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What the new Maine Smoke Detector and Carbon Monoxide Law Means

Due primarily to the increased frequency of CO related poisonings in Maine over the past five years the 124th Maine Legislature passed “An Act To Protect Maine Residents from Home Fires and Carbon Monoxide.” The portions of the law mandating installation and maintenance of CO detectors are entirely new while those dealing with smoke detectors are changes to an existing statute. Let’s look at what the portions of the law dealing with smoke detectors mean to a current or potential owner of a single-family dwelling or apartment first, and then do the same with the portions of the law dealing with CO detectors. I’ve italicized what we believe to be significant changes and attached a copy of the legislation to this note.

Smoke Detectors

- Owners of single-family or multifamily occupancies are required to have a working smoke detector, photoelectric or ionization, in each area within or giving access to bedrooms.
- After October 31, 2009 *smoke detectors installed in a multifamily or newly constructed single-family occupancy must be powered by both the electrical service in the building or dwelling and by battery*. Batteries act as a backup to regular electrical service.
- In an apartment occupied under the terms of a rental agreement or under month-month tenancy, smoke detectors are to be in place and in working order. Upon a tenant’s written notification of any deficiencies in the smoke detectors, the landlord shall repair or replace the smoke detector.
- *Tenants shall keep the smoke detectors working condition, test them periodically to ensure that they work and refrain from disabling them*.
- *After October 31, 2009 any person acquiring by sale or exchange either a single-family dwelling or multiapartment building shall certify at closing that the dwelling or multiapartment building is provided with smoke detectors in accordance with this statute. The certification must be signed and dated by the purchaser.*
- Any smoke detector located within 20 feet of a kitchen or a bathroom containing a tub or shower *must be a photoelectric-type smoke detector*.

Carbon Monoxide Detectors

- *Carbon Monoxide detectors are required in each area giving access to bedrooms in*
 - Each apartment in any building of multifamily occupancy;
 - Any addition to or restoration of an existing single-family dwelling that adds at least one bedroom to the dwelling unit; and
 - Any conversion of a building to a single-family dwelling.
- *CO detectors must be powered by a battery and the electrical service (plugged in or hardwired) in the building.*
- *Upon the request of a deaf or hard of hearing occupant, the owner of a dwelling unit shall provide an approved CO detector within the dwelling unit. If the owner does not provide a suitable CO detector, the occupant may purchase, install and maintain a suitable CO detector for themselves and deduct from the rent the cost.*
- *Those building a new single-family dwelling shall install a CO detector in each area within or giving access to bedrooms. That detection must be powered by the electrical service in the building and battery.*
- *In an apartment occupied under the terms of a rental agreement or under month-month tenancy, CO detectors are to be in place and operational at the time of each occupancy. Upon a tenant's written notification of any deficiencies in the CO detectors, the landlord shall repair or replace the smoke detector.*
- *Tenants shall keep the CO detectors in working condition by keeping charged batteries in place and refrain from disabling them.*
- *After October 31, 2009 any person acquiring by sale (buying) or exchange either a single-family dwelling or multiapartment building shall certify at closing that the dwelling or multiapartment building is provided with CO detectors in accordance with this statute. The certification must be signed and dated by the purchaser.*
- *The Commissioner of Public Safety shall adopt rules pertaining to CO detectors.*
- *The Department of Public Safety, Office of the State Fire Marshal shall develop a plan to determine standards for substantial compliance and carbon monoxide education programs designed to achieve substantial compliance.*
- *25 MRSA § 2464 contains provisions which impose fines and or forfeiture of up to \$500 per violation of this section.*

We encourage you to contact the Fire Marshal's Office at 626-3873 if you have any further questions with regard to this new law. Thank you for helping make Maine a safer place.

PLEASE NOTE: The Office of the Revisor of Statutes *cannot* perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Public Law
124th Legislature
First Regular Session

Chapter 162
S.P. 212 - L.D. 550

**An Act To Protect Maine Residents
from Home Fires and Carbon Monoxide**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 25 MRSA §2464, sub-§2, as amended by PL 1985, c. 190, is repealed and the following enacted in its place:

2. Smoke detectors required. The owner shall properly install, or cause to be properly installed, smoke detectors in accordance with the National Electric Code and the manufacturer's requirements. In single-family dwellings, at least one smoke detector, which may be photoelectric, ionization or a combination of both, must be installed in each area within, or giving access to, bedrooms. These smoke detectors may be powered by the electrical service in the dwelling, by battery or by a combination of both. Any smoke detector located within 20 feet of a kitchen or a bathroom containing a tub or shower must be a photoelectric-type smoke detector.

After October 31, 2009, smoke detectors installed in a multifamily building or a newly constructed single-family dwelling must be powered both by the electrical service in the building or dwelling and by battery.

Sec. 2. 25 MRSA §2464, sub-§6, as enacted by PL 1981, c. 399, §1, is amended to read:

6. Liability. Nothing in this section gives rise to any action against an owner required to comply with subsection 2, ~~paragraph B,~~ or subsection 9, paragraph A if the owner has conducted an inspection of the required smoke detectors immediately after installation and has reinspected the smoke detectors prior to occupancy by each new tenant, unless the owner has been given at least ~~24-hours'~~ 24 hours' actual notice of a defect or failure of the smoke detector to operate properly and has failed to take action to correct the defect or failure.

Sec. 3. 25 MRSA §2464, sub-§9 is enacted to read:

9. Rental units. In an apartment occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide smoke detectors. The smoke detectors must be in working condition. After notification, in writing, of any deficiencies by the tenant, the landlord shall repair or replace the smoke detectors. If the landlord did not know and had not been

notified of the need to repair or replace a smoke detector, the landlord's failure to repair or replace the smoke detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; and

B. The tenant shall keep the smoke detectors in working condition by keeping charged batteries in battery-operated smoke detectors, by testing the smoke detectors periodically and by refraining from disabling the smoke detectors.

Sec. 4. 25 MRSA §2464, sub-§10 is enacted to read:

10. Transfer of dwelling. A person who, after October 31, 2009, acquires by sale or exchange a single-family dwelling or a multiapartment building shall certify at the closing of the transaction that the dwelling or multiapartment building is provided with smoke detectors in accordance with this section. This certification must be signed and dated by the purchaser.

A person may not have a claim for relief against a property owner, a property purchaser, an authorized agent of a property owner or purchaser, a person in possession of real property or a smoke detector installer for any damages resulting from the proper operation, maintenance or effectiveness of a smoke detector.

Violation of this subsection does not create a defect in title.

Sec. 5. 25 MRSA §2468 is enacted to read:

§ 2468. Carbon monoxide detectors

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carbon monoxide detector" means a device with an assembly that incorporates a sensor control component and an alarm notification that detects elevations in carbon monoxide levels and sounds a warning alarm and is approved or listed for the purpose by a nationally recognized independent testing laboratory.

B. "Electrical service" means powered by a battery and either a device plugged into an electrical outlet or hardwired.

2. Carbon monoxide detectors required. The owner shall install, or cause to be installed, by the manufacturer's requirements at least one approved carbon monoxide detector in each area within, or giving access to, bedrooms in:

A. Each apartment in any building of multifamily occupancy;

B. Any addition to or restoration of an existing single-family dwelling that adds at least one bedroom to the dwelling unit; and

C. Any conversion of a building to a single-family dwelling.

A carbon monoxide detector must be powered both by the electrical service in the building or dwelling.

3. Carbon monoxide detectors for persons with disabilities. Upon the request of a deaf or hard-of-hearing occupant, the owner of a dwelling unit shall provide an approved carbon monoxide detector suitable to warn the occupant within the dwelling unit. If the owner does not provide a suitable carbon monoxide detector, the occupant may purchase, install and maintain a suitable carbon monoxide detector or arrange for proper installation and maintenance of a suitable carbon monoxide detector and may deduct the actual costs from the rent for the dwelling unit. An occupant may not be charged, evicted or penalized in any way for failure to pay the actual costs deducted from the rent for the dwelling unit.

4. New construction. A person who constructs a single-family dwelling shall install at least one carbon monoxide detector in each area within, or giving access to, any bedroom in the dwelling. The carbon monoxide detector must be powered both by the electrical service in the dwelling.

5. Rental units. In an apartment occupied under the terms of a rental agreement or under a month-to-month tenancy:

A. At the time of each occupancy, the landlord shall provide carbon monoxide detectors. The carbon monoxide detectors must be in working condition. After notification, in writing, of any deficiencies by the tenant, the landlord shall repair or replace the carbon monoxide detectors. If the landlord did not know and had not been notified of the need to repair or replace a carbon monoxide detector, the landlord's failure to repair or replace the carbon monoxide detector may not be considered as evidence of negligence in a subsequent civil action arising from death, property loss or personal injury; and

B. The tenant shall keep the carbon monoxide detectors in working condition by keeping charged batteries in battery-operated carbon monoxide detectors, by testing the carbon monoxide detectors periodically and by refraining from disabling the carbon monoxide detectors.

6. Transfer of dwelling. A person who, after October 31, 2009, acquires by sale or exchange a single-family dwelling or a multiapartment building shall certify at the closing of the transaction that the dwelling or multiapartment building is provided with carbon monoxide detectors in accordance with this section. This certification must be signed and dated by the purchaser.

A person may not have a claim for relief against a property owner, a property purchaser, an authorized agent of a property owner or purchaser, a person in possession of real property or a carbon monoxide detector installer for any damages resulting from the proper operation, maintenance or effectiveness of a carbon monoxide detector.

Violation of this subsection does not create a defect in title.

7. Rules. The Commissioner of Public Safety or the commissioner's designee, in accordance with the Maine Administrative Procedure Act, shall adopt rules pertaining to carbon monoxide detectors. The rules adopted must include, but are not limited to, standards for approved carbon monoxide detectors and all requirements of use, maintenance and installation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

8. Penalties. A person who violates this section is guilty of a civil violation and is subject to a fine of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 10 days of the issuance of a complaint.

9. Liability. Nothing in this section gives rise to any action against an owner required to comply with subsection 2, paragraph A or subsection 5, paragraph A if the owner has conducted an inspection of the required carbon monoxide detectors immediately after installation and has reinspected the carbon monoxide detectors prior to occupancy by each new tenant, unless the owner has been given at least 24 hours' actual notice of a defect or failure of the carbon monoxide detector to operate properly and has failed to take action to correct the defect or failure.

10. Noninterference. A person may not knowingly interfere with or make inoperative any carbon monoxide detector required by this section, except that the owner or the agent of an owner of a building may temporarily disconnect a carbon monoxide detector in a dwelling unit or common area only for construction or rehabilitation activities when such activities are likely to activate the carbon monoxide detector or make it inactive. The carbon monoxide detector must be immediately reconnected at the cessation of construction or rehabilitation activities each day, regardless of the intent to return to construction or rehabilitation activities on succeeding days.

Sec. 6. Transfer funds from Department of Public Safety, Office of the State Fire Marshal. The Commissioner of Public Safety shall transfer \$100,000 from the Department of Public Safety, Office of the State Fire Marshal for the purpose of purchasing carbon monoxide detectors for distribution through the Maine State Housing Authority, community action agencies, local fire departments, associations representing realtors and any other organizations that could be used to promote the placement of carbon monoxide detectors in homes. Only organizations that are willing and have the ability to properly install these detectors are eligible to participate in this program. Purchase of carbon monoxide detectors may not be made, or a contract executed, without the approval of the Director of the Bureau of General Services within the Department of Administrative and Financial Services.

Sec. 7. Plan for substantial compliance. The Department of Public Safety, Office of the State Fire Marshal shall develop a plan to determine standards for substantial compliance and education programs to achieve substantial compliance with the Maine Revised Statutes, Title 25, section 2468. This plan must include a public awareness and educational campaign that involves the print media and postings on the Office of the State Fire Marshal publicly accessible website. The office shall make every attempt to have its website linked with other organizations and agencies that have an interest in public safety. The office, working with other agencies, television or radio, shall develop public service announcements to educate the general public of the dangers of carbon monoxide and provide public awareness of the action of the Legislature to address this issue.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC SAFETY, DEPARTMENT OF

Fire Marshal - Office of 0327

Initiative: Provides one-time funding for the purchase of carbon monoxide detectors and educational materials.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$115,938	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$115,938</u>	<u>\$0</u>

Effective September 12, 2009