

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4138

BY DELEGATES BYRD, FLUHARTY, LANE, R. MILLER,

PHILLIPS, FLEISCHAUER, MOORE, LOVEJOY, BLAIR,

CANESTRARO AND ROBINSON

[Passed March 2, 2018; in effect ninety days from passage.]

1 AN ACT to amend and reenact §29-3-16a of the Code of West Virginia, 1931, as amended,
2 relating to requiring each public or private school and daycare center that uses a fuel-
3 burning heating system or other fuel-burning heating device that emits combustion gases
4 to install carbon monoxide detectors in certain locations.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

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

1 (a) An operational smoke detector shall be installed in the immediate vicinity of each
2 sleeping area within all one-and two-family dwellings, including any “manufactured home” as that
3 term is defined in §21-9-2(j) of this code. The smoke detector shall be capable of sensing visible
4 or invisible particles of combustion and shall meet the specifications and be installed as provided
5 in the current edition of the National Fire Protection Association Standard 72, “Standard for the
6 Installation, Maintenance, and Use of Household Fire Warning Equipment” and in the
7 manufacturer’s specifications. When activated, the smoke detector shall provide an alarm suitable
8 to warn the occupants of the danger of fire.

9 (b) The owner of each dwelling described in subsection (a) of this section shall provide,
10 install, and replace the operational smoke detectors required by this section. To assure that the
11 smoke detector continues to be operational, in each dwelling described in subsection (a) of this
12 section which is not occupied by the owner of the dwelling, the tenant in any dwelling shall perform
13 routine maintenance on the smoke detectors within the dwelling.

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

18 (d) An automatic fire sprinkler system installed in accordance with the current edition of
19 the National Fire Protection Association Standard 13D, "Standard for the Installation of Sprinkler
20 Systems in Residential Occupancies" may be provided in lieu of smoke detectors.

21 (e) After investigating a fire in any dwelling described in subsection (a) of this section, the
22 local investigating authority shall issue to the owner a smoke detector installation order in the
23 absence of the required smoke detectors.

24 (f) An operational single station carbon monoxide detector with a suitable alarm or a
25 combination smoke detector and carbon monoxide detector, which shall be alternating current
26 (AC) powered, either plugged directly in to an electrical outlet that is not controlled by a switch or
27 hardwired into an alternating current (AC) electrical source, with battery backup, shall be installed,
28 maintained, tested, repaired, or replaced, if necessary, in accordance with the manufacturer's
29 direction:

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

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

35 (3) Effective September 1, 2012, in either a common area where the general public has
36 access or all rooms in which a person will be sleeping that are adjoining to and directly below and
37 above all areas or rooms that contain permanently installed fuel-burning appliances and
38 equipment that emit carbon monoxide as a byproduct of combustion located within all apartment
39 buildings, boarding houses, dormitories, long-term care facilities, adult or child care facilities,
40 assisted living facilities, one- and two-family dwellings intended to be rented or leased, hotels and
41 motels.

42 (g) Effective January 1, 2013, all single station carbon monoxide detectors with a suitable
43 alarm or a combination smoke detector and carbon monoxide detectors shall be hardwired into

44 an alternating current (AC) electrical source, with battery backup, when installed in all newly
45 constructed apartment buildings, boarding houses, dormitories, hospitals, long-term care
46 facilities, adult or child care facilities, assisted living facilities, one- and two-family dwellings
47 intended to be rented or leased, hotels and motels.

48 (h) In any long-term care facility that is staffed on a twenty-four hour, seven day a week
49 basis, the single station carbon monoxide detector with a suitable alarm or a combination smoke
50 detector and carbon monoxide detector is only required to be installed in an area of the facility
51 that permits the detector to be audible to the staff on duty.

52 (i) Effective January 1, 2019, carbon monoxide detectors shall be installed in every public
53 or private school or daycare facility that uses a fuel-burning heating system or other fuel-burning
54 device that produces combustion gases. A carbon monoxide detector shall be located in each
55 area with a fuel-burning heating system or other fuel-burning device that produces combustion
56 gases.

57 (j) Any person installing a carbon monoxide detector in a residential unit shall inform the
58 owner, lessor, or the occupant or occupants of the residential unit of the dangers of carbon
59 monoxide poisoning and instructions on the operation of the installed carbon monoxide detector.

60 (k) When repair or maintenance work is undertaken on a fuel-burning heating or cooking
61 source or a venting system in an existing residential unit, the person making the repair or
62 performing the maintenance shall inform the owner, lessor, or the occupant or occupants of the
63 unit being served by the fuel-burning heating or cooking source or venting system of the dangers
64 of carbon monoxide poisoning and recommend the installation of a carbon monoxide detector.

65 (l) Any person who violates any provision of this section is guilty of a misdemeanor and,
66 upon conviction thereof, for a first offense, shall be fined \$250. For a second offense, the person
67 is guilty of a misdemeanor and, upon conviction thereof, shall be fined \$750. For a third and
68 subsequent offenses, the person is guilty of a misdemeanor and, upon conviction thereof, shall
69 be fined \$2000.

70 (m) A violation of this section may not be considered to constitute evidence of negligence
71 or contributory negligence or comparative negligence in any civil action or proceeding for
72 damages.

73 (n) A violation of this section may not constitute a defense in any civil action or proceeding
74 involving any insurance policy.

75 (o) Nothing in this section shall be construed to limit the rights of any political subdivision
76 in this state to enact laws imposing upon owners of any dwelling or other building described in
77 subsection (a) or (f) of this section a greater duty with regard to the installation, repair, and
78 replacement of the smoke detectors or carbon monoxide detectors than is required by this section.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor