

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 295

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Short Title: Smoke Detectors in Rental Property.

(Public)

Sponsors:

Referred to:

March 2, 1995

A BILL TO BE ENTITLED

AN ACT TO ENACT A RECOMMENDATION OF THE CHILD FATALITY TASK FORCE TO CLARIFY THE AUTHORITY OF THE BUILDING CODE COUNCIL TO ADOPT PROVISIONS REQUIRING THE INSTALLATION OF SMOKE DETECTORS IN ALL RESIDENTIAL RENTAL PROPERTY AND TO PROVIDE FOR MUTUAL OBLIGATIONS BETWEEN LANDLORDS AND TENANTS REGARDING THE INSTALLATION AND UPKEEP OF SMOKE DETECTORS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible

1 materials, loads, and stresses; rules governing chimneys, heating appliances, elevators,
2 and other facilities connected with the buildings and structures; rules governing
3 plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of
4 temperature, and electrical systems; and such other reasonable rules pertaining to the
5 construction of buildings and structures and the installation of particular facilities therein
6 as may be found reasonably necessary for the protection of the occupants of the building
7 or structure, its neighbors, and members of the public at large.

8 In addition, the Code may regulate activities and conditions in buildings, structures,
9 and premises that pose dangers of fire, explosion, or related hazards. Such fire
10 prevention code provisions shall be considered the minimum standards necessary to
11 preserve and protect public health and safety, subject to approval by the Council of more
12 stringent provisions proposed by a municipality or county as provided in G.S. 143-
13 138(e). These provisions may include regulations requiring the installation of either
14 battery-operated or electrical smoke detectors in every dwelling unit used as rental
15 property, regardless of the date of construction of the rental property. For dwelling units
16 used as rental property constructed prior to 1975, smoke detectors shall have an
17 Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory
18 approval, and shall be installed in accordance with either the standard of the National Fire
19 Protection Association or the minimum protection designated in the manufacturer's
20 instructions, which the property owner shall retain or provide as proof of compliance.

21 The Code may contain provisions regulating every type of building or structure,
22 wherever it might be situated in the State.

23 Provided further, that nothing in this Article shall be construed to make any building
24 rules applicable to farm buildings located outside the building-rules jurisdiction of any
25 municipality.

26 Provided further, that no building permit shall be required under the Code or any local
27 variance thereof approved under subsection (e) for any construction, installation, repair,
28 replacement, or alteration costing five thousand dollars (\$5,000) or less in any single
29 family residence or farm building unless the work involves: the addition, repair, or
30 replacement of load bearing structures; the addition (excluding replacement of same size
31 and capacity) or change in the design of plumbing; the addition, replacement or change in
32 the design of heating, air conditioning, or electrical wiring, devices, appliances, or
33 equipment, the use of materials not permitted by the North Carolina Uniform Residential
34 Building Code; or the addition (excluding replacement of like grade of fire resistance) of
35 roofing.

36 Provided further, that no building permit shall be required under such Code from any
37 State agency for the construction of any building or structure, the total cost of which is
38 less than twenty thousand dollars (\$20,000), except public or institutional buildings.

39 For the information of users thereof, the Code shall include as appendices

40 (1) Any rules governing boilers adopted by the Board of Boiler and
41 Pressure Vessels Rules,

42 (2) Any rules relating to the safe operation of elevators adopted by the
43 Commissioner of Labor, and

- 1 (3) Any rules relating to sanitation adopted by the Commission for Health
2 Services or the Department of Environment, Health, and Natural
3 Resources which the Building Code Council believes pertinent.

4 In addition, the Code may include references to such other rules of special types, such
5 as those of the Medical Care Commission and the Department of Public Instruction as
6 may be useful to persons using the Code. No rule issued by any agency other than the
7 Building Code Council shall be construed as a part of the Code, nor supersede that Code,
8 it being intended that they be presented with the Code for information only.

9 Nothing in this Article shall extend to or be construed as being applicable to the
10 regulation of the design, construction, location, installation, or operation of (1)
11 equipment for storing, handling, transporting, and utilizing liquefied petroleum
12 gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for
13 liquefied petroleum gas from the outlet of the first stage pressure regulator to and
14 including each liquefied petroleum gas utilization device within a building or structure
15 covered by the Code, or (2) equipment or facilities, other than buildings, of a public
16 utility, as defined in G.S. 62-3, or an electric or telephone membership corporation,
17 including without limitation poles, towers, and other structures supporting electric or
18 communication lines.

19 In addition, the Code may contain rules concerning minimum efficiency requirements
20 for replacement water heaters, which shall consider reasonable availability from
21 manufacturers to meet installation space requirements."

22 Sec. 2. G.S. 42-42(a) reads as rewritten:

23 "(a) The landlord shall:

- 24 (1) Comply with the current applicable building and housing codes,
25 whether enacted before or after October 1, 1977, to the extent required
26 by the operation of such codes; no new requirement is imposed by this
27 subdivision (a)(1) if a structure is exempt from a current building code;
- 28 (2) Make all repairs and do whatever is necessary to put and keep the
29 premises in a fit and habitable condition;
- 30 (3) Keep all common areas of the premises in safe condition; ~~and~~
- 31 (4) Maintain in good and safe working order and promptly repair all
32 electrical, plumbing, sanitary, heating, ventilating, air conditioning, and
33 other facilities and appliances supplied or required to be supplied by
34 him provided that notification of needed repairs is made to the landlord
35 in writing by the tenant except in emergency ~~situations~~-situations; and
- 36 (5) Provide operable smoke detectors, either battery-operated or electrical,
37 having an Underwriters' Laboratories, Inc., listing or other equivalent
38 national testing laboratory approval, that are installed in accordance
39 with either the standards of the National Fire Protection Association or
40 the minimum protection designated in the manufacturer's instructions,
41 which the landlord shall retain or provide as proof of compliance. The
42 landlord must replace or repair the smoke detectors provided the
43 landlord is notified of needed replacement or repairs in writing by the

1 tenant. Unless the landlord and the tenant have a written agreement to
2 the contrary, the landlord must place new batteries in a battery-operated
3 smoke detector at the beginning of a tenancy and the tenant must
4 replace the batteries as needed during the tenancy. Failure of the tenant
5 to replace the batteries as needed shall not be considered as negligence
6 on the part of the tenant or the landlord."

7 Sec. 3. G.S. 42-43(a) reads as rewritten:

8 "(a) The tenant shall:

- 9 (1) Keep that part of the premises which he occupies and uses as clean and
10 safe as the conditions of the premises permit and cause no unsafe or
11 unsanitary conditions in the common areas and remainder of the
12 premises which he uses;
- 13 (2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and
14 safe manner;
- 15 (3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as
16 clean as their condition permits;
- 17 (4) Not deliberately or negligently destroy, deface, damage, or remove any
18 part of the ~~premises~~ premises, nor render inoperable the smoke detector
19 provided by the landlord, or knowingly permit any person to do so;
- 20 (5) Comply with any and all obligations imposed upon the tenant by current
21 applicable building and housing codes; ~~and~~
- 22 (6) Be responsible for all damage, defacement, or removal of any property
23 inside a dwelling unit in his exclusive control unless said damage,
24 defacement or removal was due to ordinary wear and tear, acts of the
25 landlord or his agent, defective products supplied or repairs authorized
26 by the landlord, acts of third parties not invitees of the tenant, or natural
27 ~~fores-~~forces; and
- 28 (7) Notify the landlord of the need for replacement of or repairs to a smoke
29 detector. Nothing in this bill shall prohibit an individual landlord in a
30 written agreement with the tenant from requiring the tenant to provide
31 notice in writing of the need for replacement of or repairs to a smoke
32 detector. Unless the landlord and the tenant have a written agreement to
33 the contrary, the landlord must place new batteries in a battery-operated
34 smoke detector at the beginning of a tenancy and the tenant must
35 replace the batteries as needed during the tenancy. Failure of the tenant
36 to replace the batteries as needed shall not be considered as negligence
37 on the part of the tenant or the landlord."

38 Sec. 4. The amendment to G.S. 143-138(b) contained in Section 1 of this act
39 shall not be construed to imply that the Building Code Council did not possess the
40 authority contained in that amendment prior to the effective date of Section 1 of this act.

41 Sec. 5. Sections 2 and 3 of this act become effective January 1, 1996, and
42 apply to residential rental agreements in effect on or after that date. The remainder of
43 this act is effective upon ratification.