

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 09-0500.01 Esther van Mourik

HOUSE BILL 09-1091

HOUSE SPONSORSHIP

Soper and Court, McGihon, Merrifield, Todd

SENATE SPONSORSHIP

Romer, Schwartz

House Committees

Business Affairs and Labor

Senate Committees

State, Veterans & Military Affairs

SENATE
Am ended 3rd Reading
February 20, 2009

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT CARBON MONOXIDE ALARMS BE**
102 **INSTALLED IN RESIDENTIAL PROPERTIES.**

SENATE
Am ended 2nd Reading
February 19, 2009

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires any existing single-family dwelling or dwelling unit of an existing multi-family dwelling offered for sale or transfer on or after July 1, 2009, that has a fuel-burning heater or appliance, a fireplace, or an attached garage to have an operational carbon monoxide alarm installed within a specified distance of each room lawfully used for sleeping purposes.

Requires any single-family dwelling or dwelling unit of a

HOUSE
3rd Reading Unam ended
February 3, 2009

HOUSE
Am ended 2nd Reading
February 2, 2009

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

multi-family dwelling for which a building permit is issued for new construction on or after July 1, 2009, that has a fuel-burning heater or appliance, a fireplace, or an attached garage to have an operational carbon monoxide alarm installed within a specified distance of each room lawfully used for sleeping purposes.

Sets forth the maintenance and installation requirements for carbon monoxide alarms in single-family dwellings and dwelling units in multi-family dwellings that are used for rental purposes.

Specifies that nothing in the act shall be construed to limit a municipality, city, home rule city, city and county, county, or other local governmental entity from adopting or enforcing more stringent requirements for the installation and maintenance of carbon monoxide alarms.

Establishes that any person who installs a carbon monoxide alarm according to the manufacturer's published instructions shall have no liability to any person with respect to the operation, maintenance, or effectiveness of the carbon monoxide alarm.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. This act shall be known and may be cited as the "Lofgren and Johnson Families Carbon Monoxide Safety Act".

SECTION 2. Title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 45

Safety of Real Property

38-45-101. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CARBON MONOXIDE ALARM" MEANS A DEVICE THAT DETECTS CARBON MONOXIDE AND THAT:

(a) PRODUCES A DISTINCT, AUDIBLE ALARM;

(b) IS LISTED BY A NATIONALLY RECOGNIZED, INDEPENDENT PRODUCT- SAFETY TESTING AND CERTIFICATION LABORATORY TO CONFORM TO THE [REDACTED] STANDARDS FOR CARBON MONOXIDE ALARMS ISSUED BY

1 SUCH LABORATORY OR ANY SUCCESSOR STANDARDS;

2 (c) IS BATTERY POWERED, PLUGS INTO A DWELLING'S ELECTRICAL
3 OUTLET AND HAS A BATTERY BACKUP, IS WIRED INTO A DWELLING'S
4 ELECTRICAL SYSTEM AND HAS A BATTERY BACK-UP, OR IS CONNECTED TO
5 AN ELECTRICAL SYSTEM VIA AN ELECTRICAL PANEL; AND

6 (d) MAY BE COMBINED WITH A SMOKE DETECTING DEVICE IF THE
7 COMBINED DEVICE COMPLIES WITH APPLICABLE LAW REGARDING BOTH
8 SMOKE DETECTING DEVICES AND CARBON MONOXIDE ALARMS AND THAT
9 THE COMBINED UNIT PRODUCES AN ALARM, OR AN ALARM AND VOICE
10 SIGNAL, IN A MANNER THAT CLEARLY DIFFERENTIATES BETWEEN THE TWO
11 HAZARDS.

12 (2) "DWELLING UNIT" MEANS A SINGLE UNIT PROVIDING COMPLETE
13 INDEPENDENT LIVING FACILITIES FOR ONE OR MORE PERSONS, INCLUDING
14 PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, AND
15 SANITATION.

16 (3) "FUEL" MEANS COAL, KEROSENE, OIL, FUEL GASES, OR OTHER
17 PETROLEUM PRODUCTS OR HYDROCARBON PRODUCTS SUCH AS WOOD THAT
18 EMIT CARBON MONOXIDE AS A BY-PRODUCT OF COMBUSTION.

19 (4) "INSTALLED" MEANS THAT A CARBON MONOXIDE ALARM IS
20 INSTALLED IN A DWELLING UNIT IN ONE OF THE FOLLOWING WAYS:

21 (a) WIRED DIRECTLY INTO THE DWELLING'S ELECTRICAL SYSTEM;

22 (b) DIRECTLY PLUGGED INTO AN ELECTRICAL OUTLET WITHOUT A
23 SWITCH OTHER THAN A CIRCUIT BREAKER; OR

24 (c) IF THE ALARM IS BATTERY-POWERED, ATTACHED TO THE WALL
25 OR CEILING OF THE DWELLING UNIT IN ACCORDANCE WITH THE NATIONAL
26 FIRE PROTECTION ASSOCIATION'S STANDARD 720, OR ANY SUCCESSOR
27 STANDARD, FOR THE OPERATION AND INSTALLATION OF CARBON

1 MONOXIDE DETECTION AND WARNING EQUIPMENT IN DWELLING UNITS.

2 (5) "MULTI-FAMILY DWELLING" MEANS ANY IMPROVED REAL
3 PROPERTY USED OR INTENDED TO BE USED AS A RESIDENCE AND THAT
4 CONTAINS MORE THAN ONE DWELLING UNIT. MULTI-FAMILY DWELLING
5 INCLUDES A CONDOMINIUM OR COOPERATIVE.

6 (6) "OPERATIONAL" MEANS WORKING AND IN SERVICE IN
7 ACCORDANCE WITH MANUFACTURER INSTRUCTIONS.

8 (7) "SINGLE-FAMILY DWELLING" MEANS ANY IMPROVED REAL
9 PROPERTY USED OR INTENDED TO BE USED AS A RESIDENCE AND THAT
10 CONTAINS ONE DWELLING UNIT.

11 **38-45-102. Carbon monoxide alarms in single-family dwellings**

12 **- rules.** (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
13 SELLER OF EACH EXISTING SINGLE-FAMILY DWELLING OFFERED FOR SALE
14 OR TRANSFER ON OR AFTER JULY 1, 2009, THAT HAS A FUEL-FIRED HEATER
15 OR APPLIANCE, A FIREPLACE, OR AN ATTACHED GARAGE SHALL ASSURE
16 THAT AN OPERATIONAL CARBON MONOXIDE ALARM IS INSTALLED WITHIN
17 FIFTEEN FEET OF THE ENTRANCE TO EACH ROOM LAWFULLY USED FOR
18 SLEEPING PURPOSES OR IN A LOCATION AS SPECIFIED IN ANY BUILDING
19 CODE ADOPTED BY THE STATE OR ANY LOCAL GOVERNMENT ENTITY.

20 (b) BY JULY 1, 2009, THE REAL ESTATE COMMISSION CREATED IN
21 SECTION 12-61-105, C.R.S., SHALL BY RULE REQUIRE EACH LISTING
22 CONTRACT FOR RESIDENTIAL REAL PROPERTY THAT IS SUBJECT TO THE
23 COMMISSION'S JURISDICTION PURSUANT TO ARTICLE 61 OF TITLE 12,
24 C.R.S., TO DISCLOSE THE REQUIREMENTS SPECIFIED IN PARAGRAPH (a) OF
25 THIS SUBSECTION (1).

26 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY
27 SINGLE-FAMILY DWELLING THAT INCLUDES EITHER FUEL-FIRED

1 APPLIANCES OR AN ATTACHED GARAGE WHERE, ON OR AFTER JULY 1,
2 2009, INTERIOR ALTERATIONS, REPAIRS, FUEL-FIRED APPLIANCE
3 REPLACEMENTS, OR ADDITIONS, ANY OF WHICH REQUIRE A BUILDING
4 PERMIT, OCCURS OR WHERE ONE OR MORE ROOMS LAWFULLY USED FOR
5 SLEEPING PURPOSES ARE ADDED SHALL HAVE AN OPERATIONAL CARBON
6 MONOXIDE ALARM INSTALLED WITHIN FIFTEEN FEET OF THE ENTRANCE TO
7 EACH ROOM LAWFULLY USED FOR SLEEPING PURPOSES OR IN A LOCATION
8 AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE OR ANY
9 LOCAL GOVERNMENT ENTITY.

10 (3) NO PERSON SHALL REMOVE BATTERIES FROM, OR IN ANY WAY
11 RENDER INOPERABLE, A CARBON MONOXIDE ALARM, EXCEPT AS PART OF
12 A PROCESS TO INSPECT, MAINTAIN, REPAIR, OR REPLACE THE ALARM OR
13 REPLACE THE BATTERIES IN THE ALARM.

14 **38-45-103. Carbon monoxide alarms in multi-family dwellings**
15 **- rules.** (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
16 SELLER OF EVERY DWELLING UNIT OF AN EXISTING MULTI-FAMILY
17 DWELLING OFFERED FOR SALE OR TRANSFER ON OR AFTER JULY 1, 2009,
18 THAT HAS A FUEL-FIRED HEATER OR APPLIANCE, A FIREPLACE, OR AN
19 ATTACHED GARAGE SHALL ASSURE THAT AN OPERATIONAL CARBON
20 MONOXIDE ALARM IS INSTALLED WITHIN FIFTEEN FEET OF THE ENTRANCE
21 TO EACH ROOM LAWFULLY USED FOR SLEEPING PURPOSES OR IN A
22 LOCATION AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE
23 OR ANY LOCAL GOVERNMENT ENTITY.

24 (b) BY JULY 1, 2009, THE REAL ESTATE COMMISSION CREATED IN
25 SECTION 12-61-105, C.R.S., SHALL BY RULE REQUIRE EACH LISTING
26 CONTRACT FOR RESIDENTIAL REAL PROPERTY THAT IS SUBJECT TO THE
27 COMMISSION'S JURISDICTION PURSUANT TO ARTICLE 61 OF TITLE 12,

1 C.R.S., TO DISCLOSE THE REQUIREMENTS SPECIFIED IN PARAGRAPH (a) OF
2 THIS SUBSECTION (1).

3 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY
4 DWELLING UNIT OF A MULTI-FAMILY DWELLING THAT INCLUDES
5 FUEL-FIRED APPLIANCES OR AN ATTACHED GARAGE WHERE , ON OR AFTER
6 JULY 1, 2009, INTERIOR ALTERATIONS, REPAIRS, FUEL-FIRED APPLIANCE
7 REPLACEMENTS, OR ADDITIONS, ANY OF WHICH REQUIRE A BUILDING
8 PERMIT, OCCURS OR WHERE ONE OR MORE ROOMS LAWFULLY USED FOR
9 SLEEPING PURPOSES ARE ADDED SHALL HAVE AN OPERATIONAL CARBON
10 MONOXIDE ALARM INSTALLED WITHIN FIFTEEN FEET OF THE ENTRANCE TO
11 EACH ROOM LAWFULLY USED FOR SLEEPING PURPOSES OR IN A LOCATION
12 AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE OR ANY
13 LOCAL GOVERNMENT ENTITY.

14 (3) NO PERSON SHALL REMOVE BATTERIES FROM, OR IN ANY WAY
15 RENDER INOPERABLE, A CARBON MONOXIDE ALARM, EXCEPT AS PART OF
16 A PROCESS TO INSPECT, MAINTAIN, REPAIR, OR REPLACE THE ALARM OR
17 REPLACE THE BATTERIES IN THE ALARM.

18 **38-45-104. Carbon monoxide alarms in rental properties.**

19 (1) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, ANY
20 SINGLE-FAMILY DWELLING OR DWELLING UNIT IN A MULTI-FAMILY
21 DWELLING USED FOR RENTAL PURPOSES AND THAT INCLUDES FUEL-FIRED
22 APPLIANCES OR AN ATTACHED GARAGE WHERE, ON OR AFTER JULY 1,
23 2009, INTERIOR ALTERATIONS, REPAIRS, FUEL-FIRED APPLIANCE
24 REPLACEMENTS, OR ADDITIONS, ANY OF WHICH REQUIRES A BUILDING
25 PERMIT, OCCURS OR WHERE ONE OR MORE ROOMS LAWFULLY USED FOR
26 SLEEPING PURPOSES ARE ADDED SHALL BE SUBJECT TO THE REQUIREMENTS
27 SPECIFIED IN SECTIONS 38-45-102 AND 38-45-103.

1 (2) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION,
2 EACH EXISTING SINGLE-FAMILY DWELLING OR EXISTING DWELLING UNIT IN
3 A MULTI-FAMILY DWELLING THAT IS USED FOR RENTAL PURPOSES THAT
4 HAS A CHANGE IN TENANT OCCUPANCY ON OR AFTER JULY 1, 2009, SHALL
5 BE SUBJECT TO THE REQUIREMENTS SPECIFIED IN SECTIONS 38-45-102 AND
6 38-45-103.

7 (3) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
8 OWNER OF ANY RENTAL PROPERTY SPECIFIED IN SUBSECTIONS (1) AND (2)
9 OF THIS SECTION SHALL:

10 (I) PRIOR TO THE COMMENCEMENT OF A NEW TENANT OCCUPANCY,
11 REPLACE ANY CARBON MONOXIDE ALARM THAT WAS STOLEN, REMOVED,
12 FOUND MISSING, OR FOUND NOT OPERATIONAL AFTER THE PREVIOUS
13 OCCUPANCY;

14 (II) ENSURE THAT ANY BATTERIES NECESSARY TO MAKE THE
15 CARBON MONOXIDE ALARM OPERATIONAL ARE PROVIDED TO THE TENANT
16 AT THE TIME THE TENANT TAKES RESIDENCE IN THE DWELLING UNIT;

17 (III) REPLACE ANY CARBON MONOXIDE ALARM IF NOTIFIED BY A
18 TENANT AS SPECIFIED IN PARAGRAPH (c) OF SUBSECTION (4) OF THIS
19 SECTION THAT ANY CARBON MONOXIDE ALARM WAS STOLEN, REMOVED,
20 FOUND MISSING, OR FOUND NOT OPERATIONAL DURING THE TENANT'S
21 OCCUPANCY; AND

22 (IV) FIX ANY DEFICIENCY IN A CARBON MONOXIDE ALARM IF
23 NOTIFIED BY A TENANT AS SPECIFIED IN PARAGRAPH (d) OF SUBSECTION (4)
24 OF THIS SECTION.

25 (b) EXCEPT AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION
26 (3), THE OWNER OF A SINGLE-FAMILY DWELLING OR DWELLING UNIT IN A
27 MULTI-FAMILY DWELLING THAT IS USED FOR RENTAL PURPOSES IS NOT

1 RESPONSIBLE FOR THE MAINTENANCE, REPAIR, OR REPLACEMENT OF A
2 CARBON MONOXIDE ALARM OR THE CARE AND REPLACEMENT OF
3 BATTERIES FOR SUCH AN ALARM.

4 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
5 TENANT OF ANY RENTAL PROPERTY SPECIFIED IN SUBSECTIONS (1) AND (2)
6 OF THIS SECTION SHALL:

7 (a) KEEP, TEST, AND MAINTAIN ALL CARBON MONOXIDE ALARMS
8 IN GOOD REPAIR;

9 (b) NOTIFY, IN WRITING, THE OWNER OF THE SINGLE-FAMILY
10 DWELLING OR DWELLING UNIT OF A MULTI-FAMILY DWELLING, OR THE
11 OWNER'S AUTHORIZED AGENT, IF THE BATTERIES OF ANY CARBON
12 MONOXIDE ALARM NEED TO BE REPLACED;

13 (c) NOTIFY, IN WRITING, THE OWNER OF THE SINGLE-FAMILY
14 DWELLING OR DWELLING UNIT OF A MULTI-FAMILY DWELLING, OR THE
15 OWNER'S AUTHORIZED AGENT, IF ANY CARBON MONOXIDE ALARM IS
16 STOLEN, REMOVED, FOUND MISSING, OR FOUND NOT OPERATIONAL DURING
17 THE TENANT'S OCCUPANCY OF THE SINGLE-FAMILY DWELLING OR
18 DWELLING UNIT IN THE MULTI-FAMILY DWELLING; AND

19 (d) NOTIFY, IN WRITING, THE OWNER OF THE SINGLE-FAMILY
20 DWELLING OR DWELLING UNIT OF A MULTI-FAMILY DWELLING, OR THE
21 OWNER'S AUTHORIZED AGENT, OF ANY DEFICIENCY IN ANY CARBON
22 MONOXIDE ALARM THAT THE TENANT CANNOT CORRECT.

23 (5) NOTWITHSTANDING THE REQUIREMENTS OF SECTION 38-45-103
24 (1) AND (2), SO LONG AS THERE IS A CENTRALIZED ALARM SYSTEM OR
25 OTHER MECHANISM FOR A RESPONSIBLE PERSON TO HEAR THE ALARM AT
26 ALL TIMES IN A MULTI-FAMILY DWELLING USED FOR RENTAL PURPOSES,
27 SUCH MULTI-FAMILY DWELLING MAY HAVE AN OPERATIONAL CARBON

1 MONOXIDE ALARM INSTALLED WITHIN TWENTY-FIVE FEET OF ANY
2 FUEL-FIRED HEATER OR APPLIANCE, FIREPLACE, OR GARAGE OR IN A
3 LOCATION AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE
4 OR ANY LOCAL GOVERNMENT ENTITY.

5 (6) NO PERSON SHALL REMOVE BATTERIES FROM, OR IN ANY WAY
6 RENDER INOPERABLE, A CARBON MONOXIDE ALARM, EXCEPT AS PART OF
7 A PROCESS TO INSPECT, MAINTAIN, REPAIR, OR REPLACE THE ALARM OR
8 REPLACE THE BATTERIES IN THE ALARM.

9 **38-45-105. Municipal or county ordinances regarding carbon**
10 **monoxide alarms.** NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
11 LIMIT A MUNICIPALITY, CITY, HOME RULE CITY, CITY AND COUNTY,
12 COUNTY, OR OTHER LOCAL GOVERNMENTAL ENTITY FROM ADOPTING OR
13 ENFORCING ANY REQUIREMENTS FOR THE INSTALLATION AND
14 MAINTENANCE OF CARBON MONOXIDE ALARMS THAT ARE MORE
15 STRINGENT THAN THE REQUIREMENTS SET FORTH IN THIS ARTICLE.

16 **38-45-106. Limitation of liability.** (1) NO PERSON SHALL HAVE
17 A CLAIM FOR RELIEF AGAINST A PROPERTY OWNER, AN AUTHORIZED AGENT
18 OF A PROPERTY OWNER, A PERSON IN POSSESSION OF REAL PROPERTY, OR
19 AN INSTALLER FOR ANY DAMAGES RESULTING FROM THE OPERATION,
20 MAINTENANCE, OR EFFECTIVENESS OF A CARBON MONOXIDE ALARM IF THE
21 PROPERTY OWNER, AUTHORIZED AGENT, PERSON IN POSSESSION OF REAL
22 PROPERTY, OR INSTALLER INSTALLS A CARBON MONOXIDE ALARM IN
23 ACCORDANCE WITH THE MANUFACTURER'S PUBLISHED INSTRUCTIONS AND
24 THE PROVISIONS OF THIS ARTICLE.

25 (2) A PURCHASER SHALL HAVE NO CLAIM FOR RELIEF AGAINST ANY
26 PERSON LICENSED PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S., FOR ANY
27 DAMAGES RESULTING FROM THE OPERATION, MAINTENANCE, OR

1 EFFECTIVENESS OF A CARBON MONOXIDE ALARM IF SUCH LICENSED
2 PERSON COMPLIES WITH RULES PROMULGATED PURSUANT TO SECTIONS
3 38-45-102 (1) (b) AND 38-45-103 (1) (b). NOTHING IN THIS SUBSECTION
4 (2) SHALL AFFECT ANY REMEDY THAT A PURCHASER MAY OTHERWISE
5 HAVE AGAINST A SELLER.

6 **SECTION 3. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.