

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 597**

4 (By Senators Palumbo, Wills, D. Facemire, Edgell, Snyder, Unger,  
5 Browning, Beach, Klempa, Foster and Stollings)

6 \_\_\_\_\_  
7 [Originating in the Committee on the Judiciary;  
8 reported February 24, 2012.]  
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12 A BILL to amend and reenact §29-3-16a of the Code of West Virginia,  
13 1931, as amended, relating to carbon monoxide detectors, smoke  
14 detectors and sprinkler systems; requiring smoke detectors and  
15 sprinkler systems meet and be installed according to current  
16 edition of national standard requirements; requiring carbon  
17 monoxide detectors be installed in certain public facilities  
18 on and after certain effective date; requiring carbon monoxide  
19 detectors be hardwired into alternating current on and after  
20 certain date; allowing the installation of either single  
21 station carbon monoxide detector or combination smoke detector  
22 and carbon monoxide detector; providing certain exception for  
23 installing carbon monoxide detectors in certain long-term care  
24 facilities; and providing for minimum specification

1 requirements and testing, maintaining, repairing and replacing  
2 carbon monoxide detectors.

3 *Be it enacted by the Legislature of West Virginia:*

4 That §29-3-16a of the Code of West Virginia, 1931, as amended,  
5 be amended and reenacted to read as follows:

6 **ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

7 **§29-3-16a. Smoke detectors in one- and two-family dwellings;**  
8 **carbon monoxide detectors in residential units;**  
9 **penalty.**

10 (a) ~~On or before July 1, 1991, an~~ An operational smoke  
11 detector shall be installed in the immediate vicinity of each  
12 sleeping area within all one and two family dwellings, including  
13 any "manufactured home" as that term is defined in subsection (j),  
14 section two, article nine, chapter twenty-one of this code. The  
15 smoke detector shall be capable of sensing visible or invisible  
16 particles of combustion and shall meet the specifications and be  
17 installed as provided in the current edition of the National Fire  
18 Protection Association Standard 72, "Standard for the Installation,  
19 Maintenance and Use of Household Fire Warning Equipment", ~~1996~~  
20 ~~edition,~~ and in the manufacturer's specifications. When activated,  
21 the smoke detector shall provide an alarm suitable to warn the  
22 occupants of the danger of fire.

23 (b) The owner of each dwelling described in subsection (a) of  
24 this section shall provide, install and replace the operational

1 smoke detectors required by this section. So as to assure that the  
2 smoke detector continues to be operational, in each dwelling  
3 described in subsection (a) of this section which is not occupied  
4 by the owner thereof, the tenant in any dwelling shall perform  
5 routine maintenance on the smoke detectors within the dwelling.

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

12 (d) An automatic fire sprinkler system installed in accordance  
13 with the current edition of the National Fire Protection  
14 Association Standard 13D, "Standard for the Installation of  
15 Sprinkler Systems in Residential Occupancies", ~~1989 edition,~~ may be  
16 provided in lieu of smoke detectors.

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

21 (f) ~~After July 1, 1998, an~~ An operational single station  
22 carbon monoxide detector with a suitable alarm or a combination  
23 smoke detector and carbon monoxide detector, which shall be  
24 alternating current (AC) powered, either plugged directly in to an

1 electrical outlet that is not controlled by a switch or hardwired  
2 into an alternating current (AC) electrical source, with battery  
3 back up, and be installed, maintained, tested, repaired or  
4 replaced, if necessary, in accordance with the manufacturer's  
5 direction:

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

9 (2) In any residential unit which is connected to a newly  
10 constructed building, including, but not limited to, a garage,  
11 storage shed or ~~bar~~ barn, which has a fuel-burning heating or  
12 cooking source, including, but not limited to, an oil or gas  
13 furnace or stove;

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

24 (g) Effective January 1, 2013, all single station carbon

1 monoxide detectors with a suitable alarm or a combination smoke  
2 detector and carbon monoxide detectors shall be hardwired into an  
3 alternating current (AC) electrical source, with battery backup,  
4 when installed in all newly constructed apartment buildings,  
5 boarding houses, dormitories, hospitals, long-term care facilities,  
6 adult or child care facilities, assisted living facilities, one-  
7 and two-family dwellings intended to be rented or leased, hotels  
8 and motels.

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

15       ~~(g)~~ (i) Any person installing a carbon monoxide detector in a  
16 residential unit shall inform the owner, lessor or the occupant or  
17 occupants of the residential unit of the dangers of carbon monoxide  
18 poisoning and instructions on the operation of the carbon monoxide  
19 detector installed.

20       ~~(h)~~ (j) When repair or maintenance work is undertaken on a  
21 fuel-burning heating or cooking source or a venting system in an  
22 existing residential unit, the person making the repair or  
23 performing the maintenance shall inform the owner, lessor or the  
24 occupant or occupants of the unit being served by the fuel-burning

1 heating or cooking source or venting system of the dangers of  
2 carbon monoxide poisoning and recommend the installation of a  
3 carbon monoxide detector.

4 ~~(i)~~ (k) Any person who violates any provision of this section  
5 is guilty of a misdemeanor and, upon conviction thereof, shall be  
6 fined not less than \$50 nor more than \$100.

7 ~~(j)~~ (l) A violation of this section may not be considered by  
8 virtue of the violation to constitute evidence of negligence or  
9 contributory negligence or comparative negligence in any civil  
10 action or proceeding for damages.

11 ~~(k)~~ (m) A violation of this section may not constitute a  
12 defense in any civil action or proceeding involving any insurance  
13 policy.

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

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(NOTE: The purpose of this bill is to requiring carbon monoxide detectors be installed in apartment buildings, boarding houses, condominiums, dormitories, hospitals, long-term care facilities, adult or child care facilities, assisted living facilities, one and two family dwellings and cabins intended to be

rented or leased, bed and breakfasts, hotels and motels. The bill requires smoke detectors and sprinkler systems meet state fire code requirements. The bill also establishes penalties.

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