

WEST VIRGINIA CODE: §15A-10-14

§15A-10-14. Safety standards for bed and breakfast establishments; findings.

(a) *Findings.* — Bed and breakfast establishments provide a unique and important contribution to the state, allowing visitors the opportunity to enjoy many of the aspects of our communities and state not available at hotels and motels, and often provide vacationers access to overnight accommodation in areas of this state that would not otherwise be available. These operations continue to grow in number and importance in our state's economy and must be promoted and encouraged by state and local government. Most of these facilities are older residences being converted to this use, and in many cases have architectural and historical significance; and, as with most small businesses, are begun with limited capital available for investment. Any fire safety code standards applicable to these facilities must be sensitive to this distinction and avoid placing a large financial burden on persons operating or planning to operate these facilities. Further, the personal safety of those who live in and visit these facilities is of paramount importance and requires that consideration be made to assure that adequate safety requirements are placed on these facilities to provide for the safety of visitors, residents, and, in an emergency, responding firefighters and rescue workers.

(b) *Definition.* — For the purposes of this section, the term “bed and breakfast establishment” means a building occupied as a one-family dwelling unit that provides sleeping accommodations and breakfast to transient guests for a single fee and does not offer more than six guest rooms to no more than 12 guests.

(c) *Fire code standards.* — Notwithstanding any provision of this code to the contrary, every bed and breakfast establishment shall be exempt from provisions of fire safety code requirements which are contrary to the following standards:

(1) Each bed and breakfast shall have operational smoke alarms in all common areas, guest rooms, and hallways, and heat detectors as otherwise required by this code or rule of the Fire Commission. Battery-powered smoke alarms shall be permitted where the establishment has demonstrated that the testing, maintenance, and battery replacement procedures will ensure reliable power to the smoke alarms. Notwithstanding any provision of this code to the contrary, no smoking will be allowed inside a bed and breakfast establishment.

(2) Each bed and breakfast shall have operational hard-wired, battery-powered, or plug-in emergency lighting that indicates available means of egress. Battery-powered or plug-in emergency lighting devices shall be permitted where the establishment has demonstrated that the testing, maintenance, and battery replacement procedures will ensure reliable power to the emergency lighting devices.

(3) The State Fire Marshal shall permit bed and breakfast establishments that cannot readily

comply with the requirements of a legislative rule, which may mandate the installation of a secondary means of escape or a sprinkler system, one year per floor of the establishment to comply with the requirements.

(4) All other provisions of the state fire safety code not inconsistent with this section and rules promulgated pursuant to subsection (d) of this section are applicable to bed and breakfast establishments.

(d) *Legislative rules.* — The State Fire Commission shall promulgate or amend an existing legislative rule, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to effectuate the provisions of this section. The rule shall include a mechanism for the Fire Marshal to grant individual variances to bed and breakfast establishments which cannot otherwise meet provisions of the state fire safety code due to the historic and architectural significance of the establishment, with due consideration of the economic limitations inherent in the operation of this type of small business.

(e) *Historic preservation review.* — The owner of a bed and breakfast may request the historical preservation section of the Division of Culture and History, pursuant to §15A-1-8 of this code, to consult with the owner and provide a recommendation to the Fire Marshal regarding the historic character of the structures used or proposed to be used as a bed and breakfast and any objections or concerns regarding any renovations or other changes required by the Fire Marshal. If an appeal regarding a decision made by the Fire Marshal is made as provided by §15A-10-18 of this code, the Fire Marshal shall consider the recommendation of the historical preservation section when making a determination regarding the variance as provided for in subsection (d) of this section.