

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 597

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

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT 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; providing for minimum specification requirements and testing, maintaining, repairing and replacing carbon monoxide detectors; and providing for certain penalties.

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) An operational smoke detector shall be installed in
2 the immediate vicinity of each sleeping area within all one
3 and two family dwellings, including any “manufactured
4 home” as that term is defined in subsection (j), section two,
5 article nine, chapter twenty-one of this code. The smoke
6 detector shall be capable of sensing visible or invisible
7 particles of combustion and shall meet the specifications and
8 be installed as provided in the current edition of the Na-
9 tional Fire Protection Association Standard 72, “Standard
10 for the Installation, Maintenance and Use of Household Fire
11 Warning Equipment” and in the manufacturer’s specifica-
12 tions. When activated, the smoke detector shall provide an
13 alarm suitable to warn the occupants of the danger of fire.

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

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

28 (d) An automatic fire sprinkler system installed in
29 accordance with the current edition of the National Fire
30 Protection Association Standard 13D, “Standard for the

31 Installation of Sprinkler Systems in Residential Occupan-
32 cies” may be provided in lieu of smoke detectors.

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

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

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

49 (2) In any residential unit which is connected to a newly
50 constructed building, including, but not limited to, a garage,
51 storage shed or barn, which has a fuel-burning heating or
52 cooking source, including, but not limited to, an oil or gas
53 furnace or stove;

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

64 (g) Effective January 1, 2013, all single station carbon
65 monoxide detectors with a suitable alarm or a combination
66 smoke detector and carbon monoxide detectors shall be
67 hardwired into an alternating current (AC) electrical source,

68 with battery backup, when installed in all newly constructed
69 apartment buildings, boarding houses, dormitories, hospitals,
70 long-term care facilities, adult or child care facilities,
71 assisted living facilities, one- and two-family dwellings
72 intended to be rented or leased, hotels and motels.

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

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

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

92 (k) Any person who violates any provision of this section
93 is guilty of a misdemeanor and, upon conviction thereof, for
94 a first offense, shall be fined \$250. For a second offense, the
95 person is guilty of a misdemeanor and, upon conviction
96 thereof, shall be fined \$750. For a third and subsequent
97 offenses, the person is guilty of a misdemeanor and, upon
98 conviction thereof, shall be fined \$2000.

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

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

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

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2012.

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Governor