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
AS AMENDED BY
HOUSE AMENDMENT NO. 1

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 (Three-fourths of all members elected to each house thereof concurring therein):

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

Chapter 66C. Carbon Monoxide Detection Devices.

§ 6601C. Definitions.

For purposes of this chapter:

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

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

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

b. "Lodging establishment" does not include any of the following:

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

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

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

1. Has a legal interest in a lodging establishment.

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

3. Operates or manages a lodging establishment.

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

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

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

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

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

§ 6602C. Carbon monoxide detection devices required.

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

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

(2) An attached garage.

(b) The requirement of carbon monoxide detection devices under subsection (a) of this section applies to all new and existing lodging establishments, in accordance with the compliance dates provided in § 6604C of this title, regardless 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 that must include all of the following:

(1) Single station battery-operated carbon monoxide detection devices listed for the purposes for which they are intended are permitted if both of the following conditions exist:

a. The lodging establishment was either constructed or received final approval for construction, before [the effective date of this chapter],

b. The carbon monoxide detection devices are installed pursuant to manufacturers' specifications.

(2) Requirements will be consistent with the standards and guidelines of all of the following:

a. The recommendations and instructions provided by the manufacturer of a device.

b. Local building codes.

c. The American National Standards Institute.

(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.

§ 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.

(f) The State Fire Marshal's Office shall be the statewide manager and agency for all public awareness programs generated by the proceeds of the fines collected under this section.

(g) In addition to other remedies provided by this section, the State Fire Marshal or the Attorney General may, in addition to other remedies provided by this section, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent any continued violations of this chapter.

Section 2. This Act takes effect on January 1, 2019.