

Clarifying about carbon monoxide detectors

July 20, 1012

Some controversy got up on July 20, 2012, when MHI asked me if carbon monoxide detectors had to be installed in the future in manufactured homes being shipped into West Virginia, under a new law known as Senate Bill 597.

I looked at the new law, which was passed this year and is displayed below. Apparently someone took the first part about smoke detectors, which has been the law for some time, and applied it to the changes that were enacted this year.

The changes begin where I have underlined below.

The genesis for this change was that a worker smothered by carbon monoxide in a Charleston hotel last year that lacked carbon monoxide detectors. This change was made to cover only such buildings in the future.

The carbon monoxide detectors will apply only to hotels, motels and other large buildings like that, according to the bill sponsor, Sen. Corey Palumbo, D-Kanawha, and who is chairman of the Senate Judiciary Committee. "This was never meant to apply to any residential individual area," Palumbo said July 20, 2012, when asked if this applied to manufactured housing or should be applied to our product. "There was never any discussion (in the Legislature) about manufactured homes." He said it definitely does not cover manufactured or modular homes.

I was certain during this bill's passage that it was aimed at correcting a problem in which a worker had been suffocated in a motel in Charleston by carbon monoxide and that at no time was it to apply to anything else. I unequivocally say this does not apply to our homes, or else it would apply to every residential home in the state, and neither was the intent of the bill or its sponsors.

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 597

(SENATORS PALUMBO, WILLS, D. FACEMIRE, EDGELL, SNYDER, UNGER, BROWNING, BEACH, KLEMPA, FOSTER AND STOLLINGS, *original sponsors*)

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT 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 and be installed according to current edition of national standard requirements; requiring carbon monoxide detectors be installed in certain public facilities on and after certain effective date; requiring carbon monoxide detectors be hardwired into alternating current on and after certain date; allowing the installation of either single station carbon monoxide detector or combination smoke detector and carbon monoxide detector; providing certain exception for installing carbon monoxide detectors in certain long-term care facilities; providing for minimum specification requirements and testing, maintaining, repairing and replacing carbon monoxide detectors; and providing for certain 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; carbon monoxide detectors in residential units; penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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