

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2008-219
SENATE BILL 1924**

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

The General Assembly of North Carolina enacts:

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

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

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

The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide

detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

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

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

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

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

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

- (1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,
- (2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and
- (3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

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

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

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical

inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

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

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

"(a) The landlord shall:

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

the presence of smoke. This subdivision applies only to dwelling units having a fossil-fuel burning heater or appliance, fireplace, or an attached garage.

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

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

(a) The tenant shall:

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

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

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

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

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

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

(a2) If a smoke detector or carbon monoxide detector is disabled or damaged, other than through actions of the landlord, the landlord's agents, or acts of God, the tenant shall reimburse the landlord the reasonable and actual cost for repairing or replacing the smoke detector or carbon monoxide detector within 30 days of having received written notice from the landlord or any agent of State or local government of the need for the tenant to make such reimbursement. If the tenant fails to make reimbursement within 30 days, the tenant shall be responsible for an infraction and subject to a fine of not more than one hundred dollars (\$100.00) for each violation. The tenant may temporarily disconnect a smoke detector or carbon monoxide detector in a dwelling unit to replace the batteries or when it has been inadvertently activated.

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

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

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

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

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

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

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

In the General Assembly read three times and ratified this the 14th day of July, 2008.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:33 a.m. this 16th day of August, 2008