



Pennsylvania Association for the
Education of Young Children



The Voice of Early Childhood



Position Statement on Senate Bill 439, Printer's Number 430

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Position

Recognizing the importance of carbon monoxide alarms in protecting child and staff health and safety, the Pennsylvania Association for the Education of Young Children (PennAEYC), Pittsburgh AEYC (PAEYC) and the Delaware Valley AEYC (DVAEYC) support Senate Bill 439, PN 430 with amendments to include all certified child care providers in the legislation and allow for appropriate enforcement. This unfunded mandate will have a cost for child care providers who have not received new funding in the state budget for a rate increase in ten years.

Bill Summary

SB 439 requires "child care facilities" which use a fossil fuel-burning heater or appliance, fireplace or an attached garage, to have an operational, centrally-located and approved carbon monoxide alarm installed in the vicinity of the fossil-fuel-burning heater or fireplace and in each unit that is located on the same story as the fossil-fuel-burning heater or appliance. The child care facility owner is responsible for providing for the maintenance, repair or replacement of an approved carbon monoxide alarm or the care and replacement of batteries. Failure to install or maintain the alarm in operating condition is a summary offense punishable by a fine of up to \$50. The bill is effective immediately and child care facilities have 18 months after the effective date to comply.

Background

Since 2010, newly constructed single-family homes, including homes used to provide child care, are required to have carbon monoxide alarms through the Construction Code. HB 409 would extend this requirement to commercial buildings, including child care centers. This legislation was passed by both chambers. Neither existing requirements or HB 409 are retroactive. Therefore, SB 439 would ensure all existing child care facilities as defined in the bill would have carbon monoxide alarms.

In addition, other social service entities have requirements to have carbon monoxide alarms. Act 48 of 2016 required personal care homes, assisted living residences and long-term care nursing facilities to install carbon monoxide detectors if they have fossil fuel burning appliances or devices. This statute addresses installation, testing and replacement, evacuation and alarm protocols, compliance and liability exemptions for facilities.

Recommendations and Rationale

Child care facilities that use fossil fuels or have fireplaces or attached garages should have carbon monoxide detectors, but the legislation should be amended to include all licensed child care facilities, rather than only for-profit child care centers. Non-profit centers and family child care homes need to be included.

The dangers of carbon monoxide exposure are clear and children in child care settings and the staff who take care of them should be protected from it. The National Fire Protection Association notes infants can be more severely affected by lower concentrations of carbon monoxide than healthy adults. They also cite that in 2010, 80,100 non-fire carbon monoxide incidents occurred in which carbon monoxide was found compared to 40,900 in 2003. They believe the growth is likely due to the increased use of detectors. In addition, the National Resource Center for Health and Safety in Early Care and Education's *Caring for Our Children: National Health and Safety Performance Standards Guidelines for Early Care*



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and Education, 3rd Edition, 2015 includes a new standard to require carbon monoxide detectors if the child care program uses any product that can produce carbon monoxide indoors or in an attached garage.

Given the danger of carbon monoxide, all child care facilities should be included in the bill to protect all children and staff in these settings. The definition of a child care facility in Senate Bill 439 includes "boarding homes for children" and "child day care centers" defined under Article X of the Human Services Code. It also includes nursery schools licensed and regulated by the commonwealth. Article X of the Human Services Code only includes for-profit facilities. A definition of family child care is also included in Article X, but is not included in the bill, and "child day care" under Article IX, Section 901 (non-profit child care centers) are not included in the bill.

The fine should be eliminated from the legislation and enforcement power should be provided to the Pennsylvania Department of Human Services (DHS).

DHS is responsible for enforcement of child care facility health and safety regulations in the commonwealth and conducts annual and complaint inspections. While there are no requirements in regulation related to carbon monoxide alarms, similarly, all certified (licensed) child care facilities, both center and home-based, must have written fire safety approval prior to receiving their certificate of compliance to operate as a child care provider. Regulations provide DHS the authority to require a plan of correction if a facility is not compliant with regulations and to deny, non-renew, or revoke a license to operate when certain conditions are met.

Rather than a punitive approach through a fine, it is recommended that the penalty be removed from Senate Bill 439 and instead language should be added providing DHS, in consultation with the Department of Labor and Industry, enforcement power like all other health and safety regulations. DHS has the authority to address similar issues through its annual and complaint inspection processes for existing facilities and will not allow a new facility to operate without one once the law passes. The licensure process is a more appropriate way to enforce the bill.

Other settings where young children spend time need to be considered.

It is also important to note that to be truly encompassing of protecting young children, schools should also be required to meet this mandate as young children also spend time in early care and education programs in public schools. It is recognized there is separate legislation, Senate Bill 438, introduced by the sponsor to achieve this goal.

Consider changing the placement of this legislation in statute.

Senate Bill 439 is a freestanding bill. Another approach to consider is adding requirements for child care facilities to Act 48 of 2016. Using that structure would also provide for liability protections for providers if a detector malfunctions and creates clear authority for implementation and compliance with the licensing agency, DHS.

Fiscal Impact to the Child Care Provider Community

As written, the child care provider is responsible for purchasing the carbon monoxide alarm(s). The 18-month period to comply gives adequate time to notify providers and for providers to make the purchase. However, while the cost is not steep, the General Assembly must understand that this additional requirement is an unfunded mandate on child care providers that have not received new funding in the state budget for a rate increase since 2007. If passed, the AEYCs will seek to help their providers with the cost by seeking out opportunities to purchase alarms in bulk through shared services arrangements.