

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/26/01 H3/30/01

A Bill

Act 1602 of 2001
HOUSE BILL 1631

5 By: Representatives Haak, Salmon
6 By: *Senator Horn*
7

For An Act To Be Entitled

10 AN ACT TO REQUIRE LONG-TERM CARE FACILITIES TO
11 OWN AND MAINTAIN EMERGENCY GENERATORS; AND FOR
12 OTHER PURPOSES.

Subtitle

15 AN ACT TO REQUIRE LONG-TERM CARE
16 FACILITIES TO OWN AND MAINTAIN EMERGENCY
17 GENERATORS.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 *SECTION 1. Arkansas Code Title 20, Chapter 10 is amended by adding the*
23 *following additional subchapter:*

24 20-10-1601. Short title.

25 This subchapter shall be known and may be cited as "The Long-Term Care
26 Facilities Emergency Generator Act of 2001".
27

28 20-10-1602. Definitions.

29 As used in this subchapter:

30 (1) "Areas of refuge" means any hallways, corridors, dining facilities,
31 lobbies, reception areas, or community rooms designated by the nursing
32 facility and approved by the Office of Long-Term Care;

33 (2) "Critical systems" means:

34 (A) Heating systems;

35 (B) Cooling systems;

36 (C) Call light or nurse call system;

1 (D) Illumination, heating and cooling, and life-support or life-
2 sustaining equipment in areas of refuge;

3 (E) Alarm systems, including fire and smoke alarms and fire
4 extinguishing systems;

5 (F) Paging or speaker systems if intended for communication
6 during an emergency;

7 (G) Life-sustaining and life-support equipment;

8 (H) Refrigeration for medications, and for food and liquids that
9 require refrigeration;

10 (I) Continuous operation of telephone systems;

11 (J) Hot water circulation pumps and boiler rooms; and

12 (K) Elevators in facilities with elevators; and

13 (3) "Existing facility" means a facility constructed, or for which
14 plans for construction have been approved by the Office of Long-Term Care,
15 prior to the effective date of this act;

16 (4) "Facility" means nursing facility or nursing home; and

17 (5) "New resident" means a person who has not been previously admitted
18 to the nursing facility in the last fourteen (14) days.

19
20 20-10-1603. Requirements.

21 (a)(1) No later than six (6) months from the effective date of this
22 act, each nursing facility or nursing home shall submit for approval to the
23 Office of Long Term Care plans prepared by a licensed architect, engineer,
24 electrician or individual deemed qualified by the manufacturer of the
25 generator for the installation of an emergency generator sufficient to
26 provide;

27 (A)(i) For existing facilities, power to critical systems
28 for a period of no less than forty-eight (48) continuous hours in the event of
29 interruption of normal power supplies;

30 (ii) However, nursing facilities are not required to
31 provide heating or cooling to areas not designated and approved as areas of
32 refuge; and

33 (B) For facilities constructed after the effective date of
34 this act, power to all systems in the entire nursing facility that require
35 electric power for operation for a period of no less than forty-eight (48)
36 continuous hours in the event of interruption of normal power supplies;

1 (i) Facilities constructed after the effective date
2 of this act are not required to provide power to air conditioning systems to
3 residents' room; and

4 (ii) Facilities constructed after the effective date
5 of this act are required to provide power to air conditioning systems for
6 areas of refuge.

7 (2) By November 1, 2002, each facility shall either:

8
9 (A) Have the emergency generator installed and functioning;
10 or

11 (B)(i) Have appropriate access for an emergency generator
12 installed and functioning; and

13 (ii) Have signed a lease agreement ensuring that the
14 facility will have an approved emergency generator installed and functioning
15 within eight (8) hours of an emergency electrical outage, but facilities shall
16 provide emergency power to life-sustaining and life-support equipment and to
17 exit lighting immediately upon loss of normal or regular power supplies.

18 (3) If the office determines that a plan does not meet the
19 requirements of this subchapter:

20 (A) The office shall notify the facility in writing that
21 the plan is unacceptable and shall state the specific deficiencies in the
22 plan; and

23 (B)(i) The facility shall submit a revised plan to the
24 office within sixty (60) days of the date of the written notice; and

25 (ii) The revised plan shall correct the deficiencies
26 listed in the written notice of the office.

27 (4)(A) If a facility does not agree with the determination by the
28 office that a plan is unacceptable, the facility may appeal the determination
29 pursuant to § 20-10-303.

30 (B) However, the filing of an appeal shall not stay the
31 requirements under subdivision (a)(2) of this section.

32 (b)(1) Facilities shall, at least once each year, have the system
33 tested by a licensed engineer or other individual deemed qualified by the
34 manufacturer of the generator to ensure that the system will operate as
35 required in the event of loss of normal power.

36 (2) The facility shall retain, until the next licensure survey by

1 the office, a copy of the statement of the qualified professional attesting to
2 the fitness of the system.

3 (c)(1) Facilities shall start the emergency generator at least
4 once each month and shall ensure that the generator remains in proper
5 operating condition.

6 (2) Facilities shall perform all recommended and required
7 maintenance and tests on the emergency system as specified by the manufacturer
8 of the system or as recommended by the person or entity performing the
9 installation.

10 (3) Facilities shall record and maintain a log, until the next
11 licensure survey by the office, of all maintenance performed by the facility
12 and of each monthly start-up and the operating condition of the generator at
13 each monthly start-up.

14 (d) The installation and maintenance of the generator, unless otherwise
15 specified in this subchapter, shall meet the requirements specified in the
16 National Fire Protection Association publications.

17
18 20-10-1604. Penalties.

19 (a) If a nursing facility or nursing home fails to comply with this
20 subchapter, the following penalties may be applied to the facility:

21 (1) A fine not to exceed five thousand dollars (\$5,000) may be assessed
22 by the office for each month in which the facility fails to comply with any
23 provision of this subchapter;

24 (2)(A) A fine not to exceed ten thousand dollars (\$10,000) may be
25 assessed by the office for each calendar day during which a facility lacks
26 electrical power, if the outage continues for more the eight (8) consecutive
27 hours.

28 (B) However, the fine may be imposed if the facility fails
29 to provide emergency power for life-sustaining or life-support equipment and
30 to exit lighting immediately upon loss of normal or regular power supplies;

31 (3) In addition to any fine or other penalty, the facility may be
32 prohibited from admitting new residents until the facility is in compliance
33 with the requirements of this subchapter as determined by the office;

34 (4) A fine not to exceed ten thousand dollars (\$10,000) may be assessed
35 by the office for each new admission that occurs during a period in which new
36 admissions are prohibited;

1 (5) Appeals from the imposition of any monetary penalty under this
2 subchapter shall be made pursuant to § 20-10-208; and

3 (6) Appeals from the imposition of a denial of new admissions under
4 this subchapter shall be made pursuant to § 20-10-303.

5 (b) Penalties allowed under this subchapter may be waived by the
6 Office of Long-Term Care for any existing facility that is scheduled to be
7 replaced by a new facility which is under construction as of June 1, 2002.

8 (c) Penalties under this subchapter shall be waived when the generator
9 is rendered inoperable due to natural disaster or other conditions beyond the
10 control or authority of the facility, and the facility has taken reasonable
11 actions to ensure the operation of the generator.

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13 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General
14 Assembly that the lack of emergency generator that will power critical nursing
15 facility systems in the event of power outages, interruptions or loss of
16 power, endanger the health, safety and welfare of nursing home residents, who
17 are among the most vulnerable and physically at-risk citizens of the State of
18 Arkansas. Therefore, an emergency is declared to exist and this act being
19 immediately necessary for the preservation of the public peace, health and
20 safety shall become effective on the date of its approval by the Governor. If
21 the bill is neither approved nor vetoed by the Governor, it shall become
22 effective on the expiration of the period of time during which the Governor
23 may veto the bill. If the bill is vetoed by the Governor and the veto is
24 overridden, it shall become effective on the date the last house overrides the
25 veto.

26 /s/ Haak, et al.

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29 APPROVED: 4/13/2001
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