

SENATE BILL NO. 161  
INTRODUCED BY DE. BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A NOTICE ABOUT THE PRESENCE OF A CARBON MONOXIDE DETECTOR UPON THE SALE OF A RESIDENCE; REQUIRING A CARBON MONOXIDE DETECTOR IN DWELLING UNITS RENTED BY A LANDLORD; LIMITING LANDLORD LIABILITY FOR FAILURE OF A CARBON MONOXIDE DETECTOR; AND AMENDING SECTIONS 70-20-113 AND 70-24-303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 70-20-113, MCA, is amended to read:

**"70-20-113. Definitions -- notice Notice of presence of smoke and carbon monoxide detectors upon sale of dwelling -- definitions.** ~~(1) In this section, the following definitions apply:~~

~~———— (a) "Dwelling" means a building or portion of a building, including a mobile home or housetrailer, that contains not more than two dwelling units.~~

~~———— (b) "Dwelling unit" means a building or portion of a building that contains living facilities with provision for sleeping, eating, cooking, and sanitation for not more than one family.~~

~~———— (c) "Smoke detector" means a device that detects visible or invisible particles or combustion.~~

~~(2)(1)~~ Upon the sale or transfer of ownership of a dwelling not otherwise required to have a carbon monoxide detector and a smoke detector, the seller shall provide a written notice to the buyer in a buy-sell agreement or at the time of the sale to the buyer that the dwelling is equipped or is not equipped with a carbon monoxide detector and smoke detectors or other fire detection devices.

~~(3)(2)~~ Neither the seller ~~nor his~~, the seller's agent, nor the buyer's agent is liable in a civil action for failure to comply with; or for negligence in complying with; the requirements of ~~this section subsection (1)~~. Evidence of failure to comply with; or of negligence in complying with; ~~this section subsection (1)~~ is not admissible in a civil action.

(3) In this section, the following definitions apply:

(a) "Carbon monoxide detector" means a device that detects the presence of carbon monoxide and emits an alarm at elevated levels of carbon monoxide.

(b) "Dwelling" means a building or portion of a building, including a mobile home or housetrailer, that

contains not more than two dwelling units.

(c) "Dwelling unit" means a building or portion of a building that contains living facilities with provision for sleeping, eating, cooking, and sanitation for not more than one family.

(d) "Smoke detector" means a device that detects visible or invisible particles or combustion."

**Section 2.** Section 70-24-303, MCA, is amended to read:

**"70-24-303. Landlord to maintain premises -- agreement that tenant perform duties -- limitation of landlord's liability for failure of smoke detector or carbon monoxide detector.** (1) A landlord:

(a) shall comply with the requirements of applicable building and housing codes materially affecting health and safety in effect at the time of original construction in all dwelling units where construction is completed after July 1, 1977;

(b) may not knowingly allow any tenant or other person to engage in any activity on the premises that creates a reasonable potential that the premises may be damaged or destroyed or that neighboring tenants may be injured by any of the following:

(i) criminal production or manufacture of dangerous drugs, as prohibited by 45-9-110;

(ii) operation of an unlawful clandestine laboratory, as prohibited by 45-9-132; or

(iii) gang-related activities, as prohibited by Title 45, chapter 8, part 4;

(c) shall make repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(d) shall keep all common areas of the premises in a clean and safe condition;

(e) shall maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord;

(f) shall, unless otherwise provided in a rental agreement, provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(g) shall supply running water and reasonable amounts of hot water at all times and reasonable heat between October 1 and May 1, except if the building that includes the dwelling unit is not required by law to be equipped for that purpose or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant; and

(h) shall install in each dwelling unit under the landlord's control an approved carbon monoxide detector,

~~in accordance with rules adopted by the department of labor and industry, and an approved smoke detector, in accordance with rules adopted by the department of justice, an approved smoke detector in each dwelling unit under the landlord's control. Upon commencement of a rental agreement, the landlord shall verify that the carbon monoxide detector and the smoke detector in the dwelling unit ~~is~~ are in good working order. The tenant shall maintain the carbon monoxide detector and the smoke detector in good working order during the tenant's rental period. For the purposes of this subsection, an approved carbon monoxide detector, as defined in 70-20-113, and an approved smoke detector, ~~is a device that is capable of detecting visible or invisible particles of combustion and that bears, as defined in 70-20-113, bear~~ a label or other identification issued by an approved testing agency having a service for inspection of materials and workmanship at the factory during fabrication and assembly.~~

(2) If the duty imposed by subsection (1)(a) is greater than a duty imposed by subsections (1)(b) through (1)(h), a landlord's duty must be determined by reference to subsection (1)(a).

(3) A landlord and tenant of a one-, two-, or three-family residence may agree in writing that the tenant perform the landlord's duties specified in subsections (1)(f) and (1)(g) and specified repairs, maintenance tasks, alteration, and remodeling but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(4) A landlord and tenant of a one-, two-, or three-family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if:

(a) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set forth in a separate writing signed by the parties and supported by adequate consideration;

(b) the work is not necessary to cure noncompliance with subsection (1)(a); and

(c) the agreement does not diminish the obligation of the landlord to other tenants in the premises.

(5) The landlord is not liable for damages caused as a result of the failure of the carbon monoxide detector or the smoke detector required under subsection (1)(h)."

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