



Effective: April 16, 2003

New Jersey Statutes Annotated [Currentness](#)

Title 52. State Government, Departments and Officers

Subtitle 3. Executive and Administrative Departments, Officers and Employees ([Refs & Annos](#))

▣ [Chapter 27D](#). Department of Community Affairs ([Refs & Annos](#))

▣ [State Uniform Construction Code Act](#) ([Refs & Annos](#))

→ **52:27D-133.3. Occupancy of dwelling unit; definitions; fines**

a. In any case in which a change of occupancy of any dwelling unit in a building with fewer than three dwelling units is subject to a municipal ordinance requiring the issuance of a certificate of occupancy, certificate of inspection or other documentary certification of compliance with laws and regulations relating to the safety, healthfulness and upkeep of the premises, no such certificate shall issue until the officer or agency responsible for its issuance has determined that: (1) the dwelling unit is equipped with one or more carbon monoxide sensor devices, or (2) that there is no potential carbon monoxide hazard in the dwelling unit. Any such determination shall be made in accordance with rules adopted by the Commissioner of Community Affairs.

b. In the case of an initial occupancy or a change of occupancy of any dwelling unit in a building with fewer than three dwelling units to which the provisions of subsection a. of this section do not apply, no owner shall sell, lease or otherwise permit occupancy for residential purposes of that dwelling unit without first obtaining from the relevant enforcing agency under the "Uniform Fire Safety Act," P.L.1983, c. 383 ([C.52:27D-192 et seq.](#)) a certificate indicating: (1) that the dwelling unit is equipped with one or more carbon monoxide sensor devices, or (2) that there is no potential carbon monoxide hazard in the dwelling unit. Any such determination shall be made in accordance with rules adopted by the Commissioner of Community Affairs.

c. The local governing body having jurisdiction over the enforcing agency or, where the Division of Fire Safety is the enforcing agency, the Commissioner of Community Affairs, may establish a fee which covers the cost of inspection and of issuance of the certificate; however, if an inspection is being made and a certificate is being issued evidencing compliance with section 2 of [P.L.1991, c. 92 \(C.52:27D-198.2\)](#), the fee authorized therein shall cover the costs of complying with this section.

d. For the purposes of this section:

"Carbon monoxide sensor device" means a carbon monoxide alarm or detector that bears the label of a nationally recognized testing laboratory, and has been tested and listed as complying with the most recent Underwriters Laboratories standard 2034 or its equivalent.

“Dwelling unit” means a structure, or a room or group of rooms within a structure, used or intended for use, in whole or in part, for residential purposes.

e. An owner who sells, leases or otherwise permits occupancy of a dwelling unit without complying with the provisions of this section shall be subject to a fine of not more than \$100, which may be collected and enforced by the local enforcing agency by summary proceedings pursuant to “The Penalty Enforcement Law of 1999,” [P.L.1999, c. 274 \(C.2A:58-10 et seq.\)](#).

f. This section shall become operative on the 61st day after enactment of [P.L.2003, c.44 \(C.52:27D-133.5 et al.\)](#).

CREDIT(S)

[L.1999, c. 15, § 1, eff. Feb. 8, 1999](#). Amended by [L.2003, c. 44, § 1, eff. April 16, 2003](#).

ASSEMBLY LOCAL GOVERNMENT AND HOUSING COMMITTEE STATEMENT

2001 Main Volume

Senate, No. 88--L.1999, c. 15

The Assembly Local Government and Housing committee reports favorably Senate Bill No. 88 (1R).

The bill would require the installation of a carbon monoxide sensor device upon a change of occupancy or the initial occupancy of certain dwelling units. The bill would apply to a dwelling unit unless it has no ventilated source of carbon monoxide.

The bill would effectively add the requirement that a dwelling unit must be equipped with a carbon monoxide sensor device as a condition prior to the issuance of a certificate of continued occupancy. In the case of the initial occupancy of a dwelling unit or the change of occupancy of a dwelling unit in a municipality that does not provide for a certificate of continued occupancy, the bill would prohibit the owner of a dwelling unit from selling, leasing or otherwise permitting occupancy for residential purposes in that dwelling unit without first obtaining from the relevant enforcing agency under the “State Uniform Construction Code Act,” [P.L.1975, c.217 \(C.52:27D-119 et seq.\)](#) or the “Uniform Fire Safety Act,” [P.L.1983, c.383 \(C.52:27D-192 et seq.\)](#) a certificate indicating that the unit is equipped with a carbon monoxide sensor device.

The bill would define “carbon monoxide sensor device” as a device that bears the label of a nationally recognized testing laboratory and has been tested and listed as complying with the standard UL 2034 or its equivalent.

The bill would provide the enforcing agency with the authority to establish a fee to cover the inspection cost and issuance of any required certification. The bill would establish a fine of no more than \$100 to be imposed upon an owner who fails to comply with the bill's provisions.

The bill also requires the Commissioner of Community Affairs to promulgate pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) the rules and regulations necessary to effectuate the provisions of the bill, and requires that those regulations shall substantially comport with National Fire Protection Association 720, “Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment.”

Senate Bill No. 88 (1R) is identical to the Assembly Committee Substitute for Assembly, Nos. 1684 and 1175, also reported by this committee on June 1, 1998.

GOVERNOR'S CONDITIONAL VETO MESSAGE

2001 Main Volume

Senate Bill No. 88--L.1999, c.15

To the Senate:

Pursuant to [Article V, Section I, Paragraph 14 of the New Jersey Constitution](#), I am returning Senate Bill No. 88 (First Reprint) with my recommendations for reconsideration.

A. SUMMARY OF THE BILL

This bill provides that a residential Certificate of Occupancy (“C.O.”), if required in a municipality, shall not be issued unless the residential dwelling unit is equipped with a carbon monoxide sensor device. The detector or alarm must bear the label of a nationally recognized testing laboratory and must have been tested and listed as complying with the most recent Underwriters Laboratory (“U.L.”) standard of 2034 or its equivalent. Likewise, in the case of an initial occupancy or change of occupancy where a C.O. is not required, the owner of that dwelling unit shall not sell, lease or otherwise permit occupancy for residential purposes without first obtaining a C.O. indicating that the unit is equipped with a carbon monoxide sensor device.

The Commissioner of the Department of Community Affairs (“DCA”) shall promulgate, within six months of the effective date of the bill, rules and regulations necessary to effectuate this Act.

B. RECOMMENDED ACTION

Although I commend the sponsors of this bill on their efforts to have our State be the first in the nation to mandate the installation of carbon monoxide detectors in all newly occupied residential units and those that have a change of occupancy, I believe that such a mandate is overbroad at the present time.

All property owners in our State have the right to purchase and install carbon monoxide detectors in their homes if they determine that current technology will better protect their health and safety. In order to protect our citizens who do not have the right to choose, I recommend that the bill be amended to provide that detectors be placed in multifamily structures, hotels and boarding homes according to the rules and regulations promulgated by the Commissioner of the Department of Community Affairs. Once this program is in place I am directing the Commissioner of the Department of Community Affairs to conduct a study to determine the impact of this man-

date and decide, based on public health needs, cost issues and the effectiveness of the technology, whether to expand this program to all residential dwellings.

Therefore, I herewith return Senate Bill No. 88 (First Reprint) and recommend that it be amended as follows:

* * *

Respectfully,

Christine Todd Whitman

Governor

HISTORICAL AND STATUTORY NOTES

2001 Main Volume

L.1999, c. 15, § 5, approved Feb. 8, 1999, provides:

“a. During the first 18 months following the adoption of regulations pursuant to section 6 of P.L.1999, c. 15 (C.52:27D-133.4), the Commissioner of Community Affairs shall conduct a study to determine the impact of sections 2 and 3 of P.L.1999, c. 15 (C.55:13A-7.17 et al.) and issue a report pursuant to subsection b. of this section. The study shall consider public health needs, cost issues, the effectiveness of current technology and such other issues as the Commissioner deems appropriate to evaluate the effectiveness of carbon monoxide devices used in hotels, multiple dwellings, and rooming and boarding houses.

“b. A report of the study's findings and determinations, including whether section 1 of P.L.1999, c. 15 (C.52:27D-133.3), or any part thereof, shall become operative, shall be submitted to the Governor, President of the Senate and Speaker of the General Assembly upon the completion of the study and report period established in subsection a. of this section.



“c. Upon submission of the report to the Governor and the Legislature, the Commissioner shall promulgate pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.) the rules and regulations necessary to effectuate the determinations contained in the report.”

ADMINISTRATIVE CODE REFERENCES

Carbon monoxide alarms, see [N.J.A.C. 5:10-28.1](#) and [5:27-14.1](#).

LIBRARY REFERENCES

2001 Main Volume

Health and Environment  32.
Municipal Corporations  621.
Westlaw Topic Nos. 199, 268.
C.J.S. Health and Environment §§ 28 to 36, 52.
C.J.S. Municipal Corporations §§ 163 to 171.

RESEARCH REFERENCES

2009 Electronic Update

Treatises and Practice Aids

[13 N.J. Prac. Series § 5.57](#), Uniform Construction Code Act.

[13A N.J. Prac. Series § 26.76](#), Contingency--Approval by Governmental Official With Time Limit--Form.

[13A N.J. Prac. Series § 26.173](#), Smoke Alarm Clause--Form.

N. J. S. A. 52:27D-133.3, NJ ST 52:27D-133.3

Current with laws effective through L.2009, c. 89 and J.R. No. 7.

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