

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 09-1091

BY REPRESENTATIVE(S) Soper and Court, Merrifield, Todd, McGihon, Apuan, Carroll T., Casso, Fischer, Frangas, Gagliardi, Green, Kefalas, Kerr A., Labuda, Levy, McCann, Middleton, Pace, Peniston, Primavera, Priola, Rice, Ryden, Scanlan, Curry, Hullinghorst, Miklosi, Schafer S., Solano; also SENATOR(S) Romer, Schwartz, Bacon, Boyd, Cadman, Carroll M., Foster, Gibbs, Groff, Hodge, Isgar, Keller, Kester, King K., Mitchell, Morse, Newell, Sandoval, Shaffer B., Spence, Tochtrop, White, Williams.

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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 STANDARDS FOR CARBON MONOXIDE ALARMS ISSUED BY SUCH LABORATORY OR ANY SUCCESSOR STANDARDS;

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

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

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

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

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

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

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

(c) IF THE ALARM IS BATTERY-POWERED, ATTACHED TO THE WALL OR CEILING OF THE DWELLING UNIT IN ACCORDANCE WITH THE NATIONAL FIRE PROTECTION ASSOCIATION'S STANDARD 720, OR ANY SUCCESSOR STANDARD, FOR THE OPERATION AND INSTALLATION OF CARBON MONOXIDE DETECTION AND WARNING EQUIPMENT IN DWELLING UNITS.

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

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

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

38-45-102. Carbon monoxide alarms in single-family dwellings - rules. (1) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE SELLER OF EACH EXISTING SINGLE-FAMILY DWELLING OFFERED FOR SALE OR TRANSFER ON OR AFTER JULY 1, 2009, THAT HAS A FUEL-FIRED HEATER OR APPLIANCE, A FIREPLACE, OR AN ATTACHED GARAGE SHALL ASSURE THAT AN OPERATIONAL CARBON MONOXIDE ALARM IS INSTALLED WITHIN FIFTEEN FEET OF THE ENTRANCE TO EACH ROOM LAWFULLY USED FOR SLEEPING PURPOSES OR IN A LOCATION AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE OR ANY LOCAL GOVERNMENT ENTITY.

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

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY SINGLE-FAMILY DWELLING THAT INCLUDES EITHER FUEL-FIRED APPLIANCES OR AN ATTACHED GARAGE WHERE, ON OR AFTER JULY 1, 2009, INTERIOR ALTERATIONS, REPAIRS, FUEL-FIRED APPLIANCE REPLACEMENTS, OR ADDITIONS, ANY OF WHICH REQUIRE A BUILDING PERMIT, OCCURS OR WHERE

ONE OR MORE ROOMS LAWFULLY USED FOR SLEEPING PURPOSES ARE ADDED SHALL HAVE AN OPERATIONAL CARBON MONOXIDE ALARM INSTALLED WITHIN FIFTEEN FEET OF THE ENTRANCE TO EACH ROOM LAWFULLY USED FOR SLEEPING PURPOSES OR IN A LOCATION AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE OR ANY LOCAL GOVERNMENT ENTITY.

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

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

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

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

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

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

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

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

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

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

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

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

AND

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

(b) EXCEPT AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION (3), THE OWNER OF A SINGLE-FAMILY DWELLING OR DWELLING UNIT IN A MULTI-FAMILY DWELLING THAT IS USED FOR RENTAL PURPOSES IS NOT RESPONSIBLE FOR THE MAINTENANCE, REPAIR, OR REPLACEMENT OF A CARBON MONOXIDE ALARM OR THE CARE AND REPLACEMENT OF BATTERIES FOR SUCH AN ALARM.

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

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

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

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

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

(5) NOTWITHSTANDING THE REQUIREMENTS OF SECTION 38-45-103 (1) AND (2), SO LONG AS THERE IS A CENTRALIZED ALARM SYSTEM OR OTHER MECHANISM FOR A RESPONSIBLE PERSON TO HEAR THE ALARM AT ALL TIMES

IN A MULTI-FAMILY DWELLING USED FOR RENTAL PURPOSES, SUCH MULTI-FAMILY DWELLING MAY HAVE AN OPERATIONAL CARBON MONOXIDE ALARM INSTALLED WITHIN TWENTY-FIVE FEET OF ANY FUEL-FIRED HEATER OR APPLIANCE, FIREPLACE, OR GARAGE OR IN A LOCATION AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE OR ANY LOCAL GOVERNMENT ENTITY.

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

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

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

(2) A PURCHASER SHALL HAVE NO CLAIM FOR RELIEF AGAINST ANY PERSON LICENSED PURSUANT TO ARTICLE 61 OF TITLE 12, C.R.S., FOR ANY DAMAGES RESULTING FROM THE OPERATION, MAINTENANCE, OR EFFECTIVENESS OF A CARBON MONOXIDE ALARM IF SUCH LICENSED PERSON COMPLIES WITH RULES PROMULGATED PURSUANT TO SECTIONS 38-45-102 (1) (b) AND 38-45-103 (1) (b). NOTHING IN THIS SUBSECTION (2) SHALL AFFECT ANY REMEDY THAT A PURCHASER MAY OTHERWISE HAVE AGAINST A SELLER.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO