

2007 Senate Bill 289

Date of enactment: **April 7, 2008**
Date of publication*: **April 21, 2008**

2007 WISCONSIN ACT 205

AN ACT *to amend* 101.145 (2); and *to create* 101.149, 254.74 (1) (am) and 254.74 (1g) of the statutes; **relating to:** the installation of carbon monoxide detectors in certain buildings, providing an exemption from emergency rule procedures, granting rule-making authority, and providing penalties.

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

SECTION 1. 101.145 (2) of the statutes is amended to read:

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

SECTION 2. 101.149 of the statutes is created to read:
101.149 Carbon monoxide detectors. (1) DEFINITIONS. In this section:

(ag) “Bed and breakfast establishment” has the meaning given in s. 254.61 (1).

(am) “Carbon monoxide detector” means an electronic or battery-operated device that sounds an alarm when an unsafe level of carbon monoxide is in the air.

(b) “Residential building” means a tourist rooming house, a bed and breakfast establishment, or any public building that is used for sleeping or lodging purposes. “Residential building” does not include a hospital or nursing home.

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

(cm) “Tourist rooming house” has the meaning given in s. 254.61 (6).

(d) “Unit” means a part of a residential building that is occupied by one or more persons as a home, residence, or sleeping place.

(2) INSTALLATION REQUIREMENTS. (a) Except as provided in par. (b), the owner of a residential building shall install a carbon monoxide detector in all of the following places not later than the date specified under par. (c):

1. In the basement of the building if the basement has a fuel-burning appliance.

2. Within 15 feet of each sleeping area of a unit that has a fuel-burning appliance.

3. Within 15 feet of each sleeping area of a unit that is immediately adjacent to a unit that has a fuel-burning appliance.

4. In each room that has a fuel-burning appliance and that is not used as a sleeping area. A carbon monoxide detector shall be installed under this subdivision not more than 75 feet from the fuel-burning appliance.

5. In each hallway leading from a unit that has a fuel-burning appliance, in a location that is within 75 feet from the unit, except that, if there is no electrical outlet within this distance, the owner shall place the carbon monoxide detector at the closest available electrical outlet in the hallway.

* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(b) If a unit is not part of a multiunit building, the owner of the residential building need not install more than one carbon monoxide detector in the unit.

(c) 1. Except as provided under subd. 2., the owner of a residential building shall comply with the requirements of this subsection before the building is occupied.

2. The owner of a residential building shall comply with the requirements of this subsection not later than the first day of the 18th month beginning after the effective date of this subdivision [revisor inserts date], if construction of the building was initiated before the effective date of this subdivision [revisor inserts date], or if the department approved the plans for the construction of the building under s. 101.12 before the effective date of this subdivision [revisor inserts date].

(d) Any carbon monoxide detector that bears an Underwriters Laboratories, Inc., listing mark or similar mark from an independent product safety certification organization satisfies the requirements of this subsection.

(e) The owner shall install every carbon monoxide detector required by this subsection according to the directions and specifications of the manufacturer of the carbon monoxide detector.

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

(b) An occupant of a unit in a residential building may give the owner of the residential building written notice that a carbon monoxide detector in the residential building is not functional or has been removed by a person other than the occupant. The owner of the residential building shall repair or replace the nonfunctional or missing carbon monoxide detector within 5 days after receipt of the notice.

(c) The owner of a residential building is not liable for damages resulting from any of the following:

1. A false alarm from a carbon monoxide detector if the carbon monoxide detector was reasonably maintained by the owner of the residential building.

2. The failure of a carbon monoxide detector to operate properly if that failure was the result of tampering with, or removal or destruction of, the carbon monoxide detector by a person other than the owner or the result of a faulty detector that was reasonably maintained by the owner as required under par. (a).

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

(5) EXCEPTIONS. Subsections (2) and (3) do not apply to the owner of a residential building if the residential building does not have an attached garage and any of the following applies:

(a) The residential building does not have any fuel-burning appliances.

(b) All of the fuel-burning appliances in the residential building have sealed combustion units that are covered by the manufacturer's warranty against defects.

(c) All of the fuel-burning appliances in the residential building have sealed combustion units that are inspected as provided in the rules promulgated by the department under sub. (6) (b) or in the rules promulgated by the department of health and family services under s. 254.74 (1) (am).

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

(b) The department shall promulgate rules, in consultation with the department of health and family services, under which the department of commerce shall authorize certified heating, ventilating, and air conditioning inspectors to conduct regular inspections of sealed combustion units, as required under par. (5) (c), for carbon monoxide emissions in residential buildings other than hotels, tourist rooming houses, and bed and breakfast establishments. The rules shall specify conditions under which it may issue orders as specified under sub. (8) (a). The rules may not require the department of commerce to authorize inspection of sealed combustion units during the period in which the sealed combustion units are covered by a manufacturer's warranty against defects.

(7) INSPECTION. To ensure compliance with subs. (2) and (3), the department, or a building inspector certified by the department, shall inspect the common area of residential buildings other than hotels, tourist rooming houses, and bed and breakfast establishments and may inspect a unit within such buildings at the request of the owner or occupant of the unit to be inspected.

(8) PENALTIES. (a) If the department of commerce or the department of health and family services determines after an inspection of a building under this section or s. 254.74 (1g) that the owner of the building has violated sub. (2) or (3), the respective department shall issue an order requiring the person to correct the violation within 5 days or within such shorter period as the respective department determines is necessary to protect public health and safety. If the person does not correct the violation within the time required, he or she shall forfeit \$50 for each day of violation occurring after the date on which the respective department finds that the violation was not corrected.

(b) If a person is charged with more than one violation of sub. (2) or (3) arising out of an inspection of a building owned by that person, those violations shall be counted as a single violation for the purpose of determining the amount of a forfeiture under par. (a).

(c) Whoever violates sub. (4) is subject to the following penalties:

1. For a first offense, the person may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both.

2. For a 2nd or subsequent offense, the person is guilty of a Class I felony.

SECTION 3. 254.74 (1) (am) of the statutes is created to read:

254.74 (1) (am) Promulgate rules, in consultation with the department of commerce, under which the department of health and family services shall conduct regular inspections of sealed combustion units, as required under s. 101.149 (5) (c), for carbon monoxide emissions in hotels, tourist rooming houses, and bed and breakfast establishments. The rules shall specify conditions under which it may issue orders as specified under s. 101.149 (8) (a). The rules may not require the department of health and family services to inspect sealed combustion units during the period in which the sealed combustion units are covered by a manufacturer's warranty against defects.

SECTION 3m. 254.74 (1g) of the statutes is created to read:

254.74 (1g) The department shall inspect hotels, tourist rooming houses, and bed and breakfast establishments to ensure compliance with s. 101.149 (2) and (3).

SECTION 4. Nonstatutory provisions.

(1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes, the department of commerce shall promulgate as emergency rules the rules required under section 101.149 (6) of the statutes, as created by this act and the department of health and family services shall promulgate as emergency rules the rules required under section 254.74 (1) (am) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the emergency rules promulgated under this subsection may remain in effect until January 1, 2009, or until the date on which the permanent rules required under sections 101.149 (6) and 254.74 (1) (am) of the statutes, as created by this act, take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, neither the department of commerce or the department of health and family services is required to provide evidence that promulgating rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection.

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

(1) EMERGENCY RULES. SECTION 4 (1) of this act takes effect on the day after publication.