

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 1840

INTRODUCER: Regulated Industries Committee, Senator Justice and others

SUBJECT: Carbon Monoxide Safety

DATE: April 21, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	Herrin	Yeatman	CA	Pre-meeting
3.			GA	
4.				
5.				
6.				

I. Summary:

The bill requires that one or more carbon monoxide devices be installed in every enclosure with boilers or other machinery generating carbon monoxide in a public lodging establishment. The bill requires that each carbon monoxide device must bear the label of a nationally recognized testing laboratory. It also requires that the device must have been tested and listed as complying with the most recent Underwriters Laboratories standard 2034, or its equivalent. The devices must be integrated into the establishment's fire detection system.

The bill exempts locations in which no potential carbon monoxide hazard exists. It requires that the division adopt rules regarding the installation and exemption determinations when no threat exists.

This bill substantially amends section 509.211, Florida Statutes.

II. Present Situation:

Public Lodging Establishments

The Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. According to

the department, there are over 36,000 licensed public lodging establishments.¹ The Florida Restaurant and Lodging Association estimates that there are over 400,000 hotel and motel rooms in Florida.

Section 509.013(4), F.S., defines a public lodging establishment, and provides:

(4)(a) “Public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings, which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. License classifications of public lodging establishments, and the definitions therefor, are set out in s. 509.242. For the purpose of licensure, the term does not include condominium common elements as defined in s. 718.103.

(b) The following are excluded from the definition in paragraph (a):

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any hospital, nursing home, sanitarium, assisted living facility, or other similar place;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family, two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or 1 calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than 1 calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;
5. Any migrant labor camp or residential migrant housing permitted by the Department of Health; under ss. 381.008-381.00895; and
6. Any establishment inspected by the Department of Health and regulated by chapter 513.²

Carbon Monoxide

Carbon monoxide is a colorless, practically odorless, and tasteless gas or liquid. It results from incomplete oxidation of carbon in combustion.³ Sources of Carbon Monoxide include unvented kerosene and gas space heaters; leaking chimneys and furnaces; back-drafting from furnaces, gas water heaters, wood stoves, fireplaces; gas stoves; generators and other gasoline powered equipment, and tobacco smoke. Other sources include automobile exhaust from attached garages, nearby roads, or parking areas.⁴

¹ For FY 2005-2006 there were 36,906 licensed public lodging establishments. *Annual Report, Fiscal Year 2005-2006*, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at: http://www.myflorida.com/dbpr/hr/annualreports/ar2005_06.pdf (Last visited March 23, 2007).

² Chapter 513, F.S., relates to the regulation of mobile home and recreational vehicle parks.

³ *An Introduction to IAQ, Carbon Monoxide (CO)*, U.S. Environmental Protection at: <http://www.epa.gov/iaq/co.html> (Last visited March 22, 2007).

⁴ *Id.*

Carbon monoxide may be a health risk and may result in fatigue in healthy people and chest pain in people with heart disease at low concentrations. At higher concentrations, carbon monoxide may cause impaired vision and coordination; headaches; dizziness; confusion; nausea. It can cause flu-like symptoms that clear up after the source of the carbon monoxide exposure. Carbon monoxide can be fatal at very high concentrations.⁵

Safety Requirements

Current law does not require the placement of carbon monoxide detectors in public lodging establishments.

A tourist was killed in a hotel in Key West in December 2006 from carbon monoxide poisoning according to press reports. The family has filed a lawsuit against the hotel. The lawsuit maintains that the hotel failed to take reasonable care to maintain its boilers in a reasonable safe condition.⁶ The Department of Business and Professional Regulation has issued an industry bulletin reminding the industry to check their water heaters for violations of boiler safety standards.⁷

Section 509.211(1), F.S., requires that each bedroom or apartment in each public lodging establishment must be equipped with an approved locking device on each door opening to the outside, to an adjoining room or apartment, or to a hallway. Section 509.211(2), F.S., requires that the division immediately notify the local firesafety authority or the State Fire Marshal of any major violation of a rule adopted under ch. 633, F.S., which relates to public lodging establishments or public food service establishments. It also authorizes the division to sanction licensees for violations of these rules.

Section 509.211(3), F.S., prohibits the use of fuel-burning wick-type equipment for space heating unless such equipment is vented so as to prevent the accumulation of toxic or injurious gases or liquids. A violation of this provision is a second degree misdemeanor.

Section 509.211(4), F.S., requires that each public lodging establishment that is three or more stories in height must have safe and secure railings on all balconies, platforms, and stairways, and all such railings must be properly maintained and repaired.

Section 509.215, F.S., provides firesafety requirements for public lodging establishments and for buildings over 75 feet in height that have direct access from the guest area to exterior means of egress. These firesafety requirements only apply to buildings for which the construction contract has been let after September 30, 1983. It requires installation of a sprinkler system and single-station detectors.

Section 509.215, F.S., provides that single-station smoke detection is not required when guest rooms contain smoke detectors connected to a central alarm system which also alarms locally. It also exempts a public lodging establishment structure that is individually listed in the National

⁵ *Id.*

⁶ Cammy Clark, "Family overcome by carbon monoxide sues Key West hotel," *Miami Herald*, 3 Jan. 2007, 2007 WLNR 113591.

⁷ Boiler Safety Reminder, *Industry Bulletin for Florida's Lodging Industry*, 2007-01, Department of Business and Professional Regulation, March 5, 2007. (Last visited March 23, 2007).

Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended.

Florida Building Code

The Florida Building Code does not currently require the installation of carbon monoxide detectors in new construction of residential dwellings. However, according to the Florida Building Code Commission, Mechanical Technical Advisory Committee, the commission has approved proposed revisions to the Florida Building Code to require the installation of carbon monoxide detectors in all new residential construction effective October 1, 2008, including one and two family, multifamily, and commercial lodging construction. The proposed revision requires that the carbon monoxide detectors be hard wired for electricity and have a battery back up. A combination smoke detector/carbon monoxide detector may be used.

Regulation of Electrical and Alarm System Contractors

Electrical and alarm system contractors are regulated pursuant to part II, of ch. 489, F.S. The Electrical Contractors' Licensing Board, within the Department of Business and Professional Regulation regulates electrical and alarm system contractors, including contractors who lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems for compensation, fire alarm systems.⁸ Division of State Fire Marshal (DSFM) within the Department of Financial Services (DFS) has limited jurisdiction over alarm system contractors. The DSFM has authority to order alarm system contractors to take corrective action to bring alarm systems into compliance with the required firesafety standards in ch. 633, F.S. The Department of Business and Professional Regulation (DBPR) and the Electrical Contractors' Licensing Board (board) may also participate in these proceedings, at their discretion, but not as a party.

III. Effect of Proposed Changes:

The bill amends s. 509.211, F.S., to require that one or more carbon monoxide devices be installed in every enclosure with boilers or other machinery generating carbon monoxide in a public lodging establishment. It requires that the device be integrated with the public lodging establishment's fire detection system.

The bill requires that each carbon monoxide device must bear the label of a nationally recognized testing laboratory.” The bill does not define the term “nationally recognized testing laboratory. However, the term is defined in s. 489.505(21), F.S., relating to electrical and alarm system contracting definitions and the definitions in part II of ch. 489, F.S.⁹ The bill also requires that the device must have been tested and listed as complying with the most recent Underwriters Laboratories standard 2034, or its equivalent.¹⁰

⁸ Section 489.505(2), F.S.

⁹ Section 489.505(29), F.S., defines the term “nationally recognized testing laboratory” to mean “an organization that the Occupational Safety and Health Administration has legally recognized to be in compliance with 29 C.F.R. s. 1910.7 and that provides quality assurance, product testing, or certification services.”

¹⁰ Underwriters Laboratories, Inc., (UL) is an independent, not-for-profit product safety certification organization. It conducts product safety tests and establishes safety standards for a wide variety of products. More information about UL may be found at: <http://www.ul.com/about/> (Last visited March 21, 2007.) The scope of the Underwriters Laboratories Standard 2034 may be found at:

<http://ulstandardsinfontet.ul.com/scopes/scopes.asp?fn=2034.html> (Last visited March 21, 2007.)

The bill exempts locations in which no potential carbon monoxide hazard exists. It requires that the division adopt rules regarding the installation and exemption determinations when no threat exists.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Legislature can adopt provisions of legislation or administrative rules from jurisdictions outside of Florida such as federal and state laws and rules that exist at the time the Legislation is enacted. These laws and rules may not be adopted to incorporate subsequent changes in the legislation and rules from outside this state.¹¹ Legislation may adopt codes or standards from non-governmental entities, but the legislative adoption must be limited to the codes and standards that were in effect at the time the law was enacted, but also cannot adopt subsequent changes to the codes and standards made by the non-government entities after the Florida legislation is enacted.¹² Any subsequent revisions to the UL standards and their application to carbon monoxide devices used by licensees must be readopted by the Legislature.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

All public lodging establishments, unless exempted because they pose no potential carbon monoxide hazard, would incur the cost of purchasing and installing carbon monoxide detectors in enclosures containing a boiler or other machinery generating carbon monoxide. According to the department, carbon monoxide detectors cost

¹¹ See *Adoue v. State*, 408 So. 2d 567, 569 (Fla. 1982); *Friemuth v. State*, 272 So. 2d 473, 476 (Fla. 1976).

¹² See *Galaxy Fireworks, Inc. v. City of Orlando*, 842 So. 2d 160, 167 (Fla. 5th DCA 2003); *State, Dept. of Children and Family Services v. L.G.*, 801 So. 2d 1047, 1052 (Fla. 1st DCA 2001).

approximately \$20 or more per device. The cost of installation and continued maintenance is unknown, but would vary based on the number of devices required.

In Fiscal Year 2005-2006, there were 36,906 public lodging establishments in Florida.¹³ If all of them meet the requirements of this bill, the overall cost would be approximately \$738,120, exclusive of installation and maintenance costs.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹³ *Supra.* at n. 1.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
