

September 17, 1998

SENATE BILL NO. 88
(First Reprint)

To the Senate:

Pursuant to Article V, Section 1, 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 mandate 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:

Page 2, Line 2:

After "supplementing" insert "and amending"

Page 2, Line 3:

After "seq.)" insert "and supplementing P.L.1967, c.76 (C.55:13A-1 et. seq.) and P.L.1979, c.496 (C.55:13B-1 et. seq.)"

Page 2, Section 1. Line 9:

After "unit" insert "in a building with fewer than three

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dwelling units"

Page 2. Section 1, Line 13:

Delete "municipal"

Page 2, Section 1, Line 14:

After "that" insert ":(1)"; after "with" delete "a"; insert "one or more"

Page 2. Section 1. Line 15:

Delete "device." insert "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."

Page 2. Section 1. Line 17:

After "unit" insert "in a building with fewer than three dwelling units"

Page 2. Section 1. Line 20:

Delete "the "State Uniform""

Page 2. Section 1. Line 21:

Delete in entirety.

Page 2. Section 1, Line 23:

Delete ", as appropriate," after "indicating" insert ": (1)"

Page 2. Section 1, Line 24:

After "with" delete "a"; insert "one or more"; delete "device" insert "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"

Page 2. Section 1. Line 26:

Delete "Codes and Standards" insert "Fire Safety"

Page 2. Section 1, Line 41:

Delete "unit in" insert "room or group of rooms within"

Page 3, Section 1. Lines 1-2:

After "purposes" delete remainder of lines 1 and 2 and insert "."

Page 3. Section 1. Lines 3-19:

Delete in entirety

Page 3, Section 1, Line 26:

Insert "f. This section shall be inoperative until such time as the Commissioner of Community Affairs determines that this section, or any part thereof, shall become operative consistent with section 5 of P.L. , c. (C. (pending before the Legislature as this bill).

2. Every unit of dwelling space in a hotel and multiple dwelling shall be equipped with one or more carbon monoxide sensor devices that bear the label of a nationally recognized testing laboratory and have been tested and listed as complying with the most recent Underwriters Laboratories standard 2034, or its

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equivalent, unless it is determined that no potential carbon monoxide hazard exists for that unit. Any such installation or determination shall be made in accordance with the rules promulgated by the Commissioner of Community Affairs.

3. Every unit of dwelling space in a rooming or boarding house shall be quipped with one or more carbon monoxide sensor devices that bear the label of a nationally recognized testing laboratory and have been tested and listed as complying with the most recent Underwriters Laboratories standard 2034, or its equivalent, unless it is determined that no potential carbon monoxide hazard exists for that unit. Any such installation or determination shall be made in accordance with the rules promulgated by the Commissioner of Community Affairs.

4. Section 6 of P.L.1975, c.217 (C.52:27D124) is amended to read as follows:

The Commissioner shall have all the powers necessary or convenient to effectuate the purpose of this act, including, but not limited to the following powers in addition to all others granted by this act:

a. To adopt, amend and repeal, after consultation with the code advisory board, rules: (1) relating to the administration and enforcement of this act and (2) the qualifications or licensing, or both, of all persons employed by enforcing agencies of the State to enforce this act or the code, except that, plumbing inspectors shall be subject to the rules adopted by the Commissioner only insofar as such rules are compatible with such rules and regulations, regarding health and plumbing for public and private buildings, as may be promulgated by the Public Health Council in accordance with Title 26 of the Revised Statutes.

b. To enter into agreements with federal and State of New Jersey agencies, after consultation with the code advisory board, to provide insofar as practicable (1) single-structure and (2) intergovernmental acceptance of such review and inspection to avoid unnecessary duplication of effort and fees. The Commissioner shall have the power to enter into such agreements although the federal standards are not identical with State standards; provided that the same basic objectives are met. The Commissioner shall have the power through such agreements to bind the State of New Jersey and all governmental entities deriving authority therefrom.

c. To take testimony and hold hearings relating to any

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aspect of or matters relating to the administration or enforcement of this act, including but not limited to prospective interpretation of the code so as to resolve inconsistent or conflicting code interpretations, and, in connection therewith, issue subpoenas to compel the attendance of witnesses and the production of evidence. The Commissioner may designate one or more hearing examiners to hold public hearings and report on such hearings to the Commissioner.

d. To encourage, support or conduct, after consultation with the code advisory board, educational and training programs for employees, agents and inspectors of enforcing agencies, either through the Department of Community Affairs or in cooperation with other departments of State government, enforcing agencies, educational institutions, or associations of code officials.

e. To study the effect of this act and the code to ascertain their effect upon the cost of building construction and maintenance, and the effectiveness of their provisions for insuring the health, safety, and welfare of the people of the State of New Jersey.

f. To make, establish and amend, after consultation with the code advisory board, such rules as may be necessary, desirable or proper to carry out his powers and duties under this act.

g. To adopt, amend, and repeal rules and regulations providing for the charging of and setting the amount of fees for the following code enforcement services, licenses or approvals performed or issued by the department, pursuant to the "State Uniform Construction Code Act:"

(1) Plan review, construction permits, certificates of occupancy, demolition permits, moving of building permits, elevator permits and sign permits; and

(2) Review of applications for and the issuance of licenses certifying an individual's qualifications to act as a construction code official, subcode official or assistant under this act.

(3) (Deleted by amendment, P1,1983, c.338).

h. To adopt, amend and repeal rules and regulations providing for the charging of and setting the amount of construction permit surcharge fees to be collected by the enforcing agency and remitted to the department to support those activities which may be undertaken with moneys credited to the Uniform Construction Code Revolving Fund.

i To adopt, amend and repeal rules and regulations providing for:

(1) Setting the amount of and the charging of fees to be

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paid to the department by a private agency for the review of applications for and the issuance of approvals authorizing a private agency to act as an on-site inspection and plan review agency or an in-plant inspection agency;

(2) The setting of the amounts of fees to be charged by a private agency for inspection and plan review services; provided, however, that such fees shall not be more than those adopted and charged by the department when it serves as a local enforcement agency pursuant to section 10 of P.L. 1975, C-217(C.52:27D-128); and

(3) The formulation of standards to be observed by a municipality in the evaluation of a proposal submitted by a private agency to provide inspection or plan review services within a municipality.

j. To enforce and administer the provisions of the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and the code promulgated thereunder, and to prosecute or cause to be prosecuted violators of the provisions of that act or the code promulgated thereunder in administrative hearings and in civil proceedings in State and local courts.

k. To monitor the compliance of local enforcing agencies with the provisions of the "State Uniform Construction Code Act" P.L.1975, c.217 (C. 52:27D-119 et seq.), to order corrective action as may be necessary where a local enforcing agency is found to be failing to carry out its responsibilities under that act, to supplant or replace the local enforcing agency for a specific project, and to order it dissolved and replaced by the department where the local enforcing agency repeatedly or habitually fails to enforce the provisions of the "State Uniform Construction Code Act."

l. To adopt, amend and repeal rules and regulations concerning the installation and maintenance of carbon monoxide sensor

5. a. During the first 18 months following the adoption of regulations pursuant to section 6 of P. L. , C. (C.) (pending before the Legislature as this bill), the Commissioner of Community Affairs shall conduct a study to determine the impact of sections 2 and 3 of P. L. , C. (C.) (pending before the Legislature as this bill) 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,

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including whether section 1 of P. L. , C. (C.) (pending before the Legislature as this bill), 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.52:148-1 et seq.) the rules and regulations necessary to effectuate the determinations contained in the report."

Page 3, Section 2, Line 27:

Delete "2" Insert "6"

Page 3. Section 2. Line 31:

After "effectuate" insert "sections 2 and 3 of"

Page 3. Section 3. Line 37:

Delete "3" insert "7"; delete "on the first day of the sixth month"

Page 3. Section 3. Line 38:

Delete in entirety

[seal]

Respectfully,
/s/ Christine Todd Whitman
GOVERNOR

Attest;
/s/ John J. Farmer, Jr.
Chief counsel to the Governor