

CR 88-201

RULES CERTIFICATE

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STATE OF WISCONSIN)
) SS
DEPT. OF INDUSTRY,)
LABOR & HUMAN RELATIONS)

MAR 12 1990
11:05 am
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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Gerald Whitburn, Secretary of the Department of Industry, Labor and Human Relations, and custodian of the official records of said department, do hereby certify that the annexed rule(s) relating to Smoke Detectors were duly approved and adopted by this department on 3/9/90.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at 4:00 p.m. in the city of Madison, this 9th day of March A.D. 1990.

Gerald Whitburn

Secretary

5-1-90

ORDER OF ADOPTION

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Pursuant to authority vested in the Department of Industry, Labor and Human Relations by section(s) 101.02(1), 101.02(15)(j),

Stats., the Department of Industry, Labor and Human Relations creates;

amends; repeals and recreates; repeals and adopts rules of Wisconsin

Administrative Code chapter (s):

ILHR 21, ILHR 28, ILHR 51 & ILHR 57

(Number)

Construction Standards

Smoke Detectors

General Requirements

Residential Occupancies

(Title)

The attached rules shall take effect on first day of the month following
publication in the Wisconsin Administrative Register pursuant to section
227.22, Stats.

Adopted at Madison, Wisconsin, this

date: 3-9-90

DEPARTMENT OF INDUSTRY, LABOR AND HUMAN
RELATIONS

Arvid Johnson

Secretary



RULES in FINAL DRAFT FORM

Rule: ILHR 21.09, Ch. ILHR 28, ILHR 51.245 and ILHR 57.16

Relating to: Smoke Detectors

Clearinghouse Rule No.: 88-201

(Germane Modification after
Committee Review)

The Wisconsin Department of Industry, Labor and Human Relations proposes an order to amend ILHR 20.02 (3); to repeal and recreate ILHR 21.09, ILHR 51.245 (3) and ILHR 57.16 (1) (b); and to create ch. ILHR 28 and ILHR 57.16 (1) (d), relating to smoke detectors.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and 101.02 (15) (j), Stats.
Statutes Interpreted: s. 101.145, Stats.

1987 Wisconsin Act 376 enacted on April 22, 1988 and 1989 Wisconsin Act 109 revised the statutory provisions relating to smoke detectors. The statutory revisions delineate the maintenance responsibilities between an owner and tenants for those smoke detectors which are located in rental residential buildings. The acts also establish for the first time a requirement for the installation of smoke detectors in existing one- and 2-family dwellings which were constructed prior to May 23, 1978.

The proposed package of administrative rules is intended to implement and clarify the intents, scopes and effective dates of the 1987 Wisconsin Act 376 and 1989 Wisconsin Act 109, in relationship to existing rules of the Department of Industry, Labor and Human Relations.

SECTION 1. ILHR 20.02 (3) is amended to read:

ILHR 20.02 (3) RETROACTIVITY. The provisions of this code are not retroactive, except as specified in s. ILHR 21.09.

SECTION 2. ILHR 21.09 is repealed and recreated to read:

ILHR 21.09 SMOKE DETECTORS. Listed and labeled smoke detectors shall be installed and maintained in accordance with ss. 101.645 (3) and 101.745 (4), Stats., and the specifications of the manufacturers of the detectors in each dwelling unit the initial construction of which was commenced on or after the effective date of this code, June 1, 1980.

Note 1: Section 50.035 (2), Stats., created by 1983 Wisconsin Act 363 requires the installation of a complete low voltage, interconnected or radio-transmitting smoke detection system in all community-based residential facilities including those having 8 or fewer beds.

Note 2: Section 101.645 (3), Stats., requires the owner of a dwelling to install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner, or any state, county, city, village or town officer, agent or employe charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that the smoke detector is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.

Note 3: Section 101.745 (4), Stats., requires the manufacturer of a manufactured building to install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit.

SECTION 3. Chapter ILHR 28 is created to read:

CHAPTER ILHR 28
SMOKE DETECTORS

ILHR 28.01 PURPOSE. The purpose of this chapter is to implement the mandates specified in 1987 Wisconsin Act 376 and 1989 Wisconsin Act 109 concerning the installation and maintenance of smoke detectors in existing dwellings in relation to the application and effective date of chs. ILHR 20 to 25, Uniform Dwelling Code of the Department of Industry, Labor and Human Relations.

ILHR 28.02 SMOKE DETECTORS. The owner of a dwelling, the initial construction of which was commenced prior to June 1, 1980 shall install and maintain smoke detectors in accordance with s. 101.645 (3), Stats.

Note 1: Section 101.645 (3), Stats., states "The owner of a dwelling shall install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner, or a state, county, city, village or town officer, agent or employe charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that the smoke detector is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional."

Note 2: On June 1, 1980 the uniform dwelling code, chs. ILHR 20 to 25, went into effect. The code under s. ILHR 21.09 specifies installation and maintenance requirements for smoke detectors in one- and 2-family dwellings constructed on or after June 1, 1980. The uniform dwelling code also reflects the installation and maintenance requirements specified in s. 101.645 (3), Stats.

SECTION 4. ILHR 51.245 (3) is repealed and recreated to read:

ILHR 51.245 (3) MAINTENANCE. Smoke detectors shall be maintained as follows, except as noted in s. ILHR 57.16:

(a) The owner shall be responsible for maintaining the smoke detectors and the smoke detection system in good working order;

(b) Tenants shall be responsible for informing the owner, in writing, of any smoke detector malfunction, including the need for a new battery;

(c) The owner shall have 5 days upon receipt of notice from the tenant to repair or replace the smoke detector or replace the battery; and

(d) The owner shall furnish to the tenant written notice of the responsibilities of the tenant and the obligations of the owner regarding smoke detector maintenance.

SECTION 5. ILHR 57.16 (1) (b) is repealed and recreated to read:

ILHR 57.16 (1) (b) The owner shall install at least one smoke detector:

1. In the basement;

2. At the head of every open stairway;

3. At the door on each floor level leading to every enclosed stairway;
and

4. Either in each sleeping area of each living unit or elsewhere in the unit within 6 feet from the doorway of each sleeping area and not within a kitchen.

SECTION 6. ILHR 57.16 (1) (d) is created to read:

ILHR 57.16 (1) (d) Smoke detectors shall be installed and maintained in accordance with s. 101.145 (3), Stats.

Note: Section 101.145 (3), Stats., states: "The owner of a residential building shall install any smoke detector required under this section according to the directions and specifications of the manufacturer of the smoke detector and maintain any smoke detector which is located in a common area of that residential building. The occupant of a unit in a residential building shall maintain any smoke detector in that unit, except that if an occupant who is not an owner, or a state, county, city, village or town officer, agent or employe charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that a smoke detector in the unit is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional."

EFFECTIVE DATE

Pursuant to s. 227.22 (2) (intro.), Stats., these rules shall take effect on the first day of the month following publication in the Wisconsin Administrative Register.

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Tommy G. Thompson
Governor
Gerald Whitburn
Secretary



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State of Wisconsin Department of Industry, Labor and Human Relations

March 12, 1990

Gary Poulson
Assistant Revisor of Statutes
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Douglas LaFollette
Secretary of State
10th Floor
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Madison, Wisconsin 53703

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MAR 12 1990

Revisor of Statutes
Bureau

Dear Messrs. Poulson and LaFollette:

TRANSMITTAL OF RULE ADOPTION

CLEARINGHOUSE RULE NO. 88-201

RULE NO. ILHR 21.09, Ch. ILHR 28, ILHR 51.245 and ILHR 57.16

RELATING TO: Smoke Detectors

Pursuant to section 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the offices of the Secretary of State and the Revisor of Statutes.

At this time, the following material is being submitted to you:

1. Order of Adoption.
2. Rules Certificate Form.
3. Rules in Final Draft Form.

Pursuant to section 227.114, Stats., a summary of the final regulatory flexibility analysis is also included.

Respectfully submitted,

Handwritten signature of Gerald Whitburn in cursive.

Gerald Whitburn
Secretary