



2005 SENATE BILL 689

April 13, 2006 - Introduced by Senators WIRCH, COGGS and ERPENBACH, cosponsored by Representatives YOUNG, FIELDS, HAHN, BERCEAU, OTT, SHERIDAN, ALBERS and HEBL. Referred to Committee on Housing and Financial Institutions.

1 **AN ACT to amend** 101.145 (2); and **to create** 101.14 (2) (bg) and 101.148 of the
2 statutes; **relating to:** the installation of carbon monoxide detectors in certain
3 buildings, providing an exemption from emergency rule procedures, granting
4 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law requires the owner of a residential building to install smoke detectors in specified locations within the building. A “residential building” is any public building that is used for sleeping or lodging purposes. The term includes an apartment building, a rooming house, a hotel, a children’s home, a community-based residential facility, or a dormitory. The term does not include a hospital or a nursing home.

This bill creates a similar requirement concerning carbon monoxide detectors. The bill generally directs an owner of a residential building to install an electronic or battery-operated carbon monoxide detector, approved by Underwriters Laboratories, Inc., in the basement of the building and within 15 feet of each sleeping area. The bill also requires the Department of Commerce to promulgate rules establishing a procedure under which the owner of a residential building may apply for a waiver of the requirement to install carbon monoxide detectors. The bill requires the owner to maintain reasonably every carbon monoxide detector that is located in the building but specifies that the owner is not liable for damages resulting from the failure of the carbon monoxide detector to operate properly if someone other than the owner tampered with, removed, or destroyed it. The bill allows occupants

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and municipal or state inspectors to notify an owner of a defective carbon monoxide detector and requires the owner to repair or replace the carbon monoxide detector within five days after receipt of the notice.

The bill prohibits tampering with an installed carbon monoxide detector and specifies that a person convicted of tampering is guilty of a Class A misdemeanor for a first conviction and a Class I felony for a second or subsequent conviction. The bill also requires the chief of every local fire department to ensure that fire safety inspections include inspections of sealed combustion units for carbon monoxide emissions.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 101.14 (2) (bg) of the statutes is created to read:

2 101.14 (2) (bg) The chief of every fire department shall ensure that the
3 inspections required under par. (b) include inspections of sealed fuel combustion
4 units for carbon monoxide emissions.

5 **SECTION 2.** 101.145 (2) of the statutes is amended to read:

6 101.145 (2) APPROVAL. A smoke detector required under this section shall be
7 approved by ~~underwriters laboratory~~ Underwriters Laboratories, Inc.

8 **SECTION 3.** 101.148 of the statutes is created to read:

9 **101.148 Carbon monoxide detectors. (1) DEFINITIONS.** In this section:

10 (a) “Carbon monoxide detector” means an electronic or battery–operated device
11 that sounds an alarm when an unsafe amount of carbon monoxide gas is in the air.

12 (b) “Residential building” has the meaning given in s. 101.145 (1) (a).

13 (c) “Sleeping area” has the meaning given in s. 101.145 (1) (b).

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1 (d) "Unit" means a part of a residential building that is occupied by one or more
2 persons, to the exclusion of all others, as a home, residence, or sleeping place.

3 **(2) INSTALLATION REQUIREMENTS.** (a) Except as provided in sub. (3) (d), the owner
4 of a residential building the construction of which was initiated before the effective
5 date of this paragraph [revisor inserts date], shall install a carbon monoxide
6 detector in the basement of the building and within 15 feet of each sleeping area not
7 later than the first day of the 18th month beginning after the effective date of this
8 paragraph [revisor inserts date].

9 (ag) Except as provided in sub. (3) (d), the owner of a residential building, the
10 construction of which was initiated on or after the effective date of this paragraph
11 [revisor inserts date], shall install a carbon monoxide detector in the basement
12 of the building and within 15 feet of each sleeping area not later than the first day
13 of the 12th month beginning after the effective date of this paragraph [revisor
14 inserts date].

15 (b) Any carbon monoxide detector approved by Underwriters Laboratories,
16 Inc., before installation satisfies the requirements of this subsection.

17 (c) The owner shall install every carbon monoxide detector required by this
18 section according to the directions and specifications of the manufacturer of the
19 carbon monoxide detector.

20 **(3) MAINTENANCE REQUIREMENTS.** (a) The owner of a residential building shall
21 reasonably maintain every carbon monoxide detector in the residential building in
22 the manner specified in the instructions for the carbon monoxide detector.

23 (b) The owner of a residential building is not liable for damages resulting from
24 the failure of a carbon monoxide detector to operate properly if that failure was the

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1 result of tampering with, or removal or destruction of, the carbon monoxide detector
2 by a person other than the owner.

3 (c) An occupant of a unit in a residential building or a state, county, city, village,
4 or town officer, agent, contractor, or employee with powers or duties involving
5 inspection of real or personal property may give the owner of the residential building
6 written notice that a carbon monoxide detector in the residential building is not
7 functional. The owner shall repair or replace the nonfunctional carbon monoxide
8 detector within 5 days after receipt of the notice.

9 (cm) The owner of a residential building is not liable for damages resulting from
10 a false alarm from a carbon monoxide detector if the carbon monoxide detector was
11 reasonably maintained by the owner of the residential building.

12 (d) This subsection does not apply to the owner of a residential building if the
13 residential building does not contain an attached garage, or does not have any
14 fuel-burning appliances, or has fuel-burning appliances, all of which have sealed
15 fuel combustion units.

16 **(3m) TAMPERING PROHIBITED.** No person may tamper with, remove, destroy,
17 disconnect, or remove batteries from an installed carbon monoxide detector, except
18 in the course of inspection, maintenance, or replacement of the detector.

19 **(4) RULES.** The department shall promulgate rules establishing a procedure
20 under which the owner of a residential building may apply to the department for a
21 waiver of the requirements under sub. (2).

22 **(5) ENFORCEMENT AND PENALTY.** (a) To ensure compliance with subs. (2) and (3),
23 the department may, by rule, require the inspection of all of the following:

24 1. The common area of a residential building.

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1 2. A unit within a residential building, at the request of the owner of the
2 residential building or an occupant of the unit to be inspected.

3 (b) A person who violates sub. (2) or (3) shall be subject to a warning by a
4 certified building inspector for a first offense. A person who violates sub. (2) or (3)
5 shall forfeit not more than \$25 for a 2nd offense and not more than \$50 for a 3rd or
6 subsequent offense. Each violation and each day of violation constitutes a separate
7 offense.

8 (c) Whoever violates sub. (3m) is guilty of a Class A misdemeanor for a first
9 conviction and a Class I felony for a 2nd or subsequent conviction.

SECTION 4. Nonstatutory provisions.

10 (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
11 the department of commerce shall promulgate as emergency rules the rules required
12 under section 101.148 (4) of the statutes, as created by this act. Notwithstanding
13 section 227.24 (1) (c) and (2) of the statutes, the emergency rules promulgated under
14 this subsection may remain in effect until the date on which the permanent rules
15 required under section 101.148 (4) of the statutes, as created by this act, take effect.
16 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of
17 commerce is not required to provide evidence that promulgating rules under this
18 subsection as emergency rules is necessary for the preservation of the public peace,
19 health, safety, or welfare and is not required to provide a finding of emergency for the
20 rules promulgated under this subsection.
21

22 **SECTION 5. Effective dates.** This act takes effect on the first day of the 6th
23 month beginning after publication, except as follows.

