

ONE HUNDRED THIRD LEGISLATURE - SECOND SESSION - 2014
COMMITTEE STATEMENT (CORRECTED)
LB427

Hearing Date: Friday March 15, 2013
Committee On: Health and Human Services
Introducer: Howard
One Liner: Adopt the Carbon Monoxide Safety Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Campbell, Cook, Crawford, Gloor, Howard, Krist, Watermeier
Nay:
Absent:
Present Not Voting:

Proponents:
Senator Sara Howard
Kara Eastma
Karen Smith
Ann Thomsen
Jay Davis

Representing:
Introducer
Omaha Healthy Kids Alliance
Nebraska Regional Poison Center
Nebraska Regional Poison Center
City of Omaha

Opponents:

Representing:

Neutral:
Justin Brady

Representing:
Nebraska Realtors Association/Home Builders Association of Lincoln/Metro Omaha Builders Association
Nebraska Association of Commercial Property Owners/Eastern Nebraska Development Council
Nebraska Real Estate Commission

Summary of purpose and/or changes:
LB 427 (Howard): to adopt the Carbon Monoxide Safety Act.

For purposes of the Carbon Monoxide Safety Act: Carbon monoxide alarm means a device that detects carbon monoxide and that:(a) Produces a distinct, audible alarm; (b) Is listed by a nationally recognized, independent product-safety testing and certification laboratory to conform to the standards for carbon monoxide alarms issued by such laboratory or any successor standards as determined by the State Fire Marshal; (c) Is battery powered, plugs into a dwelling's electrical outlet and has a battery backup, is wired into a dwelling's electrical system and has a battery backup, or is connected to an electrical system via an electrical panel; and (d) May be combined with a smoke detecting device if the combined device complies with applicable law regarding both smoke detecting devices and carbon monoxide alarms and that the combined unit produces an alarm, or an alarm and voice signal, in a manner that clearly differentiates between the two hazards.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. Fuel means coal, kerosene, oil, fuel gases, or other petroleum products or hydrocarbon products such as wood that emit carbon monoxide as byproduct of combustion.

Installed means that a carbon monoxide alarm is installed in a dwelling unit in one of the following ways:(a) Wired directly into the dwelling's electrical system; (b) Directly plugged into an electrical outlet without switch other than a circuit breaker; or (c) If the alarm is battery-powered, attached to the wall or ceiling of the dwelling unit in accordance with the National Fire Protection Association Standard 720, or any successor standard, for the operation and installation of carbon monoxide detection and warning equipment in dwelling units as determined by the State Fire Marshal;(5) Multifamily dwelling means any improved real property used or intended to be used as a residence and that contains more than one dwelling unit. Multifamily dwelling includes a condominium or cooperative; (6) Operational means working and in service in accordance with manufacturer instructions; and (7) Single-family dwelling means any improved real property used or intended to be used as a residence and that contains one dwelling unit.

The seller of each existing single-family dwelling offered for sale or transfer on or after September 1, 2014, that has a fuel-fired heater or appliance, a fireplace, or an attached garage must assure that an operational carbon monoxide alarm is installed within fifteen feet of the entrance to each room lawfully used for sleeping purposes or in a location as specified in any building code adopted by the state or any political subdivision. By September 1, 2014, the State Real Estate Commission must adopt and promulgate rules and regulations to require each listing contract for residential real property that is subject to the commission's jurisdiction to disclose the requirements specified in this subsection.

Every single-family dwelling that includes either fuel-fired appliances or an attached garage where, on or after September 1, 2014, interior alterations, repairs, fuel-fired appliance replacements, or additions, any of which require a building permit, occur or where one or more rooms lawfully used for sleeping purposes are added shall have an operational carbon monoxide alarm installed within fifteen feet of the entrance to each room lawfully used for sleeping purposes or in a location as specified in any building code adopted by the state or any political subdivision.

No person may remove batteries from, or in any way render inoperable, a carbon monoxide alarm except as part of a process to inspect, maintain, repair, or replace the alarm or replace the batteries in the alarm. The seller of every dwelling unit of an existing multifamily dwelling offered for sale or transfer on or after September 1, 2014, that has a fuel-fired heater or appliance, a fireplace, or an attached garage must assure that an operational carbon monoxide alarm is installed within fifteen feet of the entrance to each room lawfully used for sleeping purposes or in a location as specified in any building code adopted by the state or any political subdivision.

By September 1, 2014, the State Real Estate Commission must adopt and promulgate rules and regulations to require each listing contract for residential real property that is subject to the commission's jurisdiction to disclose the requirements specified in this act.

Every dwelling unit of a multifamily dwelling that includes fuel-fired appliances or an attached garage where, on or after September 1, 2014, interior alterations, repairs, fuel-fired appliance replacements, or additions, any of which require a building permit, occurs or where one or more rooms lawfully used for sleeping purposes are added shall have an operational carbon monoxide alarm installed within fifteen feet of the entrance to each room lawfully used for sleeping purposes or in a location as specified in any building code adopted by the state or any political subdivision.

No person may remove batteries from, or in any way render inoperable, a carbon monoxide alarm except as part of a process to inspect, maintain, repair, or replace the alarm or replace the batteries in the alarm.

Except as provided in this act, any single-family dwelling or dwelling unit in a multifamily dwelling used for rental purposes and that includes fuel-fired appliances or an attached garage where, on or after September 1, 2014, interior alterations, repairs, fuel-fired appliance replacements, or additions, any of which requires a building permit, occur or where one or more rooms lawfully used for sleeping purposes are added must be subject to the requirements specified in sections 3 and 4 of this act.

Except as provided in this act, each existing single-family dwelling or existing dwelling unit in a multifamily dwelling that is used for rental purposes that has a change in tenant occupancy on or after September 1, 2014, must be subject to the requirements specified in sections 3 and 4 of this act.

The owner of any rental property specified in this act shall: (i) Prior to the commencement of a new tenant occupancy, replace any carbon monoxide alarm that was stolen, removed, found missing, or found not operational after the previous occupancy; (ii) Ensure that any batteries necessary to make the carbon monoxide alarm operational are provided to the tenant at the time the tenant takes residence in the dwelling unit; (iii) Replace any carbon monoxide alarm if notified by a tenant as specified in subdivision (4)(c) of this section that any carbon monoxide alarm was stolen, removed, found missing, or found not operational during the tenant's occupancy; and (iv) Fix any deficiency in a carbon monoxide alarm if notified by a tenant as specified in this act. Except as provided in this act, the owner of a single-family dwelling or dwelling unit in a multifamily dwelling that is used for rental purposes is not responsible for the maintenance, repair, or replacement of a carbon monoxide alarm or the care and replacement of batteries for the alarm.

The tenant of any rental property specified in this act must: (a) Keep, test, and maintain all carbon monoxide alarms in good repair; (b) Notify, in writing, the owner of the single-family dwelling or dwelling unit of a multifamily dwelling, or the owner's authorized agent, if the batteries of any carbon monoxide alarm need to be replaced; (c) Notify, in writing, the owner of the single-family dwelling or dwelling unit of a multifamily dwelling, or the owner's authorized agent, if any carbon monoxide alarm is stolen, removed, found missing, or found not operational during the tenant's occupancy of the single-family dwelling or dwelling unit in the multifamily dwelling; and (d) Notify, in writing, the owner of the single-family dwelling or dwelling unit of a multifamily dwelling, or the owner's authorized agent, of any deficiency in any carbon monoxide alarm that the tenant cannot correct.

If there is a centralized alarm system or other mechanism for a responsible person to hear the alarm at all times in a multifamily dwelling used for rental purposes, such multifamily dwelling may have an operational carbon monoxide alarm installed within twenty-five feet of any fuel-fired heater or appliance, fireplace, or garage or in a location as specified in any building code adopted by the state or any political subdivision.

No person may remove batteries from, or in any way render inoperable, a carbon monoxide alarm except as part of a process to inspect, maintain, repair, or replace the alarm or replace the batteries in the alarm.

Nothing in the Carbon Monoxide Safety Act must be construed to limit a city, village, or county from adopting or enforcing any requirements for the installation and maintenance of carbon monoxide alarms that are more stringent than the requirements set forth in the act.

No person may have a claim for relief against a property owner, an authorized agent of a property owner, a person in possession of real property, or an installer for any damages resulting from the operation, maintenance, or effectiveness of a carbon monoxide alarm if the property owner, authorized agent, person in possession of real property, or installer installs a carbon monoxide alarm in accordance with the manufacturer's published instructions and the Carbon Monoxide Safety Act.

A purchaser must have no claim for relief against any person licensed by the State Real Estate Commission for any damages resulting from the operation, maintenance, or effectiveness of a carbon monoxide alarm if such licensed person complies with rules and regulations adopted and promulgated pursuant to the Carbon Monoxide Safety Act. Nothing in this subsection must affect any remedy that a purchaser may otherwise have against a seller.

Explanation of amendments:

The Committee Amendment replaces LB 427. The amendment changes the date for compliance from 2014 to 2016. The Committee Amendment requires that a carbon monoxide alarm be installed in all single-family dwellings and in each unit in all multi-family dwellings that have a fuel-fired heater or appliance, a fireplace, or an attached garage. This requirement is for: 1) building constructed on or after January 1, 2016; 2) dwellings offered for sale or transferred; 3) dwellings when an owner makes an interior alteration that requires a building permit; or 4) if there is a change in a tenant in a rented dwelling. The Amendment changes the requirement that alarms be placed within 15 feet of each

bedroom to require a carbon monoxide alarm be installed on each habitable floor. This change is compatible with city building codes.

The Carbon Monoxide alarm must: 1) detect carbon monoxide; 2) produce a distinct audible alarm (if combined with smoke detector it must sound different from the smoke alarm); 3) meet State Fire Marshal safety standards; 4) be battery powered; or plug in with battery back up; or be wired into electrical system with battery back up; or be connected to an electrical system via an electrical panel.

The Committee Amendment requires that owners of rental properties ensure carbon monoxide alarms are installed and functional at the time a new tenant takes residence and that batteries must be provided to the tenant when the tenant takes residence. Additionally, owners of rental properties must fix any deficiency when notified that a tenant cannot correct the problem. Tenants must keep, test, and maintain all carbon monoxide alarms in good repair and must notify the owner if an alarm is stolen, missing, or inoperable.

Finally, the Committee Amendment prohibits removing batteries or making an alarm inoperable except for replacement or maintenance; and requires the Real Estate Commission promulgate regulations to ensure information regarding compliance with the Carbon Monoxide Safety Act is included in the seller's disclosure statement.

Kathy Campbell, Chairperson