

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4138

BY DELEGATES BYRD, FLUHARTY, LANE, MILLER,
PHILLIPS, FLEISCHAUER, MOORE, LOVEJOY, BLAIR,
CANESTRARO AND ROBINSON

[Introduced January 16, 2018; Referred to the
Committee on the Judiciary.]

1 A BILL to amend and reenact §29-3-16a of the Code of West Virginia, 1931, as amended, relating
2 to requiring each public or private school and daycare center that uses a fuel-burning
3 heating system or other fuel-burning heating device that emits combustion gases to install
4 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. So as to assure that
11 the smoke detector continues to be operational, in each dwelling described in subsection (a) of
12 this section which is not occupied by the owner thereof, 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 ~~back-up~~ backup, and be
28 installed, maintained, tested, repaired, or replaced, if necessary, in accordance with the
29 manufacturer's 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 being directly
37 below and above all areas or rooms that contain permanently installed fuel-burning appliances
38 and equipment that emit carbon monoxide as a byproduct of combustion located within all
39 apartment buildings, boarding houses, dormitories, long-term care facilities, adult or child care
40 facilities, assisted living facilities, one- and two-family dwellings intended to be rented or leased,
41 hotels and 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 shall only be required to be installed in an area of the
51 facility 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)~~ (i) Any person installing a carbon monoxide detector in a residential unit shall inform
58 the 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 carbon monoxide detector installed.

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

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

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

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

NOTE: The purpose of this bill is to require all schools and daycares that use a heating system or other device that emits carbon monoxide to install a carbon monoxide detectors.

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