

SENATE RULES COMMITTEE

SB 183

Office of Senate Floor Analyses
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UNFINISHED BUSINESS

Bill No: SB 183
Author: Lowenthal (D), et al
Amended: 3/25/10
Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE: 8-3, 4/21/09
AYES: Lowenthal, Ashburn, DeSaulnier, Kehoe, Oropeza, Pavley,
Simitian, Wolk
NOES: Huff, Harman, Hollingsworth

SENATE JUDICIARY COMMITTEE: 4-1, 4/28/09
AYES: Corbett, Harman, Florez, Leno
NOES: Walters

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 21-12, 5/28/09
AYES: Alquist, Ashburn, Cedillo, Corbett, Correa, DeSaulnier, Florez,
Hancock, Kehoe, Leno, Liu, Lowenthal, Maldonado, Negrete McLeod,
Padilla, Pavley, Romero, Simitian, Steinberg, Wiggins, Yee
NOES: Aanestad, Benoit, Cogdill, Cox, Denham, Dutton, Hollingsworth,
Huff, Runner, Strickland, Walters, Wyland
NO VOTE RECORDED: Calderon, Ducheny, Harman, Oropeza, Wolk,
Wright, Vacancy

ASSEMBLY FLOOR: 47-20, 4/12/10 - See last page for vote

SUBJECT: Residential building safety

SOURCE: California Coalition for Children's Safety and Health
California State Firefighters Association

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DIGEST: This bill enacts the Carbon Monoxide Poisoning Prevention Act of 2010 (Act) requiring all existing dwellings intended for human occupancy that have a fossil fuel burning appliance, a fireplace, or an attached garage to install a carbon monoxide device.

Assembly amendments change the timeframe for which an approved carbon monoxide (CO) device is required to be installed in all existing single-family dwelling units from January 1, 2011 to July 1, 2011, and in all other dwellings intended for human occupancy from January 1, 2012 to January 1, 2013. In addition, the amendments require the State Fire Marshall's certification and decertification process for CO devices include a review of the manufacturer's instructions and ensure their consistency with building standards applicable to new construction for the relevant type of occupancy with respect to number and placement.

ANALYSIS:

Existing law:

1. Requires a transferor to deliver a statutory transfer disclosure statement, and other disclosures, as soon as practicable before transfer of title, or close of escrow, when transferring real property, except in certain cases, and manufactured homes or mobilehomes, provided that the sale or lease with an option to purchase involves an agent.
2. Requires a seller of a single-family dwelling disclose to a transferee that he/she has installed an operable smoke detector in the home as required by law.
3. Requires that smoke detectors be installed in all single-family dwellings that are sold.
4. Provides that no transfer of title is invalidated on the basis of a failure to comply with this requirement and the exclusive remedy for failure to comply is an award of actual damages not to exceed \$100, exclusive of any court costs and attorney's fees.
5. Provides that a transfer shall not be invalidated solely because any person failed to comply with the transfer disclosure requirements described above. However, any person who willfully or negligently

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violates or fails to perform a required duty is liable in the amount of actual damages suffered by a transferee.

6. Requires an owner of rental property to install a smoke detector in a dwelling unit and permits the owner or his or her agent to enter a unit to install, maintain, repair, or test the detector. A tenant must notify the owner of an inoperable smoke detector and the owner must correct any deficiencies.
7. Permits a landlord to enter a dwelling unit only with reasonable notice and during normal business hours except in cases of emergency or where the tenant consents to an entry during other than normal business hours at the time of the entry.

This bill:

1. Requires a CO device that has been approved by the State Fire Marshall (SFM) to be installed in any existing dwelling intended for human occupancy that has a fossil fuel burning heater or appliance, fireplace, or an attached garage within the earliest applicable timeframe as follows:
 - A. For all existing single-family dwelling units intended for human occupancy on or before January 1, 2011.
 - B. For all other dwellings intended for human occupancy on or before July 1, 2013.
2. Makes legislative findings regarding the number of deaths due to CO poisoning, the chronic health effects of prolonged exposure to CO, and the benefit of equipping homes with CO detectors.
3. Defines a “carbon monoxide device” as a device that meets all of the following requirements:
 - A. Detects CO and produces a distinct audible alarm.
 - B. Is battery powered, a plug in device with a battery backup or installed as recommended by Standard 720 of the National Fire Protection Association that is either wired into the alternating current power line of the dwelling unit with a secondary battery backup or connected to a system via a panel.

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- C. Has been tested and certified pursuant to the requirements of the American National Standards Institute (ANSI) and Underwriters Laboratories Inc. (UL), by a nationally recognized testing laboratory as specified.
- D. If combined with a smoke detector the device must:
- (1) Meet the standards that apply to CO alarms as described in the Act.
 - (2) Meet the standards that apply to smoke detectors.
 - (3) Emit an alarm or voice warning in a manner that clearly differentiates between a CO alarm and a smoke detector warning.
4. Defines “dwelling unit intended for human occupancy” to include single family dwelling, factory built home, duplex, lodging house, dormitory apartment complex, hotel, motel, condominium, stock cooperative, time-share project or dwelling unit of a multi-family complex. Exempts a property owned or leased by the state, the Regents of the University of California, or a local government agency.
 5. Defines “fossil fuel” to mean coal, kerosene, oil, wood, fuel gases, and other petroleum or hydrocarbon product which emit CO as a byproduct of combustion.
 6. Requires the SFM to develop a certification and decertification process to approve and list CO devices that must include consideration of the effectiveness and reliability, including their propensity to record false alarms.
 7. Requires the certification and decertification process of CO devices to include review of the manufacturer’s instructions to insure that they are consistent with building standards for new construction regarding the number and placement of CO devices.
 8. Permits the SFM to charge an appropriate fee to the manufacturer of a CO device to cover the cost associated with approving and listing CO devices.

9. Prohibits the sale or distribution of CO devices in the state unless the device has been approved and listed by the SFM.
10. Requires an owner to adhere to the building standards applicable to new construction or manufacturer instructions when determining the number and placement of CO devices in a dwelling.
11. Provides a violation of this Act is punishable by a maximum fine of \$200 for each offense.
12. Requires a resident of a single-family home to receive a 30-day notice to correct a violation of this Act prior to being assessed a fine.
13. Allows a local jurisdiction to enact or amend an ordinance requiring CO devices that is consistent with the Act.
14. Requires an owner of rental units to test and maintain the CO device in that dwelling unit.
15. Allows an owner to enter into a rental unit to test and maintain a CO device.
16. Requires an owner of a rental unit to give a tenant twenty-four hours notice, except in an emergency, before entering the unit to install, repair, test or maintain a CO device.
17. Requires a tenant to notify the manager or owner of a rental unit if the CO device does not work.
18. Provides that if the Department of Housing & Community Development (HCD) in consultation with the SFM determines that there are not enough tested and approved CO devices on the market by the date that the devices are required to be installed in existing dwellings, HCD may suspend enforcement of the Act for six months.
19. Requires HCD, if a decision to delay installation of CO devices is made, to post a notice on the Secretary of State's Internet Web site that describes the findings and decision.

20. Provides that if the California Building Standards Commission (CBSC) adopts building standards relating to CO devices an owner is not required to install a new device meeting those requirements until the owner makes an application for a permit for alterations requires to a dwelling of more than \$1,000.
21. Revises the statutory transfer disclosure statement that the seller of a manufactured home or a one- to four-unit residential property must provide to a buyer by:
 - A. Requiring the seller to check-off whether or not the property has one or more CO devices.
 - B. Adding a footnote to the form advising buyers that installation of a CO device is not a precondition of sale.
 - C. Requiring a seller to certify as opposed to check-off on the list of present items, that the property is in compliance with laws requiring smoke detectors and the bracing of water heaters.

Background

On November 27, 2007, the Senate Committee on Transportation and Housing held an informational hearing entitled “Preventing Carbon Monoxide Poisoning.” The purpose was to hear from experts on the dangers of carbon monoxide poisoning and consider whether California should require the installation of carbon monoxide detectors in dwellings. The committee staff made several findings upon conclusion of the hearing, including that “[c]arbon monoxide poisoning is generally preventable through better education of consumers and improved maintenance of combustion appliances. When carbon monoxide does enter a home, carbon monoxide devices can and do alert the residents and prevent or significantly decrease the severity of a poisoning.”

According to the author’s office, the 2009 International Residential Code requires that carbon monoxide detectors be installed in new construction dwelling units with fuel-fired appliances or attached garages. The updated code also requires detectors to be installed in existing homes that have fuel-fired appliances or attached garages when work requiring a building permit occurs. The author’s office indicates that the Department of Housing and

Community Development is currently considering adopting these requirements in California for newly constructed one and two unit dwellings.

Last year, the author of this bill introduced a similar bill, SB 1386 (Lowenthal). That bill, which would have required that carbon monoxide devices be installed in both new construction and existing, dwelling units, was vetoed by the Governor. In order to address the concerns in the Governor's veto message, this bill will apply only to existing housing and not to new construction.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 6/30/09) (unable to reverify at time of writing)

California Coalition for Children's Safety and Health (co-source)

California State Firefighters Association (co-source)

California Alarm Association

California Industrial Hygiene Council

California Retailers Association

Carbon Monoxide Safety and Health Association

Home Depot

National Fire Protection Association

California Rural Legal Assistance Foundation

Safe Kids

State Association of Electrical Workers

Western Center on Law and Poverty

ARGUMENTS IN SUPPORT: The author's office writes that "[c]arbon monoxide (CO) is the leading cause of accidental poisoning deaths in the United States. Carbon monoxide is an odorless, colorless, deadly gas. The most effective safety device available to reduce injuries and fatalities related to carbon monoxide poisoning is a CO alarm. SB 183 (Lowenthal) will help to ensure California's families are protected from carbon monoxide poisoning." The author's office further writes, "The California Air Resources Board has determined that 30-40 "avoidable deaths" occur just in California each year, on average, due to unintentional carbon monoxide poisoning. Additionally, there are 175-700 "avoidable" emergency room visits and hospitalizations in California alone."

ASSEMBLY FLOOR:

AYES: Adams, Ammiano, Arambula, Bass, Beall, Bill Berryhill, Block, Blumenfield, Bradford, Brownley, Buchanan, Caballero, Carter, Chesbro, Conway, Coto, Davis, De La Torre, De Leon, Eng, Feuer, Fletcher, Fong, Fuentes, Hayashi, Hernandez, Hill, Huffman, Jones, Lieu, Bonnie Lowenthal, Ma, Mendoza, Monning, Nava, V. Manuel Perez, Portantino, Ruskin, Salas, Saldana, Skinner, Solorio, Swanson, Torres, Torrico, Yamada, John A. Perez

NOES: Tom Berryhill, Blakeslee, Cook, DeVore, Fuller, Gaines, Gilmore, Hagman, Huber, Knight, Logue, Miller, Nestande, Niello, Nielsen, Norby, Silva, Audra Strickland, Tran, Villines

NO VOTE RECORDED: Anderson, Charles Calderon, Emmerson, Evans, Furutani, Galgiani, Garrick, Hall, Harkey, Jeffries, Smyth, Torlakson, Vacancy

JJA:do 4/14/10 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

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