

Senate Bill No. 597

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

[Introduced February 15, 2012; 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, smoke
detectors and sprinkler systems; requiring smoke detectors and
sprinkler systems meet state fire code requirements; requiring
carbon monoxide detectors be installed in certain public
facilities; requiring carbon monoxide alarms be installed in
a central location outside of sleeping quarters and basements
where fuel-fired appliances are installed; defining terms; and
establishing penalties.

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;

1 **carbon monoxide alarms in residential units and**
2 **lodgings; penalty.**

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

16 (b) The owner of each dwelling described in subsection (a) of
17 this section shall provide, install and replace the operational
18 smoke detectors required by this section. So as to assure that the
19 smoke detector continues to be operational, in each dwelling
20 described in subsection (a) of this section which is not occupied
21 by the owner thereof, the tenant in any dwelling shall perform
22 routine maintenance on the smoke detectors within the dwelling.

23 (c) Where a dwelling is not occupied by the owner and is

1 occupied by an individual who is deaf or hearing impaired, the
2 owner shall, upon written request by or on behalf of the
3 individual, provide and install a smoke detector with a light
4 signal sufficient to warn the deaf or hearing-impaired individual
5 of the danger of fire.

6 (d) An automatic fire sprinkler system installed in accordance
7 with the ~~national fire protection association standard 13D,~~
8 ~~"Standard for the Installation of Sprinkler Systems in Residential~~
9 ~~Occupancies", 1989 edition,~~ state fire code may be provided in lieu
10 of smoke detectors.

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

15 (f) ~~After July 1, 1998, an~~ An operational carbon monoxide
16 detector with a suitable alarm shall be installed in ~~accordance~~
17 ~~with the manufacturer's direction~~ any:

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

21 (2) ~~In any residential~~ Residential unit which is connected to
22 a newly constructed building, including, but not limited to, a
23 garage, storage shed or bar, which has a fuel-burning heating or

1 cooking source, including, but not limited to, an oil or gas
2 furnace or stove; and

3 (3) Hotels, motels, hospitals, long-term care facilities,
4 adult or child care facilities, assisted living facilities,
5 boarding houses, dormitories and apartment buildings.

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

11 (h) "Carbon monoxide alarm" means:

12 (1) A device that senses carbon monoxide;

13 (2) When sensing carbon monoxide, it is capable of emitting a
14 distinct and audible sound; and

15 (3) It is wired into an alternating current (AC) powerline
16 with secondary backup.

17 (i) "Install" means:

18 (1) To attach to the wall or ceiling of a dwelling in
19 accordance with the National Fire Protection Association (NFPA) 720
20 standard for the installation of carbon monoxide warning equipment
21 in dwelling units and the manufacturer's recommendations;

22 (2) To plug directly into an electrical outlet that is not
23 controlled by a switch; or

1 (3) To hardwire into an alternating current (AC) electrical
2 service.

3 (j) A carbon monoxide alarm must be installed in a central
4 location outside of sleeping quarters and basements within which
5 fuel-fired appliances are installed. If there is a centralized
6 alarm system that is capable of emitting a distinct and audible
7 sound to warn all occupants, the owner of a dwelling may install a
8 carbon monoxide alarm within twenty-five feet of any carbon
9 monoxide producing fixture and equipment.

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

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

21 ~~(j)~~ (m) A violation of this section may not be considered by
22 virtue of the violation to constitute evidence of negligence or
23 contributory negligence or comparative negligence in any civil

1 action or proceeding for damages.

2 ~~(k)~~ (n) A violation of this section may not constitute a
3 defense in any civil action or proceeding involving any insurance
4 policy.

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

NOTE: The purpose of this bill is to requiring carbon monoxide detectors be installed in hotels, motels, hospitals, long-term care facilities, adult or child care facilities, assisted living facilities, boarding houses, dormitories and apartment buildings. The bill requires smoke detectors and sprinkler systems meet state fire code requirements. The bill requires a carbon monoxide alarm be installed in a central location outside of sleeping quarters and basements where fuel-fired appliances are installed. The bill defines two new terms. 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.