

AMENDED IN SENATE APRIL 10, 2012

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 1394

Introduced by Senator Lowenthal

February 24, 2012

An act to amend ~~Section~~ *Sections 13113.7, 13113.8, 13114, and 17926* of the Health and Safety Code, relating to ~~carbon monoxide devices dwelling safety~~.

LEGISLATIVE COUNSEL'S DIGEST

SB 1394, as amended, Lowenthal. ~~Carbon monoxide devices. Dwelling safety: carbon monoxide and smoke detectors.~~

(1) Existing law provides that, subject to exceptions, a smoke detector, approved and listed by the State Fire Marshal, as specified, shall be installed, in accordance with the manufacturer's instructions in each dwelling intended for human occupancy. Existing law requires the owner of each dwelling unit subject to these requirements to supply and install smoke detectors in the locations and in the manner set forth in the manufacturer's instructions, as approved by the State Fire Marshal's regulations, and further requires, in the case of apartment complexes and other multiple-dwelling complexes, that a smoke detector shall be installed in the common stairwells. Existing law provides that a violation of these provisions is an infraction.

This bill would, in addition, require that, commencing January 1, 2014, an owner of a single-family dwelling or a multiple-dwelling complex that is rented or leased shall ensure that the smoke detectors for the dwelling are operational at the time that the tenant takes possession, that placement of the smoke detectors is in compliance with

current building code standards, and that, if a smoke detectors is solely battery operated, it contains a battery with a minimum 10-year life.

By expanding the scope of provisions of law, the violation of which is a crime, this bill would impose a state-mandated local program.

(2) Existing law, subject to exceptions, requires that every single-family dwelling and factory-built housing, as defined, which is sold have an operable smoke detector that is approved and listed by the State Fire Marshal and installed in accordance with the State Fire Marshal's regulations.

This bill would additionally require that for all dwelling units intended for human occupancy, upon the owner's application on or after January 1, 2014, for a permit for alterations, repairs, or additions, exceeding \$1,000, all smoke detectors required for the dwelling unit shall display the date of manufacture on the device, provide a place on the device where the date of installation can be written, incorporate a "hush" feature, incorporate an "end-of-life" feature that provides notice that the device needs to be replaced, and, if battery operated, contain a tamper-resistant battery with a minimum 10-year life.

(3) Existing law requires, upon the transferor of any real property containing a single-family dwelling, as specified, to deliver to the transferee a written statement indicating that the transferor is in compliance with specified smoke detector requirements.

This bill would additionally require, commencing January 1, 2014, that if a home inspector makes an inspection of any real property containing a single-family dwelling, the inspector's report shall provide information to the buyer regarding the age of the smoke detectors in the dwelling, if that fact is known or can be determined with reasonable effort, whether the placement of the smoke detectors is in compliance with current building code standards, and, if the smoke detectors are solely battery operated, if they contain a battery with a minimum 10-year life.

(4) Existing law provides that no person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

This bill would additionally provide that, commencing January 1, 2014, in order to be approved and listed by the State Fire Marshal, a smoke detector shall display the date of manufacture on the device, provide a place on the device where the date of installation can be written, incorporate a hush feature, incorporate an end-of-life feature

that provides notice that the device needs to be replaced, and, if battery operated, contain a tamper-resistant battery with a minimum 10-year life.

Existing

(5) Existing law requires an owner of a dwelling unit intended for human occupancy to install a carbon monoxide device in each existing dwelling, as specified. Existing law requires the installation of carbon monoxide devices in each existing single-family dwelling unit by July 1, 2011, and all other dwelling units by January 1, 2013. The State Housing Law creates standards for buildings used for human habitation. A violation of that law is a crime. Existing law requires an adopting agency or state agency that proposes new building standards to submit those standards for review by the California Building Standards Commission.

This bill would require the installation of carbon monoxide devices in all existing hotel and motel dwelling units by January 1, 2016. The bill would require the Department of Housing and Community Development to adopt building standards to implement those provisions by July 1, 2014. Because the violation of a building standard is a crime, the bill would impose a state-mandated local program.

The

(6) 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.** *Section 13113.7 of the Health and Safety Code*
- 2 *is amended to read:*
- 3 13113.7. (a) Except as otherwise provided in this section, a
- 4 smoke detector, approved and listed by the State Fire Marshal
- 5 pursuant to Section 13114, shall be installed, in accordance with
- 6 the manufacturer’s instructions in each dwelling intended for
- 7 human occupancy within the earliest applicable time period as
- 8 follows:

1 (1) For all dwelling units intended for human occupancy, upon
2 the owner's application on or after January 1, 1985, for a permit
3 for alterations, repairs, or additions, exceeding one thousand dollars
4 (\$1,000).

5 (2) For all other dwelling units intended for human occupancy
6 on or after January 1, 1987.

7 However, if any local rule, regulation, or ordinance, adopted
8 prior to the compliance dates specified in paragraphs (1) and (2)
9 requires installation in a dwelling unit intended for human
10 occupancy of smoke detectors which receive their power from the
11 electrical system of the building and requires compliance with the
12 local rule, regulation, or ordinance at a date subsequent to the dates
13 specified in this section, the compliance date specified in the rule,
14 regulation, or ordinance shall, but only with respect to the dwelling
15 units specified in this section, take precedence over the dates
16 specified in this section.

17 The State Fire Marshal may adopt regulations exempting
18 dwellings intended for human occupancy with fire sprinkler
19 systems from the provisions of this section, if he or she determines
20 that a smoke detector is not reasonably necessary for fire safety
21 in the occupancy.

22 Unless prohibited by local rules, regulations, or ordinances, a
23 battery-operated smoke detector, which otherwise meets the
24 standards adopted pursuant to Section 13114 for smoke detectors,
25 satisfies the requirements of this section.

26 (b) "Dwelling units intended for human occupancy," as used in
27 this section, includes a duplex, lodging house, apartment complex,
28 hotel, motel, condominium, stock cooperative, time-share project,
29 or dwelling unit of a multiple-unit dwelling complex. For the
30 purpose of this part, "dwelling units intended for human
31 occupancy" does not include manufactured homes as defined in
32 Section 18007, mobilehomes as defined in Section 18008, and
33 commercial coaches as defined in Section 18001.8.

34 (c) (1) The owner of each dwelling unit subject to this section
35 shall supply and install smoke detectors required by this section
36 in the locations and in the manner set forth in the manufacturer's
37 instructions, as approved by the State Fire Marshal's regulations.
38 In the case of apartment complexes and other multiple-dwelling
39 complexes, a smoke detector shall be installed in the common

1 stairwells. All fire alarm warning systems supplemental to the
2 smoke detector shall also be listed by the State Fire Marshal.

3 (2) *Commencing January 1, 2014, an owner of a single-family*
4 *dwelling that is rented or leased shall ensure that the smoke*
5 *detectors for the dwelling are operational at the time that the*
6 *tenant takes possession, that placement of the smoke detectors is*
7 *in compliance with current building code standards, and that, if*
8 *the smoke detectors are solely battery operated, they contain a*
9 *battery with a minimum 10-year life.*

10 (d) A high rise structure, as defined in subdivision (b) of Section
11 13210 and regulated by Chapter 3 (commencing with Section
12 13210), and which is used for purposes other than as dwelling
13 units intended for human occupancy, is exempt from the
14 requirements of this section.

15 (e) The owner shall be responsible for testing and maintaining
16 detectors in hotels, motels, lodging houses, and common stairwells
17 of apartment complexes and other multiple dwelling complexes.

18 An owner or the owner's agent may enter any dwelling unit,
19 efficiency dwelling unit, guest room, and suite owned by the owner
20 for the purpose of installing, repairing, testing, and maintaining
21 single station smoke detectors required by this section. Except in
22 cases of emergency, the owner or owner's agent shall give the
23 tenants of each such unit, room, or suite reasonable notice in
24 writing of the intention to enter and shall enter only during normal
25 business hours. Twenty-four hours shall be presumed to be
26 reasonable notice in absence of evidence to the contrary.

27 The smoke detector shall be operable at the time that the tenant
28 takes possession. *The owner shall ensure that placement of the*
29 *smoke detectors is in compliance with current building code*
30 *standards, and that, if a smoke detector is solely battery operated,*
31 *it contains a battery with a minimum 10-year life.* The apartment
32 complex tenant shall be responsible for notifying the manager or
33 owner if the tenant becomes aware of an inoperable smoke detector
34 within his or her unit. The owner or authorized agent shall correct
35 any reported deficiencies in the smoke detector and shall not be
36 in violation of this section for a deficient smoke detector when he
37 or she has not received notice of the deficiency.

38 (f) A violation of this section is an infraction punishable by a
39 maximum fine of two hundred dollars (\$200) for each offense.

1 (g) This section shall not affect any rights which the parties may
2 have under any other provision of law because of the presence or
3 absence of a smoke detector.

4 (h) This section shall not apply to the installation of smoke
5 detectors in single-family dwellings or factory-built housing which
6 is regulated by Section 13113.8, as added by Assembly Bill No.
7 2285 of the 1983–84 Regular Session.

8 *SEC. 2. Section 13113.8 of the Health and Safety Code is*
9 *amended to read:*

10 13113.8. (a) (1) On and after January 1, 1986, every
11 single-family dwelling and factory-built housing, as defined in
12 Section 19971, which is sold shall have an operable smoke detector.
13 The detector shall be approved and listed by the State Fire Marshal
14 and installed in accordance with the State Fire Marshal's
15 regulations. Unless prohibited by local rules, regulations, or
16 ordinances, a battery-operated smoke detector shall be deemed to
17 satisfy the requirements of this section.

18 (2) *For all dwelling units intended for human occupancy, upon*
19 *the owner's application on or after January 1, 2014, for a permit*
20 *for alterations, repairs, or additions, exceeding one thousand*
21 *dollars (\$1,000), all smoke detectors required for the dwelling*
22 *unit shall comply with paragraph (2) of subdivision (b) of Section*
23 *13114.*

24 (b) (1) On and after January 1, 1986, the transferor of any real
25 property containing a single-family dwelling, as described in
26 subdivision (a), whether the transfer is made by sale, exchange,
27 or real property sales contract, as defined in Section 2985 of the
28 Civil Code, shall deliver to the transferee a written statement
29 indicating that the transferor is in compliance with this section.
30 The disclosure statement shall be either included in the receipt for
31 deposit in a real estate transaction, an addendum attached thereto,
32 or a separate document.

33 (2) *Commencing January 1, 2014, if a home inspector makes*
34 *an inspection of any real property containing a single-family*
35 *dwelling, the inspector's report shall provide information to the*
36 *buyer regarding the age of the smoke detectors in the dwelling, if*
37 *that fact is known or can be determined with reasonable effort,*
38 *whether the placement of the smoke detectors is in compliance*
39 *with current building code standards, and, if the smoke detectors*

1 *are solely battery operated, whether they contain a battery with a*
2 *minimum 10-year life.*

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

14 (d) This section does not apply to any of the following:

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

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

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

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

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

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

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

39 (8) Transfers by the Controller in the course of administering
40 the Unclaimed Property Law provided for in Chapter 7

1 (commencing with Section 1500) of Title 10 of Part 3 of the Code
2 of Civil Procedure.

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

6 (e) No liability shall arise, nor any action be brought or
7 maintained against, any agent of any party to a transfer of title,
8 including any person or entity acting in the capacity of an escrow,
9 for any error, inaccuracy, or omission relating to the disclosure
10 required to be made by a transferor pursuant to this section.
11 However, this subdivision does not apply to a licensee, as defined
12 in Section 10011 of the Business and Professions Code, where the
13 licensee participates in the making of the disclosure required to
14 be made pursuant to this section with actual knowledge of the
15 falsity of the disclosure.

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

22 (g) No transfer of title shall be invalidated on the basis of a
23 failure to comply with this section, and the exclusive remedy for
24 the failure to comply with this section is an award of actual
25 damages not to exceed one hundred dollars (\$100), exclusive of
26 any court costs and attorney's fees.

27 (h) Local ordinances requiring smoke detectors in single-family
28 dwellings may be enacted or amended. However, the ordinances
29 shall satisfy the minimum requirements of this section.

30 (i) For the purposes of this section, "single-family dwelling"
31 does not include a manufactured home as defined in Section 18007,
32 a mobilehome as defined in Section 18008, or a commercial coach
33 as defined in Section 18001.8.

34 (j) This section shall not apply to the installation of smoke
35 detectors in dwellings intended for human occupancy, as defined
36 in and regulated by Section 13113.7 of the Health and Safety Code,
37 as added by Senate Bill No. 1448 in the 1983–84 Regular Session.

38 *SEC. 3. Section 13114 of the Health and Safety Code is*
39 *amended to read:*

1 13114. (a) The State Fire Marshal, with the advice of the State
2 Board of Fire Services, shall adopt regulations and standards as
3 he or she may determine to be necessary to control the quality and
4 installation of fire alarm systems and fire alarm devices marketed,
5 distributed, offered for sale, or sold in this state.

6 (b) (1) No person shall market, distribute, offer for sale, or sell
7 any fire alarm system or fire alarm device in this state unless the
8 system or device has been approved and listed by the State Fire
9 Marshal.

10 (2) *Commencing January 1, 2014, in order to be approved and*
11 *listed by the State Fire Marshal, a smoke detector shall display*
12 *the date of manufacture on the device, provide a place on the*
13 *device where the date of installation can be written, incorporate*
14 *a hush feature, incorporate an end-of-life feature that provides*
15 *notice that the device needs to be replaced, and, if battery operated,*
16 *contain a tamper-resistant battery with a minimum 10-year life.*

17 (c) (1) The State Fire Marshal shall convene a working group
18 to address the issues specified in paragraph (2), made up of the
19 following representatives to the extent they are willing to
20 participate:

21 (A) Representatives of at least four manufacturers of fire alarm
22 devices or systems whose products are currently listed pursuant
23 to this section and whose names are provided to the State Fire
24 Marshal as manufacturer representatives by the National Electrical
25 Manufacturers Association.

26 (B) A fire protection engineer who is not associated with the
27 State Fire Marshal's Office.

28 (C) Staff from the State Fire Marshal's Office for consultation
29 purposes, as determined by the State Fire Marshal.

30 (D) Representatives of four local fire marshals with experience
31 in building plan checking and code compliance.

32 (E) A representative of a nationally recognized testing
33 laboratory.

34 (F) The State Fire Marshal or his or her designee.

35 (2) (A) Giving due consideration to public safety issues, the
36 working group shall develop a process for listing of fire alarms
37 and safety devices by the State Fire Marshal. Listing shall be
38 approved upon receipt of certification of the fire alarm by a State
39 Fire Marshal approved nationally recognized testing laboratory.
40 All appropriate fees associated with the building materials listing

1 application must be received by the Office of the California State
2 Fire Marshal prior to approval.

3 (B) Implementation of the process developed pursuant to
4 subparagraph (A) of paragraph (2) of subdivision (c) shall be
5 through administrative action or legislative action in the regular
6 session commencing December 4, 2006 and shall go into effect
7 no later than January 1, 2008.

8 (3) (A) The State Fire Marshal shall appoint the members of
9 the working group no later than October 1, 2006, and shall convene
10 the first meeting of the working group no later than November 1,
11 2006.

12 (B) The State Fire Marshal shall approve the revised process
13 no later than March 30, 2007.

14 (C) Nothing in this section shall preclude the State Fire Marshal
15 and members of the fire alarm safety devices from convening in
16 an ad hoc working group in advance of the effective date of this
17 statute.

18 **SECTION 4.**

19 *SEC. 4.* Section 17926 of the Health and Safety Code is
20 amended to read:

21 17926. (a) An owner of a dwelling unit intended for human
22 occupancy shall install a carbon monoxide device, approved and
23 listed by the State Fire Marshal pursuant to Section 13263, in each
24 existing dwelling unit having a fossil fuel burning heater or
25 appliance, fireplace, or an attached garage, within the earliest
26 applicable time period as follows:

27 (1) For all existing single-family dwelling units intended for
28 human occupancy on or before July 1, 2011.

29 (2) For all existing hotel and motel dwelling units intended for
30 human occupancy on or before January 1, 2016.

31 (3) For all other existing dwelling units intended for human
32 occupancy on or before January 1, 2013.

33 (b) With respect to the number and placement of carbon
34 monoxide devices, an owner shall install the devices in a manner
35 consistent with building standards applicable to new construction
36 for the relevant type of occupancy or with the manufacturer's
37 instructions, if it is technically feasible to do so.

38 (c) (1) Notwithstanding Section 17995, and except as provided
39 in paragraph (2), a violation of this section is an infraction

1 punishable by a maximum fine of two hundred dollars (\$200) for
2 each offense.

3 (2) Notwithstanding paragraph (1), a property owner shall
4 receive a 30-day notice to correct. If an owner receiving notice
5 fails to correct within that time period, the owner may be assessed
6 the fine pursuant to paragraph (2).

7 (d) No transfer of title shall be invalidated on the basis of a
8 failure to comply with this section, and the exclusive remedy for
9 the failure to comply with this section is an award of actual
10 damages not to exceed one hundred dollars (\$100), exclusive of
11 any court costs and attorney’s fees. This subdivision is not intended
12 to affect any duties, rights, or remedies otherwise available at law.

13 (e) A local ordinance requiring carbon monoxide devices may
14 be enacted or amended if the ordinance is consistent with this
15 chapter.

16 (f) On or before July 1, 2014, the department shall submit for
17 adoption and approval pursuant to Chapter 4 (commencing with
18 Section 18935) of Part 2.5, building standards for the installation
19 of carbon monoxide detectors in hotel and motel dwelling units
20 intended for human occupancy. In developing these standards, the
21 department shall do both of the following:

22 (1) Convene and consult a stakeholder group that includes
23 members with expertise in multifamily dwellings, lodging,
24 maintenance, and construction.

25 (2) Review and consider the most current national codes and
26 standards available related to the installation of carbon monoxide
27 detection.

28 (g) For purposes of this section and Section 17926.1, “dwelling
29 unit intended for human occupancy” has the same meaning as that
30 term is defined in Section 13262.

31 ~~SEC. 2.~~

32 *SEC. 5.* No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O