detectors or carbon monoxide detectors than is
111 required by this section.

(NOTE: The purpose of this bill is to requiring carbon monoxide detectors be installed in apartment buildings, boarding houses, condominiums, dormitories, hospitals, long-term care facilities, adult or child care facilities, assisted living facilities, one and two family dwellings and cabins intended to be rented or leased, bed and breakfasts, hotels and motels. 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.)