

1 **H. B. 2996**

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3 (By Delegates Lawrence, Barrett, and Hunt)  
4 [Introduced March 20, 2013; referred to the  
5 Committee on the Judiciary then Finance.]  
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10 A BILL to amend and reenact §29-3-16a of the Code of West Virginia,  
11 1931, as amended, relating to smoke detectors in one-and  
12 two-family dwellings; carbon monoxide detectors in residential  
13 units; making it a misdemeanor offense when an investigation,  
14 after a fire, reveals no working smoke detector or carbon  
15 monoxide detector; and misdemeanor 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) An operational smoke detector shall be installed in the

1 immediate vicinity of each sleeping area within all one and two  
2 family dwellings, including any "manufactured home" as that term is  
3 defined in subsection (j), section two, article nine, chapter  
4 twenty-one of this code. The smoke detector shall be capable of  
5 sensing visible or invisible particles of combustion and shall meet  
6 the specifications and be installed as provided in the current  
7 edition of the National Fire Protection Association Standard 72,  
8 "Standard for the Installation, Maintenance and Use of Household  
9 Fire Warning Equipment" and in the manufacturer's specifications.  
10 When activated, the smoke detector shall provide an alarm suitable  
11 to warn the 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 current edition of the National Fire Protection  
3 Association Standard 13D, "Standard for the Installation of  
4 Sprinkler Systems in Residential Occupancies" may be provided in  
5 lieu 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~~ in which no working smoke  
10 detector or carbon monoxide detector is found, the West Virginia  
11 Fire Marshall, West Virginia State Police, County Sheriff, or the  
12 Municipal Police, shall issue a citation as listed in Section (k)  
13 of this section.

14 (f) An operational single station carbon monoxide detector  
15 with a suitable alarm or a combination smoke detector and carbon  
16 monoxide detector, which shall be alternating current (AC) powered,  
17 either plugged directly in to an electrical outlet that is not  
18 controlled by a switch or hardwired into an alternating current  
19 (AC) electrical source, with battery back up, and be installed,  
20 maintained, tested, repaired or replaced, if necessary, in  
21 accordance with the manufacturer's direction:

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

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

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

16           (g) Effective January 1, 2013, all single station carbon  
17 monoxide detectors with a suitable alarm or a combination smoke  
18 detector and carbon monoxide detectors shall be hardwired into an  
19 alternating current (AC) electrical source, with battery backup,  
20 when installed in all newly constructed apartment buildings,  
21 boarding houses, dormitories, hospitals, long-term care facilities,  
22 adult or child care facilities, assisted living facilities, one-  
23 and two-family dwellings intended to be rented or leased, hotels  
24 and motels.

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

7           (i) Any person installing a carbon monoxide detector in a  
8 residential unit shall inform the owner, lessor or the occupant or  
9 occupants of the residential unit of the dangers of carbon monoxide  
10 poisoning and instructions on the operation of the carbon monoxide  
11 detector installed.

12           (j) When repair or maintenance work is undertaken on a  
13 fuel-burning heating or cooking source or a venting system in an  
14 existing residential unit, the person making the repair or  
15 performing the maintenance shall inform the owner, lessor or the  
16 occupant or occupants of the unit being served by the fuel-burning  
17 heating or cooking source or venting system of the dangers of  
18 carbon monoxide poisoning and recommend the installation of a  
19 carbon monoxide detector.

20           (k) Any person who violates any provision of this section is  
21 guilty of a misdemeanor and, upon conviction thereof, for a first  
22 offense, shall be fined \$250. For a second offense, the person is  
23 guilty of a misdemeanor and, upon conviction thereof, shall be  
24 fined \$750. For a third and subsequent offenses, the person is

1 guilty of a misdemeanor and, upon conviction thereof, shall be  
2 fined \$2,000.

3 (l) A violation of this section may not be considered by  
4 virtue of the violation to constitute evidence of negligence or  
5 contributory negligence or comparative negligence in any civil  
6 action or proceeding for damages.

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

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

NOTE: The purpose of this bill is to make it a misdemeanor offense when an investigation, after a fire, reveals no working smoke detector or carbon monoxide detector in one- and two-family dwellings or in residential units.

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