



SPONSOR: Sen. Sokola & Rep. Bentz
Sens. Hansen, Walsh; Reps. Kowalko, Mitchell, Viola

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 91

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO CARBON MONOXIDE DETECTION DEVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as
2 shown by underline as follows:

3 Chapter 66C. Carbon Monoxide Detection Devices.

4 § 6601C. Definitions.

5 For purposes of this chapter:

6 (1) “Carbon monoxide detection devices” means a battery-operated or AC powered device that detects the
7 presence of the carbon monoxide gas in order to prevent carbon monoxide poisoning. “Carbon monoxide detection
8 devices” includes combination smoke and carbon monoxide detectors.

9 (2) “Dwelling unit” means a single unit providing complete, independent living facilities for 1 or more
10 persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

11 (3)a. “Lodging establishment” means any building, group of buildings, structure, facility, place, or places of
12 business where 1 or more dwelling units or sleeping units are provided and which is kept, used, maintained,
13 advertised, or held out to the public to provide lodging accommodations for pay which can be construed to be a
14 hotel, motel, motor hotel, apartment or multi-family dwelling, bed and breakfast facility, bunkhouse, cabin,
15 condominiums, dormitory, extended-stay establishment, multi-family dwelling, resort, or other similar place by
16 any other name, be it rented, leased, or owned for either transient guests, permanent guests, or for both transient
17 and permanent guests.

18 b. “Lodging establishment” does not include any of the following:

19 1. Dormitories and other living or sleeping facilities owned or maintained by public or private
20 schools, colleges, universities, or churches unless made available to the general public and not used
21 exclusively for students and faculty.

22 2. A private residence that is occupied by the owner and where no dwelling or sleeping unit is
23 available for pay.

24 (4)a. "Owner" means an individual; corporation; business trust; estate trust; partnership; limited liability
25 company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public
26 corporation; or any other legal or commercial entity that meets any of the following requirements:

27 1. Has a legal interest in a lodging establishment.

28 2. Has an equitable interest in a lodging establishment that includes participation in management of
29 the lodging establishment.

30 3. Operates or manages a lodging establishment.

31 4. Operates or manages a lodging establishment under a contract, lease, or other form of
32 authorization agreement.

33 5. Undertakes actual control or authority over the operation or management of a lodging
34 establishment.

35 b. "Owner" does not mean an equitable interest in an artificial entity under paragraph (4)a. of this section.

36 (5) "Sleeping unit" means a room or space in which people sleep, which can also include permanent
37 provisions for living, eating, and either sanitation or kitchen facilities but not both.

38 (6) "Transient" means occupancy of a dwelling unit or sleeping unit for not more than 30 days.

39 § 6602C. Carbon monoxide detection devices required.

40 (a) Each owner of a lodging establishment shall install carbon monoxide detection devices in accordance with the
41 installation requirements in § 6603C of this title if a dwelling unit or sleeping unit has either of the following:

42 (1) A fossil-fuel burning heater or appliance, a fireplace, or other feature, fixture, or element that emits carbon
43 monoxide as a byproduct of combustion.

44 (2) An attached garage.

45 (b) The requirement of carbon monoxide detection devices under subsection (a) of this section applies to all new
46 and existing lodging establishments, in accordance with the compliance dates provided in § 6604C of this title, regardless
47 of when any such lodging establishment was built.

(c) The owner of a lodging establishment must install and maintain carbon monoxide detection devices required under this chapter, unless there is a tenant of a rented or leased lodging establishment required to have carbon monoxide detection devices under this chapter and the rental agreement, lease agreement, or contract is for a period of 1 month or more. In such a case, the owner must install the required carbon monoxide detection devices but the tenant is responsible for maintaining an operable battery in any carbon monoxide detection devices within the individual rented or leased dwelling unit.

§ 6603C. Carbon monoxide detection device installation.

(a) Carbon monoxide detection devices required under § 6602C(a) of this title must be installed in accordance with the rules and regulations promulgated by the State Fire Marshal's Office.

(b) Carbon monoxide detection devices are not required in a dwelling unit or sleeping unit if any of the following apply:

(1) A dwelling unit or sleeping unit is located more than 1 story above or below any story that contains a fuel-burning appliance or an attached garage.

(2) A dwelling unit or sleeping unit is not connected by duct work or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage.

(c) Carbon monoxide detection devices required under § 6602C(a) of this title must be installed as follows:

(1)a. Carbon monoxide detection devices must be interconnected, so that operation of any carbon monoxide device causes the alarm-sounding devices in all carbon monoxide detection devices within the building occupancy, or within a separate zoned area to sound; or that will initiate the building alarm system to provide an audible warning to all occupants of the building.

b. The Fire Marshal may exempt a carbon monoxide detection device in an individual sleeping room from the requirement under paragraph (c)(1)a. of this section if such building or occupancy is provided with an automatic carbon monoxide detection system in the hallways, corridors, or stairwells, or is connected to a building alarm system that will activate an alarm that is sufficiently audible to warn the occupants of the building of the impending hazard to life.

(2) Carbon monoxide detection devices systems must be hard-wired into the electric system of the building, in accordance with the National Electric Code.

(3) If a building does not have an auxiliary, emergency, or back-up power system in accordance with State Fire Prevention Regulations, each carbon monoxide detection device must have a built-in battery back-up supply.

§ 6604C. Compliance dates.

(a) For each lodging establishment, newly erected, built, or constructed after [the effective date of this chapter], the carbon monoxide detection devices required under § 6602C of this title must be installed at the time of construction.

(b) For each lodging establishment, in the process of being erected, built, or constructed as of [the effective date of this chapter], the carbon monoxide detection devices required under § 6602C of this title must be installed before December 31, 2019 or the completion of construction.

(c) For each existing lodging establishment, erected, built, or constructed before [the effective date of this chapter], the carbon monoxide detection devices required under § 6602C of this title must be installed before December 31, 2020.

§ 6605C. Penalties for noncompliance; enforcement.

(a) The Justice of the Peace Court has jurisdiction over violations of this section.

(b) It is unlawful for an owner or tenant of a lodging establishment required to have carbon monoxide detection devices under this chapter to fail to comply with this chapter. Violation of this subsection is punishable by a civil fine of not less than \$100 nor more than \$500 for each offense.

(c) It is unlawful to tamper with, damage, destroy, or render inoperative any carbon monoxide detection devices required under this chapter. Violation of this subsection is punishable by a civil fine of not less than \$100 nor more than \$500 for each offense.

(d) The State Fire Marshal may take the following actions under this chapter:

(1) Promulgate rules and regulations necessary to implement the provisions of this chapter.

(2) Issue a summons, where necessary, to the owner, the tenant, and the occupant of such lodging establishment, for an appearance in the nearest Justice of the Peace Court when a fire department responds to an alarm of any type at a lodging establishment required to have carbon monoxide detection devices under this chapter and such establishment does not have carbon monoxide detection devices or has carbon monoxide detection devices that are inoperable, not in service, or not installed or maintained as required under this chapter.

(3) Investigate a complaint that a lodging establishment required to have carbon monoxide detection devices under this chapter does not have carbon monoxide detection devices or has carbon monoxide detection devices that are inoperable, not in service, or not installed or maintained as required under this chapter.

(e) Each fine collected under this section must be remitted to the State Fire Marshal's Office in accordance with § 6612 of this title, which provisions must be complied with in implementing the requirements of this chapter, except that the fines are collected within the jurisdictions of the cities of Wilmington, Newark, Dover, or New Castle must be remitted to the appropriate political subdivision. All receipts must be used to subsidize the costs of providing a greater public awareness of the ramifications of not having carbon monoxide detectors.

108 (f) The State Fire Marshal's Office shall be the statewide manager and agency for all public awareness programs
109 generated by the proceeds of the fines collected under this section.
110 (g) In addition to other remedies provided by this section, the State Fire Marshal or the Attorney General may, in
111 addition to other remedies provided by this section, institute injunction, mandamus, abatement, or any other appropriate
112 action or proceeding to prevent any continued violations of this chapter.
113 Section 2. This Act takes effect on January 1, 2019.

SYNOPSIS

This Act creates a requirement that lodging establishments with an appliance that emits carbon monoxide or an attached garage have working carbon monoxide detection devices in each dwelling or sleeping unit.

This Substitute Bill differs from Senate Bill No. 91 as follows:

1. It clarifies that the requirements of this chapter do not apply to a private residence that is occupied by the owner if no dwelling or sleeping units are available for pay.
2. It clarifies the definition of owner so that it includes artificial entities that own or actively manage a lodging establishment but does not include an equitable interest in an artificial entity that is an owner.
3. It changes the requirements for carbon monoxide detection device installation so that the requirements are essentially the same as the requirements for smoke detectors in Chapter 66 of Title 16.
4. It incorporates the changes in Senate Amendment No. 1 to Senate Bill No. 91, including the effective dates for compliance.
5. It provides the State Fire Marshal authority promulgate rules and regulations necessary to implement the provisions of this chapter.
6. It makes this Act effective on January 1, 2019.
7. It makes technical corrections to conform to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Sokola