

Legislative Analysis



REQUIRE CARBON MONOXIDE MONITORS FOR HOTELS & NEW HOMES

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House Bill 4730 (Substitute H-1)
Sponsor: Rep. Steve Bieda

House Bill 5341 (Substitute H-1)
Sponsor: Rep. Gary McDowell
Committee: Regulatory Reform

Revised First Analysis (2-5-08)

BRIEF SUMMARY: House Bill 4730 would require carbon monoxide detectors to be installed in sleeping rooms of hotels and motels, and House Bill 5341 would require at least one device to be installed in each new residential building or structure.

FISCAL IMPACT: The fiscal impact on the Department of Labor and Economic Growth's Bureau of Construction Codes does not appear to be significant. House Bill 5341 would require carbon monoxide detectors in new residential units. Compliance inspections would occur as part of the BCC's regular inspection process. This would place an additional burden on BCC inspection staff in light of the July 2007 layoff of 17 inspectors, but would not materially impact BCC inspection costs. The staff already conducts inspections of new buildings; adding a requirement for carbon monoxide detectors is not a significant added burden.

The impact of HB 4730, which requires carbon monoxide detectors in hotels and similar types of buildings, depends on the extent to which the law is enforced. Given the limited resources of the BCC, enforcement would likely be through regular periodic inspections by the BCC or when there is an activity that requires a permit. Actively inspecting every facility would require additional staff (at least the filling some of the vacancies stemming from layoffs last July). However, the BCC's financial constraints realistically do not allow for that. The State Construction Code Fund is under extreme financial stress, stemming from the use of SCCF funds for various fire service activities in prior years (which drained available fund balances) and, now, from the decline in related building construction activities (permits). The cumulative effect is that, without any fee increases, the department now estimates the fund will end FY 2007-08 with a deficit.

THE APPARENT PROBLEM:

By some estimates, carbon monoxide poisoning results in about 500 accidental deaths annually in the United States and sickens tens of thousands more. Unlike smoke from fires, carbon monoxide (CO) is colorless, odorless, and tasteless. At lower levels of exposure, the symptoms are similar to those of the flu—fatigue, headache, nausea, and vomiting. As CO builds up in a person's bloodstream, a person will also become dizzy and disoriented. High levels of exposure can lead to unconsciousness and death. If they

survive, people exposed to high levels of CO may experience long-term mental and physical impairment.

Carbon monoxide is a by-product of combustion and is produced by gas-fired appliances, vehicles, gas and wood-burning fireplaces, kerosene space heaters, and gas or kerosene generators, among other things. A malfunctioning stove or furnace, a car running in an attached garage (even with the door open), or use of "outdoor" items such as camp stoves, charcoal grills, and generators indoors can lead to a toxic build-up of fumes.

The insidiousness of CO poisoning is that it affects a victim's ability to recognize that he or she is in danger. At low levels of exposure, the symptoms mimic other illnesses. Even many healthcare professionals misdiagnose CO poisoning at low levels of exposure. Therefore, a person may remain in a building with a low level CO leak and may suffer symptoms for days, weeks, or months before proper diagnosis and treatment.

However, depending on the source of the carbon monoxide, exposure to a high level of CO can lead to dizziness, disorientation, unconsciousness, and death in a matter of minutes.

Earlier this year, while on a trip to Florida with his father, 26-year-old Tom Lueders lost his life to CO poisoning when a boiler located next to their hotel room malfunctioned and leaked high levels of the toxic gas into their room. Just minutes before, he had returned from buying juice and a can of cola, chatted with his dad about the day's plans, and settled in with a book while his father showered. His father passed out in the shower and escaped death only because a hotel manager walked into their room when evacuating their floor in response to a set of fire alarms that had gone off.

In 2003, Patty and Gene Overbeck died from CO poisoning. After returning from a shopping trip, Patty accidentally left her car running in the garage. Within hours, the house had filled with toxic fumes and the pair died without recognizing the danger they were in.

In October of this year, two residents of a Grand Rapids condominium complex were diagnosed in an emergency room with carbon monoxide poisoning. The fire department was called and the remaining 38 residents evacuated. By time the firefighters arrived at the complex, two other residents had already passed out and required decompression treatment in a hyperbaric chamber and two others needed hospitalization. The source of the CO was a malfunctioning furnace. Had it not been for the accurate diagnosis by the emergency room doctors and the quick action of the firefighters, all of those residents were at risk of losing their lives.

Incidents such as these have led some to conclude that legislation is needed to mandate greater use of carbon monoxide devices to detect dangerous levels of the gas. It has been suggested that laws similar to those enacted to mandate the use of smoke detectors in certain buildings be enacted to expand the use of carbon monoxide devices.

THE CONTENT OF THE BILLS:

The bills would add new sections to the Stille-DeRossett-Hale Single State Construction Code Act to mandate installation of carbon monoxide (CO) alarms or detectors in hotel rooms and new residences. Specifically, one or more CO detectors would have to be installed in each dwelling unit or sleeping room of boarding houses, hotels, motels, and other residential occupancies where the occupants are primarily transient in nature. At least one CO alarm would also have to be installed in each new residential building or structure.

The director of the Department of Labor and Economic Growth (DLEG) would have to promulgate departmental rules establishing standards and requirements for the installation of the CO devices. Beginning the code cycle after the effective date of the rules, the director would have to include provisions in the code requiring the installation of CO devices. Under such circumstances, the provisions in the code would supersede the provisions of these two bills.

House Bill 4730 would add proposed Section 125.1504d; these requirements, which pertain to boarding houses, motels, and hotels, among others, would take effect one year after the effective date of the departmental rules.

House Bill 5371 would also add proposed Section 125.1504d, but would pertain to the installation of CO alarms in each new dwelling unit of a single-family dwelling, one- or two-family detached dwelling, or multiple-family dwelling. The provision would take effect beginning one year after the bill's effective date and until rules promulgated under it become effective. The bill would name this section of law "The Overbeck Law" after Patty and Gene Overbeck, who both died from carbon monoxide poisoning shortly after moving into a newly-built home.

ARGUMENTS:

For:

State law requires all new home construction to include a smoke detector, and also requires smoke detectors in each motel and hotel room, boarding rooms where people sleep, and bed and breakfast bedrooms. However, carbon monoxide detectors are not similarly required. Had such laws been in place, Gene and Patty Overbeck and Tom Lueders, among others, would still be alive. All were killed by a toxic level of carbon monoxide that had built up quickly.

In particular, the Overbecks died when a car left running accidentally in the garage filled their new house with a deadly level of carbon monoxide. It appears they never realized the danger they were in. The house had been completed only six months earlier. According to testimony by the builder, new construction regulations and industry practices result in homes being more airtight than in the past. As a result, they are more energy efficient in respect to heating and cooling and gas powered appliances, but more

dangerous if a poisonous gas is present because the flow of fresh air from drafts is insufficient to vent the interior of the home.

Since builders typically build to code specifications, it is believed that legislation requiring the code to include installation of carbon monoxide alarms in new residential construction, as House Bill 5341 would do, would prevent needless deaths such as the Overbecks.

House Bill 4730 would address the potential danger lurking in hotels, motels, and other establishments where people stay overnight experienced by the Lueders, who lost their only son to carbon monoxide poisoning in a hotel. After the 1980 MGM Grand Hotel fire in Las Vegas killed and injured scores of guests, codes and industry standards across the nation quickly embraced mandatory installation of smoke detectors in all guest rooms. It is hoped that action taken now could prevent a similar large scale tragedy from carbon monoxide. Also, tourists are more likely to choose destinations where they feel safe. Joining with the several other states that mandate carbon monoxide detectors in hotel rooms could make Michigan more attractive to travelers.

Supporters of the initiative maintain that carbon monoxide devices are not very expensive and so compliance with the legislation should not prove burdensome to builders or hotel/motel owners. Since the only way to identify the presence of carbon monoxide at levels that sicken or kill is by installing CO devices, it is believed that the proposed bills will save lives and therefore are good public policy.

Against:

Hospitality industry members oppose House Bill 4730 on the grounds that there have been no incidents of carbon monoxide poisoning in the state in hotels or motels and that the cost to business owners would be prohibitive. The incident that killed Tom Lueders, though tragic, occurred in Florida. Moreover, though an individual CO device can be purchased for around \$25-\$40, if the rules, which are yet to be promulgated, require a CO detection system that must be hardwired, which is the required system for smoke alarms in hotels and motels, the cost could be significant per establishment.

Realtors expressed concerns that requiring CO devices in new homes, as House Bill 5341 would do, could give a false sense of security to new residents and an implied liability for the realty company representing the home if a device was not present or malfunctioned. Carbon monoxide deaths could still occur after passage of the bill, as it would be up to the residents to change the batteries and replace the devices as they wear out or become outdated. Even with all the media coverage of deaths in fires due to missing, disabled, or nonworking smoke detectors, people still remove the batteries for other uses, fail to replace dead batteries, and fail to replace broken smoke detectors. People need to take responsibility for themselves and their families. Purchasing a low cost carbon monoxide detector and maintaining it according to the manufacturers instructions should be the responsibility of homeowner or renter.

Against:

Opponents of the legislation say that carbon monoxide devices are not reliable enough at present to mandate widespread installation by certain businesses. According to some, the devices are prone to false positives - meaning the alarm goes off indicating dangerous levels of the gas when normal levels are present. Though in the absence of symptoms it is generally safe to open windows and call the appropriate repair person to check for a leak, many people panic and call 9-1-1. These unnecessary calls divert emergency personnel and equipment away from true emergencies and add costs for local governments at a time when many municipalities are struggling to meet the service needs of their residents with limited funds.

Response:

It is true that there were problems with early carbon monoxide devices sounding an alarm when there were no dangerous levels of the gas present. However, standards were changed in 1998 and current data show few significant problems with the devices sounding when they shouldn't or not sounding when they should. The important thing to remember is that carbon monoxide is extremely dangerous and impossible to detect without certain monitoring equipment. CO devices have been found to provide the signaling protection necessary for a person to react and follow the recommended procedures when an alarm sounds. This means that the devices are effective in warning people before it is too late - which means increased usage will save lives.

Against:

The bills would increase the inspection and enforcement duties of the state Bureau of Construction Code Enforcement office at a time when staff levels are being reduced due to the ongoing economic downturn in the state. The Department of Labor and Economic Growth has had a backlog of thousands of complaints for years; increasing the agency's responsibilities while cutting their staff can only make the situation worse.

Instead, educational campaigns to increase awareness of the dangers of CO poisoning and the preventive measures that consumers can take should be increased. Current regulations requiring businesses to maintain boilers and furnaces in proper working condition should be enforced - a measure with broader safety potential than just targeting new homes and the hospitality industry.

POSITIONS:

The Department of Labor and Economic Growth indicated support for the bills. (11-7-07)

The State Fire Marshal indicated support for the bills. (11-7-07)

The Contractors Legislative Services testified in support of the bills. (11-7-07)

Kidde, Inc. indicated support for the bills. (11-7-07)

DTE Energy indicated support for the bills. (11-7-07)

A representative of Town and Country Cedar Homes testified in support of House Bill 5341. (11-7-07)

The Residential Fire Safety Institute submitted written testimony in support of House Bill 5341. (10-31-07)

The Michigan Professional Fire Fighters Union indicated support for House Bill 5341. (11-7-07)

The Michigan Association for Justice indicated support for House Bill 4730. (10-23-07)

The Detroit Regional Chamber opposes House Bill 4730. (10-23-07)

A representative of the Michigan Hotel, Motel & Resort Association testified in opposition to House Bill 4730. (11-7-07)

A representative of the Michigan Association of Realtors testified in opposition to House Bill 4730. (11-7-07)

A representative of the Michigan Association of Home Builders testified in opposition to House Bill 5341. (11-7-07)

The Building Industry Association of South East Michigan indicated opposition to House Bill 5341 as introduced. (11-7-07)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.