WEST VIRGINIA CODE: §15A-10-12

§15A-10-12. Smoke detectors in one- and two-family dwellings; carbon monoxide detectors in residential units, schools, and daycare facilities; 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 §21-9-2(j) 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 State Fire Code, 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. 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 of the dwelling, 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 hard of hearing, 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 hard of hearing individual of the danger of fire.

(d) An automatic fire sprinkler system installed in accordance with the current edition of the State Fire Code and the State Building Code 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 backup, shall 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; and

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(3) 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 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) 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 24-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 is only required to be installed in an area of the facility that permits the detector to be audible to the staff on duty.

(i) Carbon monoxide detectors shall be installed in every public or private school or daycare facility that uses a fuel-burning heating system or other fuel-burning device that produces combustion gases. A carbon monoxide detector shall be located in each area with a fuel-burning heating system or other fuel-burning device that produces combustion gases.

(j) 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 installed carbon monoxide detector.

(k) 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.

(l) 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.

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

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

(o) 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.

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