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Sens. Ennis, Richardson, Sokola, Townsend, Wilson;  
Reps. Baumbach, Michael Smith

DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 308

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO FIRE-RESISTANCE-RELATED CONSTRUCTION.

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

1 Section 1. Amend Title 16 of the Delaware Code by adding a new Chapter 66D and by making deletions as shown  
2 by strikethrough and insertions as shown by underline as follows:

3 Chapter 66D. Fire-Resistance-Related Construction.

4 § 6601D. Definitions.

5 For purposes of this chapter:

6 (1) "Buildings" means a building equipped with HVAC Fire Dampers, Smoke Dampers and/or Smoke  
7 Control System. As used in this chapter, "buildings" does not include residential buildings excluded  
8 under § 6602D of this chapter.

9 (2) "Fire Life Safety damper testing" means testing and inspection activities, including all physical,  
10 visual, and operational tests necessary to ensure the complete opening and closing of dampers and the proper  
11 functioning of fire dampers and smoke dampers as required by the IFC, NFPA 80, NFPA 105, and applicable  
12 engineering specifications.

13 (3) "Fire Life Safety Dampers" means all fire dampers, smoke dampers, and combination fire and smoke  
14 dampers.

15 a. "Combination Fire/Smoke Damper" means a device that meets both the fire damper and  
16 smoke damper requirements.

17 b. "Fire Damper" means a device installed in an air distribution system, designed to close  
18 automatically upon detection of heat, to interrupt migratory airflow and to restrict the passage of flame;  
19 and includes devices installed in air conditioning systems to close automatically upon detection of heat, to  
20 interrupt migratory airflow, and to restrict the passage of flames. A Fire Damper shall also include a  
21 combination fire/smoke damper system.

22 c. “Smoke Damper” means a device within an air distribution system to control the movement of  
23 smoke, and includes devices installed in air conditioning systems to control the movement of smoke. A  
24 Smoke Damper shall also include a combination smoke/fire damper system.

25 (4) “NFPA” means National Fire Protection Association.

26 (5) “Smoke Control System” means an engineered system that includes all methods that can be used  
27 singly or in combination to modify smoke movement, including engineered systems that use mechanical fans  
28 to produce pressure differences across smoke barriers to inhibit smoke movement.

29 § 6602D. Buildings subject to testing.

30 All buildings shall establish a Heating, Ventilating, and Air Conditioning (HVAC) Fire Life Safety Damper, and  
31 Smoke Control System Inspection Verification Program for the purpose of ensuring that Fire Life Safety Dampers and  
32 Smoke Control Systems are in working order to prevent the spread of fire and smoke within walls, floors, and ceilings  
33 except:

34 (1) Residential dwellings having two units or less are excluded from the testing requirements of this  
35 section.

36 (2) All other residential buildings, including hotels, are subject to the required testing only for mechanical  
37 rooms and common use areas, including stairs, hallways, and lobbies.

38 § 6603D. Required testing of Fire Life Safety Dampers.

39 (a) All owners of buildings shall be responsible for ensuring that newly-installed Fire Life Safety Dampers shall be  
40 subject to Fire Life Safety Damper testing required to be installed in buildings pursuant to the Delaware Building Standards  
41 Code are inspected and tested as required by the applicable NFPA standards referenced in the Delaware Building Standards  
42 Code or as set forth in regulations adopted by the State Fire Marshal and in accordance with this section before use is  
43 permitted.

44 (b) Fire Dampers, Smoke Dampers, and Fire Combination Fire/Smoke Dampers shall be periodically inspected  
45 and tested no less than once after the first year of installation and once every four years thereafter, except for hospitals. Fire  
46 Dampers, Smoke Dampers, and Combination Fire/Smoke Dampers in Hospitals shall be periodically inspected and tested  
47 no less than once after the first year of installation and once every six years thereafter. The periodic testing of Fire  
48 Dampers, Smoke Dampers and Combination Fire/Smoke Dampers shall include the Visual Inspection Method as defined in  
49 NFPA 80, 19.5.2.3.2 and in NFPA 105, Section 7.6.3.2. The Remote Inspection Method set defined in Section 19.5.2.2.3  
50 of NFPA 80 and Section 7.6.3.3 of NFPA 105 shall not be used in place of visual inspection for the periodic testing

51 required under this section. All Fire/Smoke Dampers shall be tested, per the aforementioned schedule, regardless of  
52 location.

53 (c) Once installed, Fire Life Safety Dampers shall be periodically inspected and tested no less than once after the  
54 first year of installation and once every four years thereafter, except for hospitals. Fire Dampers, Smoke Dampers, and  
55 Combination Fire/Smoke Dampers in Hospitals shall be periodically inspected and tested no less than once after the first  
56 year of installation and once every six years thereafter. The periodic testing of Fire Dampers, Smoke Dampers and  
57 Combination Fire/Smoke Dampers shall include the Visual Inspection Method as defined in NFPA 80, 19.5.2.3.2 and in  
58 NFPA 105, Section 7.6.3.2 The Remote Inspection Method set defined in Section 19.5.2.2.3 of NFPA 80 and Section  
59 7.6.3.3 of NFPA 105 shall not be used in place of visual inspection for the periodic testing required under this section. All  
60 Fire/Smoke Dampers shall be tested, per the aforementioned schedule, regardless of location.

61 (d) All owners of buildings shall be responsible for ensuring that Smoke Control Systems required to be installed  
62 pursuant to the Delaware Building Standards Code are periodically tested as required by the applicable NFPA standards  
63 referenced in the Delaware Building Standards Code or as set forth in regulations adopted by the State Fire Marshal.  
64 Dedicated Smoke Control Systems shall be tested at least semiannually. Non-Dedicated Smoke Control Systems shall be  
65 tested at least annually. Testing of Smoke Control Systems shall include tests to determine airflow quantities and pressure  
66 differences are code compliant, including at the following locations:

67 (1) Across smoke barrier openings.

68 (2) At the air makeup supplies.

69 (3) At smoke exhaust equipment.

70 § 6604D. Required qualifications of individual testers of fire/smoke dampers.

71 (a) The Delaware State Fire Prevention Commission shall establish and administer a program to review and  
72 approve third-party inspection training and certification programs to ensure conformance to the minimum qualifications set  
73 forth in this section.

74 (b) Inspections and tests under this Section shall be performed by a qualified inspector. For the purposes of this  
75 Section a “qualified inspector” means either:

76 (1) Authorized state or local fire department personnel; or

77 (2) A technician possessing certification from the International Certification Board as a HVAC Fire Life  
78 Safety Technician or through an equivalent certification program accredited under the ISO/IEC 17024 Personnel  
79 Certification standard and that is employed and supervised by a contractor that maintains current workers'  
80 compensation insurance coverage.

81           § 6605D. Certificate of Operation.

82           If the Fire Life Safety Dampers and Smoke Control Systems pass the applicable inspections and tests, the person  
83 performing the inspection or test shall execute a Certificate of Operation which shall verify such compliance, and provide  
84 the name and certification number of the individual(s) conducting the inspection or test and that person's employer, the  
85 name of the building owner and address of the property, the location of all Smoke Dampers, Fire Dampers, Combination  
86 Fire/Smoke Dampers, and Smoke Control Systems inspected or tested, and the date of the inspection or test. The building  
87 owner shall maintain a copy of the Certificate of Operation on the building property and make the Certificate available for  
88 inspection upon request.

89           § 6606D. Testing Failures.

90           (a) In the event an inspection or test reveals deficiencies in Fire Life Safety Dampers, or Smoke Control Systems,  
91 the person(s) who conducted the inspection or test shall prepare a Deficiency Report for the building owner identifying the  
92 nature of the deficiency and reasons for non-compliance. The Deficiency Report shall also contain the name and  
93 certification number of the individual(s) conducting the inspection or test and that person's employer, the name of the  
94 building owner, address of the property, the location of all Fire Dampers, Smoke Dampers, Combination Fire/Smoke  
95 Dampers and Smoke Control Systems inspected or tested, and the date of the inspection or test. The building owner shall,  
96 without delay, take the necessary steps to ensure the defective equipment is replaced or repaired and that compliance with  
97 the applicable inspection and testing requirements has been achieved. A building that does not achieve compliance within  
98 30 days shall be deemed in violation of this section.

99           (b) The building owner shall post a notice of verification of the testing and inspection of Fire Life Safety Dampers,  
100 and Smoke Control Systems in the outside lobby window of the building or other area clearly visible to the public. The  
101 verification shall state the address of the building and the date of the last fire damper inspection, smoke damper inspection,  
102 and smoke control system inspection, and the date that each inspection expires.

103           § 6607D. County functions.

104           (a) Submissions. Building owners shall submit copies of Operation Certificates to the County showing they are in  
105 compliance with the testing requirements of this section within 30 days of obtaining Operation Certificates. The County  
106 shall commence enforcement actions for any instance of non-compliance.

107           (b) Inspections. When the County conducts an annual fire inspection of any building, it shall inspect the building  
108 owner's Fire Life Safety Damper and Smoke Control System Certificate of Operation to ensure it complies with the  
109 requirements of this section and commence enforcement actions if violations are found.

110           § 6608D. Enforcement and penalties.

111 Any person who violates any provision of this code or the technical codes or regulations adopted thereunder; or  
112 fails to comply with any order issued pursuant to any section thereof; or who shall erect, construct, install, remove, alter or  
113 repair a structure, mechanical equipment or system in violation of the approved construction documents or directive of the  
114 code official or of a permit or certificate issued under the provisions of this Ordinance or the technical codes, shall be  
115 assessed a fine of \$100.00 for each day of non-compliance payable to the Office of State Fire Marshall.

#### SYNOPSIS

This bill brings Delaware into conformity with national standards on fire safety dampers and smoke dampers. It requires all buildings of public accommodation and shared residential buildings to conform to standards that will ensure life-saving alarms and fire dampening efforts are safe and up to nationally recognized standards.

Author: Senator Mantzavinos