

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 550

S.P. 212

In Senate, February 12, 2009

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

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.
Cosponsored by Representative SMITH of Monmouth and
Senators: ALFOND of Cumberland, BARTLETT of Cumberland, BRYANT of Oxford,
GERZOFKY of Cumberland, JACKSON of Aroostook, MARRACHÉ of Kennebec,
Representatives: CONNOR of Kennebunk, PRESCOTT of Topsham.

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

2 Sec. 1. 25 MRSA §2464, sub-§2, as amended by PL 1985, c. 190, is repealed and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

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

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

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

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

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

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

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

34 B. The tenant shall keep the smoke detectors in working condition by keeping
35 charged batteries in battery-operated smoke detectors, if possible, by testing the
36 smoke detectors periodically, if possible, and by refraining from permanently
37 disabling the smoke detectors.

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

1 10. Transfer of dwelling. A person who, after October 31, 2009, transfers by sale
2 or exchange a single-family dwelling or a multiapartment building shall certify to the
3 buyer at the closing of the transaction that the dwelling or each apartment in the building
4 is provided with smoke detectors in accordance with this section. This certification must
5 be signed and dated by the seller.

6 If the buyer notifies the seller within 10 days by certified mail from the date of
7 conveyance of the dwelling or building that the dwelling or an apartment in the building
8 lacks any smoke detectors or that any smoke detectors are not operable, the seller shall
9 install smoke detectors in compliance with this section within 10 days after notification.

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

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

12 §2468. Carbon monoxide detectors

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

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

- 21 A. Each apartment in any building of multifamily occupancy;
- 22 B. Any addition to or restoration of an existing single-family dwelling that adds at
23 least one bedroom to the dwelling unit; and
- 24 C. Any conversion of a building to a single-family dwelling.

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

27 3. Multiapartment buildings. In multiapartment buildings more than 3 stories in
28 height, the owner shall install, or cause to be installed, approved carbon monoxide
29 detectors in each corridor and hallway on each floor in addition to the carbon monoxide
30 detectors required under subsection 2.

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

1 **5. New construction.** A person who constructs a single-family dwelling shall install
2 at least one carbon monoxide detector upon or near the ceiling or floor in each area
3 within, or giving access to, any bedroom in the dwelling. The carbon monoxide detector
4 must be powered both by the electrical service in the dwelling and by battery.

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

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

15 **B.** The tenant shall keep the carbon monoxide detectors in working condition by
16 keeping charged batteries in battery-operated carbon monoxide detectors, if possible,
17 by testing the carbon monoxide detectors periodically, if possible, and by refraining
18 from permanently disabling the carbon monoxide detectors.

19 **7. Transfer of dwelling.** A person who transfers by sale or exchange a single-
20 family dwelling or a multiapartment building shall certify to the buyer at the closing of
21 the transaction that the dwelling or each apartment in the building is provided with at
22 least one carbon monoxide detector in accordance with this section. This certification
23 must be signed and dated by the seller.

24 If the buyer notifies the seller within 10 days by certified mail from the date of
25 conveyance of the dwelling or building that the dwelling or an apartment in the building
26 lacks a carbon monoxide detector or that the carbon monoxide detector is not operable,
27 the seller shall install a carbon monoxide detector in compliance with this section within
28 10 days after notification.

29 Violation of this paragraph does not create a defect in title.

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

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

40 **10. Liability.** Nothing in this section gives rise to any action against an owner
41 required to comply with subsection 2, paragraph A or subsection 6, paragraph A if the
42 owner has conducted an inspection of the required carbon monoxide detectors

1 immediately after installation and has reinspected the carbon monoxide detectors prior to
2 occupancy by each new tenant, unless the owner has been given at least 24 hours' actual
3 notice of a defect or failure of the carbon monoxide detector to operate properly and has
4 failed to take action to correct the defect or failure.

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

13 **SUMMARY**

14 This bill requires that all single-family dwellings and multiapartment buildings sold
15 in the State and newly constructed single-family dwellings have photoelectric-only-type
16 smoke detectors and at least one carbon monoxide detector in an area within or giving
17 access to a bedroom. The detectors in multifamily dwellings and newly constructed
18 single-family dwellings must be powered by both the electrical service in the building
19 and by battery.