

AMENDED IN SENATE MAY 27, 2008
AMENDED IN SENATE APRIL 23, 2008
AMENDED IN SENATE MARCH 26, 2008

SENATE BILL

No. 1386

Introduced by Senator Lowenthal
(Principal coauthor: Assembly Member Garcia)
(Coauthor: Senator Wiggins)
(Coauthors: Assembly Members Mullin, Saldana, and Wolk)

February 21, 2008

An act to add Chapter 8 (commencing with Section 13260) to Part 2 of Division 12 of the Health and Safety Code, relating to carbon monoxide.

LEGISLATIVE COUNSEL'S DIGEST

SB 1386, as amended, Lowenthal. Carbon monoxide.

(1) Existing law requires the State Fire Marshal to adopt regulations and standards regarding the quality and installation of burglar bars and safety release mechanisms for emergency escape and rescue windows, the approval and installation of smoke detectors, and the approval of portable fire extinguishers for marketing, distribution, and sale in this state. Existing law requires a smoke detector approved and listed by the State Fire Marshal to be installed in a dwelling unit intended for human occupancy. Existing law also requires the transferor of real property containing a single-family dwelling to provide transferees written notice of compliance with specified requirements for the installation of smoke detectors.

This bill would additionally require the State Fire Marshal to approve carbon monoxide devices for the use in dwelling units intended for

human occupancy, as defined. The bill would require a carbon monoxide device to be installed in a dwelling unit intended for human occupancy, as specified. The bill would generally provide that a violation of these provisions is an infraction punishable by a maximum fine of \$200 for each offense; however, a resident of a single-family dwelling would receive a 30-day notice to correct prior to being assessed a fine. By creating a new crime, this bill would create a state-mandated local program.

This bill would require an owner of a dwelling unit intended for human occupancy who rents or leases space to a tenant to test and maintain carbon monoxide devices in that dwelling unit. The bill would also permit the owner to enter that dwelling unit to install, repair, test, and maintain carbon monoxide devices, as specified. The bill would further require, on and after July 1, 2009, the transferor of any single-family home, factory-built home, condominium, duplex, stock cooperative unit, or time-share unit to provide transferees written notice of compliance with specified requirements for the installation of carbon monoxide devices, as specified. The bill would require the State Fire Marshal to adopt regulations and standards regarding the quality and installation of carbon monoxide devices and to develop a process to approve and list carbon monoxide devices, as specified. The bill would authorize the State Fire Marshal to charge an appropriate fee to the manufacturer of a carbon monoxide device to cover the costs associated with the approval and listing of carbon monoxide devices. The bill would also make related legislative findings and declarations.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 8 (commencing with Section 13260) is
2 added to Part 2 of Division 12 of the Health and Safety Code, to
3 read:

1 CHAPTER 8. CARBON MONOXIDE POISONING PREVENTION ACT
2 OF 2008

3
4 13260. This chapter shall be known and may be cited as the
5 Carbon Monoxide Poisoning Prevention Act of 2008.

6 13261. The Legislature finds and declares all of the following:

7 (a) According to the Centers for Disease Control and Prevention,
8 carbon monoxide is the leading cause of accidental poisoning
9 deaths in the United States. Each year carbon monoxide kills more
10 than 2,000 people and injures another 15,000 people nationwide.

11 (b) According to the United States Environmental Protection
12 Agency, a person cannot see or smell carbon monoxide, but at
13 high levels carbon monoxide can kill a person in minutes. Carbon
14 monoxide is produced whenever any fuel, such as gas, oil,
15 kerosene, wood, or charcoal, is burned.

16 (c) The State Air Resources Board estimates that every year
17 carbon monoxide accounts for between 30 and 40 avoidable deaths,
18 possibly thousands of avoidable illnesses, and between 175 and
19 700 avoidable emergency room and hospital visits.

20 (d) There are well-documented chronic health effects of acute
21 carbon monoxide poisoning or prolonged exposure to carbon
22 monoxide, including, but not limited to, lethargy, headaches,
23 concentration problems, amnesia, psychosis, Parkinson's disease,
24 memory impairment, and personality alterations.

25 (e) Experts estimate that equipping every home with a carbon
26 monoxide device would cut accident-related costs by 93 percent.
27 Sixteen states and a number of large cities have already passed
28 laws mandating the use of carbon monoxide devices.

29 (f) Carbon monoxide devices provide a vital, highly effective,
30 and low-cost protection against carbon monoxide poisoning that
31 should be made available to every home in California.

32 13262. For purposes of this chapter, the following definitions
33 shall apply:

34 (a) "Carbon monoxide device" means a device that meets all of
35 the following requirements:

36 (1) A device designed to detect carbon monoxide and produce
37 a distinct, audible alarm.

38 (2) A device that is battery powered, a plug-in device with
39 battery backup, or a device installed as recommended by Standard
40 720 of the National Fire Protection Association that is either wired

1 into the alternating current power line of the dwelling unit with a
2 secondary battery backup or connected to a system via a panel.

3 (3) If the device is combined with a smoke detector, the
4 combined device shall comply with all of the following:

5 (A) The standards that apply to carbon monoxide alarms as
6 described in this chapter.

7 (B) The standards that apply to smoke detectors, as described
8 in Section 13113.7.

9 (C) The combined device emits an alarm or voice warning in a
10 manner that clearly differentiates between a carbon monoxide
11 alarm warning and a smoke detector warning.

12 (4) The device has been tested and certified, pursuant to the
13 requirements of the American National Standards Institute (ANSI)
14 and Underwriters' Laboratories Inc. (UL) as set forth in either
15 ANSI/UL 2034 or ANSI/UL 2075, by a nationally recognized
16 testing laboratory listed in the directory of approved testing
17 laboratories established by the Building Materials Listing program
18 of the Fire Engineering Division of the Office of the State Fire
19 Marshal of the Department of Forest and Fire Protection.

20 (b) "Dwelling unit intended for human occupancy" includes a
21 single-family dwelling, factory-built home as defined in Section
22 19971, duplex, lodging house, dormitory, apartment complex,
23 hotel, motel, condominium, stock cooperative, time-share project,
24 or dwelling unit of a multiple-unit dwelling complex.

25 (c) "Fossil fuel" means coal, kerosene, oil, wood, fuel gases,
26 and other petroleum or hydrocarbon products, which emit carbon
27 monoxide as a byproduct of combustion.

28 13263. (a) A carbon monoxide device, approved and listed by
29 the State Fire Marshal pursuant to Section 13266, shall be installed,
30 in accordance with the manufacturer's instructions, in each
31 dwelling intended for human occupancy having a fossil fuel
32 burning heater or appliance, fireplace, or an attached garage, within
33 the earliest applicable time period as follows:

34 (1) For dwelling units intended for human occupancy, upon
35 issuance of a certificate of occupancy, or an owner's application,
36 for a permit for alterations, repairs, or additions, exceeding one
37 thousand dollars (\$1,000), on or after July 1, 2009.

38 (2) For all other dwelling units intended for human occupancy
39 ~~on or before~~ *built on or after* July 1, 2010.

40 (3) *For all dwelling units sold on or after July 1, 2010.*

1 (b) (1) Except as provided in paragraph (2), a violation of this
2 section is an infraction punishable by a maximum fine of two
3 hundred dollars (\$200) for each offense.

4 (2) Notwithstanding paragraph (1), a resident of a single-family
5 dwelling shall receive a 30-day notice to correct prior to being
6 assessed a fine.

7 (c) A local ordinance requiring carbon monoxide devices may
8 be enacted or amended if the ordinance is consistent with, and
9 satisfies the minimum requirements of, this chapter.

10 13264. (a) An owner of a dwelling unit intended for human
11 occupancy who rents or leases space to a tenant shall test and
12 maintain carbon monoxide devices in that dwelling unit.

13 (b) An owner or the owner's agent may enter any dwelling unit,
14 efficiency dwelling unit, guest room, and suite owned by the owner
15 for the purpose of installing, repairing, testing, and maintaining
16 single station carbon monoxide devices required by this section.
17 Except in cases of emergency, the owner or owner's agent shall
18 give the tenants of each unit, room, or suite reasonable notice in
19 writing of the intention to enter and shall enter only during normal
20 business hours. Twenty-four hours shall be presumed to be
21 reasonable notice in the absence of evidence to the contrary.

22 (c) The carbon monoxide device shall be operable at the time
23 that the tenant takes possession. ~~Notwithstanding subdivision (a),~~
24 ~~a tenant shall be responsible for periodically testing the device and~~
25 *A tenant shall be responsible* for notifying the manager or owner
26 if the tenant becomes aware of an inoperable carbon monoxide
27 device within his or her unit. The owner or authorized agent shall
28 correct any reported deficiencies in the carbon monoxide device
29 and shall not be in violation of this section for a deficient carbon
30 monoxide device when he or she has not received notice of the
31 deficiency.

32 (d) This section shall not affect any rights which the parties may
33 have under any other provision of law because of the presence or
34 absence of a carbon monoxide device.

35 13265. (a) On and after July 1, 2009, the transferor of any
36 single-family home, factory-built home, condominium, duplex,
37 stock cooperative unit, or time-share unit, whether the transfer is
38 made by sale, exchange, or real property sales contract, as defined
39 in Section 2985 of the Civil Code, shall deliver to the transferee
40 a written statement indicating that the transferor is in compliance

1 with this chapter. The disclosure statement shall be either included
2 in the receipt for deposit in a real estate transaction, an addendum
3 attached thereto, or a separate document.

4 (b) The transferor shall deliver the statement referred to in
5 subdivision (a) as soon as practicable before the transfer of title,
6 in the case of a sale or exchange, or prior to execution of the
7 contract where the transfer is by a real property sales contract, as
8 defined in Section 2985 of the Civil Code. For purposes of this
9 subdivision, “delivery” means delivery in person or by mail to the
10 transferee or transferor, or to a person authorized to act for him or
11 her in the transaction, or to additional transferees who have
12 requested delivery from the transferor in writing. Delivery to the
13 spouse of a transferee or transferor shall be deemed delivery to a
14 transferee or transferor, unless the contract states otherwise.

15 (c) This section does not apply to any of the following:

16 (1) Transfers that are required to be preceded by the furnishing
17 to a prospective transferee of a copy of a public report pursuant to
18 Section 11018.1 of the Business and Professions Code.

19 (2) Transfers pursuant to court order, including, but not limited
20 to, transfers ordered by a probate court in the administration of an
21 estate, transfers pursuant to a writ of execution, transfers by a
22 trustee in bankruptcy, transfers by eminent domain, or transfers
23 resulting from a decree for specific performance.

24 (3) Transfers to a mortgagee by a mortgagor in default, transfers
25 to a beneficiary of a deed of trust by a trustor in default, transfers
26 by a foreclosure sale after default, transfers by a foreclosure sale
27 after default in an obligation secured by a mortgage, or transfers
28 by a sale under a power of sale after a default in an obligation
29 secured by a deed of trust or secured by any other instrument
30 containing a power of sale.

31 (4) Transfers by a fiduciary in the course of the administration
32 of a decedent’s estate, guardianship, conservatorship, or trust.

33 (5) Transfers from one coowner to one or more coowners.

34 (6) Transfers made to a spouse, or to a person or persons in the
35 lineal line of consanguinity of one or more of the transferors.

36 (7) Transfers between spouses resulting from a decree of
37 dissolution of a marriage, from a decree of legal separation, or
38 from a property settlement agreement incidental to either of those
39 decrees.

1 (8) Transfers by the Controller in the course of administering
2 the Unclaimed Property Law provided for in Chapter 7
3 (commencing with Section 1500) of Title 10 of Part 3 of the Code
4 of Civil Procedure.

5 (9) Transfers under the provisions of Chapter 7 (commencing
6 with Section 3691) or Chapter 8 (commencing with Section 3771)
7 of Part 6 of Division 1 of the Revenue and Taxation Code.

8 (d) Liability shall not arise, and an action shall not be brought
9 or maintained against, an agent of a party to a transfer of title,
10 including a person or entity acting in the capacity of an escrow,
11 for any error, inaccuracy, or omission relating to the disclosure
12 required to be made by a transferor pursuant to this section.
13 However, this subdivision does not apply to a licensee, as defined
14 in Section 10011 of the Business and Professions Code, where the
15 licensee participates in the making of the disclosure required to
16 be made pursuant to this section with actual knowledge of the
17 falsity of the disclosure.

18 (e) Except as otherwise provided in this section, this section
19 shall not be deemed to create or imply a duty upon a licensee, as
20 defined in Section 10011 of the Business and Professions Code,
21 or upon any agent of any party to a transfer of title, including any
22 person or entity acting in the capacity of an escrow, to monitor or
23 ensure compliance with this section.

24 (f) A transfer of title shall not be invalidated on the basis of a
25 failure to comply with this section, and the exclusive remedy for
26 the failure to comply with this section is an award of actual
27 damages not to exceed one hundred dollars (\$100), exclusive of
28 court costs and attorney's fees.

29 13266. (a) (1) The State Fire Marshal, with the advice of the
30 State Board of Fire Services and the State Air Resources Board,
31 shall adopt any regulations or standards as he or she may determine
32 to be necessary to control the quality and installation of carbon
33 monoxide devices.

34 (2) The State Fire Marshal shall develop a process to approve
35 and list carbon monoxide devices.

36 (3) The State Fire Marshal shall be authorized to charge an
37 appropriate fee to the manufacturer of a carbon monoxide device
38 to cover the costs associated with the approval and listing of carbon
39 monoxide devices.

1 (b) Notwithstanding subdivision (a), a person shall not market,
2 distribute, offer for sale, or sell any carbon monoxide device in
3 this state unless the device has been approved and listed by the
4 State Fire Marshal.

5 (c) (1) On or before July 1, 2010, the owner of a dwelling unit
6 intended for human occupancy shall install a carbon monoxide
7 device that meets the quality and installation requirements imposed
8 by this section.

9 (2) If the State Fire Marshal adopts regulations or standards
10 after July 1, 2010, that modify the requirements imposed by this
11 section, the owner shall not be required to install a new device
12 meeting the requirements of those regulations or standards within
13 an individual dwelling unit until the owner makes application for
14 a permit for alterations, repairs, or additions to that dwelling unit,
15 the cost of which will exceed one thousand dollars (\$1,000).

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.