

## 2007 DRAFTING REQUEST

### Bill

Received: 11/29/2006

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Robert Wirch (608) 267-8979

By/Representing: Dennis Shook

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Addl. Drafters:

Subject: Buildings/Safety - misc.

Extra Copies:

Submit via email: YES

Requester's email: Sen.Wirch@legis.wisconsin.gov

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Requiring installation of carbon monoxide detectors

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### Instructions:

Redraft 2005 SB 689 but include provision that specifies that an owner of a residential building that is required to have carbon monoxide detectors must replace a missing detector within 5 days after receiving notice that it is missing.

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/?				_____			S&L Crime
/P1	rkite 12/01/2006	wjackson 12/05/2006	pgreensl 12/05/2006	_____	cduerst 12/05/2006		S&L Crime
/P2	rkite 03/27/2007	wjackson 03/29/2007	rschluet 03/30/2007	_____	cduerst 03/30/2007		S&L Crime

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/P3	rkite 08/28/2007	jdyer 08/29/2007	sherritz 08/29/2007	_____	lparisi 08/29/2007		S&L Crime
/1	rkite 09/19/2007	wjackson 09/20/2007	rschlue 09/20/2007	_____	lparisi 09/20/2007		S&L Crime
/2	rkite 09/25/2007	wjackson 09/25/2007	pgreensl 09/26/2007	_____	cdueer 09/26/2007	mbarman 10/03/2007	

FE Sent For: "12" @ intro. 10-11-07 <END>

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FE Sent For:

*1/2 Wlj 9/25*

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08/28/2007      08/29/2007      08/29/2007      \_\_\_\_\_      08/29/2007

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1 WLJ 9/20

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*Handwritten notes:*  
 /P2 Wlj 3/29  
 3307  
 [Signature]

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FE Sent For:

<END>

Date (time) needed 12-15-06

RM run

LRB - 0931/P1

**BILL**

RNK: Wlj :

D-Note

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:** .....

LPS:  
Please  
PWF

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

*Analysis by the Legislative Reference Bureau*

If titles are needed in the analysis, in the component bar:

For the main heading, execute: ..... **create** → **anal:** → **title:** → **head**

For the subheading, execute: ..... **create** → **anal:** → **title:** → **sub**

For the sub-subheading, execute: ..... **create** → **anal:** → **title:** → **sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: ..... **create** → **anal:** → **text**

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

**SECTION #.**

## 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.

regen. cat

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 penalties

### ***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, listing mark 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 bearing an

**SENATE BILL 689**

⑦ ~~and municipal or state inspectors~~ <sup>offense</sup> 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. <sup>is guilty of a</sup> <sup>or missing</sup>

The bill prohibits tampering with an installed carbon monoxide detector and specifies that a person convicted of tampering is <sup>offense</sup> 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 <sup>9</sup> ~~101.148~~ <sup>9</sup> **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 <sup>level</sup> 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).

*is subject to a fine of not to exceed \$10,000 or imprisonment for not more than 9 months, or both,*



SENATE BILL 689

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]. (5) ✓

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].~~ before occupancy (c)

15 (b) Any carbon monoxide detector approved by Underwriters Laboratories,  
16 Inc., ~~before installation~~ <sup>listing mark</sup> satisfies the requirements of this subsection. ✓ that bears an

17 (c) The owner shall install every carbon monoxide detector required by this  
18 ~~section~~ <sup>subsection</sup> 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

SENATE BILL 689

SECTION 3

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

*the department or a building inspector certified by the department*

*or has been removed by a person other than the occupant*

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 *of the residential building* shall repair or replace the nonfunctional carbon monoxide  
8 detector within 5 days after receipt of the notice. *or missing*

9 ~~(cm)~~ *(d)* 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)~~ *(4) (B)* 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)~~ *(6) (B)* 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)~~ *(7) (B) Inspection (CS)* ENFORCEMENT AND PENALTY (a) To ensure compliance with subs. (2) and (3),  
23 the department may ~~by rule~~ *for a building inspector certified by the department* require the inspection of all of the following:

24 ~~(a)~~ *(a)* The common area of a residential building. *inspect*

*Insert 4-18*

SENATE BILL 689

insert 5-9

1 <sup>(b)</sup>  
2 A unit within a residential building, at the request of the owner of the  
3 residential building or an occupant of the unit to be inspected.

4 <sup>(8) (b) Penalties (a)</sup>  
5 ~~(b)~~ A person who violates sub. (2) or (3) shall be subject to a warning by <sup>a</sup>  
6 the department or a certified building inspector for a first offense. A person who violates sub. (2) or (3)  
7 shall forfeit not more than \$25 for a 2nd offense and not more than \$50 for a 3rd or  
8 subsequent offense. Each violation and each day of violation constitutes a separate  
9 offense.

10 <sup>(b)</sup> ~~(c)~~ Whoever violates sub. ~~(3m)~~ <sup>(4)</sup> is guilty of a Class A misdemeanor for a first  
11 conviction and a Class I felony for a 2nd or subsequent conviction.

<sup>AR (A)</sup>  
SECTION 4. Nonstatutory provisions.

12 <sup>AR (B)</sup> (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,  
13 the department of commerce shall promulgate as emergency rules the rules required  
14 under section 101.148 <sup>(6)</sup> ~~(4)~~ of the statutes, as created by this act. Notwithstanding  
15 section 227.24 (1) (c) and (2) of the statutes, the emergency rules promulgated under  
16 this subsection may remain in effect until the date on which the permanent rules  
17 required under section 101.148 <sup>(6)</sup> ~~(4)~~ of the statutes, as created by this act, take effect.  
18 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of  
19 commerce is not required to provide evidence that promulgating rules under this  
20 subsection as emergency rules is necessary for the preservation of the public peace,  
21 health, safety, or welfare and is not required to provide a finding of emergency for the  
22 rules promulgated under this subsection.

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

**SENATE BILL 689**

**SECTION 5**

ARA  
VAR

1 (1) EMERGENCY RULES. SECTION ~~4~~<sup>4</sup>(1) of this act takes effect on the day after  
2 publication.

3 (END)

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0931/P1ins.  
RNK:.....

**INSERT 4-18**

**(5) EXCEPTIONS.** Subsections (2) and (3) do not apply to the owner of a residential building if the residential building does not contain an attached garage and if all the fuel-burning appliances in the building have sealed fuel combustion units.

Insert 5-9

⑨ (b) Whoever violates subg (4) is subject to the following penalties:

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

⑨ 20 For a <sup>2nd</sup> or subsequent <sup>offense</sup> conviction, the person is guilty of a Class I felony.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0931/P1/dn  
RNK:.....

wy

This is a redraft of 2005 Senate Bill 689. I have made some changes in this draft for purposes of clarity and organization. Please note, for example, that I have changed the definition of "carbon monoxide detector" to refer to "an unsafe level of carbon monoxide" instead of "an unsafe amount of carbon monoxide gas." I have also slightly modified the definition of "unit" and standardized language that relates to those parties that have inspection and enforcement authority. Under this draft, both the Department of Commerce and building inspectors certified by Commerce have inspection authority, authority to give notice about a missing or damaged detector, and authority to issue warnings. Please let me know if any of these changes or the other minor changes to the draft are not consistent with your intent.

Insert  
DN → Finally, please note that Commerce issued a technical memo for 2005 Senate Bill 689 in which they recommended that the draft require that, for buildings constructed on or after the effective date of the bill, carbon monoxide detectors be installed "before occupancy." This draft makes that recommended change.

I have prepared this draft in preliminary form to give you an opportunity to review the items raised in this note and to make any changes that you require before the draft is put in final form.

Please feel free to contact me if you have any questions with regard to this draft.

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov





**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0931/P1dn  
RNK:wlj:pg

December 5, 2006

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You will also note that this draft requires that carbon monoxide detectors bear an Underwriter's Laboratories (UL) listing mark unlike 2005 Senate Bill 689 which required that detectors be "approved" by UL. My research indicates that UL does not "approve" products but, rather, allows products that meet UL standards to bear a listing mark. You may also want to amend ss. 101.145 (2) and 101.745 (2), stats. in the next version of the draft. Those provisions refer to smoke detectors "approved" rather than listed by UL.

Finally, please note that Commerce issued a technical memo for 2005 Senate Bill 689 in which they recommended that the draft require that, for buildings constructed on or after the effective date of the bill, carbon monoxide detectors be installed "before occupancy." This draft makes that recommended change.

I have prepared this draft in preliminary form to give you an opportunity to review the items raised in this note and to make any changes that you require before the draft is put in final form.

Please feel free to contact me if you have any questions with regard to this draft.

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