

Senate Bill No. 451

(By Senator Beach)

[Introduced March 5, 2013;
referred to the Committee on the Judiciary.]

A BILL to amend and reenact §29-3-16a of the Code of West Virginia, 1931, as amended, relating to carbon monoxide detectors in residential units; and clarifying that carbon monoxide detectors are not required unless a structure contains fuel-burning appliances or equipment that emit carbon monoxide byproducts.

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 the
2 immediate vicinity of each sleeping area within all one and
3 two-family dwellings, including any “manufactured home” as
4 that term is defined in subsection (j), section two, article nine,
5 chapter twenty-one of this code. The smoke detector shall be
6 capable of sensing visible or invisible particles of combustion
7 and shall meet the specifications and be installed as provided
8 in the current edition of the National Fire Protection
9 Association Standard 72, “Standard for the Installation,
10 Maintenance and Use of Household Fire Warning Equipment”
11 and in the manufacturer’s specifications. When activated, the
12 smoke detector shall provide an alarm suitable to warn the
13 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 operational,
18 in each dwelling described in subsection (a) of this section
19 which is not occupied by the owner thereof, the tenant in any

20 dwelling shall perform routine maintenance on the smoke
21 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 Occupancies"
32 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 authority
35 shall issue to the owner a smoke detector installation order in
36 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 a
47 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 equipment
59 that emit carbon monoxide as a byproduct of combustion
60 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, assisted
71 living facilities, one- and two-family dwellings intended to be
72 rented or leased, hotels and motels that contain fuel-burning
73 appliances and equipment that emit carbon monoxide
74 byproducts.

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
78 combination smoke detector and carbon monoxide detector
79 shall only be required to be installed in an area of the facility
80 that permits the detector to be audible to the staff on duty.

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

94 (k) Any person who violates any provision of this section
95 is guilty of a misdemeanor and, upon conviction thereof, for

96 a first offense, shall be fined \$250. For a second offense, the
97 person is guilty of a misdemeanor and, upon conviction
98 thereof, shall be fined \$750. For a third and subsequent
99 offenses, the person is guilty of a misdemeanor and, upon
100 conviction thereof, shall be fined \$2000.

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

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

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

(NOTE: The purpose of this bill is to clarify that carbon monoxide detectors are not required unless a structure contains fuel burning appliances or equipment that emit carbon monoxide byproducts.

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