

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE BILL 1924\***  
**Commerce, Small Business and Entrepreneurship Committee Substitute Adopted**  
**6/24/08**  
**Third Edition Engrossed 6/26/08**

Short Title: Require Carbon Monoxide Detectors.

(Public)

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Sponsors:

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Referred to:

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May 22, 2008

A BILL TO BE ENTITLED

1  
2 AN ACT TO AUTHORIZE THE NORTH CAROLINA BUILDING CODE COUNCIL  
3 TO STUDY AND ADOPT PROVISIONS IN THE BUILDING CODE  
4 PERTAINING TO THE INSTALLATION OF CARBON MONOXIDE  
5 DETECTORS IN CERTAIN SINGLE-FAMILY OR MULTIFAMILY  
6 DWELLINGS; TO REQUIRE THE INSTALLATION OF OPERATIONAL  
7 CARBON MONOXIDE DETECTORS IN CERTAIN RESIDENTIAL RENTAL  
8 PROPERTY; TO PROVIDE FOR MUTUAL OBLIGATIONS BETWEEN  
9 LANDLORDS AND TENANTS REGARDING THE INSTALLATION AND  
10 UPKEEP OF CARBON MONOXIDE DETECTORS; AND TO MAKE  
11 CONFORMING CHANGES, AS RECOMMENDED BY THE NORTH  
12 CAROLINA CHILD FATALITY TASK FORCE.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** G.S. 143-138(b) reads as rewritten:

15 "(b) Contents of the Code. – The North Carolina State Building Code, as adopted  
16 by the Building Code Council, may include reasonable and suitable classifications of  
17 buildings and structures, both as to use and occupancy; general building restrictions as  
18 to location, height, and floor areas; rules for the lighting and ventilation of buildings and  
19 structures; requirements concerning means of egress from buildings and structures;  
20 requirements concerning means of ingress in buildings and structures; rules governing  
21 construction and precautions to be taken during construction; rules as to permissible  
22 materials, loads, and stresses; rules governing chimneys, heating appliances, elevators,  
23 and other facilities connected with the buildings and structures; rules governing  
24 plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering  
25 of temperature, and electrical systems; and such other reasonable rules pertaining to the  
26 construction of buildings and structures and the installation of particular facilities

1 therein as may be found reasonably necessary for the protection of the occupants of the  
2 building or structure, its neighbors, and members of the public at large.

3 In addition, the Code may regulate activities and conditions in buildings, structures,  
4 and premises that pose dangers of fire, explosion, or related hazards. Such fire  
5 prevention code provisions shall be considered the minimum standards necessary to  
6 preserve and protect public health and safety, subject to approval by the Council of  
7 more stringent provisions proposed by a municipality or county as provided in  
8 G.S. 143-138(e). These provisions may include regulations requiring the installation of  
9 either battery-operated or electrical smoke detectors in every dwelling unit used as  
10 rental property, regardless of the date of construction of the rental property. For  
11 dwelling units used as rental property constructed prior to 1975, smoke detectors shall  
12 have an Underwriters' Laboratories, Inc., listing or other equivalent national testing  
13 laboratory approval, and shall be installed in accordance with either the standard of the  
14 National Fire Protection Association or the minimum protection designated in the  
15 manufacturer's instructions, which the property owner shall retain or provide as proof of  
16 compliance.

17 The Code may contain provisions requiring the installation of either battery-operated  
18 or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel  
19 burning heater or appliance, fireplace, or an attached garage. Carbon monoxide  
20 detectors shall be those listed by a nationally recognized testing laboratory that is  
21 OSHA-approved to test and certify to American National Standards  
22 Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and  
23 shall be installed in accordance with either the standard of the National Fire Protection  
24 Association or the minimum protection designated in the manufacturer's instructions,  
25 which the property owner shall retain or provide as proof of compliance. A carbon  
26 monoxide detector may be combined with smoke detectors if the combined detector  
27 does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for  
28 carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm  
29 in a manner that clearly differentiates between detecting the presence of carbon  
30 monoxide and the presence of smoke.

31 The Code may contain provisions regulating every type of building or structure,  
32 wherever it might be situated in the State.

33 Provided further, that nothing in this Article shall be construed to make any building  
34 rules applicable to farm buildings located outside the building-rules jurisdiction of any  
35 municipality.

36 Provided further, that no building permit shall be required under the Code or any  
37 local variance thereof approved under subsection (e) for any construction, installation,  
38 repair, replacement, or alteration costing five thousand dollars (\$5,000) or less in any  
39 single family residence or farm building unless the work involves: the addition, repair,  
40 or replacement of load bearing structures; the addition (excluding replacement of same  
41 size and capacity) or change in the design of plumbing; the addition, replacement or  
42 change in the design of heating, air conditioning, or electrical wiring, devices,  
43 appliances, or equipment, the use of materials not permitted by the North Carolina

1 Uniform Residential Building Code; or the addition (excluding replacement of like  
2 grade of fire resistance) of roofing.

3 Provided further, that no building permit shall be required under such Code from any  
4 State agency for the construction of any building or structure, the total cost of which is  
5 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

6 For the information of users thereof, the Code shall include as appendices [the  
7 following:]

8 (1) Any rules governing boilers adopted by the Board of Boiler and  
9 Pressure Vessels Rules,

10 (2) Any rules relating to the safe operation of elevators adopted by the  
11 Commissioner of Labor, and

12 (3) Any rules relating to sanitation adopted by the Commission for Public  
13 Health which the Building Code Council believes pertinent.

14 In addition, the Code may include references to such other rules of special types,  
15 such as those of the Medical Care Commission and the Department of Public Instruction  
16 as may be useful to persons using the Code. No rule issued by any agency other than the  
17 Building Code Council shall be construed as a part of the Code, nor supersede that  
18 Code, it being intended that they be presented with the Code for information only.

19 Nothing in this Article shall extend to or be construed as being applicable to the  
20 regulation of the design, construction, location, installation, or operation of (1)  
21 equipment for storing, handling, transporting, and utilizing liquefied petroleum gases  
22 for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied  
23 petroleum gas from the outlet of the first stage pressure regulator to and including each  
24 liquefied petroleum gas utilization device within a building or structure covered by the  
25 Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined  
26 in G.S. 62-3, or an electric or telephone membership corporation, including without  
27 limitation poles, towers, and other structures supporting electric or communication  
28 lines.

29 Nothing in this Article shall extend to or be construed as being applicable to the  
30 regulation of the design, construction, location, installation, or operation of industrial  
31 machinery. However, if during the building code inspection process, an electrical  
32 inspector has any concerns about the electrical safety of a piece of industrial machinery,  
33 the electrical inspector may refer that concern to the Occupational Safety and Health  
34 Division in the North Carolina Department of Labor but shall not withhold the  
35 certificate of occupancy nor mandate third-party testing of the industrial machinery  
36 based solely on this concern. For the purposes of this paragraph, "industrial machinery"  
37 means equipment and machinery used in a system of operations for the explicit purpose  
38 of producing a product. The term does not include equipment that is permanently  
39 attached to or a component part of a building and related to general building services  
40 such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and  
41 general electrical transmission.

42 In addition, the Code may contain rules concerning minimum efficiency  
43 requirements for replacement water heaters, which shall consider reasonable availability  
44 from manufacturers to meet installation space requirements and may contain rules

1 concerning energy efficiency that require all hot water plumbing pipes that are larger  
2 than one-fourth of an inch to be insulated.

3 No State, county, or local building code or regulation shall prohibit the use of special  
4 locking mechanisms for seclusion rooms in the public schools approved under  
5 G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be  
6 constructed so that it will engage only when a key, knob, handle, button, or other similar  
7 device is being held in position by a person, and provided further that, if the mechanism  
8 is electrically or electronically controlled, it automatically disengages when the  
9 building's fire alarm is activated. Upon release of the locking mechanism by a  
10 supervising adult, the door must be able to be opened readily."

11 **SECTION 2.** G.S. 42-42(a) is amended by adding the following new  
12 subdivision to read:

13 "(a) The landlord shall:

14 ...

15 (7) Provide a minimum of one operable carbon monoxide detector per  
16 rental unit per level, either battery-operated or electrical, that is listed  
17 by a nationally recognized testing laboratory that is OSHA-approved  
18 to test and certify to American National Standards  
19 Institute/Underwriters Laboratories Standards ANSI/UL2034 or  
20 ANSI/UL2075, and install the carbon monoxide detectors in  
21 accordance with either the standards of the National Fire Protection  
22 Association or the minimum protection designated in the  
23 manufacturer's instructions, which the landlord shall retain or provide  
24 as proof of compliance. A landlord that installs one carbon monoxide  
25 detector per rental unit per level shall be deemed to be in compliance  
26 with standards under this subdivision covering the location and  
27 number of detectors. The landlord shall replace or repair the carbon  
28 monoxide detectors within 15 days of receipt of notification if the  
29 landlord is notified of needed replacement or repairs in writing by the  
30 tenant. The landlord shall ensure that a carbon monoxide detector is  
31 operable and in good repair at the beginning of each tenancy. Unless  
32 the landlord and the tenant have a written agreement to the contrary,  
33 the landlord shall place new batteries in a battery-operated carbon  
34 monoxide detector at the beginning of a tenancy, and the tenant shall  
35 replace the batteries as needed during the tenancy. Failure of the tenant  
36 to replace the batteries as needed shall not be considered as negligence  
37 on the part of the tenant or the landlord. A carbon monoxide detector  
38 may be combined with smoke detectors if the combined detector does  
39 both of the following: (i) complies with ANSI/UL2034 or  
40 ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for  
41 smoke detectors; and (ii) emits an alarm in a manner that clearly  
42 differentiates between detecting the presence of carbon monoxide and  
43 the presence of smoke. This subdivision applies only to dwelling units

1 having a fossil-fuel burning heater or appliance, fireplace, or an  
2 attached garage.

3 ...."

4 **SECTION 3.** G.S. 42-43(a)(4) and (a)(7) read as rewritten:

5 **"§ 42-43. Tenant to maintain dwelling unit.**

6 (a) The tenant shall:

7 ...

8 (4) Not deliberately or negligently destroy, deface, damage, or remove any  
9 part of the premises, nor render inoperable the smoke detector or  
10 carbon monoxide detector provided by the landlord, or knowingly  
11 permit any person to do so.

12 ...

13 (7) Notify the landlord, in writing, of the need for replacement of or  
14 repairs to a smoke ~~detector~~detector or carbon monoxide detector. The  
15 landlord shall ensure that a smoke detector ~~is~~and carbon monoxide  
16 detector are operable and in good repair at the beginning of each  
17 tenancy. Unless the landlord and the tenant have a written agreement  
18 to the contrary, the landlord shall place new batteries in a  
19 battery-operated smoke detector and battery-operated carbon  
20 monoxide detector at the beginning of a tenancy and the tenant shall  
21 replace the batteries as needed during the tenancy. Failure of the tenant  
22 to replace the batteries as needed shall not be considered as negligence  
23 on the part of the tenant or the landlord."

24 **SECTION 4.** G.S. 42-44 reads as rewritten:

25 **"§ 42-44. General remedies, penalties, and limitations.**

26 (a) Any right or obligation declared by this Chapter is enforceable by civil  
27 action, in addition to other remedies of law and in equity.

28 (a1) If a landlord fails to provide, install, replace, or repair a smoke detector under  
29 the provisions of G.S. 42-42(a)(5) or a carbon monoxide detector under the provisions  
30 of G.S. 42-42(a)(7) within 30 days of having received written notice from the tenant or  
31 any agent of State or local government of the landlord's failure to do so, the landlord  
32 shall be responsible for an infraction and shall be subject to a fine of not more than two  
33 hundred fifty dollars (\$250.00) for each violation. The landlord may temporarily  
34 disconnect a smoke detector or carbon monoxide detector in a dwelling unit or common  
35 area for construction or rehabilitation activities when such activities are likely to  
36 activate the smoke detector or carbon monoxide detector or make it inactive.

37 (a2) If a smoke detector or carbon monoxide detector is disabled or damaged,  
38 other than through actions of the landlord, the landlord's agents, or acts of God, the  
39 tenant shall reimburse the landlord the reasonable and actual cost for repairing or  
40 replacing the smoke detector or carbon monoxide detector within 30 days of having  
41 received written notice from the landlord or any agent of State or local government of  
42 the need for the tenant to make such reimbursement. If the tenant fails to make  
43 reimbursement within 30 days, the tenant shall be responsible for an infraction and  
44 subject to a fine of not more than one hundred dollars (\$100.00) for each violation. The

1 tenant may temporarily disconnect a smoke detector or carbon monoxide detector in a  
2 dwelling unit to replace the batteries or when it has been inadvertently activated.

3 (b) Repealed by Session Laws 1979, c. 820, s. 8.

4 (c) The tenant may not unilaterally withhold rent prior to a judicial determination  
5 of a right to do so.

6 (d) A violation of this Article shall not constitute negligence per se."

7 **SECTION 5.** The amendment to G.S. 143-138(b) contained in Section 1 of  
8 this act shall not be construed to imply that the Building Code Council not possess the  
9 authority contained in that amendment prior to the effective date of Section 1 of this act.

10 **SECTION 6.** Any operable carbon monoxide detector installed before  
11 January 1, 2010, shall be deemed to be in compliance with the provisions of  
12 G.S. 42-42(a)(7) as set forth in Section 2 of this act.

13 **SECTION 7.** The Building Code Council shall study the needs and benefits  
14 of carbon monoxide detectors as set forth in provisions in Section 1 of this bill, and  
15 report the results of its study to the General Assembly on or before July 1, 2009.

16 **SECTION 8.** Sections 2, 3, and 4 of this act become effective January 1,  
17 2010, and apply to residential rental agreements in effect on and after that date. The  
18 remainder of this act is effective when it becomes law.