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

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

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

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

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

Sec. 1. 25 MRSA §2464, sub-§2, as repealed and replaced by PL 2009, c. 162, §1, is repealed.

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

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

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

B. Each unit in a building of multifamily occupancy;

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

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

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

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

6. Liability. Nothing in this section gives rise to any action against an owner required to comply with subsection 22-A 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' 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. 4. 25 MRSA §2464, sub-§9, as enacted by PL 2009, c. 162, §3, is amended to read:

9. Rental units. In ~~an apartment~~ unit 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 if they are not already present. 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~~ the smoke detectors, by testing the smoke detectors periodically and by refraining from disabling the smoke detectors; ~~and~~

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

Sec. 5. 25 MRSA §2464, sub-§10, as enacted by PL 2009, c. 162, §4, is amended 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. The smoke detectors must be installed, in accordance with the National Electric Code and the manufacturer's requirements, upon or near the ceiling in areas within, or giving access to, bedrooms. The smoke detectors must be powered by the electrical service in the building, either by being hardwired or plugged into an electrical outlet, and by battery.

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

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

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

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 unit 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 and by battery.

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

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 and by battery.

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

5. Rental units. In an apartment unit 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 if they are not already present. 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 the carbon monoxide detectors connected to the electrical service in the building, 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.

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

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

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. The carbon monoxide detectors must be installed according to the manufacturer's requirements in each area within, or giving access to, bedrooms and must be powered both by the electrical service in the dwelling or building and by battery.

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.

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

Sec. 6. Transfer funds from Department of Public Safety, Office of the State Fire Marshal. The Commissioner of Public Safety ~~shall~~may transfer up to \$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. 12. 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	\$0	\$115,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$115,000

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

SUMMARY

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

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

single-family dwelling, after September 19, 1985. These dates reflect the effective dates of the original legislation requiring smoke detectors.

2. Smoke detectors are required in all rental units rather than only rental apartments.
3. Landlords may install 10-year sealed tamper-resistant battery-powered smoke detectors in rented single-family dwellings.
4. Smoke detectors must be installed in rental units at the time of a new occupancy if they are not already present.
5. Smoke detectors required upon transfer of a dwelling to a new owner may be powered by the electrical service, by battery or by both.
6. Electrical service for carbon monoxide detectors is defined as either plugging the device into an outlet or hard-wiring it.
7. The buyer of any single-family dwelling or multifamily apartment building must install carbon monoxide detectors and certify that the buyer has done so.
8. Carbon monoxide detectors in rental units, new construction and dwellings that are transferred to new owners are required to be powered by both electrical service and by battery.
9. Carbon monoxide detectors are required in all rental units. At the time of new occupancy, the landlord must ensure that carbon monoxide detectors are present.
10. Rental units requiring carbon monoxide detectors do not include hotels, motels, inns or bed and breakfast establishments licensed as eating and lodging places under the Maine Revised Statutes, Title 22, chapter 562.
11. The Commissioner of Public Safety may transfer up to \$100,000 from the Department of Public Safety, Office of the State Fire Marshal for the purpose of purchasing carbon monoxide detectors for distribution. This amends Public Law 2009, chapter 162, which required the transfer of \$100,000 for this purpose.
12. One-time funding of \$115,000 is provided in fiscal year 2010-11 for the purpose of purchasing carbon monoxide detectors and educational materials.