

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1497

S.P. 575

In Senate, December 8, 2009

An Act To Amend the Law Pertaining to Smoke Detectors and Carbon Monoxide Detectors

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 8, 2009. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 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.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 Whereas, smoke detectors and carbon monoxide detectors clearly save lives and
4 property and widespread use must be promoted; and

5 Whereas, in the judgment of the Legislature, these facts create an emergency within
6 the meaning of the Constitution of Maine and require the following legislation as
7 immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,

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

10 **Sec. 1. 25 MRSA §2464, sub-§2**, as repealed and replaced by PL 2009, c. 162,
11 §1, is repealed.

12 **Sec. 2. 25 MRSA §2464, sub-§2-A** is enacted to read:

13 **2-A. Smoke detectors required.** The owner shall properly install, or cause to be
14 properly installed, in accordance with the National Electric Code and the manufacturer's
15 requirements, smoke detectors upon or near the ceiling in areas within, or giving access
16 to, bedrooms in:

17 A. A single-family dwelling the construction of which is completed after January 1,
18 1982;

19 B. Each unit in a building of multifamily occupancy;

20 C. An addition to or restoration of an existing single-family dwelling that adds at
21 least one bedroom to the dwelling and the construction of which is completed after
22 September 19, 1985; and

23 D. A conversion of a building to a single-family dwelling completed after September
24 19, 1985.

25 A smoke detector installed in a corridor within 20 feet of a kitchen or of a bathroom
26 containing a tub or shower must be a photoelectric-type smoke detector.

27 **Sec. 3. 25 MRSA §2464, sub-§6**, as amended by PL 2009, c. 162, §2, is further
28 amended to read:

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

36 **Sec. 4. 25 MRSA §2464, sub-§9**, as enacted by PL 2009, c. 162, §3, is amended
37 to read:

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

3 A. At the time of each occupancy, the landlord shall provide smoke detectors if they
4 are not already present. The smoke detectors must be in working condition. After
5 notification, in writing, of any deficiencies by the tenant, the landlord shall repair or
6 replace the smoke detectors. If the landlord did not know and had not been notified
7 of the need to repair or replace a smoke detector, the landlord's failure to repair or
8 replace the smoke detector may not be considered as evidence of negligence in a
9 subsequent civil action arising from death, property loss or personal injury; ~~and~~

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

13 C. The landlord may install 10-year sealed tamper-resistant battery-powered smoke
14 detectors if the unit is a single-family dwelling.

15 **Sec. 5. 25 MRSA §2464, sub-§10**, as enacted by PL 2009, c. 162, §4, is amended
16 to read:

17 **10. Transfer of dwelling.** A person who, after October 31, 2009, acquires by sale or
18 exchange a single-family dwelling or a multiapartment building shall certify at the
19 closing of the transaction that the dwelling or multiapartment building is provided with
20 smoke detectors ~~in accordance with this section~~. This certification must be signed and
21 dated by the purchaser. The smoke detectors must be installed, in accordance with the
22 National Electric Code and the manufacturer's requirements, upon or near the ceiling in
23 areas within, or giving access to, bedrooms. The smoke detectors must be powered by
24 the electrical service in the building, either by being hardwired or plugged into an
25 electrical outlet, and by battery.

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

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

31 **Sec. 6. 25 MRSA §2468, sub-§1, ¶B**, as enacted by PL 2009, c. 162, §5, is
32 amended to read:

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

35 **Sec. 7. 25 MRSA §2468, sub-§2**, as enacted by PL 2009, c. 162, §5, is amended
36 to read:

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

40 A. Each ~~apartment~~ unit in any building of multifamily occupancy;

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

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

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

6 **Sec. 8. 25 MRSA §2468, sub-§4**, as enacted by PL 2009, c. 162, §5, is amended
7 to read:

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

12 **Sec. 9. 25 MRSA §2468, sub-§5**, as enacted by PL 2009, c. 162, §5, is amended
13 to read:

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

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

24 B. The tenant shall keep the carbon monoxide detectors in working condition by
25 keeping the carbon monoxide detectors connected to the electrical service in the
26 building, by keeping charged batteries in battery-operated carbon monoxide
27 detectors, by testing the carbon monoxide detectors periodically and by refraining
28 from disabling the carbon monoxide detectors.

29 This subsection does not apply to a hotel, motel, inn or bed and breakfast licensed as an
30 eating and lodging place under Title 22, chapter 562.

31 **Sec. 10. 25 MRSA §2468, sub-§6**, as enacted by PL 2009, c. 162, §5, is amended
32 to read:

33 **6. Transfer of dwelling.** A person who, after October 31, 2009, acquires by sale or
34 exchange a single-family dwelling or a multiapartment building shall certify at the
35 closing of the transaction that the dwelling or multiapartment building is provided with
36 carbon monoxide detectors ~~in accordance with this section~~. This certification must be
37 signed and dated by the purchaser. The carbon monoxide detectors must be installed
38 according to the manufacturer's requirements in each area within, or giving access to,
39 bedrooms and must be powered both by the electrical service in the dwelling or building
40 and by battery.

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

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

6 **Sec. 11. PL 2009, c. 162, §6** is amended to read:

7 **Sec. 6. Transfer funds from Department of Public Safety, Office of the**
8 **State Fire Marshal.** The Commissioner of Public Safety shall may transfer up to
9 \$100,000 from the Department of Public Safety, Office of the State Fire Marshal for the
10 purpose of purchasing carbon monoxide detectors for distribution through the Maine
11 State Housing Authority, community action agencies, local fire departments, associations
12 representing realtors and any other organizations that could be used to promote the
13 placement of carbon monoxide detectors in homes. Only organizations that are willing
14 and have the ability to properly install these detectors are eligible to participate in this
15 program. Purchase of carbon monoxide detectors may not be made, or a contract
16 executed, without the approval of the Director of the Bureau of General Services within
17 the Department of Administrative and Financial Services.

18 **Sec. 12. Appropriations and allocations.** The following appropriations and
19 allocations are made.

20 **PUBLIC SAFETY, DEPARTMENT OF**

21 **Fire Marshal - Office of 0327**

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

24			
25	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
26	All Other	\$0	\$115,000
27			
28	OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$115,000

29 **Emergency clause.** In view of the emergency cited in the preamble, this
30 legislation takes effect when approved.

31 **SUMMARY**

32 This bill makes the following clarifications to the law governing smoke detectors and
33 carbon monoxide detectors.

34 1. Smoke detectors are required in each unit in a multifamily building and in any
35 single-family dwelling built after January 1, 1982. Smoke detectors are also required in
36 any single-family dwelling in which an addition adding a new bedroom is constructed, or
37 in any dwelling that is converted to a single-family dwelling, after September 19, 1985.

1 These dates reflect the effective dates of the original legislation requiring smoke
2 detectors.

3 2. Smoke detectors are required in all rental units rather than only rental apartments.

4 3. Landlords may install 10-year sealed tamper-resistant battery-powered smoke
5 detectors in rented single-family dwellings.

6 4. Smoke detectors must be installed in rental units at the time of a new occupancy if
7 they are not already present.

8 5. Smoke detectors required upon transfer of a dwelling to a new owner may be
9 powered by the electrical service, by battery or by both.

10 6. Electrical service for carbon monoxide detectors is defined as either plugging the
11 device into an outlet or hard-wiring it.

12 7. The buyer of any single-family dwelling or multifamily apartment building must
13 install carbon monoxide detectors and certify that the buyer has done so.

14 8. Carbon monoxide detectors in rental units, new construction and dwellings that
15 are transferred to new owners are required to be powered by both electrical service and
16 by battery.

17 9. Carbon monoxide detectors are required in all rental units. At the time of new
18 occupancy, the landlord must ensure that carbon monoxide detectors are present.

19 10. Rental units requiring carbon monoxide detectors do not include hotels, motels,
20 inns or bed and breakfast establishments licensed as eating and lodging places under the
21 Maine Revised Statutes, Title 22, chapter 562.

22 11. The Commissioner of Public Safety may transfer up to \$100,000 from the
23 Department of Public Safety, Office of the State Fire Marshal for the purpose of
24 purchasing carbon monoxide detectors for distribution. This amends Public Law 2009,
25 chapter 162, which required the transfer of \$100,000 for this purpose.

26 12. One-time funding of \$115,000 is provided in fiscal year 2010-11 for the purpose
27 of purchasing carbon monoxide detectors and educational materials.