

Position Statement on Senate Bill 129, Printer's Number 105
Issued July 6, 2022

Position

Recognizing the importance of functioning carbon monoxide alarms in protecting child and staff health and safety, the Pennsylvania Association for the Education of Young Children (PennAEYC), Trying Together, and First Up support Senate Bill 129, PN 105. This unfunded mandate will have a cost for child care facilities whose current reimbursement rates have not kept up with the pace of inflation, despite rate increases in 2021 and 2022 utilizing COVID-19 child care relief funds. We are strongly concerned about unfunded mandates, but will assist providers in utilizing shared buying services to reduce costs.

Bill Summary

Senate Bill 129 creates the Carbon Monoxide Alarm Standards in Child Care Facilities Act. The Act would require that each building where a child care facility is operating that uses fossil-fuel-burning heater or appliance, fireplace or in an attached garage, have an operational, centrally located and approved carbon monoxide alarm installed in the vicinity of the heater or fireplace. A carbon monoxide alarm would also need to be located in every unit on the same story as the heater or appliance. Nothing in the Act is intended to modify the authority and responsibility of the Department of Labor and Industry under the Pennsylvania Construction Code Act.

Child care facilities may not be granted a license or certificate of compliance from the Department of Human Services without meeting the requirements of Section 4. A child care facility may be granted a provisional license if they are not in compliance with the requirements of Section 4.

The bill would take effect in 90 days with child care facilities required to meet the carbon monoxide requirement within 18 months of the effective date.

Background

The Department of Human Services (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.

The child care regulations do not permit facilities to have portable space heaters. Fixed space heaters must be approved for use by a local fire safety professional, with written approval of the installation and use on file at the facility. The fixed space heater must also be insulated or equipped with protective guards. Fireplaces, fireplace inserts or woodburning and coal burning stoves must be securely screened or equipped with protective guards when being used, if they are allowed by local ordinance.

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 Act. Act 36 of 2017 extended this requirement to commercial buildings, including child care centers. Neither existing requirements or

Act 36 were retroactive. Therefore, SB 129 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

PennAEYC, Trying Together, and First Up understand the importance of health and safety of children and child care staff. In order to protect the health and safety of children and child care staff, carbon monoxide alarms should be used in child care facilities that use fossil-fuel-burning heaters or appliances, fireplaces or in an attached garage.

[Caring for Our Children's National Health and Safety Performance Standards Guidelines for Early Care and Education Programs](#), 4th Edition, Section 5.2.9.5 notes that carbon monoxide is a deadly, colorless, odorless, poisonous gas. It is produced by the incomplete burning of various fuels, including coal, wood, charcoal, oil, kerosene, propane, and natural gas. Products and equipment powered by internal combustion engine-powered equipment such as portable generators, cars, lawn mowers, and power washers also produce carbon monoxide. Carbon monoxide detectors are the only way to detect this substance.

They recommend that carbon monoxide detector(s) be installed in child care settings if one of the following guidelines is met:

- a. The child care program uses any sources of coal, wood, charcoal, oil, kerosene, propane, natural gas, or any other product that can produce carbon monoxide indoors or in an attached garage;
- b. If detectors are required by state/local law or state licensing agency.

Detectors should be tested monthly. Batteries should be changed at least yearly. Detectors should be replaced at least every five years.

PennAEYC, Trying Together, and First Up recommend that Senate Bill 129 include a child care facility licensed under Article IX of the Human Services Code in Section 5(b) to permit them to be issued a provisional license if they do not meet the carbon monoxide requirements. The bill should include for-profit and non-profit child care facilities with regard to provisional licensure.

Fiscal Impact to Child Care Provider Community

As written, many child care facilities would be responsible for purchasing and installing their carbon monoxide alarms. While the cost is not steep, the General Assembly must understand that this additional requirement is an unfunded mandate on child care facilities, many of whose rates have not kept the pace of inflation. While rate increases were implemented in 2021 and 2022 utilizing COVID-19 child care relief funds, these dollars are one-time funding sources that continue to September 2024. In addition, reimbursement rates for child care programs remain inadequate and a permanent solution is necessary to cover the actual cost to provide care. We have strong concerns regarding unfunded mandates, but if passed, PennAEYC, Trying Together and First Up will seek to help providers with the cost by seeking out opportunities to purchase carbon monoxide alarms in bulk through shared services arrangements.